

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

Case No. 2011-CP-46-4508
Appellate Case No. 2013-002058

RECEIVED
MAY 08 2015
SC Court of Appeals

Elizabeth Hope Rainey, as the Appointed
Guardian ad Litem to Owen C., a minor Appellant,

v.

The Charlotte-Mecklenburg Hospital Authority d/b/a
Carolinas Medical Center, South Carolina Department
of Social Services, and Bruce Bryant, as the
Constitutional Office of the Sheriff of York County,
The York County Sheriff's Department, and York County

of Whom

The Charlotte-Mecklenburg Hospital Authority d/b/a
Carolinas Medical Center is Respondent.

RETURN TO PETITION FOR REHEARING

Monteith P. Todd
Robert E. Horner
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
(803) 929-1400
Attorneys for Respondent

The plaintiff's Petition for Rehearing should be denied because the plaintiff does not raise any new issues or identify any issues overlooked by the Court. Rather, the plaintiff makes the same arguments and cites the same cases this Court has already considered and rejected.

Special Relationship Argument

The plaintiff argues this Court erred in failing to hold that a special relationship existed between the minor child ("Child") and defendant hospital that created a duty of care that extended after the discharge of Child and that the defendant breached this alleged duty. The plaintiff concedes that the defendant did not breach any duty with regard to the medical care provided to Child while he was a patient in the defendant's hospital, but claims the defendant owed a duty to perform a home study or home evaluation before discharging Child. This Court properly rejected this argument because a hospital has no authority to conduct home studies, because the Legislature has placed the sole duty to do such investigations with the South Carolina Department of Social Services, and because neither the South Carolina General Assembly, the South Carolina Supreme Court, nor any other legislature or court anywhere else in the country, has imposed such a duty on a hospital.

Voluntary Undertaking

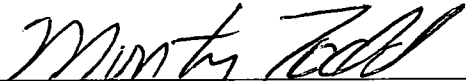
The plaintiff also argues the defendant assumed a duty to act beyond the termination of the hospital-patient relationship, but she cannot point to any evidence of a voluntary undertaking of a duty, any reliance on any voluntary undertaking, or any increase in the risk of the harm as a result of the undertaking. This Court correctly concluded that the defendant complied with its statutory obligations under South Carolina law by notifying DSS of suspected child abuse, and that DSS, upon being notified, had the duty to investigate all of the circumstances surround the Child and his home environment to determine what action should be taken regarding the placement of Child.

After this defendant notified DSS of the suspected abuse, DSS began its investigation, interviewed Child's parents, conducted a home study, and notified the York County Sheriff of the report of suspected abuse. As this Court noted in its Opinion, the plaintiff has not pointed to, nor is there any evidence in the record to show, that any participation or involvement by the hospital's social workers caused DSS or law enforcement to perform a less thorough investigation, that DSS case workers omitted certain tasks from their investigations with an understanding that defendant's social workers had covered or would cover those tasks, or that defendant's social workers caused DSS to determine that Child's discharge to his parents was appropriate when DSS would not have otherwise made that determination. Furthermore, as noted by the Court in its opinion, this defendant had no authority to enter Child's home to investigate his home environment nor did it have authority to retain custody of the child against his parent's wishes, or DSS's directives, once the child was medically cleared for discharge.

Therefore, the plaintiff's Petition for Rehearing should be denied.

Respectfully submitted,

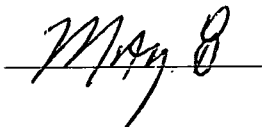
SOWELL GRAY STEPP & LAFFITTE, LLC

BY: 

Monteith P. Todd
Robert E. Horner
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
Tel: 803-929-1400
Fax: 803-231-7887
Email: mtodd@sowellgray.com

Counsel for Defendant/Respondent

Columbia, South Carolina

, 2015

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Court of Common Pleas

S. Jackson Kimball, Special Circuit Court Judge

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Carolinas Medical Center, South Carolina Department
of Social Services, and Bruce Bryant, as the
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The York County Sheriff's Department, and York County

Of Whom

The Charlotte-Mecklenburg Hospital Authority d/b/a
Carolinas Medical Center is Respondent.

PROOF OF SERVICE

I, the undersigned legal assistant, of the law offices of Sowell Gray Stepp & Laffitte, LLC, attorneys for Respondent, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center, do hereby certify that I have served counsel in this action with a copy of the Return to Petition for Rehearing by mailing a copy of same to counsel via United States Mail, postage prepaid, at the following address(es):

Counsel Served:


S. Randall Hood, Esquire
Deborah G. Casey, Esquire
Lara Pettis Harrell, Esquire
Jordan C. Calloway, Esquire
McGowan Hood & Felder, LLC
1539 Health Care Drive
Rock Hill, SC 29732

Duane M. Shaw, Esquire
Nathan J. Sheldon, Esquire
Shaw Law Firm
1169 Ebenezer Road
Rock Hill, SC 29732

Whitney B. Harrison, Esquire
McGowan Hood & Felder, LLC
1517 Hampton Street
Columbia, SC 29201

Patrick J. Frawley, Esquire
Davis, Frawley Law firm
Post Office Box 489
Lexington, SC 29071

5/8, 2015


Robin C. Owens
Legal Assistant



MONTEITH P. TODD
Direct Dial 803 231.7837
Direct Fax 803 231.7887
Email mtodd@sowellgray.com

May 8, 2015

VIA HAND DELIVERY

Honorable Jenny Abbott Kitchings
Clerk, SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

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SC Court of Appeals

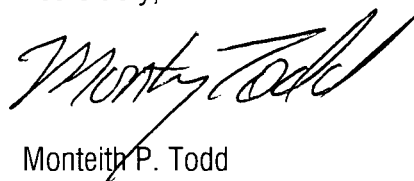
RE: Elizabeth Hope Rainey, as the Appointed GAL to Owen C., a minor
v. The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas
Medical Center
SC Court of Appeals No. 2013-002058
Our File No. 5273/1528

Dear Ms. Kitchings:

I enclose for filing the original and seven (7) copies of the Return to Petition for Rehearing on behalf of Respondent, The Charlotte-Mecklenburg Hospital Authority d/b/a Carolinas Medical Center, together with appropriate Proof of Service. Please return a clocked-in copy to me.

By copy of this letter to counsel shown below, I am serving a copy of same upon them by mail. Thank you for your assistance.

Yours truly,



Monteith P. Todd

MPT:rc0
Enclosures



May 8, 2015
Page 2

Litigation is our Business.

cc: S. Randall Hood, Esquire
Deborah G. Casey, Esquire
Lara Pettis Harrell, Esquire
Jordan C. Calloway, Esquire
Duane M. Shaw, Esquire
Nathan J. Sheldon, Esquire
Whitney B. Harrison, Esquire
Patrick J. Frawley, Esquire