

SUPREME COURT OF PENNSYLVANIA

Wolloch v. Aiken, 572 Pa. 335

815 A.2d 594 (2002) · Decided December 31, 2002

SUMMARY

The Pennsylvania Supreme Court held that summary judgment was properly entered in a medical malpractice action after the plaintiff failed to submit required expert reports by the case-management deadline. The court distinguished discovery sanctions from summary judgment under Pennsylvania Rules of Civil Procedure 1035.2 and 1035.3, reversed the Superior Court, and reinstated the trial court's orders.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Chief Justice Zappala; Chief Justice Flaherty; Justice Zappala; Justice Cappy; Justice Castille; Justice Nigro; Justice Newman; Justice Saylor
JURISDICTION	Pennsylvania
DECIDED	December 31, 2002
DISPOSITION	reversed
PROCEDURAL POSTURE	Medical-malpractice defendants appealed after the trial court granted summary judgment in their favor based on the plaintiff's failure to produce required expert medical reports. The Pennsylvania Supreme Court granted allowance of appeal to determine whether the Superior Court properly analyzed the matter under Pennsylvania Rule of Civil Procedure 1035.2 rather than discovery-sanctions provisions.
STANDARD OF REVIEW	The court interpreted and applied Pennsylvania Rules of Civil Procedure 1035.2 and 1035.3 to determine whether summary judgment was permissible after completion of discovery and the plaintiff's failure to produce required expert evidence.
PRECEDENTIAL VALUE	Published decision of the Supreme Court of Pennsylvania; binding Pennsylvania precedent.
PARTIES	Robert Aiken, M.D., Michelle Meltzer, M.D., Richard Keohane, M.D., Pennsylvania Hospital, Thomas Jefferson University Hospital v. Marjorie Wolloch

TOPICS

summary judgment

discovery dispute

medical malpractice

sanctions

civil procedure

PRACTICE AREAS

Civil procedure

Medical malpractice

Appellate procedure

QUESTIONS PRESENTED

1. Whether a summary-judgment motion under Pennsylvania Rule of Civil Procedure 1035.2 is premature when filed after the court-ordered discovery deadline but before the plaintiff submits late expert reports.
2. Whether the trial court should have treated the plaintiff's post-judgment expert reports as supplementation under Pennsylvania Rule of Civil Procedure 1035.3(b).
3. Whether the summary-judgment motions should instead have been analyzed as discovery sanctions under Pennsylvania Rule of Civil Procedure 4019.

HOLDINGS

1. A summary-judgment motion is permissible when the record shows that discovery relevant to the motion has been completed and the opposing party has failed to produce expert evidence essential to establish a prima facie medical-malpractice case, even if the party later submits untimely expert reports.
2. A trial court's entry of summary judgment based on failure to produce evidence essential to the claim is not subject to the factors governing discovery sanctions under Rule 4019 when no party moved for sanctions.
3. The court did not accept Wolloch's argument that her post-judgment expert reports required consideration as a timely supplementation of the summary-judgment record under Rule 1035.3(b).

KEY QUOTATIONS

“The record establishes that discovery was complete, for purposes of Rule 1035.2, at the time Appellants filed their motions for summary judgment.” (815 A.2d at 597)

“Neither case involved a motion for discovery sanctions under Pa.R.C.P. 4019. Both cases involved motions for summary judgment under Rule 1035.2.” (815 A.2d at 598)

“The order of the Superior Court is reversed and the order of the trial court reinstated.” (815 A.2d at 598)

FACTUAL BACKGROUND

Marjorie Wolloch alleged that the defendant doctors and hospitals failed to recognize her symptoms and diagnose cancer, delaying treatment and causing additional harm. Discovery lasted approximately three years, after which a case-management order required Wolloch to identify medical experts and submit expert reports by February 2, 1998. She received one extension but missed the applicable deadline, and the defendants moved for summary judgment because she lacked expert evidence necessary to establish medical malpractice. She submitted reports only after summary judgment had been entered.

PROCEDURAL HISTORY

Wolloch filed a medical-malpractice action in 1994. After discovery and a case-management order requiring expert reports by February 2, 1998, Wolloch obtained one extension but missed the extended deadline. The trial court granted summary judgment to all five defendants on April 29, 1998. Wolloch later submitted expert reports and sought to vacate the judgments; the Superior Court reversed as to Doctors Aiken and Meltzer and remanded. The Supreme Court reversed the Superior Court and reinstated the trial court's summary judgments.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The Superior Court's order was reversed, and the trial court's order granting summary judgment was reinstated. No further remand instructions were issued.

CASES CITED

- Miller v. Sacred Heart Hospital, 753 A.2d 829 (Pa. Super. Ct. 2000)
- Steinfurth v. LaManna, 404 Pa. Super. 384, 590 A.2d 1286 (1991)
- Gerrow v. John Royle & Sons, 2002 WL 31915024 (Pa. 2002)

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