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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

SC Court of Appeals

APPEAL FROM THE RICHLAND COUNTY COURT OF Common Pleas

DANIEL COBLE, 2774, Circuit Court Judge

Appellant Case No. 2025-00248

MARION WADE FRYE #375354 V. United States et al.

MARION WADE FRYE, Appellant; V. United States; State of South Carolina; South Carolina Department of Corrections (hereinafter S.C.D.C.); PRISMA health midlands hospital (hereinafter PRISMA); Dr. Alan Howard Brill, MD; Dr. Nicholas Di Papadeau, MD; George Shealy; Colby Bounds; Gabrielle Jenkins; PRISMA-VICTORIA, RN; Trisha Ann Jones, CRNA; Lawrence Smith; Samantha Robinson, RPA; South Carolina Governor Henry McMaster; South Carolina Attorney General Alan Wilson; S.C.D.C. Director Bryan Sterling; John Doe, S.C.D.C. medical Services Director; John Doe, MD, S.C.D.C. medical Services Evans Correctional Institution; Dr. Bruce Lobitz, MD, S.C.D.C. medical Services Broad River Correctional Institution; South Carolina Department of Labor, Licensing, and Regulations; State Board of Medical Examiners; United States Health and Human Services (hereinafter HHS); Food and Drug Administration; HHS, Office of the Inspector General; HHS, Office for Civil Rights; Jane Doe, MD, S.C.D.C. medical Services Tiger River Correctional Institution; John Doe, JAY, RN/LPN S.C.D.C. medical Services Broad River Correctional Institution; South Carolina Office of the Inspector General; South Carolina Attorney General's Office; PRISMA Chief Executive Officer one; PRISMA Chief Executive Officer two; Respondants;

- MOTION -

FOR LEAVE OF COURT TO TAKE DEPOSITION PENDING APPEAL:

The Petitioner, MARION WADE FRYE, Pursuant to Rule 27(a)(1) of the South Carolina Rules of Civil Procedure, petitions the Court to enter an order granting the Petitioner leave to take the oral Deposition of Witnesses:

(A): S.C.D.C. Behavioral Health Services,
Sholanda Jackson, Broad River Correctional Institution;
4444 Broad River Road; Columbia, South Carolina 29210;

(B): Amy Pulliam, S.C.D.C. Grievance Coordinator
Turbeville Correctional Institution; 4444 Broad River Road;
Columbia, South Carolina 29210;

(C): LAW OFFICE OF MD Abusaff, Momen Abusaff;
133 E. Frederick Street; Gaffney, South Carolina 29340;

(D): PRISMA, Dr. Alan Howard Brill, MD;
5 Richland medical Park Road; Columbia, South Carolina 29203

(E): Bruce Lobitz, MD, S.C.D.C. medical Services,
Broad River Correctional Institution; 4444 Broad River Road;
Columbia, South Carolina 29210;

For the purposes of Perpetuating Testimony, In
Support of the Petition, the Petitioner Shows the following to the
Court;

(1): The Petitioner expects to be a Party to an
action Cognizable in the Courts of this State but is Presently
unable to bring it because of the following reasons;

(i): The State of South Carolina, S.C.D.C., and
S.C.D.C. Postal employees are deliberately refusing to send Petitioner's
Summons and Complaints "CERTIFIED MAIL RESTRICTED DELIVERY
TO THE ADDRESSEE, defendants, Pursuant to Rule 4 (d)(8), S.C.R.C.P.
and the defendants are refusing to accept Service of the Summons
and Complaints in mutual civil Actions Pending within this Court,
and S.C.D.C. is Purposely Sending my Legal mail, "ONLY" Certified
MAIL, to avoid acceptance of Service, by Plaintiff Scrutinizing
the return Receipts requested and Prices, the S.C.D.C. mailroom
is not Charging Plaintiff Sufficient amounts for the requested
and Selected Service on the United States Postal Service PS 3811
Hard Copy Form Receipts.

