

## SUPREME COURT OF SOUTH CAROLINA

### United Services Automobile Association v. Pickens

Opinion No. 28050 (S.C. Aug. 11, 2021) · No. Appellate Case No. 2020-000439 · Decided August 11, 2021

#### SUMMARY

The South Carolina Supreme Court held that a named-driver exclusion authorized by South Carolina Code section 38-77-340 may exclude uninsured motorist coverage, as well as other forms of coverage, while the designated driver operates the vehicle. Because Belinda Pickens had signed an exclusion naming Kevin Simms and Simms was operating the vehicle when she was injured, the court affirmed the denial of her uninsured motorist claim.

#### CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of South Carolina                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | Justice Hearn; Chief Justice Beatty; Justice Kittredge; Justice Few; Justice James                                                                                                                                                                                                                |
| JURISDICTION          | South Carolina                                                                                                                                                                                                                                                                                    |
| DECIDED               | August 11, 2021                                                                                                                                                                                                                                                                                   |
| DOCKET                | Appellate Case No. 2020-000439                                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Appeal from a circuit court order granting USAA's motion for summary judgment and denying Pickens's cross-motion in a declaratory judgment action concerning entitlement to uninsured motorist coverage. The South Carolina Supreme Court certified the case for review under Rule 204(b), SCACR. |
| STANDARD OF REVIEW    | Cross-motions for summary judgment are decided as a matter of law, and statutory interpretation is reviewed de novo.                                                                                                                                                                              |
| PRECEDENTIAL VALUE    | published and precedential                                                                                                                                                                                                                                                                        |
| PARTIES               | Belinda Pickens v. United Services Automobile Association                                                                                                                                                                                                                                         |

#### TOPICS

uninsured motorist

insurance coverage

declaratory relief insurance

statutory interpretation

preservation of error

## PRACTICE AREAS

insurance law   automobile insurance   uninsured motorist coverage   declaratory judgment  
statutory interpretation   appellate procedure

## QUESTIONS PRESENTED

1. Whether South Carolina Code section 38-77-340 permits a named driver exclusion to preclude uninsured motorist coverage for an insured passenger injured while the excluded driver was operating the vehicle.
2. Whether the exclusion violates section 38-77-150's requirement that automobile insurance policies contain uninsured motorist coverage.

## HOLDINGS

1. When the insured agrees to exclude coverage while a named driver operates the vehicle, the exclusion extends to all forms of coverage under the policy, including uninsured motorist coverage.
2. A named driver exclusion authorized by section 38-77-340 may exclude uninsured motorist coverage notwithstanding section 38-77-150's requirement that automobile policies contain uninsured motorist coverage.
3. Pickens's argument that the policy language itself applied only to liability coverage was unpreserved because the circuit court did not rule on it and Pickens did not file a Rule 59(e) motion.

## KEY QUOTATIONS

*“We hold the reasoning expressed in Knight applies equally here: where the parties agree to exclude coverage when a named driver is operating a vehicle, that exclusion extends to all forms of coverage in the policy.”*

*“However, excluding a named driver from all forms of coverage—even mandatory coverage—is permitted by section 38-77-340 and therefore does not violate section 38-77-150.”*

## FACTUAL BACKGROUND

Belinda Pickens was injured while riding as a passenger in her insured 1997 Chevrolet, which was being operated by her son, Kevin Simms. Pickens's automobile policy provided liability, personal injury protection, uninsured motorist, and underinsured motorist coverage, but she had signed a named driver exclusion covering Simms while operating the insured vehicle. Pickens sought uninsured motorist benefits, and USAA denied the claim because Simms was the excluded driver; the parties stipulated that Simms was driving when the accident occurred and had separate insurance.

## PROCEDURAL HISTORY

USAA filed a declaratory judgment action after denying Pickens's claim for uninsured motorist coverage. On cross-motions for summary judgment, the Richland County circuit court ruled for USAA, holding that the named driver exclusion authorized by section 38-77-340 applied to uninsured motorist coverage and did not

violate public policy. Pickens appealed, and the Supreme Court of South Carolina certified the case for its review and affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Neumayer v. Philadelphia Indemnity Insurance Co., 427 S.C. 261, 265, 831 S.E.2d 406, 408 (2019)
- Wiegand v. U.S. Automobile Association, 391 S.C. 159, 163, 705 S.E.2d 432, 434 (2011)
- Town of Summerville v. City of North Charleston, 378 S.C. 107, 110, 662 S.E.2d 40, 41 (2008)
- Nationwide Insurance Co. of America v. Knight, 428 S.C. 451, 835 S.E.2d 538 (Ct. App. 2019), *aff'd*, Op. No. 28028 (S.C. Sup. Ct. filed May 12, 2021)
- I'On, LLC v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000)
- Lincoln General Insurance Co. v. Progressive Northern Insurance Co., 406 S.C. 534, 541, 753 S.E.2d 437, 441 (Ct. App. 2013)
- Lovette v. U.S. Fidelity & Guaranty Co., 274 S.C. 597, 600-01, 266 S.E.2d 782, 784 (1980)
- Nationwide Mutual Insurance Co. v. Erwood, 373 S.C. 88, 644 S.E.2d 62 (2007)
- Unisun Insurance Co. v. Schmidt, 339 S.C. 362, 529 S.E.2d 280 (2000)

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