

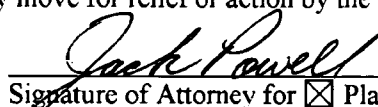
STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Jack Powell)
 _____)
 Plaintiff,)
 vs.)
)
 Medical University of South Carolina)
 _____)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 9th JUDICIAL CIRCUIT
 CASE NO.: 2013-CP-10-5351

MOTION AND ORDER INFORMATION
RECEIVED
 FORM AND COVER SHEET

JUN 19 2015

SC Court of Appeals

Plaintiff's Attorney: Pro se, Jack Powell, Bar No. _____ Address: 1402 Camp Rd. Unit 8-A Charleston S.C. 29412 Phone: (843)952-4762 Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Barnwell & Whaley, Bar No. _____ Address: 288 Meeting St. Ste. 200 Charleston SC 29401 Phone: (843)577-7700 Fax _____ E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Motion to Amend Reconsideration Estimated Time Needed: 10 minutes Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	5-6-15 Date submitted
SECTION III: Motion Fee	
<input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input checked="" type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

May 6, 2015

The Honorable Julie J. Armstrong
Clerk of Court for Charleston County
100 Broad Street, Suite 106
Charleston S.C. 29401

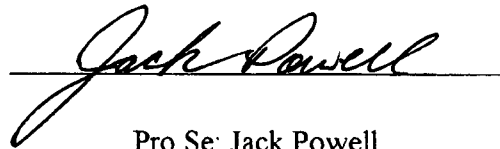
RE: Jack Powell vs. MUSC
C/A No.: 2013-CP-10-5351

Dear Julie:

I have hereby submit my Motion to Amend & Reconsideration for the above matter to the
Honorable Court.

Thank you for your assistance,

Dated & Signed on 5-6-15


Pro Se; Jack Powell

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
C/A NO.: 2013-CP-10-5351

Jack Powell,

Plaintiff,

vs.

Medical University of South Carolina
Defendant.

MOTION
TO AMEND
RECONSIDERATION

Plaintiff Pro Se; Jack Powell submits this Amended Motion for Reconsideration to the Honorable Court Pursuant, White Palms of Palm Beach Inc. v. Fox (1998) & Bettez v. City of Miami (1987) because the Court erred when granting Summary Judgment in favor of the Defendant when there were genuine issues of material fact and because of the new crucial and relevant evidence.

On 7-30-14 Judge Markley Dennis granted the Defendant's Motion for Summary Judgment as to Plaintiff's claims for (1) false arrest and imprisonment (2) assault and battery (3) intentional infliction of emotional distress (4) gross negligence and (5) slander and libel, holding no genuine issues of material fact exists.

Judge Dennis erred when he did not allow the Plaintiff to submit any citing of law or discuss the relevant issues concerning the Defendant's intentional failure to respond properly with Admit, Production and Interrogatories that were in fact on the court docket that very same day as Compelled. Also, the Plaintiff had stated in his first sentence he had zero Discovery in this case and the Defendant had entered an Inflammatory statement in their Motion for Summary Judgment. Judge Dennis then states; I'm Granting Summary Judgment because Plaintiff did not respond to the Defendant's Memorandum for Motion for Summary Judgment.

1. Plaintiff also submits, Pursuant Rule 60 (b)(2)(5), newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial and Rule 56 (e). Therefore, Plaintiff submits this new order, **EXHIBITS A & B** by the Honorable Judge J. C. Nicholson Jr., which stated; It is this Court's opinion that the jury erred when it found Appellant guilty of

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JULIAN J. AUSTIN
CLERK OF COURT
FILED

trespassing Under S.C. Code Section 16-11-620, a person cannot trespass on public property. A separate statute, Section 16-11-630 penalizes trespassing on public property outside of it's normal business hours when they are closed to the public. In the current scenario, Appellant was not in a place that was closed to the public until the Public Safety officers removed him from his bed and took him to the clinical Science ramp area. It was only then that they arrested him for trespassing. By that logic, MUSC Public Safety is squarely to blame for the Appellant's trespassing, as they were responsible for taking him from a place that was open to the public to a place that was closed to the public. It is clear that the Appellant should have not been convicted of trespassing. Accordingly, the ruling of Magistrate Court is hereby **REVERSED**.

Therefore, Judge Dennis erred when he granted Summary Judgment that included the now proven False Arrest & Imprisonment that does in fact create relevant issues of material fact concerning Intentional Infliction of Emotional Distress, Reckless & Gross Negligence, Assault & Battery and False Arrest and Imprisonment.

Defendant, had submitted in their Motion for Summary Judgment the evidence and all inferences which can be reasonably drawn must be viewed in the light most favorable to the non-moving party. "[I]n applying a preponderance of evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment." Hancock v. Mid-South Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

The touchstone of proximate cause in South Carolina is foreseeability "Koester, 313 S.C. at 493, 443, S.E. 2d at 394 (citing Young v. Tide Craft, 270 S.C. 453, 462, 242 S.E. 2d 671, 675 (1978)); Small, 329 S.C. at 463, 494 S.E. 2d at 842 "Foreseeability is determined by looking to the natural and probable consequences of the act complained of " Id; Bishop, 331 S.C. at 89, 502 S.E. 2d at 83; Oliver, 309 S.C. at 316, 422 S.E. 2d at 131; Small, 329 S.C. at 463, 494 S.E. 2d at 842.

The defendant may be held liable for anything which appears to have been a natural and probable consequence of his (actions)." Bramlette v. Charter-Medical-Columbia, 302 S.C. 68, 72,

393 S.E. 2d 914, 916 (1990); Greenville Mem'l Auditorium v Martin, 301 S.C. 242, 245, 391 S.E. 2d 546, 548 (1990) c. 68, 72, 393 S.E. 2d 914, 916 (1990).

Mellen v Lane, 377 S.C. 261, 659 S.E. 2d 236 S.C. App., 2008[276] An assault is an attempt or offer with force or violence, to inflict bodily harm on another or engage in some offensive conduct. [A]n Assault occurs when a person has been placed in a reasonable fear of bodily harm by the conduct of the defendant” The elements of assault are; (1) conduct of the defendant which places the Plaintiff, (2) in reasonable fear of bodily harm. The conduct must be of such nature and made under such circumstances as to affect the mind of a person of ordinary reason of firmness, so as to influence his conduct; or it must appear that person whom the threat is made was peculiarly susceptible to fear, and that the person making the threat knew or took advantage of the fact that he could not stand as much as an ordinary person.

2. Because of Rule 56 (c) (2) (4), the Defendant entered, not supported by admissible evidence and is proven by documented fact the Defendant had entered false statements in their Memorandum and Plaintiff was not allowed to disclose the following;

NOTE: EXHIBITS OF DISCOVERY FROM 1ST MUSC CASE
EXHIBIT C

The Defendant stated; when transport arrived to take Plaintiff to X-ray. Plaintiff asked how long would it take and asked to stay in the E.R. to wait for his pain medication rather than go to X-ray. The Doctor asked Plaintiff if he was sure that he wanted to stay in the E.R. and wait for his pain medication rather than go to the X-ray Department. Plaintiff replied in the affirmative and then told the Doctor that is about the stupidest question a Doctor has ever asked me.

The only reason this evidence is submitted by the Defendant is to create a false impression of the event so the Court would not realize the actual atmosphere and contempt exercised towards the Plaintiff and why.

EXHIBIT D

The actual statement in the Complaint; Dr. Simon Watson and Billy Jacobsen were attending

to Mr. Powell. Mr. Powell was in terrible pain and the Doctor said a pain shot was on the way. Then someone began to push Mr. Powell's bed out of the room and he asked where are we going and he said to X-Rays. Mr. Powell asked how long will this take because I'm in pain and a pain shot is on the way. He said maybe a couple of hours and would you rather stay and wait for the shot? Mr. Powell said yes, so he pushed the bed back into the E.R. Then a few minutes later the same Doctor that said the pain shot was on the way comes in and asked Mr. Powell if he told the man (who pushed his bed in & out of the room) that he wanted to stay and wait for his pain shot, Mr. Powell said yes. Then the Doctor asked are you sure you want to wait for the pain shot or go to the X-ray department? Mr. Powell who was having severe pain told the Doctor that is about the stupidest question a Doctor has ever asked me. The Doctor rolled his eyes then left and this when the contempt towards the Plaintiff began.

Inflammatory Re-creation

- A. The Defendant failed to state the Doctor said he would send a pain shot and left the room before the transporter arrived.
- B. The Defendant tries to give the impression that the Doctor was present when the transporter had this conversation about the pain shot with Mr. Powell, before he was pushed back into the room to wait for his pain shot.
- C. The Defendant also omitted the Doctors question to Plaintiff; which he asked Mr. Powell if he had told the transporter that he wanted to stay and wait for my pain shot and Mr. Powell said yes.
- D. Then, the Doctor asked again if Mr. Powell was sure that he wanted to stay in the ER and wait for his pain medication rather than go to the X-Ray department? Mr. Powell who was having severe pain and after being asked multiple times about his pain shot, then he uttered to the Doctor that is about the stupidest question a Doctor has ever asked me. Then he rolled his eyes and left which is when the contempt began. The Defendant re-created the whole incident by leaving out a crucial statement that explains why Mr. Powell was amazed by the repeated questions of his pain shot and

why he responded the way he did. There was an attempt to blame and create a bias attitude towards the Plaintiff that he alone caused the hostile atmosphere in the MUSC E.R.

The Plaintiff included this incident in his Complaint so the court would have a better understanding of why the contempt and bias existed towards the Plaintiff. Now that the Defendant has been proven guilty of False Arrest, the Intentional Infliction of Emotional Distress, Reckless Gross Negligence and Assault & Battery are Genuine Issues of Material facts that are still unknown because of the unanswered Discovery issues which began when the Plaintiff was on the E.R. bed.

3. On April 1st 2015, in a separate case Judge Dennis and an assistant met with Pro se Plaintiff Jack Powell and a Defendant Attorney in his chambers. This was only one day before the Defendant's Motioned Summary Judgment hearing and Jack Powell told Judge Dennis that the Attorney just told him out in the hallway that he had just put his Memorandum for Summary Judgment in the mail, that morning. Then Mr. Powell asked Judge Dennis, how am I supposed to Respond when we will be in court at 9:30 in the morning? Judge Dennis stated that it's "no big deal" because it's just the same issues.

