

03-1034-CD
JACK F. ALLEN, etal vs CLEARFIELD HOSPITAL, etal.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LLW

2003-1034-CR

Jack E. Allen for
The decedent Teresa Allen
Plaintiff

vs.

Clearfield Hospital, ET.AL
Defendants

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Wrongful Death
Survival Action

366 MD 2003

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within Twenty(20) days after this complaint and notice are served be entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.

Name

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Telephone No.

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W/3:70 PM

William A. Shaw

Prothonotary/Clerk of Courts

Original
TO C/N

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LLW

COMMONWEALTH COURT OF PENNSYLVANIA

Jack E. Allen
for the estate of Teresa (Graham)
Allen deceased
Plaintiff

vs.

Clearfield Hospital
Defendant

Douglas Yingling, M.D.
David Mosienko, M.D.
Philip Aycock, M.D.
Veronica Pirow, RN Supvr.
Annette Dufour, RN
Rosemary McMaster, RN
Marlene Gearhart, RN
Melissa Gearhart
Tala Condon
Blyarth, M.D. (Anesthesiologist)
L. Hendushot, Asst. (Anesthesiologist)
Defendants

Wrongful Death /
Survival Action

2003-1034-CD

Medical Malpractice

FILED

JUL 15 2003
13:30
William A. Shaw
Prothonotary/Clerk of Courts

APPLICATION TO PROCEED IN FORMA PAUPERIS

TO THE HONORABLE JUDGE OF SAID COURT:

I, JACK E. ALLEN, Pro Se petitioner in the attached motion state that the information concerning his ability to pre-pay the cost of the proceeding Pursuant to rules of criminal Procedure and rule 561 Pennsylvania Rules of appellant procedure.

Petitioner states under the Penalties provided by 18 Pa. C.S.A. 4904 that:

1. I am the petitioner in the above said captioned action and because of my financial status, I am unable to pay the following cost.

2. Petitioner states the question to my inability to pay

the cost in applying this judicial action are true and correct.

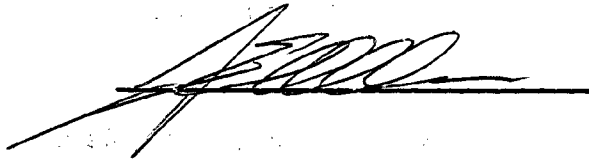
3. I am presently employed at the prison.

4. I have been employed in the past twelve months, earning prison wages with, no other income from the outside. I have no Pension annuities, social security benefits, support payment of any source.

5. I do not own any real estate, stock, bond, notes, automobiles, or any other valuable property.

I understand that a false statement in this verified statement will subject me to the penalty provided by law under the second degree.

DATED: 5/29/03

A handwritten signature in black ink, appearing to be "J. M. [unclear]", written over a horizontal line.

COMMONWEALTH COURT OF PENNSYLVANIA

Jack E. Allen	:	
for the estate of Teresa (Graham)	:	
Allen deceased	:	
Plaintiff	:	
	:	
vs.	:	Wrongful Death /
	:	Survival Action
Clearfield Hospital	:	
Defendant	:	
	:	
Douglas Yingling, M.D.	:	Medical Malpractice
David Mosienko, M.D.	:	
Philip Aycock, M.D.	:	
Veronica Pirow, RN Supvr.	:	
Annette Dufour, RN	:	
Rosemary McMaster, RN	:	
Marlene Gearhart, RN	:	
Melissa Gearhart	:	
Tala Condon	:	
Blyarth, M.D. (Anesthesiologist)	:	
L. Hendushot, Asst. (Anesthesiologist)	:	
Defendants	:	

PRELIMINARY STATEMENTS:

Plaintiff Jack E. Allen administers this Wrongful Death Action, medical malpractice lawsuit against Clearfield Hospital and said doctors and nurses in caption for negligence; unprofessional conduct; failing to follow procedures in the "proximate cause" of my wife's death Teresa (Graham) Allen on July 19th, 1995. This medical malpractice suit is under the Health Care Services Act (HCSMA) 40 P.S. § 1301.905(a) and Medical Practice Act, Title 63 P.S. § 422.43

JURISDICTIONAL STATEMENT:

The COMMONWEALTH Court had original jurisdiction under Title 42 PA C.S.A. § 761 concerning civil proceedings and has the power under Title 42 PA C.S.A. § 323.

