

SUPREME COURT OF MICHIGAN

Dyke v. Richard, 390 Mich. 739

213 N.W.2d 185 (1973) · No. 54,129 · Decided December 21, 1973

SUMMARY

The Michigan Supreme Court addressed the statute of limitations for a medical malpractice action arising from an allegedly missed pelvic fracture diagnosis. The Court held that the action must be brought within two years of the last treatment or within two years after the plaintiff discovered, or reasonably should have discovered, the malpractice, whichever is later. It reversed and remanded for further proceedings concerning the hospital's potential agency and employee relationships.

CASE DETAILS

COURT	Supreme Court of Michigan
WRITING FOR THE COURT	T. G. Kavanagh, J.; T. M. Kavanagh, C.J.; Swainson, J.; Williams, J.; Levin, J.; Brennan, J.; Coleman, J.
JURISDICTION	Michigan
DECIDED	December 21, 1973
DOCKET	54,129
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed trial-court orders granting defendant Feller accelerated judgment on statute-of-limitations grounds and granting St. Joseph Hospital summary judgment on the alleged scope of the hospital's duty.
STANDARD OF REVIEW	The court reviewed the accelerated judgment and summary judgment rulings under the applicable statutory and procedural standards; the opinion does not state a separately labeled standard of review.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion; binding precedent at the time of decision.
PARTIES	Dyke and plaintiffs v. Richard, Dr. Feller, St. Joseph Hospital

TOPICS

- medical malpractice
- statute of limitations
- statutory interpretation
- summary judgment
- vicarious liability

PRACTICE AREAS

medical malpractice

health law

civil procedure

vicarious liability

QUESTIONS PRESENTED

1. Whether Michigan's malpractice limitation statutes, MCLA 600.5805(3) and MCLA 600.5838, abrogated the discovery rule and required all malpractice actions to be filed within two years of the patient's last treatment regardless of when the malpractice was discovered.
2. Whether the trial court properly granted St. Joseph Hospital summary judgment by limiting the hospital's duty to taking X-rays in accordance with the attending physician's instructions.
3. Whether plaintiffs should be permitted to prove the employment or agency relationship between Dr. Feller, the hospital, and other personnel and to amend inadequate pleadings under GCR 1963, 118.

HOLDINGS

1. An action based on malpractice by a state-licensed professional must be brought within two years after the professional discontinues treating or serving the plaintiff, or within two years after the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the asserted malpractice, whichever is later.
2. The plaintiffs were entitled to prove the relationship between Dr. Feller and St. Joseph Hospital, as well as the duties and responsibilities of other personnel alleged to be hospital employees, in support of their claims against the hospital.

KEY QUOTATIONS

"Accordingly we hold that an action based on malpractice by a state licensed person must be brought within two years of the time when such person discontinues treating or otherwise serving the plaintiff, or within two years of the time when the plaintiff discovers, or in the exercise of reasonable diligence should have discovered, the asserted malpractice, whichever is later." (747)

"The plaintiffs should be allowed to prove the relationship between Dr. Feller and the hospital and also the others asserted to be employees and demonstrate their duties and responsibilities in the premises." (748)

FACTUAL BACKGROUND

Plaintiffs were injured in an automobile accident near Ann Arbor on August 25, 1965, and Ruth Dyke was treated at St. Joseph Hospital by Dr. Feller. Plaintiffs alleged that Feller, the hospital, and an X-ray technician negligently failed to X-ray the pelvic area and thereby failed to diagnose a fractured acetabulum, causing additional damages. Ruth Dyke discovered the fracture on February 14, 1966, and suit was filed on February 9, 1968.

PROCEDURAL HISTORY

Plaintiffs sued Richard for automobile negligence, Dr. Feller for medical malpractice, and St. Joseph Hospital on agency and employee-negligence theories arising from the failure to diagnose Ruth Dyke's fractured acetabulum.

The trial court granted Feller accelerated judgment because the action was filed more than two years after his last treatment and granted the hospital summary judgment. The Michigan Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for plaintiffs to prove the relationship between Dr. Feller and the hospital and the duties and responsibilities of the other persons alleged to be hospital employees. If the pleadings are inadequate to define the issues, the trial court should permit amendment under GCR 1963, 118.

CASES CITED

- Johnson v. Caldwell, 371 Mich. 368, 123 N.W.2d 785 (1963)
- De Haan v. Winter, 258 Mich. 293, 241 N.W. 923 (1932)
- Schmit v. Esser, 183 Minn. 354, 236 N.W. 622 (1931)
- Bean v. McFarland, 280 Mich. 19, 273 N.W. 332 (1937)
- Price v. Hopkin, 13 Mich. 318, 324 (1865)
- Kambas v. St. Joseph's Mercy Hospital of Detroit, Michigan, 389 Mich. 249, 205 N.W.2d 431 (1973)
- Winfrey v. Farhat, 382 Mich. 380, 170 N.W.2d 34 (1969)
- Quinlan v. Gudes, 2 Mich. App. 506, 140 N.W.2d 782 (1966)