4. The next day Plaintiff's Motion for a 2nd Summary Judgment against Knology, Pro se had entered in his Motion that he had stated; during the 1st Summary Judgment Knology did not Respond to his Memorandum for MSJ and the Judge didn't make a ruling on their non-response and the Pro se was denied SJ. Judge Dennis erred when he denied the Plaintiff's Motion and at the same time exercised his biased rulings concerning Response to Memorandum.

5. Then the next case was also against Knology and the Motion for SJ was filed by the same attorney who stated he had put the Memorandum in the mail that morning instead of handing it to Jack Powell at the Judge's chambers. Judge Dennis later grants Knology SJ and again improperly exercising a biased pattern towards Pro se Jack Powell no matter which position he has with the non-response to the Memorandum. Judge Dennis knew from the Plaintiff's complaint the day

before, the Defendant had said they sent their Memorandum that morning and the issues brought up in the hearing were new, not the same issues as he had stated in his chambers and Plaintiff had complained about the Defendant not answering the Discovery that had already been Compelled and again not answered during the hearing, before Judge Dennis ALSO on 7-30-14. Judge Dennis erred with this Granted Motion for Summary Judgment.

Plaintiff also states the following reasons why Judge Dennis erred because of bias towards the Plaintiff in his Ruling for Motion for Summary Judgment;

EXHIBIT E

6. Why would Dr. Watson allow the Security Guards to try and pull the patient from the bed, then deny that that they tried to pull him from the bed and then give him more pain medication? Then the Security tried to deny what they had already admitted to. Also, the Public Safety admits they took the Plaintiff from the bed in their Incident Report, which means they had to pull patient from bed.

EXHIBITS F & G & E #3

This questions proper procedures of why Plaintiff would be discharged at 12:25 a.m. and then after preparing him for discharge at 12:45 he was given a narcotic medication at 1:00 a.m. and then ignore their own Doctor Instructions and allow the Security to try and pull him from the bed just minutes after they had given him a narcotic drug for pain.

EXHIBIT H #18 & #24

Nurse Jill Pentz may have been the nurse he gave the second dose of medicine and then states Mr. Powell was arrested because of his condition and disposition which creates an issue concerning MUSC procedures and his disposition is insinuating angry revenge by the MUSC Police to arrest the Plaintiff. Judge Dennis erred when allowed these issues to continue and Grant MSJ.

EXHIBIT H, #20

7. Plaintiff submits this is the third attempt by the Defendant to re-create the events and

also the timing and reason for the anger that was displayed first by the Defendant. Nurse Pentz had written in her Report at 12:45 AM; preparing patient for Discharge. Patient stated he will not leave he "can't move" at 1:00 AM Dr. Jacobsen gave patient oxycodone. Patient assisted to upright position and edge of bed. Patient moved with ease. Patient became belligerent and refused to move to wheelchair to be assisted out.

Jill Pentz now under oath, changes her story because of **EXHIBIT E, #3**. Officer Mckinnie tried to "assist" Plaintiff into a seated position on the bed in order to assist him in moving from the bed to the wheelchair. Officer Mckinnie stopped trying to "assist" Plaintiff from lying to a seated position because Plaintiff stated that he would not put any more pain on himself for the hospital.

Plaintiff again submits the Defendant tried to re-create the story only for the purpose of blaming the Plaintiff for the anger that was actually being inflicted upon him and to confuse the reason for being given medication after his discharge. Then Security tried to pull Plaintiff from the bed while he was in pain and the Public Safety being allowed to take their patient from the bed and outside without the supervision of a nurse, was negligence compelled by anger.

Again, the Plaintiff submits Judge Dennis erred when not allowing Discovery to continue after the Plaintiff had informed the Court that he had received zero Discovery so far in this case which includes the unknown proper procedures to follow by a MUSC Doctor of why and when they should or legally give a patient pain medication after he was discharged and then call the Security and allow their patient's legs and arms pulled on by them while he's yelling in pain and then be allowed to be taken from the bed by their Public Safety before his medication had taken affect.

Plaintiff submits the chain of events escalated because of anger beginning with the MUSC staff calling for Security Guards to remove their patient from the bed and Plaintiff stating he'll sue.

EXHIBITS I, J & K

8. Then the Public Safety is called and Plaintiff was told while he was on the ER bed he would be taken Roper Hospital, home or anywhere he wanted to go. Defendant again states; he was not

going to put any more pain on himself by moving, then Public Safety angrily states he had to go. Mr. Powell was taken from the bed and pushed outside to the CSB Ramp and not to the MUSC Police car to be taken anywhere he wanted to go. Therefore the Security Guards and the MUSC Public Safety intentionally failed to properly discharge the patient because of anger, then they falsely arrested Jack Powell because of anger.

Then the Public Safety Intentionally forced the Defendant to stay in their backseat for over thirty minutes alone at their headquarters parking lot, after they stated that they handcuffed him he front because of his medical issues. Again, Judge Dennis erred when overlooking multiple issues of unknown facts leading to the **REVERSED** Trespassing and the MUSC legal procedures to follow.

The following were listed in the Order Granting Medical University of South Carolina's Motion for Summary Judgment;

9. **False Arrest and Imprisonment**

The decision to arrest Plaintiff was clearly lawful and thus, summary judgment is appropriate as a matter law. See: Densmore v. City of Greenville, 2011 WL 11733107 (Ct. App. 2011)(unpublished).

This was entered as fact, but the legal facts are that MUSC Public Safety falsely arrested the 56 year old patient and then imprisoned him at the Al Cannon Detention Center. The Trespassing was **REVERSED**, therefore creates many issues of material facts including unanswered Discovery that questions & demonstrates the Defendants Intentional Infliction of Emotional Distress, Reckless Gross Negligence and Assault & Battery that caused emotional and pain & suffering to the patient Jack Powell before, during and after he was arrested.

Judge Dennis erred when he ruled that False Arrest would not stand as a genuine issue of fact.

10. **Assault and Battery**

A. Plaintiff submits the circumstances of suffering through being knocked unconscious

sustaining multiple injuries, enduring hours of four painful x-rays, given pain medication twice and then the patient was yelling in pain because the Security Guards were trying pull him from the E.R. bed while recklessly engaging in an offensive conduct that placed the Plaintiff in reasonable fear when they grabbed his arms and legs and tried to pull him from the bed when he was yelling in pain.

B. The MUSC ER staff called the Security and then allowed this aggressive physical contact and this was the proximate cause of his bodily harm and pain & suffering that was foreseeable by the staff that their 56 year old patient Jack Powell was susceptible to fear and pain when he was yelling in pain. Therefore the Doctors intentionally & recklessly did not follow their own Instructions for Jack Powell after they administered a second dose of a narcotic medication and only a few minutes before they allowed the Security to attempt to pull him from the bed by his arms and legs on two different occasions.

C. The Plaintiff stated to the Public Safety he was in pain and couldn't get out of his wheelchair and needed help. The Plaintiff was obviously susceptible to fear and again the Public Safety took advantage of the circumstances when they angrily threatened Mr. Powell multiple times to leave the premises and "needed to do so" or be arrested and taken to jail. The Plaintiff was already fearful after being assaulted in the ER and now he realizes the Public Safety had lied to him and again was fearful because of the angry threats.

D. The Defendant has intentionally not produced crucial Documents or answered questions in this case concerning their legal procedures and protocols to follow that would verify a proper or gross negligent attempted removal and removal of Plaintiff. The Doctor Instructions for Jack Powell was in their possession and they foreseeably knew he was susceptible to their aggressive conduct. See Robinson v. Winn Dixie Greenville, Inc. 1995 & Herring v. Lawrence Co. 1952 , Pitt v. State 51 Illinois and also Mellen v. Lane 377 S.C. 261, 659 S.E. 2d 236 S.C. App., 2008 [277] "A battery is the actual infliction of any unlawful, unauthorized violence on the person

another, irrespective of its degree if it's unnecessary that the contact be by a blow, as any forcible contact is sufficient." Generally speaking a battery is the unlawful touching or striking of another by the aggressor himself or by any substance put in motion by him, done with the intention of bringing about harm or offensive contact which is not legally consented by the other and not otherwise privileged. It is sometimes defined as any injury done to the person of another in a rude, insolent or revengeful way.

Again, there are multiple genuine issues of material fact that exist concerning procedures, assault & battery. Therefore Judge Dennis erred in his Ruling to grant Summary Judgment.

11. Reckless and Gross Negligence & Intentional Infliction of Emotional Distress

A. MUSC Doctors allowed the Security Guards to try and pull their patient from the bed twice while he was yelling in pain, just minutes after he was given a second dose of pain medication. Therefore they allowed pain & suffering when they intentionally failed to follow their own Doctor Instructions even after he was subjected to four X-Rays that took hours, it was determined that he had no apparent injury. Which means the Plaintiff did not have any broken bones. This was explained by the Doctor before he rudely yanked Mr. Powell's neck collar off and told him he was discharged.

The Instructions were to call the Doctor or go back to the hospital if he develops severe neck, severe lightheadedness or weakness, numbness in any extremity or pain radiating down an arm or leg. The narcotic drug that was administered after his discharge would impair his judgment, slow his reaction time and don't do anything requiring mental alertness.

Plaintiff submits he was injured & harmed physically and emotionally because of the Security Guards illegal attempts to take him from the E.R. bed while he was not under arrest or resisting and yelling in pain from their attempts to pull him from the E.R. bed by his injured arms/shoulder/neck and legs. It is still unknown if this was a legal or illegal act exercised by MUSC to give the patient a second dose of medication after his discharge and then just a few minutes later

allow the Security to twice assault the Plaintiff.

Therefore until there is a proper Production Response of procedures, the Motion for Summary Judgment should have been denied and Judge Dennis erred in his ruling.

B. Citing an Argument by the Defendant; In South Carolina the issue of whether a physician deviated from the applicable standard of care is to be determined by what an ordinary careful prudent physician would have done under the same or similar circumstances. McCourt by and through McCourt v. Abernathy, 318 S.C. 301, 307 457 S.E.2d 603, 607 (1995) which is an issue concerning unknown MUSC and legal procedures.

