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RECENT DEVELOPMENT

PARKER V. HAMILTON: UNDER MARYLAND RULE 5-201, A MINOR PLAINTIFF'S WRONGFUL DEATH CLAIM IS TOLLED UNTIL THE AGE OF MAJORITY; A CLAIM IS FURTHER TOLLED IF IT CONTAINS SUFFICIENT ALLEGATIONS OF FRAUDULENT CONDUCT WHICH BARRED THE PLAINTIFF FROM FILING A CLAIM.

By: Rebecca Malkowski

The Court of Appeals of Maryland held that a minor's claims for wrongful death were tolled because both Section 5-201 and 5-203 of the Courts and Judicial Proceedings of the Maryland Code ("section 5-201"), ("section 5-203") were satisfied. *Parker v. Hamilton*, 453 Md. 127, 129-30, 160 A.3d 615, 615 (2017). The court held that under section 5-201, the time to bring a claim of wrongful death tolled during the period of one's minority. *Id.* at 129, 160 A.3d at 616. In addition, the court held that a claim of wrongful death was tolled when the plaintiff successfully pled that a defendant's fraudulent behavior barred him or her from filing a claim. *Id.* at 129-30, A.3d at 616.

On or about August 22, 2009, Mr. William Hamilton ("Hamilton") shot and killed his thirty-eight-year-old farmhand, Mr. Craig Junior Parker ("Mr. Parker"). Mr. Parker left behind two family members, his mother, Cassandra Parker ("Cassandra") and his son ("Z"). On June 9, 2015, Cassandra, the personal representative of Mr. Parker's estate, and Z filed a complaint against Hamilton in the Circuit Court for Dorchester County. This complaint included actions of survival and wrongful death against Hamilton.

Shortly after filing suit, Cassandra amended the complaint to include a claim of fraud. This claim alleged that after Hamilton killed Mr. Parker, he buried the remains to conceal the crime. In response to this action, Hamilton filed both a motion to dismiss with prejudice and a motion for summary judgment. The court granted Hamilton's motion to dismiss the claims of wrongful death, finding that they were time-barred under Section 3-904 of the Courts and Judicial Proceedings of the Maryland Code ("section 3-904").

Cassandra filed an appeal to the Maryland Court of Special Appeals, but the Court of Appeals of Maryland granted *certiorari* before the lower court could consider the appeal. The first issue presented was whether the trial court improperly ignored section 5-201 when it determined that the minor plaintiff's wrongful death claims were not tolled until the age of majority. Secondly, the court considered whether the dismissal of plaintiff's claim violated his rights under Article 19 of the Maryland Declaration of Rights. Lastly, it examined whether the trial court erred in concluding that the fraudulent concealment of murder did not toll the claim of wrongful death under section 5-203.

The Court of Appeals of Maryland began its analysis by discussing section 5-201 and its ability to toll wrongful death claims during the period of minority. *Parker*, 453 Md. at 134, 160 A.3d at 619. In reviewing the language of the statute, the court found that the time to file begins to accrue after the age of majority is reached. Thus, one has three years after reaching the age of majority to file the action. *Id.*

The statute's original language limited the time to bring the claim to twelve months after the victim's death. *Parker*, 453 Md. at 135, 160 A.3d at 620. However, the timeframe was eventually extended to three years due to the General Assembly's intent to treat wrongful death the same as a claim of negligence. *Id.* This decision was also influenced by *Waddell v. Kirkpatrick*. *Parker*, 453 Md. at 136, 160 A.3d at 620 (citing *Waddell v. Kirkpatrick*, 331 Md. 52, 52-56, 626 A.2d 353, 353-55 (1993)). The *Waddell* court applied section 3-904 in barring a daughter's claim for wrongful death when she waited until she was 20 years old to file. *Id.* Pursuant to section 3-904, the *Waddell* court found that the time to bring a claim of wrongful death was a condition precedent as opposed to a statute of limitations. *Parker*, 453 Md. at 137, 160 A.3d at 620-21.

In response to *Waddell*, the General Assembly amended the language of section 5-201 to reference its application to wrongful death claims. *Parker*, 453 Md. at 137, 160 A.3d at 621. Specifically, section 5-201 now allowed the period to file a claim of wrongful death to be tolled by a plaintiff's minority. *Parker*, 453 Md. at 137-38, 160 A.3d at 621. By applying section 5-201 to the instant case, the Court of Appeals of Maryland determined that the language of the statute allowed for the tolling of wrongful death claims during the period of one's minority. *Id.* at 138, 160 A.3d at 621. As a result, Z's claims were tolled due to his minority under section 5-201. *Id.*

The court next addressed whether the trial court's decision that Cassandra's claims were not tolled violated Z's rights under Article 19 of the Maryland Declaration of Rights. *Parker*, 435 Md. at 131, 160 A.3d at 617. Cassandra argued that it would be a violation under Article 19 of the Maryland Declaration of Rights if the court did not allow for the tolling until the age of majority. *Id.* at 138-39, 160 A.3d at 621. However, the court explained that because the language in section 5-201 provided for tolling, it was not necessary to discuss the constitutional issue. *Id.*

Finally, the court addressed whether the trial court erred in its determination that Parker's allegation of fraud failed to toll the plaintiff's wrongful death claim under section 5-203. *Parker*, 453 Md. at 139, 160 A.3d 615 at 622. Under section 5-203, if knowledge of a cause of action was kept from the adverse party because of fraud, the cause of action should not begin accruing until the fraud is discovered. *Id.* at 129, 160 A.3d at 616. The time limitations on filing wrongful death claims begin tolling when the defendant engages in fraudulent behavior preventing the plaintiff from bringing a wrongful death action within three years. *Id.*

In analyzing Cassandra's allegation of fraud, the court explained that the amended complaint sufficiently asserted Hamilton's fraudulent conduct

under section 5-203. *Parker*, 453 at 139-40, 160 A.3d at 622. Section 5-203 requires that one must provide sufficient facts of fraud rather than mere allegations. *Parker*, 160 A.3d 615 at 622 (citing *Antigua Condo. Ass'n v. Melba Inv'rs Atl., Inc.*, 307 Md. 700, 735, 517 A.2d 75, 93 (1986)). Cassandra's complaint identified that Hamilton killed Mr. Parker and proceeded to bury his remains afterwards. Therefore, the court decided that Parker's allegations regarding Hamilton's actions were enough to be deemed fraudulent. *Id.*

The Court of Appeals of Maryland held that the Circuit Court of Dorchester County erred in dismissing Parker's claims of wrongful death as untimely. *Parker*, 453 Md. at 129-30, 160 A.3d at 616. The court also held that the trial court erred in its determination that Hamilton's fraudulent conduct did not toll Cassandra's claim. *Id.* This holding creates a bright-line rule for minor plaintiffs to bring a claim of wrongful death. Specifically, this case holds that minors have three years after reaching the age of majority to bring the claim. This is imperative to Maryland law because it will allow minors more opportunity to recover on wrongful death claims.