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SC Court of Appeals

THE SOUTH CAROLINA COURT OF APPEALS

Benjamin L. Anderson
Appellant

VS

Barksdale Medical Center
Dr. Rebecca F. Barksdale
Respondent

CASE NO: 2016-001376

Transcript of the Appellant attached

SCAR 207

September 5, 2016

Benjamin L Anderson
Benjamin L. Anderson
Appellant Pro Se

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF GREENVILLE) Case No(s) .: 2015CP2307324
)
Benjamin L. Anderson,)
)
Plaintiff,)
)
-VS-) TRANSCRIPT OF RECORD
)
Barksdale Medical Center,)
)
Defendant.)
)

April 25, 2016
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

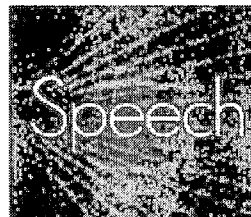
A P P E A R A N C E S:

BENJAMIN L. ANDERSON, Pro Se
Plaintiff

FRED W. "TREY" SUGGS, III, Esquire
Attorney for the Defendant

Teresa B. Johnson, CVR-M
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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I N D E X

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Motions	4
Certificate of Reporter	14

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

1
2 (WHEREUPON, the proceedings begin on the 25th day of
3 April, 2015 at approximately 10:01 a.m.)

4 **THE COURT:** All right. Now, we've got
5 Anderson versus Barksdale. All right. And we're set
6 today for a motion to dismiss. Of course, I know
7 that you know the drill, but I'm, uh, -- oh, you're
8 fine. I'm just going to lay it out here since it
9 looks like we've got a, uh, --

10 Mr. Anderson, you're not represented here
11 today. I'm going to give the defendant about five
12 minutes to argue his side since it's his motion.
13 Then I'm going to come back to you. I'll come to
14 you and give you about five minutes to argue your
15 side. Then I'm going to come back to him for any
16 couple of minutes, maybe a couple-of-minute reply,
17 since it is his motion. Then that will leave, uh,
18 -- this hearing is set for 15 minutes. That will
19 leave me a couple of minutes if I have any
20 questions. All right. Fair enough?

21 **MR. ANDERSON:** I'd better get rolling then.

22 **THE COURT:** All right. Yes, sir.

23 **MR. SUGGS:** Judge, Trey Suggs, on behalf of
24 Barksdale Medical Center. We filed this motion to
25 dismiss. If I can briefly set out some facts for

1 you, we, essentially, have three arguments. I
2 believe the Court should be in receipt of our
3 memorandum.

4 **THE COURT:** We do -- we do have it. I'm
5 pulling it up here through E-filing.

6 **MR. SUGGS:** So this is a case that involves
7 the provision of medical services. The plaintiff
8 went to Barksdale Medical Center and was seen by
9 Dr. Rebecca Barksdale there. He went on at least
10 two occasions, which appeared to be the foundation
11 for this lawsuit. The plaintiff claims that some of
12 the entries into the subjective section of the
13 medical record are not true.

14 Specifically, Your Honor, it was documented
15 that the patient, the plaintiff, Mr. Anderson, was
16 hearing voices, that he was being watched by the
17 government and that he was being spied on by
18 military satellites in California. Dr. Barksdale
19 put that into the subjective portion.

20 I don't know whether this matters, but,
21 typically, you're going to have -- SOAP, S-O-A-P.
22 You're going to have the subjective portion first.
23 That's what's coming from the patient. Then you're
24 going to have the O, the non-subjective or the
25 objective section. Then you're going to have the

1 application, and so forth. So subjective is just,
2 hey, this is what the patient's telling me.

3 **THE COURT:** Okay.

4 **MR. SUGGS:** So that's what this case is
5 about, the patient, Mr. Anderson, says that that
6 stuff she put in the record is not true. And he
7 pled three causes of action: intentional infliction
8 of emotional harm, defamation and fraud.

9 **THE COURT:** Uh-huh.

10 **MR. SUGGS:** Judge, the first argument is
11 that this is a medical malpractice claim. It is all
12 about the provision of medical care. He is claiming
13 that through the course of Dr. Barksdale providing
14 medical care and making entries into medical
15 record, something that doctors do, that she did it
16 wrong, so to speak, and that she committed
17 malpractice.