C. Public Safety placed Plaintiff into a wheelchair to discharge him, therefore MUSC owed their patient a legal duty to exercise reasonable care during his discharge from the hospital including being assisted or supervised by a nurse since there were warnings to be aware of in the Doctor Instruction. See Jinks v. Richland County, 355 S.C. 341, 581 S.E.2d 281 (S.C. 2003)

D. The Public Safety intentionally did not take the Plaintiff to their patrol car, open the door, assist him in and take him to Roper Hospital for his second opinion after they had told Jack Powell they would do this while he was on the E.R. bed, including taking him anywhere he wanted to go. This intentional reckless act enabled them to falsely arrest the Plaintiff. It is common knowledge of the general public that a patient that is unable to walk because of pain must be discharged in a wheelchair and they are supposed to be wheeled up to a car, the door opened and assist them in. This is an issue that can only be verified with the proper Response of the Documents that were requested concerning MUSC procedures for a state agency to follow.

E. The Plaintiff was angrily threatened multiple times by the Public Safety to leave the premises and "better do so" or be arrested. Plaintiff submits these intentional unlawful threats of "better do so" coming from angry policemen to a former patient while he is telling them he is in pain and needs help out of his wheelchair were intentionally negligent and therefore were taking advantage of the circumstances. MUSC knew Jack Powell was helpless and susceptible to fear

and they could continue to make angry threats. Then they falsely arrested the Plaintiff and Judge Dennis erred because he doesn't know what the legal procedures are for a State Hospital and specifically their Security & Police.

EXHIBIT L

F. The Public Safety stated they; "handcuffed the patient in the front because of his medical issues." Officer Radford who arrested the Plaintiff, stated he wasn't a Doctor and therefore he recklessly & intentionally along with other officers refused to follow the MUSC Doctor Instructions they had in their possession and they knew he was very susceptible to fear and took advantage of the circumstances at 2:10 in the morning when they transported the Plaintiff around the corner to their headquarters parking lot and forced him to stay in the car lying alone until 2:44 AM. Then they imprisoned the Plaintiff at the Al Cannon Detention Center.

The Public Safety therefore intentionally failed to follow legal procedures including their failure to follow the MUSC Doctor Instructions which they had in their possession and had made medical decisions concerning the safety of the former patient who they just falsely arrested. Because of the contempt towards the Plaintiff, the Defendant failed to exercise ordinary and reasonable care to insure that no harm befell the patient while being discharged. See Papa v. Brunswick Gen. Hosp., 132 A.D. 2d 601, 517 N.Y.S.2d 762 (2d Dep't1987)

An MUSC Public Safety Officer can't even be arrested for assaulting a Charleston citizen on MUSC property and therefore the proper legal procedures and protocols to follow are still unknown because of the improper Discovery Responses and there are in fact disputable issues of material fact, therefore Judge Dennis erred when Granted Summary Judgment when these crucial procedures are still unknown.

Plaintiff requesting a second opinion was also stated in the nurse report while the patient was on the E.R. bed and threatening to sue. Officer Radford agrees this is what was said by the Plaintiff. Therefore this is Reckless Gross Negligence and Intentional Infliction of Emotional Distress

because the Public Safety agrees to take the patient to Roper Hospital and instead they falsely arrest the Plaintiff and take him to jail.

Also, it was Gross Negligence by the Doctors when they failed to make sure their patient was properly discharged and taken to Roper for a requested second opinion. Again, this is more unanswered issues that needs to be answered by proper responses to Discovery, that arose from;

**12. COURT RECORDS OF: STATE/PUBLIC SAFETY v. JACK POWELL
EXHIBIT L**

A. On page 25, no. 5-10..... it was stated, Public Safety would take the Plaintiff to Roper Hospital because he had asked for a second opinion.

B. On p. 25, no. 24 through p. 26 no. 10... I was in pain and I can't get out of the wheelchair wheelchair, I need help getting out of the wheelchair, Officer Radford admits he did not help me out of the wheelchair, kept telling me to leave the premises.

C. On p. 28, no. 5- 9 after Officer Radford was told I was in pain and needed help out of the wheelchair, he didn't help the Plaintiff out so he could go freely, but falsely arrested the Plaintiff for Trespassing; Refusal to Leave, because he loitered about the premises.

D. On p. 28, no. 19-23 did Officer Radford know that I was discharged at 12:25 a.m. and then given oxycodone at 1:00 a.m., then Officer Radford stated he wasn't a Doctor. This statement with others above, creates more unanswered issues about MUSC'S official procedures in the E.R, also outside during a discharge when a police officer who is not a Doctor makes the diagnosis to arrest, then handcuffed the Plaintiff in the front because of his medical issues. Then the Public Safety makes another diagnosis and doesn't take the Plaintiff to Roper Hospital for his second opinion and instead drives him to a parking lot and leaves him alone for about thirty minutes lying in the backseat.

MORE UNANSWERED GENUINE ISSUES OF MATERIAL FACTS

13. The transport man's name is still unknown even after a Freedom of Information Act was sent to MUSC attorney Annette Drachman, **EXHIBIT M**, her Response didn't contain the man's

name.

Unproduced Relevant Documents including MUSC procedures to follow within the E.R. and during the Plaintiff's discharge as an injured patient in a wheelchair are still issues that has not been discovered or submitted by the Defendant. Again, there are a Preponderance of unknown procedures that weren't followed by the state entity, MUSC.

14. Pursuant Rule 56 (b) the Defendant knew at the time of filing their Motion it was improper because they knew the Plaintiff had filed to Compel Admissions, Interrogatories and Production before they filed their Motion for Summary Judgment and Judge Dennis was aware because; he had told the Plaintiff before the Defendant's MSJ on July 30th 2014, to go out in the hallway and make more arrangements with the Defendant to receive the Discovery since the Plaintiff had not called the Defendant, even though the Defendant was given a "10" Day Notice to Respond after they failed to Respond and/or Responded evasively.

15. Because of Rule 56 (d) that there is a preponderance of undiscovered evidence concerning the MUSC procedures, protocols and actual Discharge laws that are unknown because of the Defendants intentional failure to respond properly to Discovery. ESPECIALLY, considering the Charleston Police Department can't go onto MUSC property and arrest a Public Safety Officer for assaulting or falsely arresting a patient and they are allowed to investigate themselves.

16. The Motion was premature, 56 (f) because of the other Plaintiff's motions; Compelled Interrogatories, Production and Evasive Admissions that were filed over 3 months earlier before the Summary Judgment was added to the court schedule of 7-30-14.

17. Because of Rule 56 (e) Pro Se had to appear in court to engage "15" Motions which was emotionally stressful even for an experienced attorney who has paralegals, access to law books, secretaries and financial security considering Pro Se filed under In forma Pauperis. Many courts take extra care with Pro Se litigants, advising them of the need to respond and the risk of losing by Summary Judgment if an adequate response is not filed and the court may seek to reassure itself by

some examination of the record before granting Summary Judgment that was scheduled last, days before 7-30-14. Plaintiff enters they did not assist or notify him about Responding and he didn't even know that he had to return a Response.

18. Judge Dennis did in fact consider it a big deal in this MUSC case when the Defendant stated Mr. Powell didn't Respond and Judge Dennis stated MSJ is granted right after I stated; I have Zero Discovery in this case and the Defendant has entered an inflammatory statement. Plaintiff deserves the same ruling in this case as other Judge Dennis cases of MSJ.

19. Rule 60 (b)(3) the contempt on the same day by Judge Dennis when he made an inflammatory personal insult about Pro Se, Plaintiff by stating; "I'm laughing at you too" that caused embarrassment, confusion and apprehension to attempt any furthering of his case because of the fear of being shut down and scrutinized again in a public setting.

20. Because of Rule 56 (c) (3) unanswered 1st Production & 1st Interrogatories and evasive Admit that was unavailable for the Plaintiff's defense of the Summary Judgment. The Discovery was requested "7" months earlier and were in fact on the Court docket the very same day, as Compelled.

21. Because of Rule 56 (c) (1) & Rule 6 (b) allows the court to extend the time to respond if the Motion seems premature. AGAIN, the Plaintiff states he had improper Responses to Discovery from the Defendant and Defendants own evidence entered into the MSJ opened the door to explore MUSC procedures and relevant issues of Discovery.

22. Because the Plaintiff wasn't allowed to prove the Defendant failed to Admit the truth Pursuant RULE (36) by entering relevant Exhibits of the Defendants own hospital reports, Admit responses to Plaintiff from the first MUSC case that cites the Public Safety and Security Guard official reports that did in fact prove the False Arrest & Imprisonment, Intentional Infliction of Emotional Distress and Reckless Gross Negligence.

23. Plaintiff sent a notice of Deposition to take place one week after the 7-30-14 compelled Admit, Production and Interrogatories hearing since the Defendant had used "11" response from their

Deposition as evidence in their MSJ hearing.

PRODUCTION REQUEST EXHIBITS N & O
Unproduced Discovery

1. The name of the X-ray technician, male nurse or individual.... NOTE; (Annette Drachman has refused to give me during my FOI Act and through discovery) that came into my ER room and began pushing my bed to X-rays and I told him a pain shot was on the way and he asked me did I want to go to X-rays or wait for the pain shot?
5. Documentation of MUSC ER procedure why, when or should a patient may or be given pain medication after they are discharged.
6. Documentation of MUSC procedures when a patient is pushed out in a wheelchair and what MUSC is suppose to do "right then" if the patient states they are in pain and needs help getting out of the wheelchair so they can get into their car.
7. Documentation of Doctor Jacobsen or Watson or any nurse that warned or communicated to the Public Safety that Mr. Powell had received pain medication just minutes before they arrived and he would have slowed reaction time, impaired judgment and should not do anything requiring mental alertness.
11. All Documentation of whether to take Mr. Powell to Roper hospital since he asked for a second opinion, back into MUSC to be re-examined, jail or public safety headquarters after it was determined Mr. Powell had medical issues when handcuffing him in front.