PARTIES:

1) Jack E. Allen, is the plaintiff for the estate of Teresa (Graham) Allen, who resides at SCI-Houtzdale P.O. Box 1000 Houtzdale, PA 16698-1000

DEFENDANTS:

2) Clearfield Hospital located on Turnpike Ave. Clearfield, PA 16830

3) Dr. Douglas Yingling Surgeon who is located at the Geisinger Medical Bldg. on Turnpike Ave. in Clearfield, PA 16830 and is a resident physician at Clearfield Hospital.

4) Dr. Blayarth employed at Clearfield Hospital as an anesthesiologist.

5) Dr. David Mosienko employed and is a resident physician at Clearfield Hospital.

6) Dr. Philip Aycock employed and is a resident physician at Clearfield Hospital.

7) Nurses: Veronica Pirow, RN Supvr.; Annette Dufour, RN; Tala Condon, RN. all employed at the Clearfield Hospital.

8) L. Hendushot Asst. Anesthesiologist who is employed at the Clearfield Hospital.

FACTS:

1) That on July 19th, 1995 Teresa (Graham) Allen wife of Plaintiff went to Clearfield Hospital for a gunshot wound to the right back shoulder. The blast making a 1-1/2" to 2" hole. No vital organs hit. The savage model, slide action shotgun, 67 series E 12 gauge pump action, was owned by plaintiff and in his possession at the time. This 25 year old shotgun misfired hitting his wife in the rightward, upward, and forward back shoulder. An accidental shooting, at approximate time of 6:20PM or 6:30PM.

2) That plaintiff will prove through experts in the medical field; and in weaponry (gun experts) and a fact no shotgun wound to the shoulder can be the cause of death; except though either shock or bleed to death. That it is a fact that through negligence, unprofessional conduct; failure to check blood compatibility; infusing blood through transfusion without an IN-LINE warming device; caused hypothermia; infusing too much blood not in the required time limit checking it for reaction; Too much blood overloaded the heart causing heart failure; Due care owed to patient, using I.V. Solution infused at 19:20 hours wrongfully administered causing cardiac arrest at 19:22 hours. (Two - Minutes

Later).

3) That it is a given fact patient Teresa Allen was still alive and in the care of physicians and nurses for over an hour and would still be alive today if such negligence would not of occurred by the defendants. Through their unprofessional and wrongful acts which was the "proximate cause" of her death.

4) Plaintiff shows proof through transfusion of blood infused under pressure by large bore I.V.'s of 6 pints of blood in seven (7) minutes. Was too much for the heart to handle. The time started at 6:50PM first two units of blood of O- negative blood. Than at 6:53PM an additional blood of two units of blood of O- negative blood infused under pressure as ordered by Dr. David K. Mosienko. That 6:57PM Dr. Philip Aycock and Dr. Douglas Yingling - (surgeons) infused another two (2) units of blood, O+ positive. That at the beginning of the first two units of blood O- negative, Rosemary McMasters, RN stated "difficulty" was exhibited, This alone entails an allergic reaction occurred. See Exhibit 35 Pg 5 hospital report, lines 6 thru 15. This same exhibit was sent to the Supreme Court of Pa. W.D. of Pa. Pittsburgh, Pa.

5) That under Vol. 4 Layers Medical Encyclopedia (Personal Injuries and Allied Specialties) under section § 32 A.51 Blood transfusion reactions states do to Rosemary McMasters reported statement of "difficulty" on line 7, pg 5 Hospital report meaning allergic reactions to the type of blood infused, therefore, causing

"Hemoglobinuric Nephropathy" as to hemoglobin crystals were deposited in the renal tubules do to wrongful reactions to blood transfusion.

6) This Negligence comes from not checking for exact compatibility of blood. Therefore exists incompatible blood what exists is under Cybers Medical Dictionary under transfusions stating - "Prevention of these types of reaction is dependent upon meticulous attention to detail and accuracy in labeling the patients blood sample for typing and cross-matching, double checking this at the time of transfusion and starting the blood flow very slowly during the first 15 minutes. Showing as fact defendant did pump 6 pints of blood of two types in 7 minutes causing intravascular clumping and lysis of red cells occur and other reactions will occur also, such as urtrcaria, pulmonaryedemaand mostly anaphylactic shock, along with cyanosis, heart failure.

