Supreme Court of Texas
October 30, 2015

Bank of Am. v. Eisenhauer
No. 14-0486
Case Summary written by Frederick C. Hutterer, Staff Member.

PER CURIAM.

Lorene and Harley Walter possessed a survivorship account with the Bank of America. This account was also a payable on death account. After the transfer of funds from one spouse to the other following one's death, the Walters intended for the funds to be transferred to Dwight Eisenhauer and Jo Ann Day as beneficiaries. Eisenhauer had Ms. Walter's power of attorney.

Mr. Walter died in 2004. Day showed Mr. Walter's death certificate to the bank, and asked it to pay out the funds in the payable on death account. The bank complied, presenting both Eisenhauer and Day with checks, despite the fact that Mrs. Walter was still alive.

Eisenhauer informed the bank that Mrs. Walter was living. He then deposited his funds into an account belonging to Mrs. Walter. The bank requested that Day return her share of the funds. A temporary guardian watching over Mrs. Walters signed an indemnity agreement permitting Day to keep her funds.

Mrs. Walter died in 2005, and the bank did not reimburse the Walter estate for the amount distributed to Day. Eisenhauer sued the bank, and the jury found that while it breached its agreement with Mrs. Walter, her estate did not incur any damages. The trial court granted a judgment notwithstanding the verdict in favor of Eisenhauer, awarding damages in the amount of the funds the bank issued to Day. The court of appeals affirmed the trial court's decision.

Issue: Whether the trial court erred by granting Eisenhauer's JNOV motion.

The Court held that the trial court erred by granting Eisenhauer's JNOV because Mrs. Walter's estate was not damaged by Day's conduct.

The Court reasoned that the funds promised to Day were never a part of Mrs. Walter's estate. Mrs. Walter may have experienced damages had she tried to access the funds after Day withdrew them, but the evidence did not indicate that Mrs. Walter ever attempted to do

so. Given the evidence, regardless of whether the bank distributed the funds before Mrs. Walter's death, her estate would have received nothing, exactly as she intended. The bank breached its agreement with Mrs. Walter, but her estate did not suffer any harm.

In this case, the Court reversed the court of appeals decision, ordering that Eisenhauer take nothing.

Reddic v. E. Tex. Med. Ctr. Reg'al Health Care Sys.
No. 14-0333
Case summary written by Ashleigh Hammer, Staff Member.

PER CURIUM.

Louisa Reddic, while visiting East Texas Medical Center, slipped and fell on a floor mat between the hospital's main entrance and the front desk. Reddic sued the hospital on a premises liability theory. The hospital responded by filing a motion to dismiss, asserting that Reddic's claim was a health care liability claim (HCLC) under the Texas Medical Liability Act (the Act) and that Reddic failed to serve an expert report as required under the Act's provisions.

Under the Act, a safety standards based HCLC is a cause of action against a health care provider for a claimed departure from accepted standards of safety, which proximately results in injury to a claimant. In this case, the trial court denied the hospital's motion, finding that no HCLC claim existed, but the court of appeals reversed, concluding that the care of the floor in an area frequented by patients had an indirect relationship to the provision of healthcare that is sufficient to satisfy, and implicate, the safety provision of the Act.

On appeal, the Supreme Court of Texas relied on a factually similar case that the Court had addressed shortly after the court of appeals issued its opinion. In *Ross v. St. Luke's Episcopal Hospital*, the Court held that a safety standards based claim against a healthcare provider is an HCLC claim only if a substantive nexus exists between the safety standards allegedly violated and the provision of healthcare.

The Court also set forth a list of non-exclusive factors for analyzing whether a substantive nexus exists: (1) did the defendant's alleged negligence occur in the course of the defendant's performance of tasks with the purpose of protecting patients from harm; (2) did the injuries occur in a place where patients might be during the time they

were receiving care; (3) was the claimant in the process of seeking or receiving health care at the time of injury; (4) was the claimant providing or assisting in providing healthcare at the time of injury; (5) is the alleged negligence based on safety standards arising from professional duties owed by the healthcare provider; (6) if an instrumentality was involved in the defendant's alleged negligence, was it a type used in providing health care; and (7) did the alleged negligence occur in the course of the defendant's taking action or failing to take action necessary to comply with safety-related requirements set for health care providers by governmental or accrediting agencies.

In this case, the hospital first argued that *Ross* was inapplicable, but the Court disagreed, noting the immense factual similarities between this case and *Ross*. Anticipating the applicability of *Ross*, the hospital then referenced four *Ross* factors that it believed evidence the substantial nexus sufficient to classify Reddic's claim as an HCLC: (1) the hospital's alleged negligence was related to protecting patients from harm; (2) the injury occurred in a location where patients might be located; (3) the alleged negligence is based on safety standards arising from professional duties owed by the hospital as a health care provider; and (4) the alleged negligence occurred in connection with a failure to take action necessary to comply with governmental safety requirements.

