



Estate of McCall v. United States, 134 So.3d 894 (Fla. 2014)

642 F.3d 944 (11th Cir. 2011)

Topics Covered: Professional Liability, Tort Reform

Outcome: Very Unfavorable

Issue

The issue in this case was whether the Florida cap on non-economic damages was valid under the Florida Constitution.

AMA Interest

Medical liability reform is the AMA's highest legislative priority.

Case Summary

Michelle McCall was an unmarried, 20 year old pregnant woman who was dependent on her parents, one or both of whom were serving in the United States Air Force. Because of her dependency, the Air Force was obliged to provide her with medical care.

During her last trimester, McCall suffered from high blood pressure and severe preeclampsia. Her medical condition required that labor be induced immediately. She was treated by family practice physicians, although her condition required the services of an obstetrician. Following various complications, the family practice physicians helped her deliver a healthy baby boy.

After the delivery, the family practice physicians attempted to extract the placenta by themselves, but there were further complications and they called an obstetrician for assistance. As the obstetrician attempted to repair severe vaginal lacerations, McCall's blood pressure dropped. Ultimately, McCall died from shock and cardiac arrest as a result of blood loss.

McCall's estate, as well as her newborn child (represented by his biological father) and each of her parents, sued the United States under the Federal Tort Claims Act, (FTCA). The FTCA incorporated the law of the state where the tort occurred -- here, Florida -- as the law of decision. The plaintiffs claimed both economic and non-economic damages.

After a two-day bench trial, the federal district court found the United States liable, because its employees' negligence had proximately caused McCall's death. The court also found that under the Florida Wrongful Death Act a minor child of the deceased may recover damages for mental pain and suffering, and the parents of a child under the age of 25 may similarly recover

damages for their mental pain and suffering. It further found that the economic damages came to \$980,462.40, the non-economic damages totaled \$2 million (\$500,000 to McCall's newborn son and \$750,000 for each of her parents).

The trial court noted that Florida law caps the total recovery of non-economic damages among all plaintiffs at \$1 million. The plaintiffs asserted that the statutory cap was invalid under both the Florida and United States Constitutions, but the court rejected those arguments. Based on the statutory cap, the final judgment awarded non-economic damages of \$1 million, aggregated among all the plaintiffs.

The plaintiffs then appealed to the United States Court of Appeals for the Eleventh Circuit. The Eleventh Circuit held that the cap was valid under the Equal Protection Clause of the Fourteenth Amendment and the Takings Clause of the Fifth Amendment of the U.S. Constitution. It also held the cap valid under the Takings Clause of the Florida Constitution. However, it declined to rule on several remaining challenges under the Florida Constitution, holding that Florida law was unsettled on these issues. It certified the remaining challenges for resolution to the Florida Supreme Court.

The Florida Supreme Court accepted jurisdiction to decide the challenges. On March 13, 2014, the Supreme Court held that the limit on noneconomic damages in medical negligence actions, as applied in wrongful death cases involving multiple claimants, violated the Equal Protection Clause of the Florida Constitution.

AMA/Litigation Center Involvement

The AMA and the Litigation Center, along with several specialty medical societies and other organizations, filed an *amicus* brief to support the statutory cap.

Florida Supreme Court brief