7) That plaintiff asserts in Vol. 16 page 415 under Circulation and Circulatory Systems Britannica Encyclopedia, Macropaedia states under "shock due to inadequate blood volume" says "in-part" backing up No.#6 "But since preliminary matching between recipient serum and donor cells must be carried out, and cannot be done in less than 20 minutes. That the fact is that Teresa Allen arrived at 6:42PM; Transfusions of blood start at 6:50PM only giving 8 (eight) minutes to find compatible blood type and matching; Not enough time. Therefore condones negligence.

8) That on page 8, Hospital Report under Monitors and equipment shows the defendants did not use a IN-LINE warming device for the infused blood of the (6) pints. Therefore, without the warming device caused "hypothermia".

A) That under Title "Blood" of Britannica, Macropaedia Encyclopedia page 127 under "Temperature regulation" states heat is produced in large amounts by physiological oxidative reactions and the blood is essential for its distributing and disposing of this heat. That in Tybers Medical Dictionary under transfusions subtitle Nursing Implications states: check and document patients vital signs before initiating transfusion. Administered through an approved blood filter, preferably piggy backed through physiological saline solution on a Y set. No other I.V. solutions should be infused with blood because of possible incompatibility. It does not check on the hospital report on page 8 under monitors and equipment. That blood should not be administered through a central line unless an approved in-line warming device is used. A warmer also should be used whenever multiple transfusions placed the patient at risk for hypothermia which can lead to dysrhythmias and cardiac arrest. This constitutes gross negligence, and unprofessional conduct which is the "proximate cause" of death to Teresa (Graham) Allen.

B) That an "IN-LINE WARMING DEVICE" falls under MEDICAL

DEVICE AMENDMENTS (MDA) of 1976 to the Federal Food, Drug and Cosmetic Act (FDCA) Title 21 U.S.C. § 301 (1994 & Supp V) and rated Class III device, which devices are those which are "for use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health." The "in-line warming" device monitors the flow and warms the blood preventing hypothermia (coldness to the body) and causing shock. In this case the defendants did not use one. See Southard v. Temple University Hospital, 781 A.2d 101 (Pa.2001).

9) That also with the incompatible blood transfused under pressure out of large bore I.V.'s caused congestive heart failure. Too much blood induced for the heart to handle causing also blockage.

A) That with this a wrongful saline solution was administered at 19:20PM hours, (2) two minutes later at 19:22PM hours Teresa (Graham) Allen went into cardiac arrest. See Pages 8 and 9, hospital report. That if the saline solution was compatible this cardiac arrest would not occurred. It was only with gross negligence, and unprofessional conduct which fell below ordinary standards of care owed to Teresa (Graham Allen), that caused the death.

B) To explain thoroughly on this, we look to heart

congestion 6 pints of blood in only seven (7) minutes. In the Title "Lung Congestion" Vol.7 Macropaedia, Encyclopedia, concerning left-sided heart failure - inability of the left side of the heart to pump sufficient blood into general circulation - causes back pressure on the pulmonary vessels delivering oxygenated blood to the heart. The blood pressure becomes high in the alveolar capillaries, and begins to distend. Eventually the pressure becomes too great and blood escapes through the capillary wall into the alveoli, flooding them. Mitral Stenosis narrowing of the valve between the upper and lower chambers in the left side of the heart, causing chronic passive congestion. Passive congestion due to relaxation of the blood vessels occurs in bedridden patients with weak heart action. But blood accumulates in the lower part of the lungs.

C) That Pulmonary edema occurred also due to this congestion of over induced blood, except the substance in the alveoli is the watery plasma of blood, rather than whole blood, and the precipitating causes may somewhat differ.

D) In Mechanical edema the capillary permeability is broken down by the same type of heart disorders and irritants as in congestion after an operation, if too great a volume of intravenous fluids is given the blood

pressure rises and edema ensues. Excessive irradiation and severe allergic reactions may also produce this disorder. See page 5, line 7, Hospital Report, also different blood pressures at 18:50 hours blood pressure of 102/80mm at 18:53 hours BP 72/31; at 18:57 hours BP 128/75; at 18:45, began with BP 143/118. That on page 8 states a normal heart beat as 98 pulse; BP 110/70. See also pages 4 & 5 on page 4 under Monitoring Record upper read-out; on page 5 under Visual Acuity Titles: - Times - Temp - Pulse - Resp. - B/P. That on page 8, hospital report of the normal heart beat - pulse 98, B/P 110/70 all of a sudden, the patient (Teresa (Graham) Allen's) pulse and B/P dropped at 19:26 hours and pronounced dead. That also at 19:20 hours an incompatibility of I.V. solution was given; at 19:22 hours the patient went into cardiac arrest. Page 8, Hospital Report under I.V. present both right and left hand.

