

Circuit Court for Cecil County
Case No. C-07-JG-16-000099

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 30

September Term, 2017

GREAT STUFF, INC., ET AL.

v.

ANDREW CODY COTTER

Meredith,
Nazarian,
Zarnoch, Robert A.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Nazarian, J.

Filed: February 14, 2018

* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Andrew Cotter sued Great Stuff, Inc., Jeffrey Bruette, and Brian Kuehn successfully in Delaware. His judgment survived post-trial motions and an appeal to the Delaware Supreme Court. Great Stuff is a Delaware corporation that operates there, but Messrs. Bruette and Kuehn are domiciled in Maryland, so Mr. Cotter enrolled his Delaware judgment in the Circuit Court for Cecil County. The defendants, appellants here, responded by moving to vacate the judgment on the ground that the Delaware courts misapplied Maryland law in the case. The circuit court denied the motion and enrolled the judgment. We affirm.

I. BACKGROUND

The underlying action involved claims for intentional infliction of emotional distress and battery, both grounded in allegations of sexual misconduct by Messrs. Bruette and Kuehn, ages 49 and 33 respectively, against Mr. Cotter, then their seventeen-year-old employee. The specifics aren't particularly important for our purposes, but they involved allegations that the two men groomed Mr. Cotter, provided him alcohol and drugs, and assaulted him sexually while he was intoxicated. Mr. Cotter alleged that he suffered serious emotional turmoil and self-hatred and became reclusive as a result.

Mr. Cotter, a Delaware resident, filed a complaint against Great Stuff and both men individually in the Delaware Superior Court. No defendant challenged the subject matter or personal jurisdiction of the Delaware courts to hear and decide Mr. Cotter's claims. Under Delaware law, "the law of the state where the injury occurred is presumed to control unless another state has a more significant relationship," *Clinton v. Enter. Rent-A-Car Co.*,

977 A.2d 892, 895 (Del. 2009), and the Delaware Superior Court decided that Maryland law governed these claims, another decision that no one has challenged.

After a trial, a jury found all three defendants liable to Mr. Cotter for intentional infliction of emotional distress and battery and awarded compensatory and punitive damages. The three defendants filed a motion for judgment notwithstanding the verdict, contending that Mr. Cotter had failed to prove the severity of his harm, an element of intentional infliction of emotional distress under Maryland law. The Delaware trial court denied the motion and found that Mr. Cotter had met his burden of proving severe emotional distress:

[t]he “extreme and outrageous character of the defendant’s conduct may arise from his abuse of a position, or relation with another person, which gives him actual or apparent authority over him, or power to affect his interests.” [*Figueiredo-Torres v. Nickel*, 321 Md. 642, 654 (1991) (internal citations omitted)]. For example, sexual abuse of a child by a person in a position of authority and trust is outrageous conduct from which a jury could properly find severe emotional distress.

[Great Stuff]’s misconduct, having been proved by [Mr. Cotter], is the sort of extreme and outrageous behavior that, by itself, allows an inference of severe emotional distress. Under the circumstances, [Great Stuff was] in a position to influence [Mr. Cotter], both emotionally and physically. [Messrs. Bruette and Kuehn] were mature adults, almost three times and twice [Mr. Cotter’s] age. [Mr. Cotter] worked for them and, by their admissions, they provided for his guidance and welfare. [Mr. Cotter] was barely of age when his relationship with [Great Stuff] began. He was young, dependent, and impressionable.

Therefore, this employer-employee relationship falls into the category of relationships carefully scrutinized by the courts. Here, the jury was entitled to infer severe emotional distress

based on the parties’ special relationship and what [Great Stuff was] found to have done.

This is not to say that all employer-employee relationships warrant special consideration.... Nonetheless, as in this case, a jury may find severe emotional distress where a middle-aged boss uses his position and power to gain the trust of a very young employee and then provides drugs and gifts to lure and cajole him into sexual activity. This is because the tort is not just sexual misconduct or drug dealing. It is “the entire course of conduct engaged in by [Great Stuff], with whom he enjoyed a special relationship.” *Figueiredo-Torres*, [321 Md. at 657].

They appealed to the Delaware Supreme Court, which affirmed the judgment after oral argument.

Mr. Cotter filed his judgment in the Circuit Court for Cecil County, the location of Messrs. Bruette and Kuehn’s last known residence. The appellants filed a motion to vacate the foreign judgment on the basis that Delaware misapplied Maryland law. The circuit court heard arguments from each side, but denied the motion. Great Stuff timely appealed.

