

SUPREME COURT OF ILLINOIS

Wakulich v. Mraz, 203 Ill. 2d 223

785 N.E.2d 843, 271 Ill. Dec. 649 (2003) · No. No. 92128 · Decided February 6, 2003

SUMMARY

The Supreme Court of Illinois held that Illinois does not recognize common-law social host liability for providing alcoholic beverages to minors, adhering to its prior decision in Charles v. Seigfried. The court concluded that the plaintiff adequately pleaded a negligence claim based on defendants’ voluntary undertaking to care for the minor after she became unconscious. The court affirmed the appellate court’s judgment and remanded for further proceedings on that theory.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Fitzgerald; Chief Justice McMorrow; Justice Rarick
JURISDICTION	Illinois
DECIDED	February 6, 2003
DOCKET	No. 92128
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed dismissal with prejudice of a ten-count amended complaint under Illinois Code of Civil Procedure section 2-615. The appellate court reversed dismissal of the counts against Michael and Brian based on voluntary undertaking, affirmed dismissal of the remaining claims, and remanded. The Illinois Supreme Court granted leave to appeal and affirmed the appellate court.
STANDARD OF REVIEW	De novo review of an order granting a section 2-615 motion to dismiss; the court considers the legal sufficiency of the complaint, construes allegations in the plaintiff’s favor, and accepts well-pleaded facts as true.
PRECEDENTIAL VALUE	Published binding precedent
PARTIES	Mary Louise Wakulich, individually and as special administrator of the estate of Elizabeth Wakulich v. Dennis Mraz, Michael Mraz, Brian Mraz

TOPICS

dram shop liability

negligence

motions to dismiss

statutory interpretation

PRACTICE AREAS

Torts

Illinois civil procedure

Alcohol-related liability

Wrongful death

Survival actions

QUESTIONS PRESENTED

1. Whether Illinois should recognize common-law social-host liability for adults who provide alcoholic beverages to minors.
2. Whether the alleged pressure to drink at a private residence brought the claims within the limited fraternity-hazing exception discussed in *Quinn and Haben*.
3. Whether the complaint adequately stated a negligence claim based on defendants' voluntary undertaking to care for an unconscious person.
4. Whether the plaintiff waived a request to amend the Survival Act claims to cure an alleged technical defect in the capacity of the named administrator.

HOLDINGS

1. Illinois recognizes no common-law cause of action for injuries arising from the sale or gift of alcoholic beverages by social hosts, including adults who provide alcohol to minors, apart from the limited liability created by the Dramshop Act.
2. The complaint did not state a claim under the limited theory recognized in *Quinn and Haben* because the alleged conduct occurred at a private residence and did not involve a college fraternity or similar organization requiring dangerous drinking as a condition of membership.
3. The complaint adequately stated a negligence claim based on Michael and Brian's voluntary undertaking to care for Elizabeth after she became unconscious.
4. The complaint sufficiently alleged negligent performance and increased risk of harm even though some alleged conduct consisted of failing to summon medical assistance.
5. The plaintiff did not waive the request to amend the Survival Act claims because seeking amendment in the trial court would have been futile under the circumstances.

KEY QUOTATIONS

"Based on the doctrine of stare decisis, we deny plaintiff's request and adhere to our decision in Charles." (203 Ill. 2d at 229)

"Accordingly, we adhere to our decision in Charles: apart from the limited civil liability provided in the Dramshop Act, there exists no social host liability in Illinois." (203 Ill. 2d at 234)

"By undertaking to act defendants became subject to a duty with respect to the manner of performance." (203 Ill. 2d at 240)

"One who, being under no duty to do so, takes charge of another who is helpless adequately to aid or protect himself is subject to liability to the other for any bodily harm caused to him by (a) the failure of the actor to

exercise reasonable care to secure the safety of the other while within the actor's charge, or (b) the actor's discontinuing his aid or protection, if by so doing he leaves the other in a worse position than when the actor took charge of him.” (203 Ill. 2d at 241)

FACTUAL BACKGROUND

Sixteen-year-old Elizabeth Wakulich consumed an entire quart bottle of Goldschlager at the home of Michael, Brian, and Dennis Mraz after allegedly being induced and pressured to drink. She became unconscious, vomited and made gurgling sounds, and was allegedly placed in a family room, periodically checked on, and given a pillow to prevent aspiration. Michael and Brian allegedly failed to contact Elizabeth's parents or obtain medical assistance, prevented others from calling 911, and removed her from the home while she remained unconscious; Elizabeth died later that day.

