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Recent Developments: Murphy v. Edmonds: Maryland's Statutory Cap on Noneconomic Damages in Personal Injury Cases Is Constitutional and Neither Violates Due Process nor Denies Right to a Jury Trial

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that changes have occurred which, when considered with all other relevant circumstances, required that a change in custody be made to accommodate the future best interest of the children" *Id.* at 1139. The court acknowledged that "[a] determination of custody requires an element of prediction" and that it is "neither necessary nor desirable" to wait until a child is harmed to make a custody change. *Id.*

The court also examined the relationship between a master's recommendations and a chancellor's judgment. In particular, the court was troubled by the chancellor's failure to exercise independent judgment after subjecting the master's fact-finding to a clearly erroneous test. The court called the burden on chancellors "substantial," and the court emphasized that while consideration may and should be given to a master's recommendations, the final decision must be that of the chancellor's. *Id.* at 1135, 1138. "That the conclusions . . . of the master are well supported by the evidence is not dispositive if the independent exercise of judgment by the chancellor on those issues would produce a different result," explained the court. *Id.* at 1135.

The *McCready* and *Domingues* opinions should provide fresh guidance for change-in-custody cases. The decisions affirmed that the standard for modification of custody orders is the "best interests of the child." Additionally, the Court of Appeals of Maryland clearly stated that a child need not have been adversely affected before a change in custody can occur. Finally, the court's emphasis on the chancellor's duty to exercise independent judgment forces trial judges to take procedural steps to avoid the appearance of rubber-stamping the recommendations of masters.

- Catherine E. Head

***Murphy v. Edmonds*: MARYLAND'S STATUTORY CAP ON NONECONOMIC DAMAGES IN PERSONAL INJURY CASES IS CONSTITUTIONAL AND NEITHER VIOLATES DUE PROCESS NOR DENIES RIGHT TO A JURY TRIAL.**

In *Murphy v. Edmonds*, 601 A.2d 102 (Md. 1992), the Court of Appeals of Maryland upheld the State's statutory cap on noneconomic damages in personal injury cases as constitutional. Using the least burdensome test in analyzing the Courts & Judicial Proceedings article, section 11-108 of the Maryland Code, the court found that the law was rationally related to the State's purpose and did not violate the equal protection clause of the constitution. The court's ruling also means that limiting a jury's award with a noneconomic damages cap does not violate an individual's constitutional right to a jury trial. In justifying its position, the court proclaimed its deference to the legislature in removing the issue from the judiciary and enacting the cap with legislation.

Sarah Murphy was involved in an automobile accident while driving on I-83 in Baltimore. The defendants' tire blew out and his truck ran across the median striking Ms. Murphy, causing her serious injuries. Ms. Murphy and her husband filed a complaint in Baltimore County Circuit Court for compensatory and punitive damages. The jury awarded the Murphys \$510,000 in noneconomic damages. The defendants filed post trial motions requesting that the noneconomic damages be reduced to the statutory amount of \$350,000 as provided in section 11-108.

The plaintiffs, however, argued that section 11-108 violated the equal protection guarantee embodied in the Due Process Clause found in article 24 of the Maryland Declaration of Rights. The trial court ruled that the statute limited an important right, and therefore, the statute would have to pass the heightened scrutiny test. *Id.* at 106.

The judge found the statute failed heightened scrutiny and therefore upheld the jury award.

The court of special appeals reversed the trial court's holding in *Edmonds v. Murphy*, 573 A.2d 853 (Md. Ct. Spec. App. 1990). There, the court found that there was no important right which the statute was limiting and, determined that as such, section 11-108 was rationally related to the State's goal of economic regulation and thus constitutional.

The plaintiffs appealed to the court of appeals on two issues: 1) that the classification created by section 11-108 violated the equal protection guarantee of article 24 of the Maryland Declaration of Rights, and 2) that section 11-108 infringes upon the right to a jury trial under articles 5 and 23 of the Maryland Declaration of Rights.

The court began its analysis on the premise that equal protection as addressed in Fourteenth Amendment of the United States Constitution and article 24 of the Maryland Declaration of Rights was the same concept for analytical purposes. Opinions of the United States Supreme Court dealing with the Equal Protection Clause of the Fourteenth Amendment were therefore viewed by the court of appeals as "practically direct authorities." *Id.* at 108 (citing *Attorney General v. Waldron*, 426 A.2d 929 (1981)).

The plaintiffs argued that section 11-108 created two classes of people when damages were awarded under this statute. One group, composed of those who were less seriously injured, got to keep the entire jury award, while the other group, those who were more seriously injured, did not. Such classification, the plaintiffs argued, was in violation of the equal protection guarantee of the Maryland Declaration of Rights.

