

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Bernard Bagley #175851,)
)
Plaintiff,)

Civil Action No. 2024-CP-40-3454

v.)

Palmetto Richland Hospital Prisma)
Health, John Doe, Surgeon, and)
South Carolina Department of)
Corrections Division of Health)
Services,)

ORDER

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SC Court of Appeals

Defendants.)
_____)

This matter is before the Court on Defendant Palmetto Richland Hospital Prisma Health's (correct name should be Prisma Health – Richland d/b/a Prisma Health Richland) Motion for Summary Judgment pursuant to Rule 56, SCRCP, upon the following grounds: (1) at the time of the matters alleged in the Complaint, Defendant did not employ the physician who performed Plaintiff's surgery and is not vicariously liable for any alleged negligence and deviations of accepted standards of practice by this surgeon, (2) Plaintiff does not have an expert witness to opine Defendant was negligent and deviated from accepted standards of practice that are a proximate cause of Plaintiff's alleged injuries and damages; (3) Defendant's alleged negligence and deviation from accepted standards of practice do not involve subject matter that lies within the ambit of common knowledge and experience; and (4) because Defendant is not a "person" within the meaning of the term as used in 42 U.S.C. § 1983, Plaintiff's §1983/deliberate indifference claims against Defendant are barred.

The Court held a Webex hearing on December 18, 2024. Present were Plaintiff, an inmate at the Kershaw Correctional Institution, South Carolina Department of Corrections, who represents himself, and James E. Parham, Jr., representing Defendant.

After considering the case file, including the pleadings and documents filed by Plaintiff and Defendant, the arguments made by Plaintiff and Defendant, and the applicable law, I find as follows:

This is a medical negligence case. In his Complaint filed on June 6, 2024, Plaintiff alleges he was admitted to Prisma Health Richland Hospital where on March 2, 2021, he had emergency cervical surgery to decompress his spinal cord stenosis and pinched nerves in C3, C4 and C5, and to have multi-level fusions of the same. A few weeks after the surgery, he had complications with swallowing and suffered excruciating pain throughout his neck, throat and back. An x-ray of his cervical spine performed in August 2022 showed one of the C3 screws was loose and protruding/extending from the plate and perhaps into his esophagus and showed C6-C7 stenosis and pinched nerves. Plaintiff further alleges this alleged medical negligence falls under the common knowledge exception to the requirement of expert testimony because his claims are within a layman's common knowledge or experience. Finally, Plaintiff alleges Defendant was deliberately indifferent to his medical needs pursuant to 42 U.S.C. § 1983.

First, Defendant produced an Affidavit in which Defendant's Director of HR Operations, Jim Reames, stated that when Gregory Grabowski, MD (orthopedic surgeon), treated Plaintiff during his admission to Prisma Health Richland Hospital from March 1, 2021, to March 5, 2021, Dr. Grabowski was not employed by Defendant

Prisma Health – Midlands (incorrectly named in the caption and Complaint as Palmetto Richland Hospital Prisma Health) and was not employed by any other Prisma Health corporate entity. Plaintiff did not produce any documentation to dispute Defendant's Affidavit. Therefore, Defendant is not vicariously liable for any alleged negligence and deviations of accepted standards of practice by this treating surgeon.

Second, Plaintiff's allegations of medical negligence and deviations from accepted standards of medical practice by Defendant involve cervical surgery to decompress spinal cord stenosis and pinched nerves and to fuse the same and involve post-operative complications/injuries and pain, all of which do not involve subject matter that lies within the ambit of a layman's common knowledge or experience and require the support of an expert witness. In opposition to Defendant's Motion, Plaintiff did not produce an affidavit from a qualified expert doctor that states Defendant was negligent and deviated from accepted standards of medical practice that are a proximate cause of Plaintiff's alleged injuries and damages.

Third, as stated in its Answer, at the time of the matters alleged in Plaintiff's Complaint, Defendant was a charitable organization as defined by S.C. Code Ann. Sections 33-56-20 and 33-56-170. Because Defendant is not a "person" within the meaning of the term as used in 42 U.S.C. § 1983, Plaintiff's §1983/deliberate indifference claims against Defendant are barred.

Accordingly, viewing the facts and circumstances in the light most favorable to Plaintiff, I conclude Plaintiff failed to meet his burden of proof to overcome Defendant's Motion for Summary Judgment. Because there is no genuine issue as to any material fact, Defendant is entitled to judgment as a matter of law.

Now, therefore, for the reasons stated above, it is

ORDERED that Defendant's Motion for Summary Judgment is granted, and the above-entitled action against Defendant is hereby dismissed, discontinued and forever ended with prejudice.

AND IT IS SO ORDERED.

judicial e-signature found on subsequent page