PAGE TWO (2):

(1)(ii): THE South Carolina Department of Labor, Licensing, and Regulations, State Board of Medical Examiners refuses to Investigate Petitioners' Complaints and the Truths of FACTS revealed to Plaintiff, And Pursuant to Code of laws of S.C., 1976 Annotated § 40-47-37; PRACTICE OF TELEMEDICINE, REQUIREMENTS; the medical Board shall retain all authority with respect to telemedicine Practice Pursuant to Code of laws of S.C. 1976 Annotated § 40-47-10; STATE BOARD OF MEDICAL EXAMINERS; APPOINTMENT; TERMS AND VACANCIES; POWERS AND DUTIES; For The medical Device of the described "BRAIN Computer Interface Device and System" is "NOT CONTROLLING APPELLANT'S THOUGHTS"; "MEMORIES", or "MOTOR FUNCTIONS"; but rather enables the Sharing of Appellant's DECODED Neural Data, of which is deep learning, See; 2022 WL 475538 (Patent tr. and App. Bd.) EX PARTE HA TRAN; From a mobile evaluation Station, SEE; 2014 WL 5313861 IN RE BODY SCIENCE L.L.C., Patent litigation, and are able to send Evoked Potentials, and also, Stimulate distinctive described areas within Plaintiff's entire Spectrum of Plaintiff's Neurological System, being described beforehand by these State Officials within S.C.D.C., SEE; 2022 WL 17261661 (Patent and Tr. Bd.) EX PARTE Philip A. Star; Nicole Swann; Coralie De Hemptinne; and Jill Ostream; also See; West's Colorado Administrative Code, title 1100; Department of Labor and Employment; 1101; Division of Workers Compensation; 1101-3:17 Exhibit 2; Mild and Moderate/Severe Traumatic Brain Injury medical Treatment Guidelines; and 1101-3:17 Exhibit 2B; Moderate/Severe Traumatic Brain injury medical treatment guidelines; E.2.a.4 Evoked Potential Responses (EP); all of which violates Plaintiff's United States Constitutional fourteenth amendment rights, and the South Carolina Constitutional Article 1, §3: PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION OF LAWS.

(1)(iii): Petitioner is an Inmate Pursuant to the South Carolina Constitution Article XII, § 9: Control of Convicts; Petitioner is an Inmate under the Supervision and Control of Officers employed by the State of South Carolina and under the Direction of Officers detailed for these duties by authorities of the Penitentiary. All State Officers, agencies, and institutions within the Executive branch shall, when required by the Governor, shall give him information in writing upon any subject related to the duties and functions of their respective offices, agencies, and institutions Pursuant to the South Carolina Constitution Article IV, § 17: Duty of State Officers to give information to the Governor, and Pursuant to the Code of laws of S.C. 1976 Annotated § 1-3-440: Further Powers of the Governor: (2); ORDER any and all LAW ENFORCEMENT OFFICERS of the State or any of its subdivisions to do whatever may be deemed necessary to maintain peace and good order, and (3); Order the DISCONTINUANCE of "ANY TRANSPORTATION" or other public facilities or, in the alternative, direct such facilities be operated by a State agency. For Pursuant to the Code of laws of South Carolina 1976 annotated § 15-36-100: COMPLAINT IN ACTIONS FOR DAMAGES ALLEGING PROFESSIONAL NEGLIGENCE; CONTEMPORANEOUS AFFIDAVIT OF EXPERT SPECIFYING NEGLIGENT ACT OR OMISSION; § 15-79-110; DEFINITIONS; § 15-79-125; NOTICE OF INTENT TO FILE SUIT AS PREREQUISITE TO FILING ACTION; SUBPOENA OF MEDICAL RECORDS; DEPOSITIONS; MANDATORY PRELITIGATION MEDIATION; INITIATION ACTION; ADR PARTICIPATION;