In addressing the plaintiffs' claim, the court discussed the three different standards of review for classifications challenged under the equal protection guarantees. The least restrictive standard of review was the rational basis

test, where it would strike down legislation “only if it [was] so unrelated to legitimate purpose that government actions were irrational.” *Id.* (quoting *Gregory v. Ashcroft*, 111 S. Ct. 2395, 2406 (1991)).

Secondly, the court identified “intermediate scrutiny,” or “heightened scrutiny.” For this classification to be sustained it “must serve important governmental objectives and must be substantially related to achievement of those objectives.” *Id.* at 110 (quoting *Craig v. Boren*, 429 U.S. 190, 197 (1976)).

The court then recognized the third category involving cases where a “suspect class” or a “fundamental right” was burdened. The court explained that the classification was subject to strict scrutiny and it would uphold such a law “under equal protection guarantee only if it [was] shown that ‘they are suitably tailored to serve a compelling state interest.’” *Id.* at 109 (quoting *Cleburne v. Cleburne Living Center*, 473 U.S. 432, 440 (1985)).

The plaintiffs argued that the intermediate scrutiny test should apply because section 11-108 limits an “important personal right.” *Id.* at 111. The plaintiffs asserted that this personal right arose out of the common law right to be compensated for noneconomic damages. The court of appeals refused to apply the intermediate test on the basis that, in its view, the right to compensation under common law does not give rise to an “important personal right.” The court stated, “a legislative cap of \$350,000 upon the amount of noneconomic damages which can be awarded to a tort plaintiff does not implicate such an important ‘right’ as to trigger any enhanced scrutiny.” *Id.*

The court based its position on article 5 of the Maryland Declaration of Rights, which said the common law was subject “to the revision of and amendment or repeal by the legislature of this state.” *Id.* at 112. The court reasoned that just because a law was found in the common law does not

mean that the legislature could not change it. Further, the court emphasized that if the plaintiffs’ position was adopted, every common law would become a personal right and applying the intermediate standard of review would prevent the legislature from making many laws. *Id.*

The court pointed out that its decision followed the United States Supreme Court’s ruling in *Duke Power Co. v. Carolina Env. Study Group*, 438 U.S. 59 (1978), where the Court applied the rational basis test to a legislative cap on tort damages in nuclear power accidents. In that case, the Court stated that the law was “‘a classic example of an economic regulation’ needed to accommodate ‘the burdens and benefits of economic life,’” and further emphasized that “‘[a] person has no property, no vested interest, in any rule of the common law.’” *Id.* (quoting *Duke Power*, 438 U.S. at 88).

The court of appeals further stated that its holding does not limit a person’s access to the courts, as the Murphys argued. The court reasoned that modifying the substantive law does not restrict access to the courts. Even if section 11-108 was restrictive, the court explained, it would be reasonable based upon the legislative intent of increasing the availability of insurance in Maryland. *Id.* at 113-14.

Having decided that the rational basis test applied in this case, the court viewed the statute as constitutional. The court looked to the General Assembly’s reasoning for passing the legislation. The court noted the legislature’s concern about the availability and cost of liability insurance in Maryland, the excessive insurance premiums for doctors, and the declining services available for patients. The court noted that the stated purpose of the law was to “assure the availability of sufficient liability insurance, at a reasonable cost, in order to cover claims for personal injuries to members of the public.” *Id.* at 115. As such, it served a legitimate state purpose and applied to all personal injury claimants equally,

rather than singling out one category of claimants. Therefore, the court held that the noneconomic damages cap was neither irrational or arbitrary.

The plaintiffs’ second argument was that the cap violated their right to a jury trial as guaranteed by articles 5 and 23 of the Maryland Declaration of Rights. Their rights, the plaintiffs argued, were violated because the cap interfered with the jury’s ability to properly determine damages and also interfered “with the jury’s exclusive province in determining factual issues.” *Id.* at 116. The court rejected this argument, stating that, because it was decided that the legislature was allowed to cap noneconomic damages, there was nothing for the judge or the jury to decide. *Id.* The right to a jury trial arises in cases where the result or issue must be decided by either the judge or the jury. The court held, however, that the legislature had taken the issue of noneconomic damages out of the hands of both the judge and jury. *Id.*

The holding in *Murphy* settles a long argument in the legal, legislative and insurance communities. The Maryland Legislature enacted the noneconomic damages cap because it places as a high priority on the availability of insurance to Maryland citizens. The court of appeals has clearly decided this one issue of whether section 11-108 is constitutional. Yet, it is foreseeable that more litigation will follow as future litigants debate issues regarding whether certain damages are economic or noneconomic, as well as to which cases the noneconomic cap will apply.

- Elizabeth A. Lee

Woodson v. State: HEIGHTENED EVIDENTIARY FOUNDATION REQUIRED TO ADMIT CONFESSIONS WHICH TRIGGER DEATH SENTENCE ELIGIBILITY.

In *Woodson v. State*, 325 Md. 251, 600 A.2d 420 (1992), the Court of Appeals of Maryland nullified petitioner’s death sentence by revers-