

SUPREME COURT OF SOUTH DAKOTA

Schafer v. Shopko Stores, Inc.

741 N.W.2d 758 (S.D. 2007) · No. No. 24436 · Decided November 7, 2007

SUMMARY

The Supreme Court of South Dakota affirmed summary judgment for Shopko Stores, holding that a pharmacy that dispenses a validly prescribed Schedule II drug to the patient's authorized agent is not liable under South Dakota's Drug Dealer Liability Act for the agent's consumption of the drug. The court harmonized the statutory provisions governing pharmacists, prescriptions, agents, and ultimate users and concluded that imposing liability for the lawful dispensing would produce an absurd result.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Meierhenry, Justice; Gilbertson, Chief Justice; Konenkamp, Justice; Sabers, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	November 7, 2007
DOCKET	No. 24436
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the circuit court's grant of summary judgment in favor of Shopko.
STANDARD OF REVIEW	Summary judgment is reviewed to determine whether there is a genuine issue of material fact and whether the moving party is entitled to judgment as a matter of law. Questions of statutory interpretation are reviewed de novo, and no deference is given to the circuit court's conclusions of law.
PRECEDENTIAL VALUE	published opinion; precedential
PARTIES	Jeanna Schafer, as Guardian Ad Litem of T.F. and T.F. v. Shopko Stores, Inc., Garry Freier, Avriel Hertz

TOPICS

- statutory interpretation
- plain meaning rule
- absurdity doctrine
- summary judgment
- civil procedure

PRACTICE AREAS

statutory interpretation

health law

torts

civil procedure

remedies

QUESTIONS PRESENTED

1. Whether a pharmacy that dispenses a validly prescribed Schedule II controlled substance to the patient's authorized agent may be held liable under the South Dakota Drug Dealer Liability Act for the agent's consumption of the drug.
2. Whether summary judgment was proper where Shopko had filled and delivered the prescriptions pursuant to a valid prescription order.

HOLDINGS

1. A pharmacist that validly dispenses a prescribed Schedule II drug to the patient's authorized agent does not participate in the illegal drug market within the meaning of the Drug Dealer Liability Act merely because the drug is delivered to the agent rather than directly to the ultimate user.
2. Summary judgment in favor of Shopko was proper because the undisputed facts showed that Shopko acted pursuant to a valid prescription order and its conduct did not fall within the Drug Dealer Liability Act.

KEY QUOTATIONS

“Based on the language of the relevant statutes, we conclude that the Legislature did not intend for a pharmacist to be held liable under these circumstances.” (741 N.W.2d at 761)

“To interpret and apply the law as Schafer urges would make Shopko liable for a legal act.” (741 N.W.2d at 763)

FACTUAL BACKGROUND

Shopko filled two valid prescriptions for morphine sulfate, a Schedule II controlled substance, issued for Tully Knigge. Knigge, who had chronic pain and often could not travel, gave the prescriptions and a signed check to Shane Feistner, who was acting with Knigge's knowledge and consent. Shopko dispensed the prescriptions to Feistner, who consumed some of the morphine and later died from asphyxiation after aspirating stomach contents; the record also indicated that Feistner consumed a potentially toxic amount of Xanax that he did not obtain from Knigge.

PROCEDURAL HISTORY

Schafer sued Shopko under South Dakota's Drug Dealer Liability Act, alleging that Shopko unlawfully participated in the illegal drug market by dispensing morphine prescriptions to an agent of the patient rather than directly to the ultimate user. The circuit court granted Shopko summary judgment. The South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- King v. Landguth, 2007 SD 2, 726 N.W.2d 603
- Martinmaas v. Engelmann, 2000 SD 85, 612 N.W.2d 600
- Moss v. Guttormson, 1996 SD 76, 551 N.W.2d 14
- U.S. West Communications, Inc. v. Public Utility Commission, 505 N.W.2d 115 (S.D. 1993)
- MGA Ins. Co., Inc. v. Goodsell, 2005 SD 118, 707 N.W.2d 483
- Moeller v. Weber, 2004 SD 110, 689 N.W.2d 1
- Wiersma v. Maple Leaf Farms, 1996 SD 16, 543 N.W.2d 787
- Zubke v. Melrose Township, 2007 SD 43, 731 N.W.2d 918

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