

SUPREME COURT OF FLORIDA

The National Deaf Academy, LLC v. Townes

242 So. 3d 303 (Fla. 2018) · No. SC16-1587 · Decided April 26, 2018

SUMMARY

The Florida Supreme Court held that a negligence claim sounds in medical malpractice only when the allegedly negligent act is directly related to medical care or services requiring professional judgment or skill. Applying that standard, the Court approved the Fifth District’s determination that injuries arising from an attempted physical restraint at the National Deaf Academy involved ordinary negligence, and disapproved the First District’s broader analysis in *Shands Teaching Hospital & Clinics, Inc. v. Estate of Lawson*.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Justice Pariente; Chief Justice Labarga; Justice Quince; Justice Canady; Justice Polston; Justice Lewis; Justice Lawson
JURISDICTION	Florida
DECIDED	April 26, 2018
DOCKET	SC16-1587
DISPOSITION	approved
PROCEDURAL POSTURE	The National Deaf Academy sought review of a Fifth District Court of Appeal decision reversing summary judgment in its favor. The Florida Supreme Court accepted conflict jurisdiction to resolve whether the negligence claim arose from medical malpractice or ordinary negligence.
STANDARD OF REVIEW	De novo review of whether a claim sounds in ordinary negligence or medical malpractice.
PRECEDENTIAL VALUE	binding precedent
PARTIES	The National Deaf Academy, LLC v. Denise Townes

TOPICS

- medical malpractice
- professional negligence
- statutory interpretation
- statute of limitations
- civil procedure

PRACTICE AREAS

health law

medical malpractice

professional negligence

civil procedure

statutory interpretation

QUESTIONS PRESENTED

1. Whether a negligence claim arising from the administration of a TACT physical restraint at a residential treatment facility is a medical-malpractice claim subject to chapter 766 presuit requirements and the medical-malpractice statute of limitations.
2. Whether a negligence claim arising from a psychiatric hospital employee leaving keys and an identification badge accessible to a patient sounds in medical malpractice.

HOLDINGS

1. A claim sounds in medical malpractice only when the act from which the claim arises is directly related to medical care or services that require the use of professional judgment or skill.
2. Townes's claim arising from the attempted TACT restraint alleged ordinary negligence, not medical malpractice, and therefore was not barred by chapter 766 presuit requirements or the two-year medical-malpractice statute of limitations.
3. A claim arising from a hospital employee leaving keys and a badge accessible to a patient does not sound in medical malpractice because the claim arises from a negligent security or custodial act, not an act directly related to medical care or services requiring professional judgment or skill.

KEY QUOTATIONS

“Accordingly, we hold that for a claim to sound in medical malpractice, the act from which the claim arises must be directly related to medical care or services, which require the use of professional judgment or skill.”
(at 19-20)

“Therefore, because Townes’s claim does not arise out of an act that is directly related to medical care or services, which require the use of professional judgment or skill, the Fifth District properly concluded that her claim does not allege medical malpractice, but ordinary negligence.” (at 22)

FACTUAL BACKGROUND

Cinnette Perry, a resident of the National Deaf Academy, had psychiatric and behavioral disorders and a care plan that included Therapeutic Aggression Control Techniques, or TACT, physical restraints. After Perry returned to campus, threw rocks, and pulled on cables and lightning rods, Academy employees attempted verbal de-escalation and then attempted a TACT protective hold. Perry was injured during the attempted restraint and ultimately underwent an above-the-knee amputation.

PROCEDURAL HISTORY

Townes sued the National Deaf Academy for injuries sustained by Cinnette Perry during an attempted Therapeutic Aggression Control Techniques restraint. The trial court entered summary judgment for the Academy, concluding that the claims were medical-malpractice claims barred by the medical-malpractice statute

of limitations and presuit requirements. The Fifth District reversed as to the ordinary-negligence counts, and the Florida Supreme Court approved that decision while disapproving conflicting First District precedent.

DISPOSITION

approved

REMAND INSTRUCTIONS

The Supreme Court approved the Fifth District's decision reversing summary judgment on Counts I and II. No additional remand instructions were stated.

CASES CITED

- Townes v. National Deaf Academy, LLC, 197 So. 3d 1130 (Fla. 5th DCA 2016)
- Shands Teaching Hospital & Clinics, Inc. v. Estate of Lawson, 175 So. 3d 327 (Fla. 1st DCA 2015)
- Estate of Lawson v. Shands Teaching Hospital & Clinics, Inc., No. SC15-1827, 2016 WL 7007923 (Fla. Nov. 30, 2016)
- Weinstock v. Groth, 629 So. 2d 835 (Fla. 1993)
- Dockswell v. Bethesda Memorial Hospital, Inc., 210 So. 3d 1201 (Fla. 2017)
- Pierrot v. Osceola Mental Health, Inc., 106 So. 3d 491 (Fla. 5th DCA 2013)
- J.B. v. Sacred Heart Hospital of Pensacola, 635 So. 2d 945 (Fla. 1994)
- Joseph v. University Behavioral LLC, 71 So. 3d 913 (Fla. 5th DCA 2011)
- Quintanilla v. Coral Gables Hospital, Inc., 941 So. 2d 468 (Fla. 3d DCA 2006)
- Holmes Regional Medical Center, Inc. v. Dumigan, 151 So. 3d 1282 (Fla. 5th DCA 2014)
- Lynn v. Mount Sinai Medical Center, Inc., 692 So. 2d 1002 (Fla. 3d DCA 1997)
- Tenet St. Mary's Inc. v. Serratore, 869 So. 2d 729 (Fla. 4th DCA 2004)
- Corbo v. Garcia, 949 So. 2d 366 (Fla. 2d DCA 2007)
- Goldman v. Halifax Medical Center, Inc., 662 So. 2d 367 (Fla. 5th DCA 1995)
- Kukral v. Mekras, 679 So. 2d 278 (Fla. 1996)
- Marsh v. Valyou, 977 So. 2d 543 (Fla. 2008)
- Paulucci v. General Dynamics Corp., 842 So. 2d 797 (Fla. 2003)
- South Miami Hospital, Inc. v. Perez, 38 So. 3d 809 (Fla. 3d DCA 2010)
- Indian River Memorial Hospital, Inc. v. Browne, 44 So. 3d 237 (Fla. 4th DCA 2010)
- Dockswell v. Bethesda Memorial Hospital, Inc., 210 So. 3d 1201 (Fla. 2017)