

SUPREME COURT OF PENNSYLVANIA

Freed v. Geisinger Medical Center

601 Pa. 233 (2009) (Pa. 2009) · No. No. 77 MAP 2007 · Decided June 15, 2009

SUMMARY

The Supreme Court of Pennsylvania held that an otherwise competent and properly qualified registered nurse may give expert opinion testimony regarding medical causation in a negligence or medical malpractice action. The court overruled *Flanagan v. Labe* to the extent it barred such testimony based on the Professional Nursing Law and applied the new rule retroactively to affirm the Superior Court's reversal of a compulsory nonsuit. The case was remanded for trial, with expert competency to be assessed under applicable Pennsylvania standards, including the MCARE Act where relevant.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Todd; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice McCaffery
JURISDICTION	Pennsylvania
DECIDED	June 15, 2009
DOCKET	No. 77 MAP 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed the Pennsylvania Superior Court's reversal of the trial court's grant of a compulsory nonsuit in their favor in a negligence action. The Supreme Court affirmed the Superior Court and remanded for trial.
STANDARD OF REVIEW	The qualification of an expert witness is governed by a liberal standard and ordinarily requires only a reasonable pretension to specialized knowledge; the trial court's qualification decision is reviewed for abuse of discretion. The Supreme Court reviewed the legal conflict between the Superior Court's ruling and <i>Flanagan</i> de novo.
PRECEDENTIAL VALUE	binding
PARTIES	Geisinger Medical Center, HealthSouth Corporation, formerly known as HealthSouth Rehabilitation Corporation, HealthSouth of Nittany

TOPICS

expert testimony

medical malpractice

professional negligence

statutory interpretation

appellate procedure

PRACTICE AREAS

medical malpractice

professional negligence

evidence

health law

QUESTIONS PRESENTED

1. Whether the Professional Nursing Law barred an otherwise competent and properly qualified registered nurse from offering expert testimony concerning medical causation in a negligence or medical-malpractice action.
2. Whether the Supreme Court should overrule *Flanagan v. Labe* to the extent it imposed that bar.
3. Whether the new rule overruling *Flanagan* should apply retroactively to Freed's case.
4. Whether defendants were entitled to relief from the Superior Court's reversal of the compulsory nonsuit.

HOLDINGS

1. An otherwise competent and properly qualified nurse is not barred from giving expert opinion testimony regarding medical causation merely because the Professional Nursing Law prohibits nurses from making medical diagnoses in the practice of nursing.
2. *Flanagan v. Labe* is overruled to the extent it prohibits an otherwise competent and properly qualified nurse from giving expert opinion testimony regarding medical causation.
3. The rule overruling *Flanagan* applies retroactively to Freed's case.
4. Defendants were not entitled to relief; the Superior Court correctly reversed the compulsory nonsuit and remanded for trial.

KEY QUOTATIONS

“For these reasons, we hold that our decision in Flanagan, to the extent it prohibits an otherwise competent and properly qualified nurse from giving expert opinion testimony regarding medical causation, must be overruled.” (at 1212)

“Therefore, we affirm the Superior Court's order reversing the trial court's grant of a compulsory nonsuit in favor of Appellants and remanding for trial.” (at 1214)

FACTUAL BACKGROUND

Rodger Freed became paraplegic after a 1998 automobile accident and received treatment at Geisinger and HealthSouth. During rehabilitation at HealthSouth, he developed infected pressure wounds on his buttocks and sacrum, requiring surgical debridement and further treatment at Geisinger. Freed alleged that the institutions'

nursing staffs failed to meet the nursing standard of care in preventing and treating pressure wounds on an immobilized patient. He offered registered nurse Linda D. Pershall as an expert on the nursing standard of care and causation, but the trial court excluded her causation testimony.

PROCEDURAL HISTORY

Freed sued Geisinger and HealthSouth, alleging negligent nursing care caused or worsened pressure wounds. During trial, the trial court excluded a registered nurse's proposed causation testimony because she was not a medical doctor and then granted defendants a compulsory nonsuit for lack of competent causation evidence. The Superior Court reversed, holding the nurse competent to testify on both the nursing standard of care and causation. The Supreme Court affirmed on different grounds, overruling Flanagan to the extent it barred a properly qualified nurse from testifying about medical causation and applying that ruling retroactively.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The trial court was instructed to assess the competency of any expert witness under the standards set forth in Miller or under the MCARE Act, if applicable, and proceed with trial.

CASES CITED

- Hightower-Warren v. Silk, 548 Pa. 459, 698 A.2d 52 (1997)
- Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 664 A.2d 525 (1995)
- Flanagan v. Labe, 547 Pa. 254, 690 A.2d 183 (1997)
- McClain v. Welker, 761 A.2d 155 (Pa. Super. 2000)
- Commonwealth v. Jennings, 958 A.2d 536 (Pa. Super. 2008)
- Commonwealth v. Tilghman, 543 Pa. 578, 673 A.2d 898 (1996)
- Hohn v. United States, 524 U.S. 236, 118 S. Ct. 1969, 141 L. Ed. 2d 242 (1998)
- Commonwealth v. Persichini, 558 Pa. 449, 737 A.2d 1208 (1999)
- George v. Ellis, 911 A.2d 121 (Pa. Super. 2006)
- Fiore v. White, 562 Pa. 634, 757 A.2d 842 (2000)
- Kendrick v. District Attorney of Philadelphia County, 591 Pa. 157, 916 A.2d 529 (2007)
- Newbill v. State, 884 N.E.2d 383 (Ind. App. 2008)
- Rodriguez v. State, 281 Ga. App. 129, 635 S.E.2d 402 (2006)
- State v. Fuller, 166 N.C. App. 548, 603 S.E.2d 569 (2004)
- Velazquez v. Commonwealth, 557 S.E.2d 213 (Va. 2002)