Medical malpractice is a category of negligence, the distinction between medical malpractice and a negligence claim is subtle, expert testimony is required to establish both the duty owed to the patient and the breach of that duty unless the subject matter of the claim falls within a layman's common knowledge or experience, see: *Lino v. Yampolsky*, 376 S.C. 182, 187, 656 S.E.2d 355, 358 (2008) (citing);

(1)(iii): David v. McLeod Reg'l med. Ctr. 367 S.C. 242, 248, 626 S.E. 2d 1, 4 (2006); Bona Parte v. Floyd, 291 S.C. 427, 434, 354 S.E. 2d 40, 45 (4. App. 1987), because medical knowledge is generally outside of a juror's common knowledge, the requisite expert testimony assist the jury in making a more accurate determination of fault regarding whether a physician's negligence in rendering medical care proximately caused the patient's injury. See: Dawkins v. Union Hospital District 408 S.C. 171, 758 S.E. 2d 501, 504 (2014). In a medical malpractice action, expert testimony is required to establish both the duty owed to the patient and the breach of that duty, "unless" the subject matter of the claims falls within a layman's common knowledge or experience, rather differentiating between the two types of claims depends heavily on the facts of each individual case. See: ESTATE OF French v. Stratford House, 333 S.W. 3d 546, 555 (Tenn. 2011); Kudawski v. Arbor View Health Care Center, 139 Wis2d 455, 407 N.W. 2d 249, 252 (1987).
Petitioner is being denied the proper medical image. Petitioner is requesting from S.C.D.C. of a MRI and a X-RAY with Radio-Plaque for the foreign object lodged on Plaintiff's right side and urinary tract. See: 2018 WL 3571364 (Patent trial and App. Bd.) Merck Sharp and Dohme Corporation v. Merck Sharp and Dohme B.V., Organon U.S.A. Inc. v. Organon U.S.A. L.L.C. v. MicroSpherix L.L.C. Patent owner, Plaintiff is awaiting the proper described medical imaging to enable Plaintiff the expert affidavit pursuant to Code of laws of S.C. 1976 Ann. §15-29-125, and Request the Court Grant Petitioner's MOTION.

(1)(iiii):

Due to Defendants' S.C.D.C., S.C.D.C. State Officials, and S.C.D.C. Convicted State Prisoners indirectly exposing to Petitioner, and over-time revealing the truth of the installation and implantation of the described

PAGE FIVE(S):

(i)(iiiii); Wireless telemetry Neurological Device and System From [REDACTED] Torturing appellant and Sharing appellant's Personal and medical Neurological Data abroad. Petitioner has Filed the current and multiple civil Actions Pursuant to Code of laws of S.C. 1976 Ann. § 15-3-545; ACTION FOR MEDICAL MALPRACTICE: When an action for damages arising out of the placement and inadvertent, accidental or unintentional leaving of a foreign object in the body or person of any appliance or apparatus in or upon any such person by any licensed health care provider acting within the scope of his professional by reason of any medical or surgical or dental treatment or operation, the action must be commenced within two (2) years from the date of discovery or when it reasonably ought to have been discovered:

Plaintiff request the following Petition and Motion be Granted:

(2): The Petitioner's Expected Action will be for damages sustained to the Petitioner in incidents to include and not be limited to the installation and implantation of a wireless telemetry Neurological Stimulation and indwelling Brain-Computer Interface Device and System, which occurred on or about October 11, 2022, approximately caused by PRISMA; PRISMA Employees; Dr. Alan Howard Brill, MD, S.C.D.C., and the United States the Expected adverse Parties to include and not be limited to; the known by Defendants but unknown to Petitioner; PRISMA'S medical Device Manufacturer Corporation.

