

DISTRICT COURT OF APPEAL OF FLORIDA, FIRST DISTRICT

Federated Mutual Implement and Hardware Insurance Company v.
Griffin

237 So. 2d 38 (Fla. Dist. Ct. App. 1970) · No. No. L-55 · Decided June 11, 1970

SUMMARY

The Florida First District Court of Appeal held that Bonnie Griffin was estopped from asserting in garnishment proceedings that her deceased husband was not acting in the course of his employment. In the underlying wrongful-death action, she had alleged and obtained judgment on the theory that her husband and the defendant were coemployees acting within the scope of employment. The court reversed the garnishment judgment against the insurer and remanded for further proceedings.

CASE DETAILS

COURT	District Court of Appeal of Florida, First District
WRITING FOR THE COURT	Donald Carroll, Acting Chief Judge; Wigginton; Spector
JURISDICTION	Florida
DECIDED	June 11, 1970
DOCKET	No. L-55
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The garnishee insurer appealed an adverse final judgment entered after a jury verdict in a garnishment proceeding arising from a wrongful-death action.
STANDARD OF REVIEW	The court reviewed the adverse final judgment entered after a jury verdict and decided the legal issue of estoppel in the garnishment proceeding.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion; precedential within the court's jurisdiction unless subsequently limited or overruled.
PARTIES	Federated Mutual Implement and Hardware Insurance Company v. Bonnie Griffin

TOPICS

- insurance coverage
- civil procedure
- appellate procedure

PRACTICE AREAS

insurance

civil procedure

appellate procedure

torts

QUESTIONS PRESENTED

1. Whether a wrongful-death plaintiff who obtained a judgment against the decedent's coemployee by alleging that both employees were acting in the course of employment is estopped in a subsequent garnishment proceeding from asserting the contrary position to avoid a cross-employee exclusion in the employer's liability policy.
2. Whether the insurer's estoppel defenses were improperly stricken in the garnishment proceeding.

HOLDINGS

1. A party is estopped from taking an inconsistent factual position in a later phase of the same litigation when the party previously adopted and successfully relied on the contrary position to obtain a judgment against the same parties or concerning the same subject matter. Mrs. Griffin was therefore estopped from asserting that her husband was not an employee acting in the course of employment at the time of the collision.
2. The estoppel against inconsistent positions is distinct from res judicata and rests on preventing a party from changing a factual position adopted on the record to the prejudice of an adverse party after obtaining a judicial order or judgment based on that position.

KEY QUOTATIONS

"We hold here that the plaintiff, Mrs. Griffin, is estopped under the above rule from maintaining in these garnishment proceedings that her late husband was not an employee of Evergreen in the course of his employment when the collision in question occurred." (43)

"For the foregoing reasons, the final judgment appealed from herein should be, and it is, reversed, and the cause is remanded with directions for further proceedings consistent with the views hereinabove expressed." (43)

FACTUAL BACKGROUND

Bonnie Griffin's husband, Carlton D. Griffin, and James Q. Pippin were employees of Evergreen Construction Company. Pippin was driving an Evergreen truck to a job site with Griffin as a passenger when the truck collided with a parked vehicle, killing Griffin. In the underlying wrongful-death action, Mrs. Griffin alleged that both men were acting as employees in the course of employment, thereby avoiding the Florida guest-statute requirement to prove gross, wanton, or willful negligence, and she obtained a \$75,000 judgment against Pippin. She then sought to garnish Federated's policy proceeds, arguing that Griffin was not acting within the course of employment so that the policy's cross-employee exclusion did not apply.

PROCEDURAL HISTORY

Bonnie Griffin obtained a wrongful-death judgment against James Q. Pippin after alleging and proving that Pippin and her husband were coemployees acting in the course of their employment. Griffin later initiated

garnishment proceedings against Federated, Evergreen Construction Company's automobile liability insurer and workers' compensation carrier, seeking to reach insurance proceeds owed to Pippin. Federated asserted that the policy's cross-employee exclusion barred coverage, but the trial court struck its estoppel defenses and entered judgment for Griffin in the amount of \$75,167.04. The First District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause was remanded for further proceedings consistent with the court's opinion, applying the holding that Griffin was estopped from asserting that her husband was not an employee acting in the course of employment.

CASES CITED

- Palm Beach Co. v. Palm Beach Estates, 110 Fla. 77, 148 So. 544 (1933)
- Palm Beach Estates v. Croker, 106 Fla. 617, 143 So. 792
- Taylor v. Crook, 136 Ala. 354, 34 So. 905, 96 Am. St. Rep. 26
- Mark v. Hyatt, 135 N.Y. 306, 31 N.E. 1099, 18 L.R.A. 275
- Scanlon v. Walshe, 81 Md. 118, 31 A. 498, 48 Am. St. Rep. 488
- Norfolk & O.V. Ry. Co. v. Consolidated Turnpike Co., 111 Va. 131, 68 S.E. 346, Ann. Cas. 1912A, 239
- Holley v. Young, 68 Me. 215, 28 Am. Rep. 40
- Lyle v. Hunter, 102 Fla. 972, 136 So. 633 (1931)
- Campbell v. Kauffman Milling Co., 42 Fla. 328, 29 So. 435
- Capital City Bank v. Hilson, 64 Fla. 206, 60 So. 189, Ann. Cas. 1914B, 1211

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