ADMIT

1. Admit: A nurse or Doctor is suppose to assure the proper discharge of the patient that is not under arrest, by taking them directly to the car that is waiting for them, assist them into the car if they ask for help out of the wheelchair so they can leave promptly and freely.
5. Admit: that Mr. Powell was not given up to an hour for the pain medication to take effect before the MUSC security grasped Mr. Powell's legs & arms and then tried to assist him to a seated

position.

12. Dr. Watson. Admit; you should have told MUSC security to stop trying to assist Mr. Powell up when he stated he would not inflict any more pain on himself and you had just given him pain medication before this happened.

13. Admit; Mr. Powell was pushed in the wheelchair by the Public Safety directly to the patrol car so he could get in and leave freely. Note; obviously the Police can't Admit to this.

14. Judge Dennis signed the Order after stating after all arguments were considered and evidence reviewed. Plaintiff submits Judge Dennis erred because the Plaintiff had compelled the Defendant to appear before Judge Dennis for Admit, Production and Interrogatories, then Judge Dennis heard the Plaintiff state he had zero Discovery in this case, which in itself creates issues. He also erred when he did not allow the Plaintiff to enter any argument with relevant evidence. He erred when he ruled when he didn't know what the actual MUSC procedures were for Doctors, Nurses, Security Guards and Police. He erred when he failed to recognize the False Arrest. He erred when he signed the Order and did not submit that he had granted Summary Judgment because the Plaintiff did not Respond to the Defendant's Memorandum for Summary Judgment. Baughman v. American Telephone and Telegraph Company, 306 S.C. 101, 410 S.E.2d 537 (1991).

CONCLUSION

The MUSC staff did not follow legal procedures and therefore allowed; Intentional Infliction of Emotional Distress, Gross Negligence, False Arrest & Imprisoned and committed Assault & Battery. The MUSC staff administered pain medication and then failed to follow proper and legal procedures when they negligently allowed Assault & Battery and then the MUSC Police stated "he had to go" and then the staff negligently failed to properly discharge the Plaintiff.

Then the MUSC Police assaulted with angry threats to the Plaintiff who was very susceptible to fear by stating "better do so" or be arrested during the illegal discharge and then they falsely

arrested the Plaintiff. Therefore, MUSC recklessly exercised Intentional Infliction of Emotional Distress and Pain & Suffering when they forced their former patient after they stated he was "handcuffed in the front because of his medical issues" to painfully remain lying in their patrol car handcuffed, shackled and alone at their headquarters parking lot for about thirty four minutes.

The Defendant's Inflammatory false statement that was previously submitted was to create the image that the MUSC staff and Police were never angry. Plaintiff submits the following evidence from the Defendant's Deposition to the Plaintiff, which expresses more clearly why there was anger from both parties on 6-22-12. The Defendant's Police did not arrest the sober and drug free (before he arrived) Plaintiff because they had given him a narcotic pain medication just a few minutes before they assaulted him, twice while he was on the E.R. bed. **Then**, the Plaintiff cursed them and stated he wanted a second opinion and threatened to sue. According to the MUSC Doctor Instructions to Jack Powell he was to call the Doctor if he develops severe lightheadedness, pain radiating down an arm or leg and don't do anything requiring mental alertness

The obvious plan was to lie to the Plaintiff and get him outside and arrest him no matter what, because of anger. The MUSC Police did in fact do so illegally and gross negligently while making angry threats to the Plaintiff who was already assaulted inside and now he's outside alone with the angry Police where they completely controlled the circumstances and they intentionally ignored his request for help out of the wheelchair, so he could go freely and then arrested him.

Anger, intimidation and fear were the major emotional circumstances facing the Plaintiff after being brought to MUSC by ambulance and undergoing hours of X-rays of his injured head, neck, shoulder and knee.. Their Reckless Gross Negligence is again exposed by the Plaintiff's truthful answers during the Defendant's Deposition describing his fearful and traumatic visit to the MUSC E.R.

Q: Let me just short circuit this. You admit you cussed and yelled at the staff at the hospital; correct?

A: After they yanked and pulled on me and trying to pull my arm out of the socket, hurting me, yes.

10

Q, Because you did cuss and yell at them; correct?

A. Well, if their name is asshole then I guess I was talking to them. Because anybody that gets abused and attacked like that -- just like they did this 75 - year- old woman right here and then punch her in the chest -- what do you expect people to do?

[Dep. J. Powell, pp. 154-156].

Q. Did you let them know that you were fearful that they were a bunch of nuts and going to do this again to you?

A. Yeah. I called them a bunch of assholes and crazy assholes and everything else. Okay. Let's put the horse in front of the cart. The yanking and pulling came before the cussing.

[Dep. J. Powell pp. 101-103]

The MUSC Security stated Powell still complained that the pain was unbearable. Mckinnie, Bowers and Mullins tried to convince Powell to leave and was assisting Powell in the process, but patient became agitated and stated he would sue the hospital. Public Safety Cpl. Chapman attempted to talk Powell into leaving, patient again stated that he was not going to put any more pain on himself by moving. Lt. Warner then told Mr. Powell he "had to go." During Interrogatory;

3. Security Guard Ron Mckinnie; Why did you stop trying to pull Mr. Powell from the top of the bed?

Officer Mckinnie stopped trying to assist Plaintiff from lying to a seated position because Plaintiff stated that he would not put any more pain on himself for the hospital.

Pursuant Public Duty Rule, 15-78-40; A "special duty" to particular individuals may be created by statute when: (1) an essential purpose of the statute is to protect individuals against a particular kind of harm; (2) the statute, either directly or indirectly imposes on a specific public officer a duty to guard against harm or to not cause the harm; (3) the class of persons the statute intends to protect is identifiable before the fact; (4) the plaintiff is a person within the protected

class; (5) the public officer knows or has reason to know of the likelihood of harm to members of the class if he fails to do his duty; (6) the officer is given sufficient authority to act in the circumstances or he undertakes to act in the exercise of his office.

Because of anger, MUSC did not protect their patient Jack Powell and they did in fact recklessly harm him. They knew they were harming him inside the ER, during the illegal discharge and also during the forced stay at their headquarters.

Therefore, because of the relevant evidence submitted by the Plaintiff, the multiple unanswered Discovery issues evolving around the proper Ruling by Judge Nicholson that revealed erred decisions by Judge Dennis and Pursuant Rule 56 (b) the Discovery wasn't near being closed and was an issue within itself as explained multiple times by the Plaintiff. Also because of Rule 56 (C)(1)(A)(B) & (D)(1)(2)(3) Plaintiff was denied proper access to Discovery and wasn't allowed by the court to reveal genuine disputes and;

Pursuant Rule 56 (2) Defendant intentionally submitted an Inflammatory statement to create bias and contempt towards the Plaintiff to conceal the angry manner that was pursued by the staff which violated the following South Carolina Tort Claims Act (SCTCA);

Pursuant (SCTCA); 15-78-60 (5) involving execution of a specific duty arising from fixed and designated facts. A duty is "discretionary" IF the governmental entity proves it actually weighed competing considerations, faced with alternatives and made a conscious decision based upon those considerations. Faile v S.C. Dept. of Juvenile Justice

Pursuant (SCTCA); 15-78-60 (25) This section defines responsibility as including control, confinement or custody of a patient; except when the responsibility or duty is exercised in a grossly negligent manner. False arrest was the failure of responsibility during a grossly negligent discharge.

Pursuant Rule 56, Subdivision (e)(2) authorizes the court to consider a fact as undisputed for purpose of the motion when response or reply requirements are not satisfied. This approach reflects the "deemed admitted" provisions in many local rules. The fact is considered undisputed

only for purposes of the motion. If summary judgment is denied, a party who failed to make a proper Rule 56 response or reply remains free to contest the fact in further proceedings. And the court may choose not to consider the fact as disputed, particularly if the court knows of record materials that show grounds for genuine dispute. Therefore, Judge Dennis knew of the Compelled zero Discovery.

Pursuant Rule 56, Subdivision (e)(4) Many courts take extra care with pro se litigants, advising them of the need to respond and the risk of losing by summary judgment if an adequate response is not filed. And the court may seek to reassure itself by some examination of the before granting summary judgment against a pro se litigant. Therefore Pro se was treated unfairly.

Therefore the court should closely examine itself and reverse this oversight by the court that scheduled 15 motions for the Pro se on July 30th 2014, that has the appearance of the Clerks office shotgunning the schedule and the In forma pauperis, Pro se was over whelmed trying to prepare for these cases and the Plaintiff was unaware he was supposed to Respond and also did not know he could Motion for more time to prepare for these Motions.

Pursuant Rule 56 Subdivision (e)(3) recognizes that the court may grant summary judgment only if the motion and supporting materials – including the facts considered undisputed under subdivision (e)(2) – show that the movant is entitled to it. Considering some facts undisputed does not of itself allow summary judgment. If there is judgment without determining whether those facts can be genuinely disputed. Once the court has determined the set of facts – both those it has chosen to consider undisputed for want of a proper response or reply and any that cannot be genuinely disputed despite a procedurally proper response or reply – it must determine the legal consequences of these facts and permissible inferences from them. Therefore, Judge Dennis did not allow Plaintiff to submit any facts other than receiving zero Discovery and an Inflammatory statement which in itself meets the standard to deny the Motion.

Also Judge Dennis erred when he stated he grants summary judgment because the Plaintiff

did not respond to the Defendant's Memorandum as explained, summary judgment cannot be granted by default even if there is a complete failure to respond to the motion, much less when an attempted response fails to comply with Rule 56(c) requirements. Nor should it be denied by default even if the movant completely fails to reply to a nonmovant's response.

Also Judge Dennis stated in the Order Granting MSJ, "Having considered the arguments and submissions of counsel", this court grants Defendant's Motion for Summary Judgment. Plaintiff submits he wasn't allowed to enter any argument or evidence and Judge Dennis erred with this statement and he also failed to state he granted MSJ because of the Plaintiff's failure to respond to the Memorandum as his reason for granting the Defendant's MSJ.

Therefore, this Motion to Amend Reconsideration should be approved and the Reconsideration granted by the Honorable Court and/or the Summary Judgment set aside/vacate because the order was granted under circumstances contrary to the fair administration of justice beginning with the false statement by the Defendant and the erred rulings by Judge Dennis.

