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The Supreme Court's $150 Million Dismissal

Tony Mauro
03-31-2009

The U.S. Supreme Court blinked Tuesday in a long-running standoff with the Oregon Supreme Court over the handling of a punitive damages suit against Philip Morris brought by the widow of a smoker who died from lung cancer in 1997.

As a result, the widow, Mayola Williams, stands to receive at least some portion of the $79 million verdict, which has grown to $150 million with interest.

The high court dismissed the case of *Philip Morris v. Williams* as "improvidently granted" on Tuesday in a one-sentence opinion.

When such a dismissal comes soon after oral argument, it often means the justices have discovered a defect in the case that makes it an inappropriate vehicle to decide the issue. But when, as here, the dismissal comes nearly four months after argument, it could mean that after several tries, no majority of the justices coalesced around a single position.

The case went before the Supreme Court three times and was sent back to Oregon's Supreme Court twice—each time resulting in the Oregon judges reaffirming the verdict.

The last time the high court remanded it to Oregon was in 2007 with instructions to be sure the verdict was not punishing Philip Morris for injuries to anyone other than Jesse Williams, Mayola's husband. The Oregon Supreme Court responded by reaffirming the verdict again, but based on an independent state ground that had not been invoked before.

That led Philip Morris and its allies in business groups to paint the Oregon Supreme Court as a renegade court that was defying the U.S. Supreme Court's judgments. But that assertion seemed to lose steam during oral arguments in December.

If the justices were divided on the legitimacy of the Oregon court's latest ruling as well as on the merits of the case, it may have proven impossible to form a majority, says Richard Samp, chief counsel of the Washington Legal Foundation, which supported Philip Morris.

“There is little doubt that the Oregon Supreme Court engaged in procedural gamesmanship to sidestep constitutional limits on its powers that it doesn’t like,” Samp says. “Today’s action is disappointing because it allows the Oregon courts to get away with that sleight of hand.”

Robert Peck of the Center for Constitutional Litigation in D.C., who argued on Mayola Williams’ behalf, says she was “thrilled, overjoyed,” at the news of the Supreme Court’s action. “She hasn’t gotten a dollar of the judgment,” Peck says, and will get a substantial portion, though Philip Morris may challenge some of it on other grounds.

On the dismissal of the case, Peck says, “We urged it in our brief, but when it took this long, we did not think it would happen. It’s the right result.”
Mayer Brown’s Stephen Shapiro, who argued the case for Philip Morris, referred questions to Altria, the parent company, which issued a statement from Murray Garnick, associate general counsel: “While we had hoped for a different outcome, the Supreme Court has decided not to review a narrow procedural ruling by the state court. Today’s decision does not impact the court’s earlier decisions on punitive damages.”

Also on Tuesday, the justices ruled unanimously in *Hawaii v. Office of Hawaiian Affairs* in favor of Hawaii’s authority to sell lands claimed by native Hawaiians. The native Hawaiians claimed—and the Hawaii Supreme Court agreed—that a 1993 congressional resolution apologizing for the U.S. role in overthrowing the Hawaiian monarchy a century earlier barred the sale.

In a third decision, *Rivera v. Illinois*, the high court unanimously ruled that a judge’s denial of a peremptory challenge in a murder trial is not a structural error that requires granting a new trial.

Tony Mauro can be contacted at ***tony.mauro@incisivemedia.com***