

*Sandra Harvey, Administratrix (Estate of Isaiah Boucher) v. Department of Correction Et Al. (AC 40956)*

The plaintiff brought this medical malpractice action seeking damages from the defendant for the decedent's wrongful death. Prior to his death, the decedent sought to recover damages from the Department of Corrections and its inmate health care provider for medical malpractice. The state waived their sovereign immunity and authorized the decedent to bring his case against them. However, the decedent died on September 26, 2015 before having brought his medical malpractice action against the defendant. The plaintiff then commenced this wrongful death action on the decedent's behalf. In response, the defendant filed a motion to dismiss on the ground that it was barred by the statute of limitations pursuant to §4-160 (d), which imposed a one year time limit for a plaintiff to bring an action against the state when the state has waived their sovereign immunity. The trial court granted the defendant's motion to dismiss the case. The plaintiff appealed.

The issue presented to the Appellate Court in this appeal is whether the trial court erred in calculating the statute of limitation based on §4-160 (d) rather than the statute of limitations for a wrongful death claim pursuant to §52-555. The Appellate Court determined that the trial court properly abided by the statute of limitations stipulated under §4-160 (d) and affirmed their judgement. In reaching this decision, the Court first considered the plaintiff's claim that the trial court improperly granted the defendant's motion to dismiss. The plaintiff argues the statute of limitations for a wrongful death claim under §52-555 had not expired, so dismissal for the expiration of the statute of limitations under §4-160 (d) was improper.

The Court found this argument unpersuasive. In reaching this conclusion, the Court reasoned that in order to sue the Department of Corrections on this claim, the plaintiff would have had to bring the claim within the statute of limitations under §4-160 (d) because it was

within that period of time during which the defendant waived their sovereign immunity. Because the plaintiff did not file her claim within that time period, the plaintiff's authorization to sue granted by the state had expired. The Court therefore found that the trial court properly granted the defendant's motion to dismiss. The Court affirmed this decision of the trial court.

The Court next looked to the plaintiff's claim that her action was timely as the one-year statute of limitation under §4-160 (d) because it was extended by §52-594. The Court again found this argument to be unpersuasive. The Court found that §52-594 was inapplicable to this case. The Court further reasoned that even if §52-594 was applicable in the present case, the plaintiff's claim would still be untimely. The Court reasoned that had §52-594 prevented the expiration of the defendant's waiver of sovereign immunity for an additional year following the decedent's death, the plaintiff's claim still necessarily fails as it was not commenced within that additional one-year period. The Court found that the plaintiff could not prevail on this claim. The Court therefore determined that the trial court properly dismissed the case.

The Court found that the determinations of the trial court were proper and affirmed their holding.