Dated & Signed on 5-6-15


Pro se, Jack Powell

CERTIFICATE OF SERVICE

Pro se, Jack Powell hereby certifies this Motion to Amend Reconsideration was hand delivered to the Defendant, MUSC case # 2013-CP-10-5351 at the following address.

Barnwell & Whaley
288 Meeting St.
Charleston, S.C. 29401

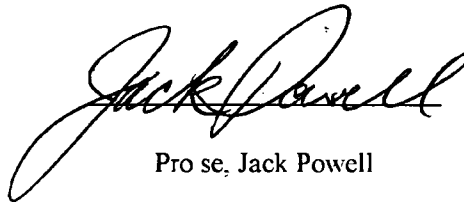
BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2015 MAY -6 PM 3:09

FILED

Dated & Signed on 5-6-15



Pro se, Jack Powell

A

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 JACK POWELL,)
)
 APPELLANT,)
)
 v.)
)
 MUSC PUBLIC SAFETY,)
)
 APPELLEE.)

IN THE COURT OF COMMON PLEAS
 IN THE NINTH JUDICIAL CIRCUIT

Civil Action No. 2013-CP-10-5792

**ORDER REVERSING APPELLANT'S
 CONVICTION FOR TRESPASSING**

FILED
 2015 MAR 20 PM 2:30
 JULIE J. ARMSTRONG
 CLERK OF COURT

This Matter came before this Court on Appellant Jack Powell's Appeal to the Circuit Court, filed September 30, 2013 and argued before this Court on September 15, 2014. Plaintiff Jack Powell is appealing a Trespassing conviction entered after a jury trial before Magistrate Judge Honorable David Coker. At the appeal, this Court took the matter under advisement and requested that the parties submit briefs on whether a person could trespass on public property. After review, it is this Court's determination that Mr. Powell was charged and convicted under the wrong statute, and that his trespassing charge shall be reversed.

According to the evidence in the record, Mr. Powell was discharged from the Medical University Hospital ("MUSC") for refusing to leave. Mr. Powell was causing a disturbance in the emergency room area, and appeared irate and potentially intoxicated. The police report states that the Appellant was taken from his bed by hospital security and MUSC Public Safety, and was escorted outside to the Clinical Science ramp area. He was then given the choice of leaving the area under his own free will or he would be arrested. Appellant refused to leave. MUSC Public Safety then placed Appellant under arrest for trespassing.

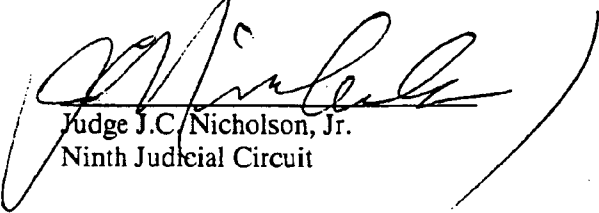
gm

B

It is this Court's opinion that the jury erred when it found Appellant guilty of trespassing. Under S.C. Code Section 16-11-620, a person cannot trespass on public property. A separate statute, Section 16-11-630 penalizes trespassing on public property outside of its normal business hours when they are closed to the public. In the current scenario, Appellant was not in a place that was closed to the public until the Public Safety officers removed him from his bed and took him to the Clinical Science ramp area. It was only then that they arrested him for trespassing. By that logic, MUSC Public Safety is squarely to blame for the Appellant's trespassing, as they were responsible for taking him from a place that was open to the public to a place that was closed to the public.

While the facts and the testimony make it plausible that the Appellant could have been convicted for a number of other offenses, such as disorderly conduct, it is clear that the Appellant should not have been convicted of trespassing. Accordingly, the ruling of the Magistrate Court is hereby **REVERSED**.

AND IT IS SO ORDERED.


Judge J.C. Nicholson, Jr.
Ninth Judicial Circuit

March 19, 2015
Charleston, South Carolina

C

the radiology department for x-rays. (Compl. p. 4). When transport arrived to take ←
Plaintiff to x-ray, Plaintiff asked how long it would take and asked to stay in the ER to
wait for his pain medication rather than go to x-ray. The doctor asked Plaintiff if he was
sure that he wanted to stay in the ER and wait for his pain medication rather than go to
the x-ray department. (Compl. p. 4). Plaintiff replied in the affirmative and then told the
doctor "that is about the stupidest question a doctor has ever asked me." (Compl. p. 4).
After the x-rays were obtained, Plaintiff contends that the doctor came back into his
room, rudely removed his neck brace, and told Plaintiff that he had been discharged.
(Compl. p. 4). Plaintiff claimed that he could not move because of pain. (Compl. p. 4).

Plaintiff refused to leave the Emergency Department despite being discharged
because he claimed he was in pain. (Compl. pp. 4-5). As a result, MUSC security was
called. (Compl. p. 5). Plaintiff contends that security tried to pull him from the bed.
(Compl. p. 5). He contends that the MUSC security continued to try to pull him from the
bed and finally stopped because he was "yelling from pain." (Compl. p. 5).

MUSC Public Safety was then called and instructed Plaintiff to leave the hospital.
(Compl. p. 5). Plaintiff claimed that he could not move, was not going to inflict anymore
pain on himself, and asked to be helped from the bed. (Compl. p. 5). Plaintiff then
threatened to sue MUSC. (Compl. p. 5). Public Safety then offered to take Plaintiff
home, anywhere he wanted to go, or to Roper Hospital. (Compl. p. 5).

Plaintiff next claims that MUSC Public Safety removed him from the ER bed and
transported him out of the hospital. (Compl. p. 5). Once outside of the hospital, Public
Safety told Plaintiff to get out of the wheelchair and leave the premises. (Compl. p. 5).
Plaintiff refused to leave because he claimed that he was in pain. (Compl. p. 5). Again,

D

PLAINTIFF JACK POWELL BRINGS FORTH THE FOLLOWING CAUSES OF ACTION

On 6-21-12 a "56" year old and sober Mr. Powell was walking up Folly Road and tripped over an exposed and unburied cable line in front of the Folly Oaks Center located at 930 Folly road. The Charleston County EMS came and Mr. Powell was transported to the MUSC Emergency Room after being knocked unconscious and receiving injuries to his head, neck, shoulder and knee.

→ Dr. Simon Watson and Billy Jacobsen were attending to Mr. Powell. Mr. Powell was in terrible pain and the doctor said a pain shot was on the way. Then someone began to push Mr. Powell's bed out of the room and he asked where are we going and he said to X-Rays. Mr. Powell asked how long will this take because I'm in pain and a pain shot is on the way. He said maybe a couple of hours and would you rather stay and wait for the shot? Mr. Powell said yes, so he pushed the bed back into the ER. Then a few minutes later the same doctor that said the pain shot was on way comes in and asked Mr. Powell if he had told the man (pushing his bed out of the room) that he wanted to stay and wait for his pain shot, Mr. Powell said yes. Then the doctor asked are you sure you want to wait for the pain shot or go to the X-Ray department? Mr. Powell who was having severe pain told the doctor that is about the stupidest question a doctor has ever asked me. The doctor rolled his eyes then left. Later after the X-Rays were finished and Mr. Powell was back in the ER the doctor comes in and rudely starts taking off the neck brace (that had been put on by the EMS) Then he tells Mr. Powell you have been discharged. The doctor then said other than the severe Arthritis you have from ("4" surgeries on Mr. Powell's neck, shoulder and knee) you do not have any major injuries like broken bones or fractures. Mr. Powell then said how can i leave, i can't move because of the pain. The doctor repeated the demand and Mr. Powell again said I can't move.

NOTE; at this time Mr. Powell was unaware that the Charleston County EMS stated that Mr. Powell was abusive and apparently this was believed and repeated ACCORDING to the Nurse Assessment written by Nurse Jill Pentz. Of course there was no mention that Mr. Powell had been knocked unconscious after tripping over a cable line in the dark on Folly road and then was barely conscious, with his face in the dirt , in severe pain because of his neck, shoulder and knee, unable to move, then asked repeatedly which hospital would you like to go to and Mr. Powell would answer I don't care. Then with a long pause between being asked, even with EMS getting up and walking around. Mr. Powell

E

2. Dr. Watson; Why did the security guards stop trying to pull Mr. Powell from the bed?

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 2 on the grounds that it is misleading. Without waiving and subject to the foregoing objection, Defendant MUSC responds by stating that, upon information and belief, Mr. Powell was never pulled from the bed:

3. Security Guard Ron McKinnie; Why did you stop trying to pull Mr. Powell from the top of the bed?

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 3 on the grounds that it is misleading. Without waiving and subject to the foregoing objection, Defendant MUSC craves reference to the Detailed Activity Report bates labeled BWPH 1.555 (Powell) MUSC BWPH 1.555 (Powell) MUSC 160 with regard to any involvement by Hospital Security with Mr. Powell. Defendant MUSC further responds by stating that Officer McKinnie tried to assist Plaintiff into a seated position on the bed in order to assist him in moving from the bed to the wheelchair. Upon information and belief, Officer McKinnie stopped trying to assist Plaintiff from lying to a seated position because Plaintiff stated that he would not put anymore pain on himself for the hospital.

7. Security Guard Ron McKinnie; Did you think it was a good idea to try and pull the injured Mr. Powell from the bed the second time? Yes or No

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 7 on the grounds that it is misleading. Without waiving and subject to the foregoing objection, Defendant MUSC craves reference to the Detailed Activity Report bates labeled BWPH 1.555 (Powell) MUSC 160 with regard to any involvement by Hospital Security with Mr. Powell. Defendant MUSC further responds by stating that no one attempted to pull Mr. Powell from the bed at anytime.

10. Officer Kyle Radford; Why didn't you help Mr. Powell out of the wheelchair when he said he could not get out because of the pain?

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 10 on the grounds that it is misleading and vague. Without waiving and subject to the foregoing objection, Defendant MUSC states that Officer Radford and the other officers who responded to the dispatch call regarding Mr. Powell assisted Mr. Powell from the bed in the Emergency Department into a wheelchair. Once Mr. Powell was escorted from the Emergency Department and was outside of the Clinical Sciences building, Public Safety assisted him from the wheelchair into a patrol car.



