

Supreme Court of Florida

No. 73,836

ROBERT EDWIN SEIBERT,
et al., Petitioners,

vs .

MATTHEW L. McNAMARA, JR.,
et al., Respondents.

[September 6, 1990]

GRIMES, J.

We review McNamara v. Seibert, 537 So.2d 1009 (Fla. 5th DCA 1988), in which the Fifth District Court of Appeal, on rehearing, certified to this Court the following question of great public importance:

MAY A SURVIVOR, AS THAT TERM IS DEFINED
IN THE FLORIDA WRONGFUL DEATH ACT,
RECOVER FROM HIS OWN UNINSURED MOTORIST
INSURANCE POLICY HIS DAMAGES WHERE THE
DECEDENT IS NOT A COVERED PERSON UNDER
THE POLICY?

Id. at 1010-11. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

On facts essentially the same as those in the instant case for purposes of the legal issue involved, this Court recently held that the uninsured motorist statute does not require coverage for anyone who may be entitled to recover consequential damages as a survivor under the wrongful death statute when the decedent had neither liability nor uninsured motorist coverage under the policy. Valiant Ins. Co. v. Webster, 15 F.L.W. 405 (Fla. July 26, 1990). Therefore, as it relates to the facts of the case, we answer the certified question in the negative and quash the decision below.

It is so ordered.

OVERTON, McDONALD and EHRLICH, JJ., concur.
KOGAN, J., concurs specially with an opinion, in which BARKETT, J., concurs.
SHAW, C.J., dissents.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

KOGAN, J., specially concurring.

I concur solely because of this Court's ruling in Valiant Insurance Company v. Webster, 15 F.L.W. 405 (Fla. 1990).

BARRETT, J., concurs.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance

Fifth District - Case No. 86-1882

(Volusia County)

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