

SUPREME COURT OF VIRGINIA

Hampton v. Meyer

Hampton v. Meyer · No. Record No. 191194 · Decided August 27, 2020

SUMMARY

The Virginia Supreme Court held that naming Michael Meyer instead of Noah Meyer as the driver in a negligence complaint was a misnomer rather than a misjoinder because the complaint, read as a whole, identified the driver who allegedly caused the collision. Relying on *Richmond v. Volk*, the Court held that Hampton’s nonsuit and refiling of the complaint using Noah’s correct name were not barred by the statute of limitations. The Court reversed the circuit court’s order sustaining Noah’s plea in bar and remanded the case.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice William C. Mims; Chief Justice Lemons; Justice Mims; Justice Kelsey; Justice Chafin; Justice Powell; Justice Goodwyn; Justice McCullough
JURISDICTION	Virginia
DECIDED	August 27, 2020
DOCKET	Record No. 191194
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Hampton appealed from the Circuit Court of the City of Richmond's order sustaining Noah Meyer's plea in bar and dismissing Hampton's refiled personal-injury complaint as barred by the statute of limitations.
STANDARD OF REVIEW	Whether an incorrect identification is a misnomer or misjoinder is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published Virginia Supreme Court opinion; binding precedent.
PARTIES	Calvin Hampton v. Noah J. Meyer

TOPICS

- civil procedure
- statute of limitations
- statutory interpretation

PRACTICE AREAS

civil procedure

torts

QUESTIONS PRESENTED

1. Whether identifying Michael Meyer rather than Noah Meyer as the driver constituted a misnomer or a misjoinder.
2. Whether Hampton's nonsuit and refiling of a complaint naming the correctly identified driver was permitted to toll the statute of limitations under Virginia law.
3. Whether the Supreme Court of Virginia should reconsider *Richmond v. Volk*'s construction of the Virginia nonsuit, tolling, and misnomer statutes.

HOLDINGS

1. The error was a misnomer, not a misjoinder, because the complaint, read as a whole, correctly identified the intended defendant by the defendant's role as the driver who negligently operated the specified vehicle at the specified time and place, even though it used the wrong personal name.
2. Under *Richmond v. Volk*, a plaintiff may take a nonsuit and file a new complaint using the correct name to cure a misnomer, and the earlier complaint tolls the statute of limitations under the applicable Virginia statutes.

KEY QUOTATIONS

"A misnomer is a mistake in the name, not the identification, of a party." (at 4)

"We therefore will reverse the circuit court's ruling sustaining Noah's plea in bar and remand for further proceedings." (at 12)

FACTUAL BACKGROUND

Hampton was injured when a Chevrolet Malibu in which he was riding was struck by a GMC Suburban that ran a red light outside a shopping mall on December 24, 2016. Relying on an erroneous police report, Hampton's 2018 complaint identified Michael Meyer as the Suburban's driver, although Noah Meyer was the actual driver. Hampton learned the driver's correct identity after the limitations period had apparently expired, nonsuited the original complaint, and promptly filed a new complaint naming Noah.

PROCEDURAL HISTORY

Hampton filed a negligence complaint in December 2018 identifying Michael Meyer as the driver of the vehicle based on an erroneous police report. After learning that Noah Meyer had actually been driving, Hampton nonsuited the first complaint and filed a new complaint naming Noah in February 2019. The circuit court held that naming Michael was a misjoinder rather than a misnomer, sustained Noah's plea in bar, and denied Hampton's motion to reconsider. The Supreme Court of Virginia reversed and remanded.

DISPOSITION

REMAND INSTRUCTIONS

Reverse the circuit court's ruling sustaining Noah Meyer's plea in bar and remand for further proceedings.

CASES CITED

- Turner v. Lotts, 244 Va. 554, 558 (1992)
- Richmond v. Volk, 291 Va. 60 (2016)
- Rockwell v. Allman, 211 Va. 560, 561 (1971)
- Swann v. Marks, 252 Va. 181, 184 (1996)
- Estate of James v. Peyton, 277 Va. 443, 452, 455 (2009)
- Virginia Marine Res. Comm'n v. Chincoteague Inn, 287 Va. 371, 389 (2014)
- Cofield v. Nuckles, 239 Va. 186, 194 (1990)
- Ricketts v. Strange, 293 Va. 101, 104-11 (2017)
- Daniels v. Warden of Red Onion State Prison, 266 Va. 399, 401 n.2 (2003)
- Citizens United v. Fed. Election Comm'n, 558 U.S. 310, 362-63 (2010)
- Montejo v. Louisiana, 556 U.S. 778, 792-93 (2009)
- Jamerson v. Coleman-Adams Constr., Inc., 280 Va. 490, 504 & n.4 (2010)
- Selected Risks Ins. Co. v. Dean, 233 Va. 260, 265 (1987)
- Davis v. Marshall Homes, Inc., 265 Va. 159, 168 (2003)
- Rhoten v. Commonwealth, 286 Va. 262, 270 (2013)
- Funny Guy, LLC v. Lecego, LLC, 293 Va. 135, 141 (2017)
- Caperton v. A.T. Massey Coal Co., Inc., 285 Va. 537, 551 (2013)
- Baldwin v. Norton Hotel, Inc., 163 Va. 76, 79 (1934)
- Jacobson v. Southern Biscuit Co., 198 Va. 813, 814-18 (1957)
- Arminius Chemical Co. v. White's Administratrix, 112 Va. 250, 265-66 (1911)
- Miller v. Highland County, 274 Va. 355, 367-68 (2007)
- Cook v. Radford Community Hospital, Inc., 260 Va. 443, 446, 451 (2000)
- Herndon v. St. Mary's Hospital, Inc., 266 Va. 472, 474, 476-77 (2003)
- Helvering v. Hallock, 309 U.S. 106, 119 (1940)
- Ramos v. Louisiana, 140 S. Ct. 1390, 1405 (2020)
- Adarand Constructors, Inc. v. Peña, 515 U.S. 200, 233-34 (1995)