

SUPREME COURT OF MICHIGAN

Mazumder v. University of Michigan Regents

743 N.W.2d 889 (Mich. 2008) · No. 130836 · Decided February 1, 2008

SUMMARY

The Supreme Court of Michigan reversed the Court of Appeals' application of equitable tolling to the plaintiff's claim. It nevertheless reinstated the circuit court's denial of summary disposition because the plaintiff fell within the class of plaintiffs entitled to relief under *Mullins v. St. Joseph Mercy Hospital*, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	Michael F. Cavanagh; Weaver; Marilyn J. Kelly
JURISDICTION	Michigan
DECIDED	February 1, 2008
DOCKET	130836
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Michigan Supreme Court, in lieu of granting leave to appeal, reviewed the Court of Appeals' judgment concerning whether the plaintiff's claim was barred under <i>Waltz v. Wyse</i> and whether equitable tolling could apply. The Supreme Court reversed the Court of Appeals and reinstated the Washtenaw Circuit Court's order denying defendants' motion for summary disposition.
STANDARD OF REVIEW	De novo review of the legal issue concerning application of equitable tolling and the effect of controlling precedent; the Supreme Court proceeded under MCR 7.302(G)(1) in lieu of granting leave to appeal.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Mohamed Aziz, M.D., Stephan F. Taylor, M.D. v. Monika Mazumder, Personal Representative of the Estate of Deepika S. Mazumder, Deceased

TOPICS

- statute of limitations
- appellate procedure
- summary judgment
- medical malpractice
- civil procedure

PRACTICE AREAS

civil procedure

appellate procedure

medical malpractice

statute of limitations

QUESTIONS PRESENTED

1. Whether the Court of Appeals erred by invoking equitable tolling to avoid the claim bar recognized in *Waltz v. Wyse*.
2. Whether plaintiff was nevertheless entitled to relief under the Supreme Court's order in *Mullins v. St. Joseph Mercy Hospital*.
3. Whether the circuit court's order denying defendants' motion for summary disposition should be reinstated.

HOLDINGS

1. The Court of Appeals erred in invoking equitable tolling under the circumstances presented.
2. Because plaintiff fell within the class of plaintiffs entitled to relief identified in *Mullins*, the Supreme Court reinstated the circuit court's order denying defendants' motion for summary disposition.

KEY QUOTATIONS

“we REVERSE the judgment of the Court of Appeals because the court erred in invoking the doctrine of equitable tolling under these circumstances.” (743 N.W.2d 889)

“However, because the plaintiff falls within the class of plaintiffs entitled to relief identified in our order in Mullins, we REINSTATE the order of the Washtenaw Circuit Court denying the defendants' motion for summary disposition and REMAND this case to that court for further proceedings not inconsistent with this order and the order in Mullins.” (743 N.W.2d 889)

FACTUAL BACKGROUND

Monika Mazumder, as personal representative of the estate of Deepika S. Mazumder, pursued a claim against medical and mental-health defendants. Defendants Mohamed Aziz and Stephan F. Taylor challenged the claim through a motion for summary disposition, asserting that it was barred under *Waltz v. Wyse*. The opinion contains no further material factual findings because the disposition turned on the application of equitable tolling and the relief available under *Mullins*.

PROCEDURAL HISTORY

The Washtenaw Circuit Court denied defendants' motion for summary disposition. The Michigan Court of Appeals reversed or otherwise held that equitable tolling prevented the claim from being barred by *Waltz v. Wyse*. The Supreme Court held that the Court of Appeals erred in invoking equitable tolling, but concluded that plaintiff was within the class entitled to relief under *Mullins v. St. Joseph Mercy Hospital*, reinstated the circuit court's order, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Washtenaw Circuit Court for further proceedings not inconsistent with the Supreme Court's order and the order in *Mullins v. St. Joseph Mercy Hospital*. The motion to consolidate was denied as moot.

