

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2007-CP-00-01981

**RECEIVED**  
JUL 29 2015  
SC Court of Appeals

Martha Lewin Argoe,

v. Appellant,

Three Rivers Behavioral Health,  
LLC and Psychiatric Solutions,  
Inc., its successor; Phyllis Bryan-  
Mobley, MD; David A. Steiner,  
MD; Cheryl C. Dodds, MD;  
Doris Ann Burrell, RN; and  
Carolina Care Plan,

Respondents,

**SUPPLEMENTAL RECORD ON APPEAL**

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## I. ORDERS

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## II. CERTIFICATE OF COUNSEL

ORIGINAL

JUL 10

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Martha Lewin Argoe,

Plaintiff,

vs.

Three Rivers Behavioral Health, LLC and  
Psychiatric Solutions, Inc., its Successor;  
Phyllis Bryant-Mobley, MD; Glenn Hooker,  
MD; Aiken Regional Medical Center,  
Aurora Pavilion; David A. Steiner, MD;  
Cheryl C. Dodds, MD; Doris Ann Burrell,  
RN; Carolina Care Plan; James F. Walsh,  
Jr.; G. Lewis Argoe, Jr.; and George  
L. Argoe, III,

Defendants.

Martha Lewin Argoe,

Plaintiff,

vs.

George Lewis Argoe, III, individually  
And as purported "Trustee", G. Lewis  
Argoe, Jr., James F. Walsh,  
Ameriprise Financial Services,  
Malcolm Lynn Norris and  
Pandora Jones-Glover,

Defendants.

IN THE COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT

Civil Action No. 07-CP-32-1981


ORDER AS TO DEFENDANTS AIKEN  
REGIONAL MEDICAL CENTER, AURORA  
PAVILION, and DAVID A. STEINER, M.D.

FILED  
COURT OF COMMON PLEAS  
ELEVENTH JUDICIAL CIRCUIT  
LEXINGTON, SOUTH CAROLINA

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THIS MATTER is before the Court upon the Motion for Summary Judgment of Aiken Regional Medical Centers, Inc. (captioned herein as Aiken Regional Medical Center, Aurora Pavilion) and David A. Steiner, M.D (hereinafter referred to as "ARMC and Dr. Steiner") The Motion was heard before me on May 29, 2008. This Court has entered a previous Order signed May 23, 2008, and filed May 27, 2008, and that Order is incorporated herein by reference as to

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the relationship of the parties in this action, and other relevant factual summaries and conclusions of law.

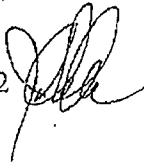
The record before the Court consists of the Memorandum of Law filed by hospital counsel, and other materials presented when this case was before the Court for hearing of pending Motions on March 21, 2008 and May 29, 2008. Counsel for Dr. Steiner joined in the arguments made in the Memorandum and at the hearing.

The record is not in dispute and reveals that the Defendant ARMC operates a psychiatric facility in Aiken County known as Aurora Pavilion where Dr. Steiner has privileges. Pursuant to the Order of the Orangeburg County Probate Court and the Certificate of Designated Examiner Glenn Hooker, M.D., the Plaintiff was taken by the Orangeburg County Sheriff's Department to Aurora Pavilion on June 8, 2005, where she was hospitalized under the care of Dr. Steiner who is a psychiatrist. Plaintiff remained at Aurora Pavilion less than 24 hours, under the care and treatment ordered by her attending psychiatrist Dr. Steiner. Although medication was prescribed by Dr. Steiner the Plaintiff refused to take it.

On June 9, 2005, the Plaintiff was then transferred to the Three Rivers Hospital in Lexington County, South Carolina, where she underwent inpatient hospital care and treatment rendered by various medical providers, appeared before the Probate Court for a hearing on June 21, 2005, and was ordered to undergo continuing inpatient treatment for her psychiatric illness.

Defendants ARMC and Dr. Steiner have moved for summary judgment upon the grounds that there is no disputed issue of material fact and that they are entitled to the entry of judgment in their favor as a matter of law. The Court will not herein restate the legal standard for the grant of summary judgment, as that is already set forth in the Court's Order previously filed and referenced hereinabove.

In this case the Complaint alleges claims against ARMC and Dr. Steiner in the First, Second, Third, Eleventh, Thirteenth, Fourteenth, Fifteenth and Sixteenth causes of action. Prior

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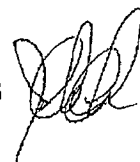
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to argument on May 29, 2008, Plaintiff's counsel agreed on the record to dismiss ARMC and Dr. Steiner from Causes of action One, Eleven, Thirteen, Fourteen, Fifteen and Sixteen. The parties went forward to argue the summary judgment motion as to the Second cause of action for negligence and gross negligence and the Third cause of action for false imprisonment.

### **BACKGROUND**

The record reveals ARMC and Dr. Steiner accepted the Plaintiff as a patient pursuant to the Order of Judge Jones-Glover of the Orangeburg County Probate Court. At all relevant times, ARMC acted in compliance with this court order, which required ARMC to admit the Plaintiff as a patient.