"TRIAGE"
Adult Emergency Services Nursing Assessment
 Page 2 of 2

Form Origination Date: 9/03
 Version: 6

Version Date: 8/09



P846864809 DOB: 07/26/1955 W
POWELL
JACK A
 Adm: 08/21/12 M1413630

Patient Name
 MRN

PATIENT IDENTIFICATION LABEL

Start Time	Stop Time	Medication / IVF	Dose	Route / Site	Initials	High Alert Verification	Response to Meds/Fluids Pain Scale * Vital Signs	Time	Initials
2300	0055	Morphine Morphine IV	5mg 1mg	IM (P) / PO	AD				

1st EKG @ Y N
 Cardiac Monitor Y N
 Rhythm _____
 Troponin _____
 O2: NC NRB% _____
 EKG Strips attached Y N

IV Access
 Time _____ R Hand Forearm AC Size 24 22 20 18 16 14 X- _____ attempts
 Time _____ L Hand Forearm AC Size 24 22 20 18 16 14 X- _____ attempts
 Time _____ Site: _____ Other _____ by _____ US guided Y N

Time	Temp	Pulse	RR	BP	O2 Sat	Pain	Time	PO	IV	Other	Time	Void	Emesis	Other

Time: 2205 Nurse's Progress Notes: THIS RN ASSISTING DR. MARY RN ALICIA. PT CHOKING DOWN...
 Total Intake: _____ Total Output: _____
 2210 - Dr. Vignarone bedside assessing pt. removed from backboard...
 2215 - Pt. remains in place...
 2220 - Pt. for DIC. Pt. stated he will not leave his "couch man" Dr. Vignarone...
 2230 - Pt. given oxytocin. Pt. assisted to upright position & edge of bed. Pt. began yelling @ staff. Security @ bedside to assist with discharge...
 2240 - Pt. refused to leave hospital. Pt. stated he was being abusive to staff...
 Public safety @ bedside, pt in ICU, public safety @ bedside...

Proven
 on truth
 interrogatory
 # 20

See attached Nurse's Notes / Addendum(s)

Signature: Joe Powell Initials: JP Signature: Amy Appleby Initials: AA

DISPOSITION: Home Admit LWT AMA Expired

Admit Room # _____
 Transfer to _____
 Verbal Report to _____ @ _____
 Faxed Report Y N
 Verified with _____ @ _____
 Transfer form completed Y N
 Personal Effects Inventory Form Y N
 Condition at disposition: _____
 Accompanied by: _____

Ambulatory Wheelchair Stretcher Transport Service
 Teaching Instructions Written Oral
 Language English Other _____
 Patient teaching Verbalized Return Demonstration
 Sent with patient Prescriptions Excuse
 IV discontinued upon DIC

Discharge RN: _____
 Date / Time: _____
 Vital signs printed before discharge and attached

Discharge Vital Signs: BP _____ / _____ HR _____ RR _____
 O2 Sat _____ % Temp _____
 Discharge Pain Score: H/O

ah_1W_adultEDnursingassessment

UP 500058 Rev. 8/09

G

Medical University of South Carolina
171 Ashley Avenue
Charleston, SC 29425
843-792-3826

Patient: Jack Powell MR#: 1413630 Date: 06-22-2012 Time: 00:25:10 Page 1

Instructions for: Jack Powell MR#: 1413630
Date: 06-22-2012 Your care provider was: Jacobsen/Watson

Fall without apparent injury: ← *MEANS NO BROKEN BONES*

No apparent injury was found during today's exam. You may develop some soreness and stiffness over the next two days. Mild neck and back strain is common in auto accidents, and may not be painful until the muscle becomes inflamed. But if nothing is painful now, there is no fracture, and x-rays are not needed.

If you develop pain over the next couple of days, treat each tender area. Apply cold packs directly to the painful spot. Rest. Antiinflammatory pain medication, such as ibuprofen, can decrease soreness and inflammation.

Most of the time, these late-developing pains go away within a few days. Most patients are back at work or school within a week. The area might be little irritable for two or three weeks.

→ You should call the doctor, or go to the hospital, if you develop severe neck, chest, or abdominal pain, repeated vomiting, severe lightheadedness or weakness, trouble breathing, numbness or weakness in any extremity, problems with your bladder or bowel, or pain radiating down an arm or leg. ←

Extremity X-Ray: Right Knee; Right Shoulder Plain Films

This radiographic study was performed during your ED visit.

CT Scan of Head

This radiographic study was performed during your ED visit.

CT Scan of C-Spine

This radiographic study was performed during your ED visit.

Pain medication injection:

You have received an injection of a pain medication. " " You should experience significant pain relief within 45 minutes. This drug is a narcotic -- it will impair your judgement, slow your reaction time and make you sleepy (as well as relieve your pain). Narcotics also can cause nausea.

You should not drive, work with machinery, or perform any task requiring mental alertness until all effects of the medication are gone -- six to eight hours. Do not take any alcohol, or sedatives, and do not take any other medication without checking with your physician.

Oral narcotic given:

You've been given an oral narcotic pain medication. The effects may begin 30 minutes to an hour after swallowing the medicine. You should have significant pain relief. " " The effects will usually last at least four hours.

Most oral narcotics contain a dose of acetaminophen (Tylenol). Don't take any other acetaminophen-containing medicines until you've discussed it with the doctor.

This drug is a narcotic -- it will impair your judgment, slow your reaction time, and make you sleepy. Narcotics also can cause nausea and constipation. If you feel sick, you should eat. A full stomach reduces the nausea that pain pills can cause.

You should not drive or work with machinery (including blenders, knives, lawn mowers or sewing machines) for six to eight hours. Don't do anything requiring mental alertness until the effects of the medication are gone. Do not take any alcohol or sedatives, and don't use any other medication without checking with your physician. ←

Follow-up care:

→ You should follow up with your primary care physician within the next 3-5 days regarding your visit today. If you do not have a primary care physician a list of providers is listed below. You should return if there is unexpected worsening or a significant change in your symptoms. If you have a question, please ←

H

18. RN Jill Pentz; You stated he will not leave "can't move" Jacobsen, pt. given oxycodone. Why would Pt. be given more drugs?

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 18 on the grounds that it is misleading. Without waiving and subject to the foregoing objection, Defendant MUSC craves reference to the medical record of Mr. Powell bates labeled BWPH 1.555 (Powell) MUSC 1-153 with regard to the documentation by Nurse Pentz. Defendant MUSC further responds to Interrogatory No. 18 by referring Plaintiff to the medical record with regard to the exact documentation. However, Defendant MUSC states that Mr. Powell received 10 mg of oxycodone by mouth at approximately 12:55 a.m. for pain.

20. RN Jill Pentz; Isn't it true that Mr. Powell was not at the edge of the bed, because the security guards were trying to pull Mr. Powell from the top of the bed with his legs extended out? Yes or No

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 20 on the grounds that it is misleading. Without waiving and subject to the foregoing objection, Defendant MUSC craves reference to the medical record of Mr. Powell bates labeled BWPH 1.555 (Powell) MUSC 1-153 with regard to the documentation by Nurse Pentz. In further answering Interrogatory No. 20, Defendant MUSC states that, at one point in time, Mr. Powell sat in an upright position on the side of the bed with his legs over the side of the bed.

✓ 24. RN Jill Pentz; How many times have you seen the security guards force an injured patient (yelling in pain) out of the ER and then arrested because he couldn't get out of the wheelchair?

ANSWER: Objection. Defendant MUSC objects to Interrogatory No. 24 on the grounds that it is misleading. Defendant MUSC further objects to Interrogatory No. 24 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to the foregoing objection, Defendant MUSC craves reference to the medical record of Mr. Powell bates labeled BWPH 1.555 (Powell) MUSC 1-153, the Incident Report and Additional Narrative, and Detailed Activity Report bates labeled BWPH 1.555 (Powell) MUSC 154-160 with regard to Mr. Powell's condition, disposition, and reason for his arrest.

I

Detailed Activity Report without Officer Times



MUSC Security Guards!

1206-00002154

Activity Date : 6/22/2012 Activity Time : 03:12

Activity Details

Category: 015 PUBLIC SAFETY ASSIST
 Subcategory: 005 TRESPASSING
 Call Received: 01:00
 Source: DISPATCHER MUSC PUBLIC SAFETY DISPATCHER
 Department: MCSS SAFETY, SECURITY & VOLUNTEER SERVICES
 Site: MUH MEDICAL CENTER HOSPITAL
 Location: EMERGENCY EMERGENCY DEPARTMENT
 Location Detail Patient refusing to leave ED.
 Notes:

REM 01:00 AM, 6/22/2012 OCA #2012000512: Ron McKinnie, ED Security Officer, Frank Bowers, PEDS Security Officer, along with Ray Mullins, MUH Roving Officer, responded to Bed #31 "C" side of Trauma, MUH. Upon arrival McKinnie was informed by Simon Watson, Attending Physician, that patient (Jack Powell was being discharged and refusing to leave.) Dr Watson explained to the patient, that he was medically cleared to leave. Powell still complained that the pain was unbearable. Dr Watson gave Powell pain medication which was taken by mouth, prior to giving the discharge papers. McKinnie, Bowers and Mullins tried to convince Powell to leave and was assisting Powell in that process, but patient became agitated and stated he would sue the hospital.

Bowers contacted Public Safety dispatcher for assistance. LT Warner, Cpl Chapman and PSO Radford, MUSC Public Safety Officers arrived to Bed # 31. Cpl Chapman attempted to talk Powell into leaving, (patient again stated that he was not going to put any more pain on himself by moving.) Lt Warner, then told Mr Powell he had to go. Mr Powell was assisted to the wheel chair and taken to CSB Ramp, Cpl Chapman offered to assist patient to get home, but patient again was adamant/ about not leaving the hospital. Powell was placed under arrest for trespassing and taken to Charleston County Detention Center. On Call Security Manager Archie Reid notified.