CASES CITED

- *Devillers v. Auto Club Ins. Ass'n*, 473 Mich. 562, 586-587 n. 65, 702 N.W.2d 539 (2005)
- *Mullins v. St. Joseph Mercy Hosp.*, 480 Mich. 948, 741 N.W.2d 300 (2007)
- *Waltz v. Wyse*, 469 Mich. 642, 677 N.W.2d 813 (2004)
- *Mazumder v. University of Michigan Bd. of Regents*, 270 Mich. App. 42, 61-62, 715 N.W.2d 96 (2006)

OPINION

PER CURIAM.

743 N.W.2d 889 (2008) Monika MAZUMDER, Personal Representative of the Estate of Deepika S. Mazumder, Deceased, Plaintiff-Appellee, v. UNIVERSITY OF MICHIGAN REGENTS, Robert A. Koepke, Ph.D., Rajiv Tandon, M.D., Satoshi Minoshima, M.D., Washtenaw County Community Mental Health, Joseph Yarocho, M.D., Moonson R. Elliott Eninsche, B.A., R.S.W., C.S.M., and Richard Pfoutz, M.S.W., C.S.W., Defendants, and Mohamed Aziz, M.D., and Stephan F. Taylor, M.D., Defendants-Appellants, and Srinibas Mahapatra, M.D., Defendant.

Docket No. 130836. COA No. 261331. Supreme Court of Michigan. February 1, 2008. By order of April 4, 2007, the application for leave to appeal the February 23, 2006 judgment of the Court of Appeals was held in `abeyance pending the decision in *Mullins v. St. Joseph Mercy Hosp.* (Docket No. 131879).

On order of the Court, the case having been decided on November 28, 2007, 480 Mich. 948, 741 N.W.2d 300 (2007), the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE the judgment of the Court of Appeals because the court erred in invoking the doctrine of equitable tolling under these circumstances.

Devillers v. Auto Club Ins. Ass'n, 473 Mich. 562, 586-587 n. 65, 702 N.W.2d 539 (2005). However, because the plaintiff falls within the class of plaintiffs entitled to relief identified in our order in *Mullins*, supra, we REINSTATE the order of the Washtenaw Circuit Court denying the defendants' motion for summary disposition and REMAND this case to that court for further proceedings not inconsistent with this order and the order in *Mullins*.

The motion to consolidate is DENIED as moot. MICHAEL F. CAVANAGH and WEAVER, JJ., concur in the result. MARILYN J. KELLY, J., concurs and states as follows: The issue in this case is whether our decision in *Waltz v. Wyse*^[1] bars plaintiff's claim.

The Court of Appeals invoked the doctrine of equitable tolling to find that plaintiff's claim was not barred by *Waltz*.^[2] We affirm that decision, but for a different reason. Plaintiff is within the class of plaintiffs who are entitled to relief under our unanimous order in *Mullins v. St. *890 Joseph Mercy Hosp.*^[3] For that reason, it is unnecessary for us invoke the doctrine of equitable tolling to find that plaintiff's claim is not barred by *Waltz*.

I write to point out that, given the state of the law when the Court of Appeals reached its decision, resort to the doctrine of equitable tolling was highly appropriate. As the Court of Appeals correctly recognized, the doctrine should be invoked "to ensure fundamental practicality and fairness and to prevent the unjust technical forfeiture of a cause of action."^[4] The Court of Appeals persuasively concluded that circumstances justifying its application existed in this case.

NOTES [1] *Waltz v. Wyse*, 469 Mich. 642, 677 N.W.2d 813 (2004). [2] *Mazumder v. University of Michigan Bd. of Regents*, 270 Mich.App. 42, 62, 715 N.W.2d 96 (2006) (citations omitted). [3] 480 Mich. 948, 741 N.W.2d 300 (2007).

[4] *Mazumder*, 270 Mich.App. at 61, 715 N.W.2d 96 (citations omitted).