SUPREME COURT OF RHODE ISLAND

State of Rhode Island v. Medical Malpractice Joint Underwriting Association

941 A.2d 219 (R.I. 2008) · No. No. 2006-71-Appeal · Decided February 18, 2008

SUMMARY

The Supreme Court of Rhode Island held that the State's appeal concerning insurance coverage under a lapsed medical malpractice policy was moot because the underlying tort action had ended and no continuing controversy remained. The court declined to apply the exception for issues capable of repetition yet evading review, reasoning that the relevant occurrence-based policies had expired and further claims were highly unlikely. The appeal was therefore denied.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Goldberg; Chief Justice Williams; Justice Flaherty; Justice Suttell; Justice Robinson
JURISDICTION	Rhode Island
DECIDED	February 18, 2008
DOCKET	No. 2006-71-Appeal
DISPOSITION	other
PROCEDURAL POSTURE	The State of Rhode Island appealed a Superior Court judgment denying its complaint for declaratory relief and granting judgment to the Medical Malpractice Joint Underwriting Association.
STANDARD OF REVIEW	The Supreme Court considered mootness as a threshold justiciability issue and declined to reach the standing and merits issues because subsequent events eliminated the State's continuing stake in the controversy.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	State of Rhode Island v. Medical Malpractice Joint Underwriting Association

TOPICS

mootness · appellate procedure · standing · declaratory relief insurance · insurance

PRACTICE AREAS

appellate procedure | insurance | declaratory relief | civil procedure

QUESTIONS PRESENTED

1. Whether the appeal concerning the State's entitlement to coverage under the lapsed JUA medical malpractice policy remained justiciable after the underlying tort action ended in final judgment for the defendants.
2. Whether the otherwise moot appeal fell within the exception for issues of extreme public importance capable of repetition yet evading review.

HOLDINGS

1. An appeal concerning insurance coverage is moot when the underlying tort claim has ended in a final judgment that forecloses further litigation and thereby eliminates the litigant's continuing stake in the coverage controversy.
2. The court will review an otherwise moot case only when the issues involve matters of extreme public importance that are capable of repetition but evade review; the State's coverage dispute did not satisfy that exception.

KEY QUOTATIONS

> *"This Court has consistently held that a case is moot if the original complaint raised a justiciable controversy, but events occurring after the filing have deprived the litigant of a continuing stake in the controversy."* (941 A.2d at 220)

> *"This Court will "only consider cases involving issues in dispute; we shall not address moot, abstract, academic, or hypothetical questions.""* (941 A.2d at 220)

> *"This Court will review an otherwise moot case when the issues raised implicate matters "of extreme public importance, which are capable of repetition but which evade review.""* (941 A.2d at 220-221)

FACTUAL BACKGROUND

The State sought a declaration that it was entitled to coverage under a 1993-1994 occurrence-based medical malpractice policy issued by the JUA to Dr. Mark O'Brien, a state-employed physician. The policy did not name the State as an insured, and the State was not named in policies between Dr. O'Brien and the JUA covering 1982 through 1998. The underlying tort claim involving Dr. O'Brien ended with final judgments for the defendants, which the Supreme Court affirmed, eliminating any remaining coverage controversy.

PROCEDURAL HISTORY

The Superior Court concluded that the State lacked standing because it was not a party to the medical liability insurance contract, but also ruled on the merits that the State was not an intended third-party beneficiary, was not an implied additional insured, and had not established equitable estoppel. While the appeal was pending, the underlying tort action ended in final judgment for the defendants, and the Supreme Court affirmed that

judgment. The Supreme Court therefore decided the insurance-coverage appeal without further briefing or argument and denied it as moot.

DISPOSITION

other

REMAND INSTRUCTIONS

The appeal was denied as moot, and the papers in the case could be returned to the Superior Court.