PROCEDURAL HISTORY

Following Elizabeth Wakulich's death, her mother sued under the Wrongful Death Act and Survival Act, alleging negligent provision of alcohol and negligent performance of a voluntary undertaking to care for Elizabeth after she became unconscious. The circuit court of Cook County dismissed the complaint with prejudice. The appellate court reversed as to the voluntary-undertaking claims against Michael and Brian, affirmed the remaining dismissals, and remanded. The Supreme Court affirmed that judgment.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The matter was remanded for further proceedings on the surviving voluntary-undertaking claims against Michael and Brian and to permit the plaintiff to seek leave to amend the Survival Act claims to correct the alleged administrator-capacity defect.

CASES CITED

- Charles v. Seigfried, 165 Ill. 2d 482, 209 Ill. Dec. 226, 651 N.E.2d 154 (1995)
- Jarvis v. South Oak Dodge, Inc., 201 Ill. 2d 81, 265 Ill. Dec. 877, 773 N.E.2d 641 (2002)
- Weatherman v. Gary-Wheaton Bank of Fox Valley, N.A., 186 Ill. 2d 472, 239 Ill. Dec. 12, 713 N.E.2d 543 (1999)
- Hoffman v. Lehnhausen, 48 Ill. 2d 323, 269 N.E.2d 465 (1971)
- Zimmerman v. Village of Skokie, 183 Ill. 2d 30, 231 Ill. Dec. 914, 697 N.E.2d 699 (1998)
- Neff v. George, 364 Ill. 306, 4 N.E.2d 388 (1936)
- Prall v. Burckhardt, 299 Ill. 19, 132 N.E. 280 (1921)
- Payne v. Tennessee, 501 U.S. 808, 111 S. Ct. 2597, 115 L. Ed. 2d 720 (1991)
- Chicago Bar Ass'n v. Illinois State Board of Elections, 161 Ill. 2d 502, 204 Ill. Dec. 301, 641 N.E.2d 525 (1994)

- *Heimgaertner v. Benjamin Electric Manufacturing Co.*, 6 Ill. 2d 152, 128 N.E.2d 691 (1955)
- *People v. Robinson*, 187 Ill. 2d 461, 241 Ill. Dec. 533, 719 N.E.2d 662 (1999)
- *Froud v. Celotex Corp.*, 98 Ill. 2d 324, 74 Ill. Dec. 629, 456 N.E.2d 131 (1983)
- *Quinn v. Sigma Rho Chapter of Beta Theta Pi Fraternity*, 155 Ill. App. 3d 231, 107 Ill. Dec. 824, 507 N.E.2d 1193 (1987)
- *Haben v. Anderson*, 232 Ill. App. 3d 260, 173 Ill. Dec. 681, 597 N.E.2d 655 (1992)
- *Goodknight v. Piraino*, 197 Ill. App. 3d 319, 143 Ill. Dec. 208, 554 N.E.2d 1 (1990)
- *Rhodes v. Illinois Central Gulf R.R.*, 172 Ill. 2d 213, 216 Ill. Dec. 703, 665 N.E.2d 1260 (1996)
- *Estate of Ritchie v. Farrell*, 213 Ill. App. 3d 846, 157 Ill. Dec. 298, 572 N.E.2d 367 (1991)
- *Zamiar v. Linderman*, 132 Ill. App. 3d 886, 88 Ill. Dec. 219, 478 N.E.2d 534 (1985)
- *Nelson v. Union Wire Rope Corp.*, 31 Ill. 2d 69, 199 N.E.2d 769 (1964)
- *Frye v. Medicare-Glaser Corp.*, 153 Ill. 2d 26, 178 Ill. Dec. 763, 605 N.E.2d 557 (1992)
- *Demos v. Ferris-Shell Oil Co.*, 317 Ill. App. 3d 41, 251 Ill. Dec. 179, 740 N.E.2d 9 (2000)
- *Blankenship v. Peoria Park District*, 269 Ill. App. 3d 416, 207 Ill. Dec. 325, 647 N.E.2d 287 (1994)
- *Vesey v. Chicago Housing Authority*, 145 Ill. 2d 404, 164 Ill. Dec. 622, 583 N.E.2d 538 (1991)
- *Jakubowski v. Alden-Bennett Construction Co.*, 327 Ill. App. 3d 627, 261 Ill. Dec. 541, 763 N.E.2d 790 (2002)
- *Mattice v. Goodman*, 173 Ill. App. 3d 236, 123 Ill. Dec. 6, 527 N.E.2d 469 (1988)
- *Chisolm v. Stephens*, 47 Ill. App. 3d 999, 7 Ill. Dec. 795, 365 N.E.2d 80 (1977)