Involved Officer Summary Information

Officer Total Time: 135 (Min)

J

SC0100900 MUSC Dept of PS
SC0100900

INCIDENT REPORT

INFORMATION ONLY

CASE NUMBER

2013060112

NCIC

INCL. YES NO SENTD. No

INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS EMPLOYED	TYPE VICTIM
1. TRESPASSING - REFUSE TO LEAVE		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DRUG STORE/DOCTOR'S		<input type="checkbox"/> Individual <input type="checkbox"/> Business <input type="checkbox"/> Financial Inst. <input type="checkbox"/> Government <input type="checkbox"/> Relig. Org. <input type="checkbox"/> Soc./Public <input type="checkbox"/> Other <input type="checkbox"/> Unknown <input type="checkbox"/> Police Off.
2. COPY		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
3.		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) MUSC TRAUMA BED # 31 159 ASHLEY AVE. CHARLESTON, SC				ZIP CODE 29425-	WEAPON TYPE NONE	
INCIDENT DATE	24 HR. CLOCK	TO	DATE	24 HR. CLOCK	DISPATCH DATE	
05/22/2012	00:55		06/22/2012	02:09	06/22/2012	00:57
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) RADFORD, KYLE		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX
		#1	#2	J	W	M
ADDRESS 101 DOUGHTY STREET		CITY CHARLESTON		STATE SC	ZIP CODE 29425-	LOCATION NO

TRESPASSING - REFUSE TO LEAVE

REPORTING/ARRESTING OFFICER - RADFORD, KYLE 180
RESPONDING OFFICERS LT WANNER, CPL CHATMAN, PFC K. RADFORD, PSO H. LUCAS, PSO S. STROBEL

ON THIS DATE, 06/22/2012, I WAS DISPATCHED TO MUSC TRAUMA CENTER BED # 31 IN REGARDS TO A PATIENT BEING DISCHARGED AND REFUSING TO LEAVE. I ARRIVED AT BED # 31 AND OBSERVED THE SUSPECT, LATER IDENTIFIED AS JACK POWELL, AS HE LAY IN THE HOSPITAL BED IN AN SEATED POSITION. I INTRODUCED MYSELF AND INQUIRED WHY HE WOULD NOT LEAVE THE AREA AFTER BEING TREATED AT MUSC. HIS RESPONSE TO ME WAS "I AM IN PAIN AND I CANNOT MOVE WITHOUT FEELING PAIN AND I WILL NOT MOVE (I WILL NOT INFLICT MORE PAIN FOR MYSELF FOR THIS HOSPITAL)

SHORTLY THEREAFTER CORPORAL CHATMAN AND LIEUTENANT WANNER ARRIVED AND INQUIRED MR. POWELL WHY HE WOULD NOT LEAVE THE AREA AFTER BEING TREATED AND HE PRODUCED THE SAME ANSWER. IN ADDITION TO HIS PREVIOUS STATEMENTS HE ADDED, "I DONT HAVE TO DO ANYTHING I DONT WANT TO AND NOW I AM STARTING TO GET A LITTLE PISSED OFF." DURING THE TIME OF THE QUESTIONING FROM LIEUTENANT WANNER AND CORPORAL CHATMAN I CONTACTED DISPATCH VIA THE RADIO TO INQUIRE IF THE SUSPECT HAD ANY WANTS/WARRANTS OR PREVIOUS FIELD INTERVIEW CARDS. DISPATCH RESPONDED AND ADVISED THAT THE SUSPECT HAD NO OUTSTANDING WANTS/WARRANTS OR PREVIOUS F.I.S. LIEUTENANT WANNER THEN SPOKE TO THE PHYSICIAN, DR. SIMON WATSON, THAT WAS IN CHARGE OF THE SUSPECTS CARE. DR. WATSON ADVISED THAT THE SUSPECT HAD BEEN BROUGHT IN BY CHARLESTON COUNTY EMS FROM THE FOLLY ROAD AREA DUE TO BEING FOUND ON THE ROAD AND HAD THE APPEARANCE OF SUFFERING FROM A FALL. ACCORDING TO DR. WATSON HE WAS CHECKED OUT EXTENSIVELY BY THE MEDICAL PERSONAL AND HIS CURRENT INJURIES ARE NOT SUFFICIENT ENOUGH TO CAUSE SUCH PAIN THAT WOULD BE INCAPACITATING. DR. SIMON ADVISED THAT THE SUSPECTS MAJOR INJURIES WERE FROM PAST TRAUMA AND STILL WOULD NOT CAUSE HIM TO BE INCAPACITATED AT THIS TIME.

AFTER SPEAKING WITH THE IN CHARGE PHYSICIAN THE SUSPECT WAS TAKEN FROM BED # 31 BY HOSPITAL SECURITY AND PUBLIC SAFETY AND ESCORTED OUTSIDE OF TRAUMA TO THE CLINICAL SCIENCE RAMP AREA. I THEN TOLD THE SUSPECT THAT HE HAD THE CHOICE OF LEAVING THE AREA UNDER HIS OWN FREE WILL AND NEEDED TO DO SO. HE WAS ALSO ADVISED FAILURE TO LEAVE WOULD RESULT IN AN ARREST AND JAIL. THE SUSPECT THEN STATED THAT HE WOULD NOT INFLICT ANYMORE INJURY FOR THIS HOSPITAL. THE SUSPECT WAS ADVISED AGAIN THAT HE NEEDED TO LEAVE THE AREA. THE SUSPECT THEN DID NOT MOVE.

AT 02:09 AM HE WAS PLACED UNDER ARREST FOR TRESPASSING REFUSING TO LEAVE DUE TO THE FACT HE HAD BEEN INSTRUCTED TO LEAVE BY MYSELF AND DID NOT DO SO AND DUE TO HIM CONTINUING TO LOITER ABOUT THE PREMISES. HE WAS CHARGED ON UTC 95432CE. HE WAS HANDCUFFED IN FRONT DUE TO HIS MEDICAL ISSUES AND HANDCUFFS WERE DOUBLE LOCKED AND CHECKED FOR TIGHTNESS. ALSO, DUE TO HAVING TO BE HANDCUFFED IN THE FRONT HE WAS ALSO SECURED WITH LEG IRONS THAT WERE DOUBLE LOCKED AND CHECKED FOR TIGHTNESS. HE WAS SEARCHED INCIDENT TO ARREST-YIELDING NEGATIVE RESULTS. HE WAS THEN PLACED IN PATROL UNIT # C-47 AND PLACED IN THE RIGHT REAR PASSENGER SEAT AND SECURED WITH THE SEAT BELT.

AT 02:10 AM HE WAS TRANSPORTED FROM THE ARREST SITE TO MUSC-DPS HEADQUARTERS PARKING LOT LOCATED AT 101 DOUGHTY ST. CHARLESTON SC, 29425 FOR COMPLETION OF JAIL INTAKE FORM, ARREST AND BOOKING REPORT, AND CHARGING DOCUMENT (UTC) PRIOR TO DEPARTING FOR THE CHARLESTON COUNTY DETENTION CENTER.

AT 02:44 AM PSO LUCAS AND MYSELF DEPARTED HEADQUARTERS PARKING LOT FOR THE CHARLESTON DETENTION CENTER VIA MOST DIRECT ROUTE, STARTING MILEAGE 69688.6. AT 03:07 AM TRANSPORTING OFFICERS ARRIVED AT CHARLESTON COUNTY DETENTION CENTER, ENDING MILEAGE 69696.6. UPON ARRIVAL AT THE DETENTION CENTER WEAPONS WERE SECURED IN THE REAR OF PATROL CAR UNIT # C-47. AFTER WEAPONS WERE SECURED, HE WAS REMOVED FROM THE REAR OF C-47 AND TAKEN INTO CHARLESTON COUNTY DETENTION CENTER FOR PROCESSING WITHOUT INCIDENT. HE WAS LODGED IN UNDER CHARGING DOCUMENTS, UTC 95432CE. HE WAS ADVISED THAT HIS COURT DATE WOULD BE 07/11/2012 AT 9:00 AM TO APPEAR BEFORE JUDGE COKER COURT LOCATED AT 4045 BRIDGEVIEW DR. CHARLESTON SC, 29406. HIS PROPERTY WAS RELEASED TO THE CUSTODY OF THE CHARLESTON COUNTY DETENTION CENTER. THE SUSPECTS PROPERTY WAS RELEASED TO THE CUSTODY OF THE CHARLESTON COUNTY DETENTION CENTER.

AT 03:20 AM PSO LUCAS AND MYSELF DEPARTED THE JAIL AND RETURNED BACK TO HEADQUARTERS. PATROL UNIT C-47 WAS SEARCHED PRIOR TO AND UPON COMPLETION OF THE TRANSPORT TO THE CHARLESTON COUNTY DETENTION CENTER WITH NEGATIVE RESULTS

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4. Admit that the MUSC Public Safety Officers offered to take Plaintiff to Roper Hospital on the morning of June 22, 2012. ANSWER; ADMIT-WHEN ON BED.

5. Admit that the MUSC Public Safety Officers offered to take Plaintiff home on the morning of June 22, 2012. ANSWER; ADMIT -WHEN ON BED

6. Admit that the MUSC Public Safety Officers offered to call someone for Plaintiff to pick Plaintiff up from MUSC on the morning of June 22, 2012. ANSWER; ADMIT-WHEN ON BED

7. Admit that after Plaintiff told the MUSC Public Safety Officers that they would have to help him off of the bed, the Officers assisted Plaintiff in moving from the bed into the wheelchair. ADMIT; AFTER UNBEARABLE CONTINUED HARASSMENT AND FEAR.

8. Admit that after Plaintiff was placed in the wheelchair, the MUSC Public Safety Officers transported him outside of the hospital in the wheelchair. ANSWER; ADMIT

9. Admit that, once outside of the hospital, the MUSC Public Safety Officers informed Plaintiff that he was free to leave the premises.

ANSWER; DENY, According to officer Kyle Radford when he wrote "6" days later; Then told the suspect that he had the "choice" of leaving the area under his own free will and better do so.

10. Admit that, once outside of the hospital, the MUSC Public Safety Officers asked Plaintiff to leave the premises. DENY; THEY TOLD ME I HAD A "CHOICE" TO LEAVE.

11. Admit that, once outside of the hospital, Plaintiff told the MUSC Public Safety Officers that he could not get up out of the wheelchair. ANSWER; ADMIT

12. Admit that, once outside of the hospital, Plaintiff told the MUSC Public Safety Officers that they would have to help him out of the wheelchair.