CASES CITED

- Cicilline v. Almond, 809 A.2d 1101, 1105-06 (R.I. 2002)
- Associated Builders & Contractors of Rhode Island, Inc. v. City of Providence, 754 A.2d 89, 90-91 (R.I. 2000)
- Morris v. D'Amario, 416 A.2d 137, 139 (R.I. 1980)
- Sullivan v. Chafee, 703 A.2d 748, 752 (R.I. 1997)
- Broadley v. State of Rhode Island, 939 A.2d 1016, 1022 (R.I. 2008)

OPINION

PER CURIAM.

941 A.2d 219 (2008) STATE of Rhode Island v. MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION. No. 2006-71-Appeal. Supreme Court of Rhode Island. February 18, 2008. Genevieve M. Martin, Esq., Providence, for Plaintiff. Thomas R. Bender, Esq., Providence, for Defendant. Present: WILLIAMS, C.J., GOLDBERG, FLAHERTY, SUTTELL, and ROBINSON, JJ. OPINION Justice GOLDBERG, for the Court.

This case came before the Supreme Court on October 31, 2007, on appeal by the State of Rhode Island (state or plaintiff), from a Superior Court judgment that denied its complaint for declaratory relief and granted judgment for the defendant, Medical Malpractice Joint Underwriting Association (JUA or defendant).

The trial justice found that the state lacked standing in this case because it was not a party to the medical liability insurance contract at issue, but she then proceeded to address the merits of the controversy. She determined that: (1) the state was not an intended third-party beneficiary under the medical malpractice" policy that the JUA issued to Mark O'Brien, M.D.

(Dr. O'Brien), a defendant in a tort action;[1] (2) *220 the state's argument that it was an implied additional insured party was without merit because Rhode Island has not adopted such a doctrine; and (3) the state failed to show that the JUA was equitably estopped from denying coverage to the state for the underlying tort claim.

For the reasons stated in this opinion, we deny this appeal as moot. The JUA is an association, established by statute, authorized to provide liability insurance for medical malpractice claims. See G.L.1956 § 42-14.1-1. By establishing the JUA, the Legislature sought to create a stable and sustainable market for medical malpractice insurance. Through its compliance with various statutorily imposed policies, the JUA endeavors to provide affordable medical malpractice insurance to Rhode Island healthcare providers.

See id. Although we have some reservations about the trial justice's finding that the state had no standing to seek declaratory relief, we need not address this issue because we are of the opinion that this case is moot.

The underlying tort claim for which the issue of insurance coverage was in dispute ended when a final judgment was entered for all defendants and this Court affirmed that judgment. "This Court has consistently held that a case is moot if the original complaint raised a justiciable controversy, but events occurring after the filing have deprived the litigant of a continuing stake in the controversy."

Cicilline v. Almond, 809 A.2d 1101, 1105 (R.I.2002) (quoting Associated Builders & Contractors of Rhode Island, Inc. v. City of Providence, 754 A.2d 89, 90 (R.I.2000)). This Court will "only consider cases involving issues in dispute; we shall not address moot, abstract, academic, or hypothetical questions." Morris v. D'Amario, 416 A.2d 137, 139 (R.I.1980).

The tort claim that is the subject of this insurance coverage controversy, Broadley, included, inter alia, an allegation of medical negligence against Dr. O'Brien, a state employee. That case ended when a judgment was entered, pursuant to Rule 52 of the Superior Court Rules of Civil Procedure, on behalf of the state on all counts. That judgment was affirmed, thereby foreclosing the possibility of any future litigation of the issues that plaintiff raised in that case.[2] Thus, we reject the state's claim that it has a continuing stake in a controversy that no, longer exists.

This Court will review an otherwise moot case when the issues raised implicate matters "of extreme public importance, which are capable of repetition but which evade review." Cicilline, 809 A.2d at 1105-06 (quoting Sullivan v. Chafee, 703 A.2d 748, 752 (R.I.1997)). Such issues usually "relate to important constitutional rights, matters concerning a person's *221 livelihood, or matters concerning citizen voting rights."