18 Now, I appreciate that the cause of action
19 actually pled and spelled out are not negligence.
20 But the statute, in the definition of what
21 constitutes medical malpractice, is all about
22 whether the care provider was reasonable in the
23 action she took during the course of providing
24 medical treatment and care. That's exactly what
25 we're talking about here.

1 **THE COURT:** Okay.

2 **MR. SUGGS:** I'm not going to remind the
3 Court of all the requirements under 15-79-110 and
4 125, but, of course, you've got the NOI, the expert
5 affidavit, et cetera. That was not done here. All
6 you had here is a filing of a complaint. And it's
7 our position, Judge, that because this is a case
8 sounding in medical malpractice, that the statutory
9 requirements have to be adhered to. And that's why
10 we have them, Judge. It is a protection for medical
11 practitioners. That's why we have the statutory
12 process. The plaintiff has to go talk to an expert.

13 **THE COURT:** I got you.

14 **MR. SUGGS:** Moving on, Your Honor. Second
15 argument is very simple. The defendant in this case
16 is Barksdale Medical Center. There are no
17 allegations in the complaint about Barksdale Medical
18 Center. All of the allegations are against Dr.
19 Barksdale. If you'll look at the factual
20 allegations, it's that Dr. Barksdale did this and
21 she did that. Well, Dr. Barksdale is not a
22 defendant in this lawsuit. Nowhere in the complaint
23 is there a nexus illustrated between Barksdale
24 Medical Center and Dr. Barksdale.

25 **THE COURT:** Okay.

1 **MR. SUGGS:** So he can't proceed against
2 Barksdale Medical Center because there are no
3 allegations against Barksdale Medical Center. There
4 is zero in the complaint about Barksdale ---

5 **THE COURT:** Gotcha.

6 **MR. SUGGS:** --- Medical Center. It's all
7 about Dr. Barksdale. Third argument, Your Honor --
8 and I realize I need to get moving. None of the
9 causes of action are pled -- there are important
10 elements missing in each cause of action.

11 Intentional infliction of emotional harm has,
12 as you know, Your Honor, four different elements. I
13 know the court's familiar with them so I'm not
14 going to spell them out. But, essentially, what
15 that cause of action is missing is that the
16 defendant's actions actually caused emotional
17 distress and that the distress was so severe that
18 no reasonable man could be expected to endure. Not
19 pled.

20 **THE COURT:** I gotcha. And I got your memo
21 too. So I'm going to take a look at that.

22 **MR. SUGGS:** All right. Defamation, same
23 thing, missing key elements. The third is a little
24 bit different. The fraud allegations not only are
25 elements missing, it just doesn't add up, Your

1 Honor. When you are talking about fraud and
2 misrepresentation and it's all about the hearer,
3 who is being defrauded, the cause of action that's
4 pled defies logic because the plaintiff is
5 presenting himself as the hearer, but the alleged
6 misrepresentation is about the plaintiff. How could
7 he be defrauded about something that is about him?
8 When the crux of the case is, from a factual
9 standpoint, that, hey, the doctor put things in the
10 medical record that are not true about me, then he
11 knew that. So he can't possibly be defrauded about
12 it.

13 **THE COURT:** All right.

14 **MR. ANDERSON:** That's our position, Your
15 Honor.

16 **THE COURT:** All right. Thank you. I
17 appreciate it.

18 Yes, sir. Mr. Anderson, I'll give you about
19 five minutes.

20 **MR. ANDERSON:** Yes. First of all, Your
21 Honor, I have 43 years in the healthcare arena, 7
22 years and 27 days in the military working
23 throughout this country. Now, first of all, the
24 defendants have not served me a copy of their
25 memorandum of law. I've never received a copy of

1 that.

2 Now, regarding my causes of action against
3 Barksdale Medical Center and, specifically, Dr.
4 Barksdale, in my complaint, it all was spelled out.
5 Dr. Barksdale, first of all, the intentional
6 infliction of emotional distress, that's spelled
7 out -- my causes of action, all three of them are
8 satisfactory pleadings. In regards to the 12(b)(6)
9 motion to dismiss, my causes of action are based on
10 the South Carolina Tort Law.

11 **THE COURT:** I gotcha.

12 **MR. ANDERSON:** My claims are justifiable.
13 Everything in the complaint must be taken as true
14 and all material allegations should be for the
15 complaining party. I've got my affidavit on file.

16 **THE COURT:** Yes, sir.