The Court disagreed, finding that none of the *Ross* factors were implicated in this case. Specifically, the Court held that the first two factors were not founded in the record because something more than the patients' mere presence in a hospital was required to implicate the hospital's obligation to protect persons who required medical care. As to the second factors, the Court recognized that while the hospital was obligated to comply with general safety standards set by governmental agencies, the record did not show that these generally applicable regulations had a substantial enough relationship to the standards underlying Reddic's claim—the hospital's failure to maintain safe floor mats.

In all, the Court concluded that the record in this case did not implicate any of the Ross factors; thus, there was no substantive relationship between the provision of health care and the standards that the hospital allegedly breached. The Court reversed the decision of

the court of appeals and remanded to the trial court for further proceedings.

Cascos v. Tarrant Cnty. Democratic Party
Case No. 14-0470
Case Summary written by Keirsten Hamilton, Staff Member.

PER CURIUM.

Upon Wendy Davis's certification as the Democratic nominee for State Senate in the 2008 primary election, Republican primary candidate Kim Brimer filed suit seeking to remove Davis from the general election. Brimer's suit failed and Davis won the general election. After successfully defending the suit, the state and county Democratic Party chairpersons sought reimbursement for legal expenses from the Secretary of State, per the Texas Election Code. The Election Code provides that parties incurring legal expenses "may apply to the secretary of state for state funds to reimburse expenses connected with administering primary elections." Although the Secretary of State has discretion in determining whether to reimburse the party, if parties disagree, the Code provides that they may sue the Secretary of State in Travis County district court.

Davis's candidacy was challenged both before and after the primary election. The Secretary of State approved a reimbursement request for legal expenses for the party's previous, pre-primary challenge; however, the Secretary denied the subsequent request for reimbursement of attorney's fees related to defending the post-primary suit filed by Brimer. Noting that the expenses associated with defending against Brimer's suit were, "unrelated to the administration of the primary election," the Secretary of State denied reimbursement from primary-election funds because these expenses occurred after the primary election had already been held and were not related to the primary election; thus, these expenses did not fit within the purposes of the funds appropriated by the Legislature. Following the Secretary's denial, the Democratic Party sued the Secretary in Travis County.

Reasoning that the Election Code was ambiguous on the issue of whether the Secretary of State was required to reimburse expenses incurred by the Democratic Party "in successfully litigating the eligibility of a Democratic candidate brought by her Republican

opponent," the district court deferred to the judgment of the Secretary. The Court of Appeals disagreed with the trial court, reasoning that the Election Code is clear: the Secretary of State was required to reimburse the party's legal expenses in this case. The court of appeals' reasoning did not persuade the Supreme Court. Instead, the Court determined that the Secretary of State does not have an obligation to reimburse legal expenses incurred during the course of defending a candidate's right to appear on the general election ballot; thus, the Supreme Court held that the Secretary of State had not abused his discretion.

Issue: Did the Secretary of State abuse his discretion in denying the requested reimbursement for the Democratic Party's legal expenses from the primary election fund?

The court of appeals based its decision on language from section 173.001(a). While subsection (a) states that the use of state funds for expenses incurred "in connection with a primary election," the Court emphasized that subsection (b) does not allow funds to be used when a party's expenses are "incurred in connection with . . . activity that is not necessary for the holding of a primary election." On this basis, the Court rejected the court of appeals' broad construction of "in connection with a primary election"—which allowed the court to reverse the trial court—for two reasons. The Court reasoned that the court of appeals' construction took the language out of context and removed the secretary's discretion from the statute.

To make its determination, the Court examined the relevant portion of the Election Code, Chapter 173. Chapter 173 allows the secretary to use appropriations "to pay salaries and other necessary expenses in connection with the administration of primary elections," requires the secretary to review these requests for funding from appropriations, and gives the secretary discretion "to determine which requested expenses are 'reasonably necessary for the proper holding of the primary election,'" Although the secretary has discretion to determine if an expense is reasonably necessary, if he determines that it is necessary, he must approve the reasonably necessary portion of the expense—whether his determination that the expense is reasonably necessary is correct or not. Due to the discretionary nature of the secretary's determination, the Court applied an abuse of discretion standard. Thus, the Court concluded that "[u]nless his decision not to

approve the expenses was an abuse of discretion, he had no duty (or authority) to pay them."

The Court reasoned that the Secretary of State did not abuse his discretion in denying expenses incurred defending Davis's right to appear on the general-election ballot four months after the primary election because the statute "limits reimbursement to those expenses reasonably necessary to the holding or administration of the primary election." Regarding the party's argument that the Secretary of State was bound to pay the expenses because it had previously paid similar expenses, the Court reasoned that Chapter 173 merely obligates the Secretary of State to approve only those expenses he finds to be "reasonably necessary for the proper holding of the primary election,"; here, the Secretary used his discretion to determine that these expenses were unrelated to the primary election. The Court determined that the Secretary's discretion is not "forever bound by the handling of a single application for payment."

Finding no improper motive for rejecting the payment, and in the absence of a statutory provision or applicable administrative rule obligating him to reimburse the party for its expenses in defending Davis, the Court concluded that the Secretary did not abuse its discretion in denying the party's request. On this basis, the Supreme Court granted the Secretary of State's petition for review, and without hearing oral argument, reversed the court of appeals' judgment and rendered judgment that the political parties take nothing.