

SUPREME COURT OF KENTUCKY

Lois DeVasier, as Administratrix of the Estate of Kenneitha Crady v. William James, M.D.

DeVasier v. James · No. 2007-SC-000130-DG; 2007-SC-000365-DG · Decided February 19, 2009

SUMMARY

The Kentucky Supreme Court considered whether Kentucky Revised Statutes § 202A.400 imposed liability on a psychiatrist for failing to protect a patient’s domestic partner from violence. The Court held that a threat may be communicated indirectly through agents or associates of a mental health professional, but the statute requires an actual threat communicated by words or gestures, rather than merely conduct showing that the patient posed a danger. Because no actual threat was communicated to the psychiatrist or his associates, the Court held that he was entitled to a directed verdict and affirmed the lower court’s judgment.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Venters
JURISDICTION	Kentucky
DECIDED	February 19, 2009
DOCKET	2007-SC-000130-DG; 2007-SC-000365-DG
DISPOSITION	affirmed
PROCEDURAL POSTURE	On discretionary review of the Kentucky Court of Appeals' decision affirming a judgment entered for psychiatrist William James after a jury trial; James also sought discretionary review of the denial of his directed-verdict motion.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Whether the evidence established a statutory actual threat sufficient to impose liability was resolved as a matter of law, supporting a directed verdict.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Lois DeVasier, as Administratrix of the Estate of Kenneitha Crady v. William James, M.D.

TOPICS

statutory interpretation

plain meaning rule

legislative intent

professional negligence

appellate procedure

PRACTICE AREAS

statutory interpretation

professional negligence

health law

appellate procedure

QUESTIONS PRESENTED

1. Whether KRS 202A.400 requires a threat to be communicated directly by the patient to the particular mental-health professional, or whether communication through the professional's agents or associates is sufficient.
2. What constitutes an "actual threat" under KRS 202A.400(1).
3. Whether the evidence established that Cissell communicated an actual threat of physical violence to Dr. James or his associates.
4. Whether the trial court should have instructed the jury on the specific statutory duties under KRS 202A.400 rather than the general common-law duty of care.

HOLDINGS

1. The phrase "communicated to a qualified mental health professional" includes threats communicated directly to the professional and threats communicated indirectly through agents or ostensible agents of the professional who have a duty to relay the information.
2. An actual threat requires a current, active expression by words or gestures, verbal or nonverbal, communicating that the patient will commit an act of physical violence; merely appearing to be a threat or posing a danger through prior conduct is insufficient.
3. The evidence did not establish that Cissell communicated an actual threat of physical violence against Crady to Dr. James or his associates; therefore, KRS 202A.400 imposed no duty on James to warn Crady, notify authorities, or take protective precautions, and James was entitled to a directed verdict.
4. When KRS 202A.400 applies, the jury should be instructed on the specific statutory duties rather than the superseded general common-law duty of care.

KEY QUOTATIONS

"We therefore hold that lack of a direct communication to Dr. James of a threat against Crady does not entitle him to a directed verdict." (Section III)

"Thus, we hold that the duties described in KRS 202A.400(2) arise only when the patient has communicated to the mental health professional, directly or indirectly, by words or gestures, that he will commit an act of physical violence." (Section IV)

"KRS 202A.400 places no duty on James to warn Crady or to notify the authorities when a patient merely appears to be an actual threat of harm to another person." (Section V)

FACTUAL BACKGROUND

Kenneitha Crady was attempting to end an eight-year relationship with Rene Cissell, who had become depressed, abused drugs, and engaged in escalating violence toward her. Cissell rammed a vehicle occupied by Crady and later held a knife to her throat. After a subsequent psychiatric evaluation, information about Cissell's prior violence was conveyed to mental-health personnel, but Cissell denied wanting to harm Crady and did not communicate a clear threat of future violence. Dr. James determined that hospitalization or civil commitment was unnecessary, and Cissell killed Crady by stabbing her more than forty times the next day.

PROCEDURAL HISTORY

DeVasier sued several mental-health professionals for allegedly failing to comply with duties imposed by KRS 202A.400 after the patient's violent conduct resulted in Crady's death. The claims against the other defendants were settled or dismissed. The jury returned a verdict for James, and the Jefferson Circuit Court entered judgment in his favor. The Court of Appeals affirmed, concluding that a directed verdict should have been granted because no threat had been communicated directly to James. The Supreme Court of Kentucky affirmed, but on different grounds.

DISPOSITION

affirmed

CASES CITED

- Evans v. Morehead Clinic, 749 S.W.2d 696 (Ky. App. 1988)
- Cabinet for Families and Children v. Cummings, 163 S.W.3d 425 (Ky. 2005)
- McLain v. Dana Corp., 16 S.W.3d 320, 326 (Ky. App. 1999)
- United Fuel Gas Co. v. Jude, 355 S.W.2d 664 (Ky. 1962)
- Williams v. St. Claire Medical Center, 657 S.W.2d 590 (Ky. App. 1983)
- Bob Hook Chevrolet Isuzu, Inc. v. Commonwealth, Transportation Cabinet, 983 S.W.2d 488, 490-491 (Ky. 1998)
- Humana of Kentucky, Inc. v. McKee, 834 S.W.2d 711 (Ky. App. 1992)