The Order of Judge Jones-Glover was later independently reviewed by Dorchester County Probate Judge, The Honorable Tiffany Provence, in related proceedings to which the Plaintiff was a party. Judge Provence ruled that Judge Jones-Glover's commitment order was proper. (See Order dated January 18, 2007, In the Matter of Martha L. Argoe, Dorchester Probate Court Case No. 2006-GC-18-00-045, filed in support of ARMC's Motion.) Judge Provence found that there were no violations of Plaintiff's rights under the Probate Code. Specifically, Judge Provence concluded that Plaintiff's involuntary commitment was handled in compliance with Probate Code sections 44-17-410 [Emergency admission of person likely to cause serious harm; procedures; court review; assessment by examiners; initiation of emergency commitment procedures; hearing; right to counsel], § 44-17-420 [Notice of hearing], § 44-17-430 [Examination under custody of person requiring immediate hospitalization when examination not otherwise possible], and § 44-17-570 [Examination under custody of person requiring immediate hospitalization when examination not otherwise possible]. Judge Provence's Order also states "The court's review found that proper procedure was followed through each step of the involuntary commitment and that no grounds exist to challenge the previous Order of the Orangeburg County Probate Court with regards to that commitment."



Plaintiff did not appeal Judge Provence's Order. Therefore, the doctrine of res judicata applies here. Under the doctrine of res judicata, a final judgment on the merits in a prior action will bind the parties and their privies in a second action based on the same claim as to the issues actually litigated and as to issues that might have been litigated in the first action. Hilton Head Ctr. of South Carolina, Inc. v. Public Serv. Comm'n, 294 S.C. 9, 362 S.E.2d 176 (1987); Beall v. Doe, 281 S.C. 363, 315 S.E.2d 186 (Ct.App.1984). Unappealed court decisions bar subsequent re-litigation of the same legal or factual issues already decided. Foran v. USAA Casualty Ins. Co., 427 S.E.2d 918 (Ct.App. 1993). Accordingly, Plaintiff is now barred by the doctrines of res judicata as well as collateral estoppel from arguing that the June 6, 2005 commitment order was improper or that ARMC or Dr. Steiner were not justified in relying on the validity of the Order.


#### **False Imprisonment**

ARMC and Dr. Steiner are entitled to summary judgment on Plaintiff's false imprisonment claim because their conduct with respect to the Plaintiff was lawful as a matter of law. South Carolina courts define false imprisonment as "the deprivation of one's liberty without lawful justification." Jones by Robinson v. Winn Dixie Greenville, Inc., 318 S.C. 171, 456 S.E.2d 429 (1995). To prove a claim for false imprisonment, the evidence must demonstrate:

- 1) that the defendant restrained the plaintiff;
- 2) the restraint was intentional; and
- 3) the restraint was unlawful

Id. at 175, 432. One of the necessary elements of a false imprisonment action is that the restraint of the plaintiff must be unlawful. In South Carolina it has been held that a plaintiff's detainment or imprisonment which is authorized by a lawful involuntary commitment order of a probate judge cannot serve as a basis for recovery on a claim of false imprisonment.

In Manley v. Manley, 291 S.C. 325, 353 S.E.2d 312 (Ct. App. 1987), a plaintiff instituted an action against her adult children, her former husband and a psychiatrist for false imprisonment, outrage and defamation after she was involuntarily committed to a state

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psychiatric facility. The plaintiff's children stated they became concerned after their mother threatened to take her own life, although apparently the plaintiff denied she had threatened to kill herself. Plaintiff's children took action to have her involuntarily committed to a state psychiatric facility where she was held for seven days and then discharged after being found not to be mentally ill. The trial court granted the defendants' motions for summary judgment. On appeal regarding plaintiff's false imprisonment claim, the Court of Appeals rejected her argument that because she was found not to be mentally ill, her custodial detention for examination by the defendant psychiatrist and confinement to the State Hospital constituted false imprisonment. The court stated "Where one is arrested by lawful authority, an action for false imprisonment cannot be maintained." Id. at 330 (citing Bushardt v. United Investment Co., 121 S.C. 324, 113 S.E. 637 (1922) and Watkins v. Mobil Oil Corp., 281 S.C. 79, 313 S.E.2d 641 (Ct.App.1984)). The Court of Appeals further found that the process by which the plaintiff was detained and examined was lawful and no action for false imprisonment could be maintained.

Id. The court stated:

The record supports only the conclusion that appellant was lawfully taken into custody and detained pursuant to provisions of Section 44-17-410, Code of Laws of South Carolina, 1976. The actual taking into custody of appellant was performed by a peace officer by order of the probate judge in accordance with provisions of Section 44-17-430, Code of Laws of South Carolina, 1976. We therefore hold that an action for false imprisonment cannot be maintained against the respondents.

Id.