PAGE SIX (6);

(3): The Petitioner Proposes to establish the Specific Facts of the installation and Implantation of the Wireless Neurological Stimulation, an indwelling Brain-Computer Interface Device and System; the misuse and abuse of the System; the Breach of the Contract; and Petitioner enduring Torture from State Officials Controlling and manipulating Petitioner's nervous System, and the Sharing of Petitioner's Personal and Medical Decoded Neural DATA abroad within S.C.D.C., which was personally witnessed by S.C.D.C. defendants, S.C.D.C. inmates, and PRISMA Employees Whoms testimony should now be Perpetuated for use in the event of Further Proceedings in the Court, to prevent the manifestation of injustice, and to avoid a failure or delay in justice pursuant to Rule 27 S.C.R.C.P.;

(4): The Persons Proposed to be examined on Deposition by the Petitioner are Provided in Section One (1) of this Motion Whos testimony is expected to include the following:

(a): Was the Persons Proposed to be examined, and within S.C.D.C., advised to Wear wireless Ear hearing Devices that Broadcasted Plaintiffs Evoked Potentials and Decoded Neurological Data, via From a mobile evaluation station, and Best described by a Duke University Law School Professor's Book and Law Article by; Nita A. Farahany: Book: "Beyond Neural Data: Cognitive Biometric and mental Privacy", and law Article: "64 Stanford Law Review 381", article "INCRIMINATING Thoughts" (See: (1): The Spectrum From Neuroscience, (c): Memorialized, (2): Episodic memories; (d): Utterances; PAGE Seven (7);

(4)(A)(1): Voluntary Utterances, and (b)(2): Evoked Utterances:

Evoked utterances differ from Voluntary ones by the manner in which they are obtained. Evoked potentials, like Voluntary ones, include audible and inaudible answers, Spoken words, written answers, and visual depictions even when "no audible communication" is made, these responses create distinctive "Physiological Changes in the Brain" that can be "DECODED" into "Contemplated words", "Thoughts", "Recalled memories", and "Visual Imagery"; See: (11): The Spectrum from Neuroscience, (D): Utterances, (2): Evoked Utterances, (a): Active Memory recall, (b): Binary Responses, and (c): Complex words and thoughts:

Reading the Visual Cortex to Recreate what a Person is Seeing, or "reading the motor Cortex to Interpret motor based intentions" are just the first amazing steps towards a future of more expansive mind reading. "Our ability to already read these areas of the Brain" through "Coupling Brain Activity with Pattern Recognition algorithms as decoders" suggest that mind reading is more than just a remote possibility.

(4)(b): Are the Persons Proposed to be examined on Notice, Informed, and ~~and~~ aware that a Wireless telemetry Neurological Device, an indwelling Brain-Computer interface Device and System is being misused and abused, and is broadcasting Petitioners Personal and medical Neurological Data, via, State Officials, Within S.A.D.C.?

(4)(c): Are the Persons Proposed to be examined on NOTICE, informed and aware that State Officials are Physically hurting and assaulting Petitioner, via, instructed medical Commands of Sending Evoked Potentials throughout the entire Spectrum of Plaintiff's Neurological System and Within S.C.D.C.?

(4)(d): Are the Person Proposed to be Examined on Notice, informed and aware that the Described Wireless telemetry Neurological Device an indwelling Brain-Computer Interface Device and System is not listed within MARION FRYE'S medical Records From an Open Reduction Nasal Fracture Septoplasty Surgical Procedure, Performed by PRISMA; PRISMA employees; Dr. Alan Howard Brill, MD, and While in the Care, Custody, and Control of S.C.D.C.?

(4)(e): Are the Persons Proposed to be examined on Notice, informed and aware S.C.D.C. has NOTICE, is informed, and is aware that a Foreign object in Connection to the Septoplasty Surgical Procedure is lodged on Plaintiff's right Side and/or Urinary tract?

Wherefore, the Petitioner respectfully requests the Court to enter an order authorizing the Petitioner to take Depositions of these Described Witnesses for the purposes of Perpetuating their testimony and for such other and further relief in favor of the Petitioners as the Court deems just and proper.

January 3, 2025
Turbeville, S.C.

