

SUPREME COURT OF NORTH DAKOTA

Ayling v. Sens

2019 ND 114 · No. No. 20180231 · Decided April 25, 2019

SUMMARY

The North Dakota Supreme Court affirmed dismissal of Robin Ayling’s claims concerning the autopsy and investigation of her son’s death. The court held that the claims were barred by the applicable three-year statutes of limitations because Ayling knew or should have known of a potential claim by December 27, 2013, and it further upheld the district court’s discovery rulings and denial of reconsideration.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jerod E. Tufte, Justice; Jerod E. Tufte; Daniel J. Crothers; Robin A. Schmidt, D.J.; Gerald W. VandeWalle, C.J.; Cherie L. Clark, D.J.
JURISDICTION	North Dakota
DECIDED	April 25, 2019
DOCKET	No. 20180231
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ayling appealed from a district court judgment granting defendants' motions for summary judgment and dismissing her claims as untimely, and from an order denying her motion to reconsider or vacate.
STANDARD OF REVIEW	Summary judgment is reviewed de novo on the entire record, viewing the evidence in the light most favorable to the nonmoving party. Discovery rulings and denial of reconsideration or vacatur are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Robin E. Ayling, individually and as parent of Blake Christopher Ayling, deceased v. Mary Ann Sens, M.D., Ph.D., University of North Dakota, Dr. Mark Koponen, Dr. Joshua Wynn, Grand Forks County, State’s Attorney David Jones, Grand Forks County Commissioners Gary Malm, David Engen, Tom Falck, Diane Knauf, and Cynthia Pic, Dr. William Massella

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment because Ayling's claims were barred by the applicable three-year statutes of limitations.
2. Whether the district court abused its discretion by staying discovery and ruling on summary judgment without allowing additional discovery under N.D.R.Civ.P. 56(f).
3. Whether the district court abused its discretion by denying Ayling's motion to reconsider or vacate.

HOLDINGS

1. Ayling's claims accrued no later than December 27, 2013, when she had facts sufficient to put her on notice of a potential claim, and her February 2017 lawsuit was untimely under the applicable three-year limitations periods.
2. Summary judgment was proper because no genuine issue of material fact existed concerning when Ayling knew or should have known of a potential claim.
3. The district court did not abuse its discretion by ruling on summary judgment without allowing Ayling's requested additional discovery.
4. The district court did not abuse its discretion by denying Ayling's motion to reconsider or vacate.

KEY QUOTATIONS

"The discovery rule is one exception, and under the discovery rule the accrual of a claim is postponed until the plaintiff knew, or with the exercise of reasonable diligence should have known, of the wrongful act and its resulting injury." (¶ 11)

"North Dakota law does not formally recognize motions to reconsider." (¶ 20)

FACTUAL BACKGROUND

Blake Ayling was found dead near the University of North Dakota campus on March 24, 2012, and Dr. Mary Ann Sens performed an autopsy that same day. Sens concluded that Blake was intoxicated, had a blood-alcohol concentration of 0.278, died from blood loss, and suffered an accidental death. Robin Ayling questioned the autopsy results, met with Sens in April 2013, and consulted an independent forensic toxicologist on December 27, 2013; the toxicologist questioned Sens's methods and the lack of corroborating alcohol tests. Ayling filed suit in February 2017.

PROCEDURAL HISTORY

Ayling sued in February 2017, alleging that Dr. Sens negligently performed an autopsy and that the other defendants failed to supervise her. The district court stayed discovery, granted defendants' motions for summary judgment on statute-of-limitations grounds, entered judgment dismissing the complaint, and denied Ayling's motion to reconsider or vacate. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Estate of Nelson, 2015 ND 122, ¶ 6, 863 N.W.2d 521
- Riemers v. Omdahl, 2004 ND 188, 687 N.W.2d 445
- Dimond v. State Bd. of Higher Ed., 2001 ND 208, 637 N.W.2d 692
- Sorenson v. Bakken Invs., LLC, 2017 ND 127, ¶ 6, 895 N.W.2d 302
- Frith v. The Park Dist. of the City of Fargo, 2016 ND 213, ¶ 11, 886 N.W.2d 836
- Johnson v. Mark, 2013 ND 128, ¶ 8, 834 N.W.2d 291
- Key Energy Servs., LLC v. Ewing Constr. Co., Inc., 2018 ND 121, ¶ 8, 911 N.W.2d 319
- Perry Ctr., Inc. v. Heitkamp, 1998 ND 78, ¶ 10, 576 N.W.2d 505
- Kautzman v. Doll, 2018 ND 23, ¶¶ 9, 13-14, 905 N.W.2d 744
- Hildebrand v. Stolz, 2016 ND 225, ¶ 16, 888 N.W.2d 197