

SUPREME COURT OF PENNSYLVANIA

Jason Yoder v. McCarthy Construction, Inc.; Castelli Mechanical Design and Catania Engineering Associates, Inc.; Air Control Technology, Inc.; and RRR Contractors, Inc.

Yoder · No. 43 EAP 2024 · Decided October 23, 2025

SUMMARY

In this concurring opinion, Justice McCaffery agrees that stare decisis and legislative acquiescence constrain the Pennsylvania Supreme Court from overruling *Fonner v. Shandon, Inc.* The opinion reiterates concern that the statutory employer doctrine and the five-part McDonald test provide negligent general contractors with immunity, and urges the General Assembly to require an employer seeking that immunity to have actually paid the injured worker's workers' compensation benefits.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice McCaffery
JURISDICTION	Supreme Court of Pennsylvania, Eastern District
DECIDED	October 23, 2025
DOCKET	43 EAP 2024
DISPOSITION	other
PROCEDURAL POSTURE	Appeal from a published Superior Court order vacating and remanding the judgment of the Philadelphia County Court of Common Pleas.
PRECEDENTIAL VALUE	Published concurring opinion; the concurrence's policy criticisms and proposed legislative reform are not binding holdings.
PARTIES	Jason Yoder v. McCarthy Construction, Inc., Castelli Mechanical Design and Catania Engineering Associates, Inc., Air Control Technology, Inc., RRR Contractors, Inc.

TOPICS

- workers compensation
- construction law
- statutory interpretation
- legislative intent

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether there was a special justification, beyond disagreement with precedent, for overruling *Fonner v. Shandon, Inc.*
2. Whether the continued application of the five-part McDonald statutory-employer test appropriately permits a general contractor to claim civil-liability immunity when the subcontractor paid the injured employee's workers' compensation benefits.

HOLDINGS

1. Justice McCaffery agreed with the Majority that Yoder had not advanced a special justification, beyond the belief that *Fonner* was wrongly decided, warranting overruling *Fonner*.

KEY QUOTATIONS

“Based upon the principles of stare decisis and legislative acquiescence, I am constrained to agree with the Majority that Yoder has not advanced a “special justification — over and above the belief that the precedent was wrongly decided —” for us to overrule Fonner v. Shandon, Inc., 724 A.2d 903 (Pa. 1999).” (at 1)

“Therefore, I respectfully concur.” (at 3)

FACTUAL BACKGROUND

Yoder was an injured employee of a subcontractor who received workers' compensation benefits from his immediate employer. He alleged negligence by the general contractor, which invoked the statutory employer doctrine and its associated civil-liability immunity. The concurrence focused on the circumstance that the subcontractor, rather than the alleged negligent general contractor, paid the workers' compensation benefits.

PROCEDURAL HISTORY

The Philadelphia County Court of Common Pleas entered a judgment in the matter. The Superior Court, at No. 1605 EDA 2021, entered a published order on January 31, 2023, vacating and remanding that judgment. Jason Yoder appealed to the Supreme Court of Pennsylvania. This document is Justice McCaffery's concurring opinion.

DISPOSITION

other

CASES CITED

- *Fonner v. Shandon, Inc.*, 724 A.2d 903 (Pa. 1999)
- *Commonwealth v. Reid*, 235 A.3d 1124, 1168 (Pa. 2020)
- *Patton v. Worthington*, 89 A.3d 643, 650-651 (Pa. 2014) (Baer, J., concurring)

- Oster v. Serfass Const. Co., Inc., 284 A.3d 923 (Pa. Super. 2022) (unpub. memo. at *8-*10) (McCaffery, J., concurring in part)
- Doman v. Atlas America, Inc., 150 A.3d 103, 109 (Pa. Super. 2016)
- McDonald v. Levinson, 153 A. 424 (Pa. 1930)
- Stipanovich v. Westinghouse Elec. Corp., 231 A.2d 894, 898 (Pa. Super. 1967)

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