

MASSACHUSETTS SUPREME JUDICIAL COURT

Medina v. Hochberg

465 Mass. 102 (2013) · Decided May 13, 2013

SUMMARY

The Massachusetts Supreme Judicial Court held that a physician who is not a mental health professional does not owe a third party a duty arising from a purported special relationship with the physician’s patient. The court also declined to extend the limited duty recognized in *Coombes v. Florio* to require a physician to warn a patient about the risks of driving resulting from an underlying medical condition, rather than prescribed medication. Because the plaintiff could not establish that the physician owed him a cognizable legal duty, summary judgment for the physician was affirmed.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Cordy, J.
JURISDICTION	Massachusetts
DECIDED	May 13, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Medina appealed from the Superior Court's allowance of Hochberg's motion for summary judgment. The Massachusetts Supreme Judicial Court granted direct appellate review.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is appropriate when, viewing the evidence in the light most favorable to the nonmoving party, all material facts have been established and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court opinion; precedential.
PARTIES	Richard Medina v. Fred H. Hochberg

TOPICS

- medical malpractice
- duty of care
- negligence
- standard of review
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a physician owes a nonpatient a duty to control the physician's patient based on a special relationship between physician and patient.
2. Whether a physician owes a nonpatient a duty under ordinary negligence principles to warn the patient about the dangers of driving posed by the patient's underlying medical condition.
3. Whether summary judgment was properly entered for Hochberg because he owed Medina no cognizable legal duty.

HOLDINGS

1. A medical professional, other than a mental health professional, does not owe a third person a duty to control a patient's conduct based on a claimed special relationship between the medical professional and the patient.
2. A physician does not owe a duty to nonpatients to warn a patient of the dangers of driving posed by the patient's underlying medical condition when the risk is not caused or increased by the physician's affirmative treatment.
3. Hochberg was entitled to summary judgment because he owed Medina no cognizable legal duty.

KEY QUOTATIONS

"We conclude, as we did most recently in Leavitt v. Brockton Hosp., Inc., 454 Mass. 37, 42 (2009) (Leavitt), that a medical professional (other than a mental health professional) owes no duty to a third person arising from any claimed special relationship between the medical professional and a patient." (465 Mass. at 103)

"In sum, we reject the dual bases presented by Medina for establishing a new duty, and conclude that a physician does not owe a duty to nonpatients to warn his or her patients of the dangers of driving posed by a patient's underlying medical condition." (465 Mass. at 111)

FACTUAL BACKGROUND

Robert D. Riskind had an inoperable brain tumor and was treated by neurologist Fred H. Hochberg. Riskind experienced seizures, complied with a six-month driving restriction, resumed driving after an apparent period of improvement, and suffered a grand mal seizure while driving on December 10, 2001. His vehicle struck Richard Medina, who sustained serious injuries. Medina claimed Hochberg negligently failed to control Riskind or warn him not to drive because of his underlying medical condition.

PROCEDURAL HISTORY

Medina was injured when Robert D. Riskind suffered a grand mal seizure while driving and struck Medina. Medina later amended his complaint to assert negligence claims against Riskind's treating neurologist, Dr. Fred H. Hochberg, alleging duties to control Riskind and to warn him not to drive. The Superior Court initially

allowed the amendment, but a different judge later granted Hochberg summary judgment on the ground that he owed Medina no legal duty. The Supreme Judicial Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Leavitt v. Brockton Hosp., Inc., 454 Mass. 37, 39-44 (2009)
- Coombes v. Florio, 450 Mass. 182 (2007)
- Miller v. Cotter, 448 Mass. 671, 676 (2007)
- Augat, Inc. v. Liberty Mut. Ins. Co., 410 Mass. 117, 120 (1991)
- O'Sullivan v. Shaw, 431 Mass. 201, 203 (2000)
- Davis v. Westwood Group, 420 Mass. 739, 743 (1995)
- Brune v. Belinkoff, 354 Mass. 102, 109 (1968)
- Vasa v. Compass Med., P.C., 456 Mass. 175, 177-178 (2010)
- Cottam v. CVS Pharmacy, 436 Mass. 316, 321 (2002)
- Jarmie v. Troncale, 306 Conn. 578, 607, 618-619 (2012)
- McClure v. Secretary of Commonwealth, 436 Mass. 614, 626 n.15 (2002)
- Marks v. United States, 430 U.S. 188, 193 (1977)
- Taylor v. Smith, 892 So. 2d 887, 895 (Ala. 2004)
- McKenzie v. Hawaii Permanente Med. Group, Inc., 98 Haw. 296, 308-309 (2002)
- Joy v. Eastern Me. Med. Ctr., 529 A.2d 1364, 1366 (Me. 1987)
- Welke v. Kuzilla, 144 Mich. App. 245, 248, 252 (1985)
- Wilschinsky v. Medina, 108 N.M. 511, 515 (1989)
- Henning v. Astrue, 578 F. Supp. 2d 996, 999 n.1 (N.D. Ill. 2008)