Likewise, in the instant matter an action for false imprisonment cannot be maintained against ARMC or Dr. Steiner. Plaintiff was temporarily detained at ARMC for less than 24 hours pursuant to a lawful Order of the probate court, and therefore Plaintiff has no valid false imprisonment claim or any other claim against ARMC. The Order of the Orangeburg County Probate Court involuntarily committing Plaintiff to a mental health facility was facially and procedurally valid and ARMC and Dr. Steiner were entitled to rely on the order when they received Plaintiff and provided care to her for less than a full day.

Plaintiff's admission and brief stay at ARMC were the result of valid legal processes and Plaintiff has not been able to provide evidence of any underlying unlawful act of ARMC or Dr. Steiner to establish a false imprisonment claim against either of these Defendants. The lawfulness of Plaintiff's involuntary detention precludes a false imprisonment action against ARMC and Dr. Steiner. The rule is widely recognized that:

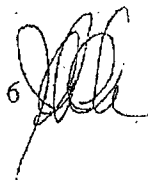
A person confined pursuant to an authorized mental health commitment proceeding or process may not recover damages in a false imprisonment action. In accordance with the general rule dealing with confinement under process, even where the order of commitment is erroneously made, but is valid on its face and issued by a court of competent jurisdiction, the detention is not false imprisonment.

State hospital officials have no duty to examine the form of the report of the examining psychiatrists upon which an order of commitment was based, nor is there any duty to examine or investigate a commitment order valid on its face, unless there is knowledge that there was, in fact, no basis for implementing the order.

32 Am. Jur. 2d False Imprisonment § 33 "Commitment pursuant to valid legal proceeding" (2008).

Unquestionably, the law in South Carolina and elsewhere is that where one is taken into custody pursuant to a procedurally valid involuntary commitment order, the resulting detention cannot be "unlawful." In such a situation, the individual who was taken into custody cannot maintain a false imprisonment claim against those who take her into custody or detain her pursuant to the Order. As such, the Plaintiff, Ms. Argoe, has no claim against ARMC or Dr. Steiner, and ARMC and Dr. Steiner are entitled to summary judgment on the false imprisonment claim.

The Court notes that Plaintiff has reportedly attempted to challenge the findings of Judge Provence as set forth in her Order dated January 18, 2007, which specifically found that the Plaintiff's initial involuntary commitment was handled in compliance with applicable statutes and that no grounds exist to challenge the Order of the Orangeburg County Probate Court. The Court notes that regardless of the outcome of the Plaintiff's purported challenge, Defendants

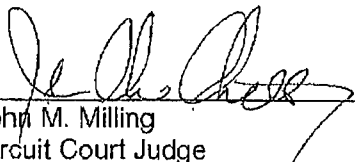
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ARMC and Dr. Steiner are entitled to summary judgment in their favor as to the false imprisonment cause of action. These Defendants were not required to go beyond a prima facie valid signed Probate Court Order and Certificate of Examining Physician directing that the patient be hospitalized. Summary judgment is therefore granted to Defendants ARMC and Dr. Steiner as to the Third cause of action in the Complaint for false imprisonment.

The remaining cause of action in the Complaint as to Defendants ARMC and Dr. Steiner is the Second Cause of Action for negligence and gross negligence. Defendants ARMC and Dr. Steiner argue that the Affidavit of Plaintiff's expert Dave Davis, M.D., falls to meet the standard necessary to create a disputed issue of material fact necessary to defeat a motion for summary judgment in a medical malpractice case. While the Court notes there is some merit to defense counsel's argument in this regard, the Court is disinclined to dismiss the medical malpractice allegations from the Complaint at this time. The issue is best addressed following a full deposition and examination of Plaintiff's expert witness and the Defendants may renew their Motion for Summary Judgment as to the second cause of action at a later date.

IT IS SO ORDERED this 27 day of June, 2008.

  
\_\_\_\_\_  
John M. Milling  
Circuit Court Judge

Darlington, South Carolina

June 27, 2008

  
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THE STATE OF SOUTH CAROLINA

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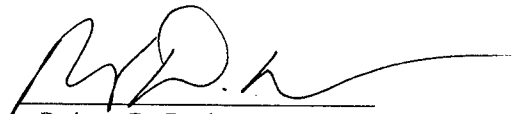
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Carolina Care Plan,

Respondents,

**CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that the Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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July 29, 2015  
Columbia, South Carolina

02640

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

William P. Keesley, Circuit Court Judge

Case No. 2007-CP-32-01981

Martha Lewin Argoe,

Appellant.

v.

Three Rivers Behavioral  
Health, LLC; Phyllis Bryan-  
Mobley, MD; David A.  
Steiner, MD; Cheryl C.  
Dodds, MD; Doris Ann  
Burrell, RN

Respondent,

**PROOF OF SERVICE**

I certify that I have served the Supplemental Record on Appeal on all Respondents by depositing a copy of it in the United States Mail, postage prepaid, on July 29, 2015, addressed to their attorneys of record, listed below as:

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AUG 25 2015

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August 25, 2015



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