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Weber Gallagher

Pennsylvania Supreme Court Addresses if Mental Health Act Applies to Outpatient Decision on Involuntary Commitment

On December 22, 2020, the Supreme Court of Pennsylvania issued an opinion in *Leight et al v. University of Pittsburgh Physicians et al*, Supreme Court of Pennsylvania, No. 35 WAP 2019 determining the extent to which physicians, who treated a mentally ill man who later went on a shooting spree, can be held liable after they considered but decided not to involuntarily commit the patient. The decision in *Leight* held that physicians are not liable under the Mental Health Procedure Act (MHPA) for considering, but not formalizing the prerequisites for an involuntary emergency examination.

This case stems from a March 2012 shooting incident where a paranoid schizophrenic man opened fire at a Pittsburgh clinic. The shooter, who had been involuntarily committed in the past, had a history of severe mental illness. About a month before the March shooting, the physicians who examined the shooter on at least two occasions discussed commencing involuntary commitment proceedings, but ultimately did not. On March 8, 2012, the shooter then walked into the clinic shooting five people

The plaintiff, a clinic receptionist who was injured in the shooting filed a complaint against the physicians asserting gross negligence under the MHPA, which governs involuntary commitment in Pennsylvania. The plaintiff argued the physicians, in an outpatient setting, knew or should have known the shooter was mentally ill and in need of immediate treatment; yet none of them took any steps to have the shooter involuntarily examined and committed. The trial court dismissed the plaintiff's claims ruling the MHPA does not apply as the shooter was being treated on a voluntary outpatient basis. This Superior Court of Pennsylvania affirmed and the plaintiff appealed. On appeal, the plaintiff asserted the MHPA should apply once physicians discussed involuntary commitment thereby arguing the physicians began but did not complete the statutory process for involuntary commitment. The three-judge panel noted "the mere thought or consideration of initiating an involuntary examination during voluntary outpatient treatment" was not encompassed by the express scope of the MHPA and did not qualify as involuntary care. The plaintiff's suit had been brought under the MHPA which creates a civil cause of action upon a showing of willful misconduct or gross negligence against an individual who participates in a decision that a person be examined or treated under the Act.

On December 22, 2020, Supreme Court of Pennsylvania affirmed the trial court's ruling. The Supreme Court found the MHPA did not give the plaintiff the right to bring claims against these physicians. The majority opinion ruled the plaintiff's interpretation of the law "would create a statutory gray area in which physicians would have to speculate as to the point at which their conduct might be subject to liability under the MHPA." It was also noted such a broad interpretation would expand liability, not only for those trained as mental health professionals, but also for those who are untrained "in rendering treatment in [the] unscientific and inexact [mental health] field." Lastly, the Supreme Court found the plaintiff's interpretation of the MHPA would render health care workers potentially liable for any thought or act, no matter how inconsequential, tangentially related to the consideration of an involuntary examination of a patient. The Court observed that it is only when a physician files the requisite documentation for involuntary emergency examination that he becomes a participant in the decision-making process under the MHPA. The Court commented "[c]learly, an application cannot be denied until it is first formally made". In their analysis of the issue the Court believed that if the action were allowed to proceed it would expand potential liability in this context stating "…expanding the duties under the MHPA giving rise to a civil action to include merely informal considerations regarding an involuntary examination would encourage the over commitment of patients to avoid potential liability."

Comment: The implication of this decision is troublesome. The plaintiff was a third party never threatened or identified by the patient as being in clear and present danger. The inference is that the physicians could have been sued by a total stranger who was injured by a patient without belonging to a readily identifiable class in immediate danger. Furthermore, the argument commonly made that the decision (in an outpatient setting without formal paperwork filled out) not to involuntarily commit a patient, if challenged, requires proof of gross negligence under the MHPA to prevail is now either severely weakened or eliminated.

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