

SUPREME COURT OF PENNSYLVANIA

Brenton D. Bisher and Carla S. Bisher v. Lehigh Valley Health Network, Inc., et al.

No. 543 MAL 2020, Supreme Court of Pennsylvania (March 31, 2021)

SUMMARY

The Pennsylvania Supreme Court granted allocatur in this medical malpractice action to review three Superior Court rulings. The first issue is whether the Superior Court properly quashed the estate's appeal for lack of jurisdiction after the trial court permitted a non-attorney to represent the estate until the statute of limitations expired. The second issue concerns the Superior Court's sua sponte finding that it lacked jurisdiction over the pro se individual appellants based on an improper verification. The third issue is whether the Certificates of Merit were deficient under Pa.R.C.P. 1042.3 and the MCARE Act.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
JURISDICTION	Pennsylvania
DECIDED	March 31, 2021
DOCKET	543 MAL 2020
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for Allowance of Appeal from the Superior Court
PRECEDENTIAL VALUE	published
PARTIES	Brenton D. Bisher and Carla S. Bisher, individually and as administrators of the estate of Cory Allen Bisher, deceased v. Lehigh Valley Health Network, Inc., et al.

TOPICS

civil procedure appellate procedure appellate jurisdiction medical malpractice statute of limitations

PRACTICE AREAS

Civil Procedure Appellate Procedure Medical Malpractice

QUESTIONS PRESENTED

1. (1) Did the Superior Court err in quashing Petitioners' appeal based upon the Superior Court's finding that it lacked jurisdiction to hear the appeal as it relates to the Estate of Cory Allen Bisher because the Estate's Complaint was void ab initio, where the trial court permitted a non-attorney to represent the Estate until the statute of limitations had expired?
2. (2) Did the Superior Court err in quashing Petitioners' appeal based upon the Superior Court's holding that it lacked jurisdiction to hear the appeal as it relates to pro se litigants Carla Bisher and Brenton Bisher because of an improper verification, an issue raised sua sponte by the Superior Court?
3. (3) Did the Superior Court err in ruling that the Certificates of Merit at issue in the instant case were deficient where the Certificates of Merit met the legal requirements of Pa.R.C.P. 1042.3 and the MCARE Act?

KEY QUOTATIONS

"AND NOW, this 31st day of March, 2021, the Petition for Allowance of Appeal is GRANTED." (1)

PROCEDURAL HISTORY

The Superior Court quashed the petitioners' appeal; the Supreme Court of Pennsylvania granted the petition for allowance of appeal.

DISPOSITION

writ_granted

OPINION

PER CURIAM.

IN THE SUPREME COURT OF PENNSYLVANIA MIDDLE DISTRICT BRENTON D. BISHER AND CARLA S.: No. 543 MAL 2020 BISHER, INDIVIDUALLY AND AS: ADMINISTRATORS OF THE ESTATE OF: CORY ALLEN BISHER, DECEASED,: Petition for Allowance of Appeal: from the Order of the Superior Petitioners: Court v.: LEHIGH VALLEY HEALTH NETWORK,: INC., LEHIGH VALLEY HOSPITAL, INC.,: LEHIGH VALLEY ANESTHESIA: SERVICES, PC, LVPG PULMONARY AND: CRITICAL CARE MEDICINE, DR. BRIAN: CIVIC, DR. DOROTHEA WATSON, DR.: JENNIFER STROW, DR. BONNIE PATEK,: DR. FREDERIC STELZER, EASTERN: PENNSYLVANIA GASTROENTEROLOGY: AND LIVER SPECIALISTS, PC, AND: NORMA D. WILSON, CRNA,: Respondents: ORDER PER CURIAM AND NOW, this 31st day of March, 2021, the Petition for Allowance of Appeal is GRANTED.

The issues, as stated by petitioner, are: (1) Did the Superior Court err in quashing Petitioners' appeal based upon the Superior Court's finding that it lacked jurisdiction to hear the appeal as it relates to the Estate of Cory Allen Bisher because the Estate's Complaint was void ab initio, where

the trial court permitted a non-attorney to represent the Estate until the statute of limitations had expired?

(2) Did the Superior Court err in quashing Petitioners' appeal based upon the Superior Court's holding that it lacked jurisdiction to hear the appeal as it relates to pro se litigants Carla Bisher and Brenton Bisher because of an improper verification, an issue raised sua sponte by the Superior Court?

(3) Did the Superior Court err in ruling that the Certificates of Merit at issue in the instant case were deficient where the Certificates of Merit met the legal requirements of Pa.R.C.P. 1042.3 and the MCARE Act? [543 MAL 2020] - 2