17 **MR. ANDERSON:** I've got the affidavit of a
18 member of the board of trustees at New Independence
19 Methodist Church regarding my ministerial actions
20 and as being a part of the ministerial staff.
21 There's no way that a pro se litigant can stand
22 before this court, do all the legal research that
23 someone that's paranoid, delusional and not in
24 touch with reality. That just doesn't fly.

25 The part where Dr. Barksdale embedded in my

1 medical records, I had no knowledge of it, number
2 1. Number 2, I first discovered it on June the 3rd,
3 2014, so the statute of limitations doesn't run
4 until I came into firsthand knowledge about those
5 allegations embedded in my compliant. The part that
6 I told her that the military was spying on me was
7 completely ludicrous. I served 7 years, 27 days in
8 the Air Force. I was honorably discharged back in
9 1969.

10 **THE COURT:** Okay.

11 **MR. ANDERSON:** So who -- I would be a
12 complete idiot and fool to make those statements to
13 Dr. Barksdale. That's just not true. I was
14 honorably discharged.

15 **THE COURT:** Uh-huh.

16 **MR. ANDERSON:** I reenlisted after four years
17 after serving in the Air Force. So I have excellent
18 medical training from the Air Force, which is why I
19 got out and continued my education, became a
20 respiratory care practitioner.

21 Now, here's the thing. I have an application
22 that I submitted to the State of South Carolina to
23 renew my respiratory care practitioner's license.
24 That has been put on hold because of those
25 allegations that Dr. Barksdale admitted in my

1 medical record. If you'd like, I will approach the
2 bench and show you my application. This is
3 important.

4 **THE COURT:** Okay.

5 **MR. ANDERSON:** It's on the second page at
6 line 9.

7 **THE COURT:** Okay.

8 **MR. ANDERSON:** I don't have a copy, but I
9 can show it to you.

10 **MR. SUGGS:** Oh, sure. Thank you, sir. I'll
11 just take a look at it real quick.

12 **THE COURT:** Okay.

13 **MR. ANDERSON:** Second page, line 9.

14 **THE COURT:** Tell me again what --

15 **MR. ANDERSON:** It talks about any individual
16 that's paranoid and delusional. It puts my whole
17 career on line and my, uh, business profession.
18 That is my business profession. It's attacked. I
19 can't renew my license because of this.

20 **THE COURT:** Okay. All right. Thank you, sir.
21 I appreciate it.

22 **MR. ANDERSON:** Okay.

23 **THE COURT:** Uh, Okay. Anything briefly in
24 response?

25 **MR. SUGGS:** I really don't, Your Honor. I'll

1 be happy to answer any questions for the Court, but
2 I don't really have a response.

3 **THE COURT:** All right. Well, I hope you all
4 understand I've got a fair amount of documents I
5 need to go through here. But I will do that before
6 I rule and I will issue my decision shortly. All
7 right.

8 **MR. SUGGS:** Thank you, Your Honor.

9 **THE COURT:** Thank you.

10 **MR. SUGGS:** Have a good day.

11 **THE COURT:** Thank you. You too.

12

13 **(WHEREUPON, the proceedings conclude at**
14 **approximately 10:14 a.m.)**

15

16

17

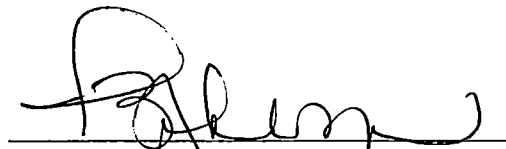
18

CERTIFICATE

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville, South Carolina, on this 2nd day of August, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.



Teresa B. Johnson

Official Court Reporter

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SC Court of Appeals

THE SOUTH CAROLINA COURT OF APPEALS
COLUMBIA, SOUTH CAROLINA

Benjamin L. Anderson
Appellant

VS


Barksdale Medical Center
Dr. Rebecca F. Barksdale
Defendant/Respondent

CASE NO: TRIAL COURT
COURT OF COMMON PLEAS
GREENVILLE

2015CP- 2307324
Certificate of Service
By Mail

I, the undersigned am over the age of eighteen years, not a party to this lawsuit on September 5, 2016. I served prepaid postage to opposing counsel in the United States mail at Moreno Valley, CA the following documents: Appellant's Transcript, Designation of Matter/Certification - Proof of Service

Copy (s) To: Roe Cassidy Coates & Price PA
PO Box 10529 Greenville, SC 29603


Crispus Anderson