Id. at 1106 (quoting Associated Builders & Contractors of Rhode Island, Inc., 754 A.2d at 91). This case does not fall within this limited exception to the mootness doctrine. In 1995, § 9-31-12 ("Indemnification Reservation of obligationCertification"), was amended by P.L.1995, ch. 45, § 1, in order to provide increased liability protection for state employees, for tort claims based on conduct that occurred within the scope of their employment, by (1) removing the $50,000 indemnification cap for damages; and (2) providing for substitution of the state as a party

defendant in place of the employee.[3] The record discloses that, beginning in 1998, the state purchased medical malpractice insurance coverage that named the state as an insured and also named all full-time state-employed physicians as additional insureds.[4] The insurance policy that is the subject of plaintiff's appeal was issued by the JUA in 1993 and expired in 1994.

It was an occurrence-based policy that did not name the state as an insured; nor was the state named in any policy between Dr. O'Brien and the JUA that provided coverage from 1982 through 1998.[5] Because the statute of limitations for medical malpractice tort claims is three years from the time of the occurrence,[6] G.L.1956 § 9-1-14.1, it is highly unlikely that any more claims, under these occurrence-based policies, will arise between the JUA and the state.

Thus, the ultimate issue in this appeal whether the state is entitled to insurance coverage under a lapsed medical malpractice liability insurance policy between the JUA and a Department of Mental Health, Retardation, and Hospitals physician does not meet the limited exception to the mootness doctrine of being capable of repetition yet evading review. Consequently, we decline to entertain this appeal because we deem it moot.

For the reasons stated in this opinion, this appeal is denied. The papers in this case may be returned to the Superior Court. NOTES [1] See Broadley v. State of Rhode Island, 939 A.2d 1016 (R.I.2008). In Broadley, a civil action seeking money damages was brought on behalf of Melodye Broadley, a mentally disabled and non-ambulatory woman.

The plaintiffs filed a civil action against Smithfield Commons Apartments, a state funded and operated facility, as well as against certain state employees and officials, for an alleged sexual assault that occurred in February 1994.

In April 2003, the trial justice in Broadley granted a motion for certification and substitution under G.L.1956 § 9-31-12(b), substituting the state as a party and dismissing Dr. O'Brien as a defendant. On October 2, 2006, the Superior Court entered two final judgments. A final judgment was entered for and on behalf of defendant State of Rhode Island on all counts and claims.

An accompanying final judgment also was entered for and on behalf of defendant Samuel Waddington, the alleged tortfeasor. [2] See Broadley, at 1022. After hearing the arguments of counsel and examining the memoranda submitted by the parties, the Supreme Court decided the case without further briefing or argument, and affirmed the judgment.

[3] If the claim arises out of "actual fraud, willful misconduct, or actual malice by the employee," substitution is not permitted. Section 9-31-12(b). [4] The defendant filed a request for admissions of plaintiff on December 23, 2004, requesting that the state admit that in 1998:(1) it acquired a medical malpractice professional liability insurance policy through ProSelect Insurance Company, which named the state as insured and included all full-time Department of Mental Health, Retardation, and Hospitals physicians as additional insureds; and (2) the new policy replaced the

prior practice of the state, which required physicians to obtain their own individual medical malpractice insurance, the cost of which the state would reimburse.

The trial justice admitted the state's response to the request for admissions at a hearing on February 8, 2005. The state objected on relevance and materiality grounds, but stated "[o]ther than that we have no problem with admitting the response for the request for admissions."

[5] However, Dr. O'Brien and other state-employed physicians were able to obtain complete reimbursement from the state for policy costs. [6] We recognize that a rare occasion may arise in which the statute of limitations for a medical malpractice claim has not run. See § 9-1-14.1(1) (individuals under disability by age, mental incompetence or otherwise may bring an action within three years following the removal of the disability); see also § 9-1-14.1(2) (injuries that are not reasonably discoverable at the time of the occurrence may commence within three years of the date at which time they are reasonably discoverable).

However, these exceptions are of no moment to this appeal.