STATE OF MINNESOTA
IN COURT OF APPEALS
A20-0491

Bentley S. Poitra, et al.,
Appellants,

vs.

Emily Short, et al.,
Respondents,

North Star Mutual Insurance,
Respondent.

Filed December 28, 2020
Affirmed
Ross, Judge

Crow Wing County District Court
File No. 18-CV-19-3213

Matthew J. Barber, James S. Ballentine, Robert L. Lazear, Schwebel Goetz & Sieben, P.A., Minneapolis, Minnesota (for appellant-parents)

Kenneth H. Bayliss III, Quinlivan & Hughes, P.A., St. Cloud, Minnesota (for respondents Short, et al.)

Joseph M. Bromeland, Maschka, Riedy, Ries & Frentz, Mankato, Minnesota (for respondent North Star Mutual Insurance)

Considered and decided by Bryan, Presiding Judge; Ross, Judge; and Bjorkman, Judge.

U N P U B L I S H E D O P I N I O N

ROSS, Judge

Two-year-old appellant Bentley Poitra was living with his grandparents and in their backyard when their Alaskan Malamute dog attacked him, biting his face, fracturing his skull, lacerating his face, and blinding his right eye. The grandparents' home insurer refused to cover Bentley's medical expenses, citing a resident-relative exclusion clause in the insurance policy. The district court agreed with the insurer and dismissed the Poitra family's declaratory-judgment action against the insurer for failure to state a claim. In this appeal, the Poitras argue that the resident-relative exclusion clause contravenes public policy. Because supreme court precedent defeats the argument, we affirm.

FACTS

Bentley Poitra was two years old and residing with his maternal grandparents, respondents Jamie and Emily Short, in March 2014. One day, Bentley was in the Shorts' backyard when the Shorts' Alaskan Malamute attacked him, biting his head repeatedly. The bites seriously injured Bentley, leaving him with a fractured skull and a blinded right eye.

Bentley's father Justen Poitra and paternal grandmother Debra Poitra filed a negligent-supervision claim against the Shorts in 2018, and they filed a declaratory-judgment action against the Shorts' insurer, North Star Mutual Insurance Company, seeking coverage under the Shorts' homeowners' policy.

An exclusion clause in the policy was central to the insurance dispute in the district court. The policy's resident-relative exclusion clause says, "Personal Liability does not

apply to: 'bodily injury' to 'you', and if residents of 'your' household, 'your' relatives and person(s) under the age of 21 in 'your' care or in the care of 'your' resident relatives." The issue in the district court was not whether the circumstances fit the clause but whether the clause should be held invalid as a matter of public policy. The district court rejected the idea and dismissed the Poitras' declaratory-judgment action for failure to state a claim under Minnesota Rule of Civil Procedure 12.02(e).

This appeal follows.

D E C I S I O N

The Poitras argue that the district court erred by dismissing their claim. We review de novo a district court's dismissal for a failure to state a claim under Minnesota Rule of Civil Procedure 12.02(e). *Bodah v. Lakeville Motor Express*, 663 N.W.2d 550, 553 (Minn. 2003). The Poitras contend specifically that the resident-relative exclusion contravenes public policy under Minnesota Supreme Court precedent. Under long-standing precedent, an insurer and its insured are free to enter into contracts delineating coverage and excluding from coverage any specific risks, losses, or persons for which statutes and public policy do not require insurers to cover. *Bobich v. Oja*, 104 N.W.2d 19, 24 (Minn. 1960). For the following reasons, we see no rationale to consider invalidating the exclusion on public-policy grounds.

First, the Poitras have identified no statutory basis to invalidate the exclusion. We have considered potentially applicable statutes. *See* Minn. Stat. §§ 65A.27–.302 (2018). We are satisfied that they do not require a homeowner's insurer to cover personal injuries.

They therefore do not prevent North Star from excluding any type of personal injury from the Shorts' policy.

Second, caselaw also does not suggest that public policy invalidates the exclusion. It is true, as the Poitras emphasize, that the supreme court in *Am. Family Mut. Ins. Co. v. Ryan*, 330 N.W.2d 113, 115 (Minn. 1983), recounted that it has gradually outlawed intrafamily tort immunity since the 1960s, culminating with abolishing parental tort immunity in *Anderson v. Stream*, 295 N.W.2d 595, 600–01 (Minn. 1980). But the *Ryan* opinion plainly defeats the Poitras' public-policy argument. It held that public policy does not preclude a homeowner's insurer from excluding coverage for personal injury to members of the insured's household. 330 N.W.2d at 115. It relied on "[t]he well-settled general rule" allowing parties freely "to contract as they desire . . . so long as coverage required by law is not omitted and policy provisions do not contravene applicable statutes." *Id.* It then specifically rejected the same argument the Poitras make today that household exclusions should be "ineffective because they undermine [the] court's rationale in limiting the scope of intrafamily tort immunities." *Id*. We too must therefore reject the argument.

The Poitras would have us disregard *Ryan*'s holding on the proposition that the *Ryan* court would have invalidated resident-relative exclusions if only the supreme court had decided *Ryan* before *Anderson*. *Ryan*'s clear reasoning on the point renders this notion not only speculative but clearly wrong. The Poitras alternatively ask us to distinguish *Ryan* based on this court's dicta in *Minn. Mut. Fire & Cas. Ins. Co. v. Manderfeld*, 482 N.W.2d 521, 526 (Minn. App. 1992). According to the argument, *Manderfeld* leaves the door open to invalidate resident-relative exclusion clauses on public-policy grounds. We did offer in

Manderfeld a "concern[] that the household exclusion frustrates the public policy, enunciated in *Anderson*, of compensating persons injured by family members." *Id.* But this court's mere dictum hardly weakens a supreme court holding, and the supreme court later implicitly rejected the *Manderfeld* dictum. In *Reinsurance Ass'n of Minnesota v. Hanks*, the supreme court examined a farm multi-peril insurance policy that excluded recovery for bodily injury occurring to the insured and to residents, relatives, and others younger than the age of 21 under the care of the insured or of relatives. 539 N.W.2d 793, 794–95 (Minn. 1995). The *Hanks* court saw the *Ryan* case as "involving comparable facts" but did not treat the exclusion as invalid under public policy. *Id.* at 797. *Hanks* and *Ryan* defeat the Poitras' appeal.

Because caselaw establishes that resident-relative exclusions do not contravene public policy, the district court appropriately applied the resident-relative exclusion clause here and, therefore, also appropriately granted North Star's motion to dismiss.

Affirmed.