ADMIT ONCE OUTSIDE PUBLIC SAFETY CONTINUED UNBEARABLE HARASSMENT, REFER TO QUESTIONS 9, 10, 11 ONLY AFTER CONTINUED UNBEARABLE HARASSMENT, THE PERSISTANCE TO ARREST ME, UNDER THE INFLUENCE OF OXEYCODENE AND WAS UNABLE TO MAKE PROPER DECISIONS FOR MYSELF THAT WERE INFLUENCED BECAUSE OF FEAR.

COURT RECORDS OF: STATE/PUBLIC SAFETY v. JACK POWELL

1 A. Yeah.
 2 Q. When I was on the MUSC bed, public safety
 3 said they would take me to Roper Hospital because I
 4 asked for second opinion?
 5 A. (Inaudible).
 6 Q. Is this your public safety report here?
 7 A. Yes.
 8 Q. Read that to everybody.
 9 A. I didn't document that, but that's what
 10 happened.
 11 Q. You didn't document that?
 12 A. No, but I testified to it.
 13 Q. Well, that is not true?
 Is there any other documents? I have all
 15 these documents and all these statements by everyone.
 16 Nobody ever said that.
 17 THE COURT: Mr. Powell, this is
 18 cross-examination. You're not asking direct
 19 questions.
 20 MR. POWELL: Okay. I'm sorry.
 21 THE COURT: You'll have a chance to
 22 testify.
 23 BY MR. POWELL:
 24 Q. Once outside, you told me to leave the
 25 premises?

1 authority of MUSC.
 2 Q. You told me an hour-and-a-half earlier --
 3 THE COURT: Questions, questions.
 4 MR. POWELL: Okay.
 5 BY MR. POWELL:
 6 Q. Did you tell me inside the ER that you
 7 would take me to the hospital or anywhere I want to
 8 go?
 9 A. Yeah.
 10 Q. Would you read off your report where you
 11 said that.
 12 THE COURT: Mr. Powell, ask him --
 13 BY MR. POWELL:
 14 Q. Can you read off the report that you wrote
 15 those statement?
 16 A. (Inaudible).
 17 Q. I'm going to ask you to read it. Can you
 18 read it?
 19 A. No.
 20 THE COURT: Sir, what is the question?
 21 BY MR. POWELL:
 22 Q. Is it true, right after I said that I
 23 would need help, you did not help me out of the
 24 wheelchair. At that point, wasn't it?
 25 When I said it right then that I can't get

1 A. Yes, sir.
 2 Q. Isn't it true that I told you I was in
 3 pain. I could not get out of the wheelchair and
 4 would need help getting out of the wheelchair? True
 5 or false?
 6 A. Yes, sir.
 7 Q. Right after I said that I need help, you
 8 did not help me and kept telling me to leave the
 9 premises. True or false?
 10 A. Yes, I did also asked --
 11 Q. Excuse me, sir.
 12 MR. POWELL: Your Honor, I'm asking for a
 13 true and false. He's doing all this other --
 14 THE COURT: He has answered. He can
 15 answer and give an explanation. You asked a
 16 question.
 17 Go ahead and give the explanation again
 18 because you were interrupted.
 19 BY MR. POWELL:
 20 Q. Actually, according to public safety
 21 report, you said all those things while I was in the
 22 ER; is that not correct? Take me home. Take me to
 23 Roper Hospital, where I wanted to go. Those
 24 statements were made in the ER, not outside.
 25 A. Still in their jurisdiction, jurisdiction

1 out of the wheelchair, I need help getting out of the
 2 wheelchair, did you help me out of the wheelchair?
 3 (Inaudible) Yes or no?
 4 A. (Inaudible).
 5 Q. You told me to leave the premises. I said
 6 I'm in pain. I can't get out of the wheelchair, and
 7 I need help getting out of the wheelchair. Did you
 8 help me out of the wheelchair right then?
 9 A. Yes, into a police car.
 10 Q. Right then?
 11 A. What is right then?
 12 Q. Right then, like I can't get out of the
 13 wheelchair. Did you help me out of the wheelchair
 14 right then when I said that, like, five seconds
 15 later?
 16 A. I told you I'd bring you anywhere you need
 17 to go.
 18 Q. It says here I didn't say anything.
 19 Doctor said that I was good to go medically to go and
 20 all that. Did you know at the time, according to
 21 this paperwork, they discharged me 12:25. They gave
 22 me oxycodone at 1:00.
 23 A. I'm not a doctor.
 24 Q. Did you know that they did that? Yes or
 25 no.?

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November 15, 2012

Mr. Jack Powell
1402 8-A Camp Road
Charleston, SC 29412

RE: *Freedom of Information Act Request*
Date of Service: 6/21/2012

Dear Mr. Powell:

I am in receipt of your FOIA request for the names of the nurses who assisted with your x-ray on June 21, 2012. The information you are requesting is located in your medical record. In order to obtain these records, you must complete an Authorization to Disclose Protected Health Information, which I have enclosed for your convenience. Upon completion, please submit this form to:

ATTN: Release of Information
169 Ashley Avenue
MSC 349
Charleston, SC 29425-3490

If you have any questions about the Authorization, you may contact Release of Information via telephone (843) 792-3881. Should you have any additional questions or concerns, please do not hesitate to contact me.

With kind regards, I remain

Sincerely,


Annette R. Drachman

4. All information sent and considered to be sent to Mr. Powell's Freedom of Information Act request.

RESPONSE: Objection. Defendant MUSC objects to Request No. 4 on the grounds that it is vague, overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence. Without waiving and subject to the foregoing objection, the information responsive to Mr. Powell's in his Freedom of Information Act request is contained in the medical records of Plaintiff from his June 21, 2012 visit contained in the documents bates labeled BWPH 1.555 (Powell) MUSC 1-153, Incident Report and Additional Narrative bates labeled BWPH 1.555 (Powell) MUSC 154-159, Detailed Activity Report bates labeled BWPH 1.555 (Powell) MUSC 160 and letter to and from Plaintiff regarding FOIA Request bates labeled BWPH 1.555 (Powell) MUSC 161-163. This information and/or documents, although responsive, would not be produced pursuant to a Freedom of Information Act request because such information may not be validly produced under HIPAA without an authorization completed by the patient or in response to a valid discovery request or subpoena. Nonetheless, because Plaintiff has requested such information pursuant to a valid discovery request, Defendant MUSC is producing the same.

IN THE COURT OF COMMON PLEAS
9TH DISTRICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON COUNTY)

JACK POWELL)

Plaintiff(s))

vs.)

MEDICAL UNIVERSITY OF SOUTH)
CAROLINA (MUSC))

Defendant(s))

REQUEST OF FOR PRODUCTION
OF DOCUMENTS

CASE # 2013-CP-10-535

BY JULIE ALPHSTRONG
CLERK OF COURT
2013 DEC 16 PM 4:18

FILED

TO: RESPONDENT

Petitioner hereby requests that you produce for Petitioner's inspection and copying the following documents within 30 days after service of this request in accordance with Rule 21, Rules of Procedure of the Administrative Law Court, and Rule 34, SCRPC.

DIRECTIONS

'Document' refers to every writing or record of every type or description that is, or has been, in the possession, custody, or control of you, or of which you have knowledge. 'Document' specifically includes, but is not limited to, computer printouts, computer software, correspondence, memoranda, tapes, stenographic and handwritten notes (including handwritten or other notes or other types or copies of documents)

1. The name of the X-ray technician, male nurse or individual... NOTE; (Annette Drachmen has refused to give me during my FOI Act and through discovery) that came into my ER room and began pushing my bed to X-rays and I told him a pain shot was on the way and he asked me did I want to go to X-rays or wait for the pain shot?
2. The number of times there has been lawsuits, complaints, communicated complaint about treatment to any MUSC representative since 6-21-12.
3. Documents of who made the telephone call, e-mail, text or any communication to the nurse or anyone at the Charleston County Detention Center on 6-21-12 or 6-22-12.
4. Documents of what was sent or discussed during this call, email or text to Charleston county Detention Center on 6-21-12 or 6-22-12.
5. Documentation of MUSC ER procedure why, when or should a patient may or be given more pain medication after they are discharged.
6. Documentation of MUSC procedure when a patient is pushed out in a wheelchair and what MUSC is suppose to do "right then" if the patient states they are in pain and needs help getting out of the wheelchair so they can get into their car.
7. Documentation of Doctor Jacobsen or Watson or any Nurse that warned or communicated to the Public Safety that Mr. Powell had received pain medication just "2" minutes before they arrived and he would have slowed reaction time, impaired judgement and should not do anything requiring mental alertness?
8. Documentation of Doctor Jacobsen or Watson warning or telling the Public Safety if Mr. Powell has severe pain in his neck or numbness in his extremities, legs and arms he should call a doctor or be taken to a hospital.

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9. Documentation of what the Public Safety is suppose to do if the patient is complaining of severe pain in his neck or numbness in his extremities, arms and legs and is instructed by Dr. Watson to call a doctor or be taken to a hospital. NOTE; INSTRUCTIONS BY Dr. Watson!

10. All Documentation concerning training or notices of being made aware and what to do if medical issues occur with the patient during discharge by an MUSC employee or representative.

11. All Documentation of whether to take Mr. Powell to Roper hospital since he asked for a second opinion, back into MUSC to be re-examined, jail or public safety headquarters after it was determined Mr. Powell had medical issues when handcuffing him in front.

12. The names of the staff, nurse, doctors, volunteers who were in the ER with other patients.

13. The names of the people who were working at the ER front desk entrance.

DATED & SIGNED ON 12-13-13

Jack Powell

PRO SE; JACK POWELL

FILED
2013 DEC 16 PM 4:18
JULIE J. ARHSTRONG
CLERK OF COURT
BY _____

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of December, 2013, I mailed a copy of the my Document Request to the Defendant with sufficient postage, correctly addressed as follows:

Barnwell & Whaley
288 Meeting St. Ste 200
Charleston S. C. 29401
CASE : 2013-CP-10-5351

Jack Powell
Pro Se: Jack Powell