

SUPREME COURT OF SOUTH CAROLINA

Doe v. South Carolina Department of Social Services

407 S.C. 623 (2014) · Decided April 30, 2014

SUMMARY

The South Carolina Supreme Court held that Jane Doe was not a vulnerable adult under the South Carolina Omnibus Adult Protection Act because the evidence did not show that her advanced age or other condition substantially impaired her ability to provide for her own care or protection. The court further held that the Department of Social Services had not met the clear-and-convincing-evidence standard required for involuntary protective custody. The court reversed the family court’s order and remanded for a current-status review hearing.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Beatty; Beatty; Hearn; Kittredge; Moore; Pleicones
JURISDICTION	South Carolina
DECIDED	April 30, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from a family court order declaring Doe a vulnerable adult and placing her in the protective custody of the South Carolina Department of Social Services; the appeal was certified from the South Carolina Court of Appeals to the Supreme Court of South Carolina.
STANDARD OF REVIEW	The Supreme Court reviews factual and legal issues in family court appeals de novo, while recognizing that the family court is better positioned to make credibility determinations. The court affirms unless the decision is controlled by an error of law or the appellant demonstrates that the preponderance of the evidence supports contrary factual findings.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of South Carolina.
PARTIES	Jane Doe v. South Carolina Department of Social Services

TOPICS

- guardianship procedure
- elder law
- statutory interpretation
- procedural due process

PRACTICE AREAS

elder law

adult protective services

family law

constitutional law

QUESTIONS PRESENTED

1. Whether Doe met the statutory definition of a vulnerable adult under the South Carolina Omnibus Adult Protection Act.
2. What standard of proof applies to an involuntary determination that an adult is a vulnerable adult under the Act.
3. Whether the family court erred in ordering Doe to remain in DSS protective custody until specified protective services were completed.

HOLDINGS

1. To qualify as a vulnerable adult under S.C. Code section 43-35-10(11), a person's physical or mental condition, including advanced age or other infirmities of aging, must substantially impair the person's ability to adequately provide for self-care or protection. Advanced age alone is insufficient.
2. Clear and convincing evidence is required to establish that an adult is a vulnerable adult under the Act when involuntary protective custody may deprive the person of liberty or property.
3. DSS failed to prove by clear and convincing evidence that Doe was a vulnerable adult because it did not establish that her advanced age or any physical or mental condition substantially impaired her ability to provide for her own care or protection.

KEY QUOTATIONS

“Thus, we hold for a person to be deemed a vulnerable adult under the Act the person’s physical or mental condition, including advanced age, must cause a diminished ability to adequately provide for self-care or protection.” (635)

“Accordingly, we conclude that a heightened standard of proof, i.e., clear and convincing evidence, is necessary under these circumstances.” (637)

“Specifically, there was no evidence that Doe’s advanced age impaired her ability to adequately provide for her own care and protection.” (639)

FACTUAL BACKGROUND

Doe was an eighty-six-year-old woman who lived alone, had limited family and social support, and had certain medical conditions, including a heart condition. Deputies observed that her home had a hole in the roof, no apparent independent water supply, mold, and substantial clutter, and they placed her in emergency protective custody. A psychologist later concluded that Doe had a sound mental status, no dementia or obvious physical limitations, and the minimum competency necessary to function independently, although he noted her limited finances and need for medical monitoring and possible home repairs.

PROCEDURAL HISTORY

Law enforcement placed Doe in emergency protective custody after observing allegedly unsanitary and deplorable conditions at her home. DSS petitioned the family court for a determination that Doe was a vulnerable adult in need of protective services. After a merits hearing, the family court classified Doe as a vulnerable adult and ordered her to remain in DSS custody until specified repairs and services were completed. Doe appealed, and the appeal was certified to the Supreme Court of South Carolina.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The family court must conduct a review hearing to assess the current status of Doe's physical and mental health and the condition of her home, and conduct further proceedings consistent with the opinion.

CASES CITED

- Williams v. Watkins, 379 S.C. 530, 665 S.E.2d 243 (Ct. App. 2008)
- Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011)
- Simmons v. Simmons, 392 S.C. 412, 709 S.E.2d 666 (2011)
- Wilburn v. Wilburn, 403 S.C. 372, 743 S.E.2d 734 (2013)
- DiMarco v. DiMarco, 399 S.C. 295, 731 S.E.2d 617 (Ct. App. 2012)
- Sloan v. Hardee, 371 S.C. 495, 640 S.E.2d 457 (2007)
- S.C. State Ports Auth. v. Jasper Cnty., 368 S.C. 388, 629 S.E.2d 624 (2006)
- Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 713 S.E.2d 278 (2011)
- Lancaster Cnty. Bar Ass'n v. S.C. Comm'n on Indigent Defense, 380 S.C. 219, 670 S.E.2d 371 (2008)
- In re Knight, 317 P.3d 1068 (Wash. Ct. App. 2014)
- In re the Conservatorship of Townsend, 293 Mich. App. 182, 809 N.W.2d 424 (2011)
- In re the Conservatorship of Goodman, 766 P.2d 1010 (Okla. Ct. App. 1988)
- Endicott v. Saul, 142 Wash. App. 899, 176 P.3d 560 (2008)
- Davis v. Zlatos, 211 Ariz. 519, 123 P.3d 1156 (Ariz. Ct. App. 2005)
- Farr v. Searles, 180 Vt. 642, 910 A.2d 929 (2006)
- People v. Cline, 276 Mich. App. 634, 741 N.W.2d 563 (2007)
- Decker v. State, 66 So. 3d 654 (Miss. 2011)
- State v. Stubbs, 5 Neb. App. 38, 555 N.W.2d 55 (1996), aff'd, 252 Neb. 420, 562 N.W.2d 547 (1997)