II. DISCUSSION

The appellants would like the courts of Maryland to review the merits of the underlying judgment, and they contend that the circuit court erred by declining to do so.¹ Their request leaps over the Full Faith and Credit Clause of the Constitution of the United

¹ In their brief, the appellants phrased their Question Presented as follows:

- I. Did the trial court err in holding that there was a proper recitation of facts to support a claim for IIED, where the Delaware trial court relied on an inference of severe emotional distress from proof of another element of the tort rather than proof of the element of severity of the emotional distress, as required under Maryland law?

States,² though, and misapprehends our judiciary’s role at this point in the life of these claims. Even if the appellants are right that the Delaware courts misapplied Maryland law—and we don’t think they are—that sort of error could not justify a decision to deny full faith and credit to a Delaware judgment.

Mr. Cotter sought to enroll his judgment under the Uniform Enforcement of Foreign Judgments Act (the “Act”), MD. CODE ANN., Cts. & Jud. Proc. (“CJP”) §§ 11-801–807, a statutory scheme grounded in the premise that the Full Faith and Credit Clause entitles other states’ judgments to full recognition and enforcement here in Maryland. The Act provides that any “judgment, decree, or order of a court of the United States or of any other court that is entitled to full faith and credit in this state,” CJP § 11-801, “has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, staying, enforcing, or satisfying as a judgment of the court in which it is filed.” CJP § 11-802(b). This language does not permit a party to re-litigate the merits of a case decided in another state. *Osteoimplant Tech., Inc. v. Rathe Prods., Inc.*, 107 Md. App. 114, 118 (1995) (“The language of section 11-802(b) seems, at first glance, to suggest that the Circuit Court for Baltimore County could reopen the case, but when one considers that some issues are not permitted to be relitigated anywhere because of principles of *res judicata* and collateral estoppel, the proper result becomes apparent.”). The only grounds for re-opening a foreign

² “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.” U.S. CONST. ART. IV § 1.

judgment are: “lack of personal or subject matter jurisdiction of the rendering court, fraud in procurement (extrinsic), satisfaction, lack of due process, or other grounds that make a judgment invalid or unenforceable. The nature and amount or other aspects of the merits (*i.e.*, defenses) of a foreign judgment cannot be relitigated in the state in which enforcement is sought.” *Osteoimplant Tech., Inc.*, 107 Md. App. at 120 (cleaned up).³ A party who wishes to challenge a judgment on the merits must do so in the original forum, and cannot mount a collateral attack in the state of enforcement. *Id.* at 120–21 (“There can be little doubt that all courts must pay deference to the thoughtfulness and wisdom that go into judgments from foreign jurisdictions and must not, as a general rule, vacate, alter, or amend those judgments unless there exists one of the [above mentioned deficiencies]. Absent the necessary predicate, appellant is not entitled to reopen the merits of the foreign judgment.”).

The appellants haven’t identified any jurisdictional or due process defects, public policy conflict, or any other problem with the Delaware judgment that undermines its right to enforcement here. Nor did the circuit court, which properly recognized and rejected the appellants’ collateral attack:

the court finds no proper basis for this collateral attack; but addressing the issues raised by [Great Stuff], court finds that

³ A foreign judgment may also be challenged when it conflicts with the public policy of the forum state. *See Malik v. Malik*, 99 Md. App. 521, 534 (1994) (“where [a foreign] judgment is...against public policy...it will not be given any effect by our courts”); *see also Telnikoff v. Matusevitch*, 347 Md. 561, 578 (1997) (a judgment under English libel law was unenforceable and against “Maryland’s public policy concerning freedom of the press and defamation actions”). There has been no such argument here—the appellants claim only that the Delaware courts misapplied Maryland law.

there was no extrinsic fraud; there was no fraud which prevented the jury from a consideration of issues to be properly considered by the jury ... [the] [c]ourt does not find any irregularity of process or procedure, or any mistake which was jurisdictional. So the court declines to vacate the foreign judgment -- foreign judgments entered in this matter against defendants. The motion will be denied.

The circuit court got it right. The appellants had a full and fair opportunity in Delaware to make their case and to challenge the bases of the judgment against them. Failing a jurisdictional or other threshold defect in the judgment as formed in Delaware, it is not our courts' place to evaluate that judgment on the merits. The merits phase of this case is over, and Mr. Cotter is entitled to enforce his judgment here in a manner consistent with Maryland law.

**JUDGMENT OF THE CIRCUIT COURT
FOR CECIL COUNTY AFFIRMED.
APPELLANT TO PAY COSTS.**