

COURT OF APPEALS OF OHIO, TENTH APPELLATE DISTRICT

McCualsky v. Appalachian Behavioral Healthcare

2017-Ohio-1064 (Ohio Ct. App. 2017) · No. 16AP-442 · Decided March 23, 2017

SUMMARY

The Ohio Tenth District Court of Appeals dismissed the appeal because the order denying the appellants’ motion for reconsideration was not a final, appealable order. Under Ohio law, a motion for reconsideration of a final judgment is a nullity, as is any judgment entered on that motion. The underlying action involved medical negligence and loss-of-consortium claims against Appalachian Behavioral Healthcare.

CASE DETAILS

COURT	Court of Appeals of Ohio, Tenth Appellate District
WRITING FOR THE COURT	Sadler, J.; Brown, J.; Luper Schuster, J.
JURISDICTION	Ohio
DECIDED	March 23, 2017
DOCKET	16AP-442
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiffs appealed from the Ohio Court of Claims' entry denying their motion for reconsideration of a final dismissal order.
STANDARD OF REVIEW	De novo review of appellate jurisdiction and whether the order appealed from is a final, appealable order.
PRECEDENTIAL VALUE	Published Ohio appellate decision; precedential within the court's jurisdiction subject to applicable Ohio law.
PARTIES	Amy McCualsky, David McCualsky v. Appalachian Behavioral Healthcare

TOPICS

- motion for reconsideration
- appellate jurisdiction
- final judgment rule
- appellate procedure
- medical malpractice

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Court of Claims' denial of appellants' motion for reconsideration was a final, appealable order.
2. Whether a motion for reconsideration of a final judgment in a civil case is a legal nullity under Ohio law.

HOLDINGS

1. A motion for reconsideration of a final judgment in a civil case is a nullity, and a judgment or final order denying that motion is itself a nullity.
2. An appellate court lacks jurisdiction over an appeal from a nonfinal, nonappealable order and must dismiss the appeal.

KEY QUOTATIONS

"The Supreme Court of Ohio in Pitts held that "motions for reconsideration of a final judgment in the trial court are a nullity." (¶ 11)

"Because a trial court order denying reconsideration of a final order is a nullity and not subject to appeal, the Court of Claims' May 10, 2016 entry denying appellants' motion for reconsideration is not a final, appealable order." (¶ 13)

FACTUAL BACKGROUND

Appellants alleged medical negligence, loss of consortium, and that Appalachian Behavioral Healthcare allowed an unauthorized person to remove Mary McCualsky from its facility and later assault her. The Court of Claims scheduled the matter for trial after lifting a stay. On the trial date, appellants sought a continuance to obtain physician testimony and, after the motion was denied, moved to dismiss their complaint.

PROCEDURAL HISTORY

Appellants filed medical-negligence and loss-of-consortium claims in the Ohio Court of Claims. After a continuance request was denied, they orally moved to dismiss; a magistrate recommended dismissal under Civ.R. 41(A)(2), and the Court of Claims adopted that recommendation after denying appellants' objections as untimely. Appellants then moved for reconsideration, which the Court of Claims denied, and appealed that denial to the Tenth District.

DISPOSITION

dismissed

CASES CITED

- Pitts v. Ohio Dept. of Transp., 67 Ohio St. 2d 378, 379 (1981)
- Browder v. Shea, 2005-Ohio-4782, ¶ 10 (10th Dist.)

- Noble v. Colwell, 44 Ohio St. 3d 92, 94 (1989)
- Lantsberry v. Tilley Lamp Co., 27 Ohio St. 2d 303, 306 (1971)
- BAC Home Loans Servicing, LP v. Ferguson, 2012-Ohio-5670, ¶ 13 (10th Dist.)
- Kelley v. Stauffer, 2010-Ohio-4522, ¶ 6 (10th Dist.)
- Estate of Millhon v. Millhon Clinic, Inc., 2007-Ohio-7153, ¶ 38 (10th Dist.)
- Miller v. Anthem, Inc., 10th Dist. No. 00AP-275 (Dec. 12, 2000)
- Fravel v. Columbus Rehab. & Subacute Inst., 2016-Ohio-5807, ¶ 15 (10th Dist.)
- PNC Bank, N.A. v. J & J Slyman, L.L.C., 2015-Ohio-2951, ¶ 20 (8th Dist.)
- Levy v. Ivie, 195 Ohio App. 3d 251, 2011-Ohio-4055, ¶ 15 (10th Dist.)
- Rutan v. Collins, 2003-Ohio-4826, ¶ 7 (10th Dist.)
- Primmer v. Lipp, 2003-Ohio-3577, ¶ 7 (5th Dist.)
- Aicher v. Aicher, 2009-Ohio-1268, ¶ 19 (10th Dist.)
- State ex rel. Pendell v. Adams Cty. Bd. of Elections, 40 Ohio St. 3d 58, 60 (1988)
- K.B. v. Columbus, 2014-Ohio-4027, ¶ 8 (10th Dist.)
- Production Credit Assn. v. Hedges, 87 Ohio App. 3d 207 (4th Dist. 1993)
- Whipps v. Ryan, 2013-Ohio-4334, ¶ 22 (10th Dist.)
- Kopp v. Associated Estates Realty Corp., 2009-Ohio-2595, ¶ 6 (10th Dist.)
- Whitaker-Merrell Co. v. Geupel Constr. Co., 29 Ohio St. 2d 184, 186 (1972)
- Chef Italiano Corp. v. Kent State Univ., 44 Ohio St. 3d 86, 87 (1989)
- State ex rel. White v. Cuyahoga Metro. Hous. Auth., 79 Ohio St. 3d 543, 544 (1997)
- Boulware v. Chrysler Group, L.L.C., 2014-Ohio-3398, ¶ 13 (10th Dist.)
- Franklin Univ. v. Ellis, 2014-Ohio-1491, ¶ 8 (10th Dist.)