Marion Wade Frye
MARION WADE FRYE #375354
1578 Clarence Coker Hwy,
Turbeville, S.C. 29162

PAGE NINE (9);

VERIFICATION

I, MARION WADE FRYE, VERIFY, CERTIFY, STATE, and declare under the Penalty of Perjury the Following to be True:

(1); I, MARION WADE FRYE have been DULY Sworn, appeared before the undersigned and Deposed before this action as follows:

(2); I am the Petitioner for leave to take Depositions before this Action is Commenced.

(3); I have read the Following Petition and VERIFY that the Factual Statements Contained therein are True except any Stated on Information and Belief; and of the latter, I believe them to be True.

January 3, 2025

Marion Wade Frye
MARION WADE FRYE #375354

CERTIFICATE OF SERVICE

I, MARION WADE FRYE CERTIFY that I did on this date Serve Appellant's MOTION TO TAKE DEPOSITIONS Pending Appeal by Placing a Copy of the Same addressed as follows:

(1); United States
Attn: U.S. Attorney General
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

(2); South Carolina Governor
Attn: Henry Mcmasters
1100 Gervais Street
Columbia, S.C. 29210

(3); PRISMA; Dr. Alan Howard Brill, MD; Dr. Nicholas D. Pa Padeau MD;
George Shealy; PRISMA-VICTORIA; Trisha Ann Jones, CRNA;
Larance Smith; Colby Bounds; Gabrielle Jenkins; Linda
Heatwole; Samantha Robinson, RPA; PRISMA Chief Executive
Officer One; and PRISMA Chief Executive Officer Two;

Attn: PRISMA Chief Executive Officer and Dr. Alan H. Brill MD;

5 Richland medical Park Road; Columbia, S.C. 29203

(4); John Doe, MD, S.C.D.C. medical Services Evans Corr. Inst.;
Bruce Lobitz, MD, S.C.D.C. medical Services Broad River Corr. Inst.;
Jane Doe, MD, S.C.D.C. medical Services Tyger River Corr. Inst.;
John Doe, JAY, RN/LPN S.C.D.C. medical Services Broad River C.I.;

Attn: General Counsel

4444 Broad River Road; Columbia, S.C. 29210

CASE No. 2025-002449

MOTION FOR LEAVE OF COURT TO TAKE DEPOSITION PENDING APPEAL

CERTIFICATE OF SERVICE

(5); South Carolina Department of Labor, Licensing, and
Regulations ; State Board of Medical Examiners ;

Attn: Director

110 Centerview Drive ; Suite 202 ; Columbia, S.C. 29210

(6); South Carolina ; S.C.D.C. ; South Carolina Attorney General Alan
Wilson ; Bryan Sterling ; S.C.D.C. medical Services Director ;
South Carolina Attorney General's Office ;

Attn: Richardson, Plowden, and Robinson P.A.

P.O. Drawer 7288 ; Columbia, S.C. 29202

(7); United States Health and Human Services (hereinafter HHS),
Food and Drug Administration ; HHS Office for Civil Rights,
and HHS Office of the Inspector General ;

Attn: SECRETARY

200 Independence Avenue S.W. ; Washington, D.C. 20530

(8); South Carolina Office of the Inspector General

Attn: Inspector General

111 Executive Center Drive ; Suite 204

Columbia, S.C. 29210

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January 8, 2025

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Marion Wade Frye

MARION WADE FRYE #375354

1578 Clarence Coker Hwy,
Turbeville, S.C. 29162

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Dear Clerk of-Court

Enclosed is my motion for Deposition I, have already sent the paper work for the \$50.00 check to be sent for this motion to enable payment and filing to your office, please wait on the check to arrive to your court, check is in route :

Marion Wade Faye

MARION WADE FAYE #375354
Turbeville C.I. TA134-B
1578 Clarence Coker Hwy,
Turbeville, S.C. 29162

January 3, 2025

|||||
MARION WADE FRYE #375354
Turbeville, SC, I TA-134-B
1578 Clarence Coker Hwy.
Turbeville, SC 29162



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P.O. Box 11629
Columbia, S.C. 29211

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