E) Undesirable reactions to transfusion are not uncommon and may occur for many reasons, such as allergy, sensitivity to donor leukocytes or undetected red-cell incompatibility. Rare causes of transfusion reaction include contaminated blood, air bubbles in the blood, overloading of the circulatory system through administration of excess blood (as in this case at bar) or sensitivity to donor plasma or platelets.

10) Plaintiff, husband of his wife Teresa (Graham) Allen states as fact the recipient and donor must have the same compatible blood, otherwise Lysis or clotting will occur and as what happened in this case where the defendants cause patients death through total negligence.

11) Plaintiff explains thoroughly about the heart and blood flow. To prevent back flow of blood, the heart is equipped with valves that permit the blood to flow in only one direction. There are two types of valves located in the heart: the atrioventricular valves (Tricuspid and Mitral) and the semilunar valves (pulmonary and aortic). The atrioventricular valves are thin, leaf like structures located between the atria and the ventricles. The right atrioventricular opening is guarded by the Tricuspid Valve, so called because it consists of three irregularly shaped cusps, or flaps. The leaflets consist essentially of folds of endocardium (the membrane lining the heart) reinforced with a flat sheet of dense connective tissue. At the base of the leaflets, the middle supporting flat plate becomes continuous with that of dense connective tissue of the ridge surrounding the openings. The left atrioventricular opening is guarded by the Mitral, or bicuspid valve, so named because it consists of two flaps. The Mitral valve is attached in the same manner as the tricuspid, but it is stronger and thicker because the left ventricle is by nature a more powerful pump working under high pressure.

A) Blood - is propelled through the tricuspid and Mitral valves as the atria contract. When the ventricles

contract, blood is forced backward, passing between the flaps and walls of the ventricles. The flaps are thus pushed upward until they meet and unite, forming a complete partition between the atria and the ventricles. The expanded flaps of the valves are restrained by the chordae tendineae and papillary muscles from opening into the atria.

B) Blood supply to the heart - because of the watertight lining of the heart (the endocardium) and the thickness of the myocardium, the heart cannot depend on the blood contained in its own chambers for oxygen and nourishment. It possesses a vascular system of its own, called the coronary arterial system. In short - the left anterior descending coronary artery usually begins as a continuation of the left main coronary artery, and its size, length and distribution are key factors in the balance of the supply of blood to the left ventricle and the interventricular septum. See Vol. 16, pages 391 & 393 Macropaedia Encyclopedia.

12) Plaintiff explains the excessive amount of blood as to No. 9(b) of this complaint in Vol. 7 pg 564, Macropaedia, Encyclopedia. Also in Vol. 16, pg 401, Britannica Macropaedia, Encyclopedia under Abnormalities of the atrial septum - The presence of a septal defect allows blood to be shunted from the left side of the heart to the right, with an increase in blood

flow and volume within the pulmonary circulation. Over many years the added burden on the right side of the heart and elevation of the blood pressure in the lungs may cause the right side of the heart to fail. See pg 5, line seven (7), Hospital Report thru line 17, as proof by known hospital technicians or experts in their own language stating as fact 6 pints of blood within 7 minutes for which the actual allotted time is every 15 to 20 minutes, running slowly, the transfused blood. And is obvious, that matching between recipient serum and donor cells must be carried out, and cannot be done in less than 20 minutes. Even a lay-person through reading medical books, dictionaries, and Encyclopedias can gain knowledge from experts in the field of immunology; pharmacology; cardiology; and neurology and others, who has given their expertise in written acknowledgments about all medical procedures, and oversight and functioning of the human anatomy.

13) Plaintiff argues the point of over inducement of anesthesia, up to the point of death, and after death occurred which anesthesia started at 1907, stopped at 1945 hrs. a prolong time of 38 minutes of anesthetics (anesthesia). Description of general anesthesia occurs in four stages:

Stage 1) - Analgsia. The patient experiences analgesia or a loss of pain sensation but remains conscious and can carry on a conversation.

Stage 2) - Excitement. The patient may experience

delirium or become violent. Blood pressure rises and becomes irregular and breathing rate increases. The state is typically bypassed by administering a barbiturate, such as sodium pentothal, before the anesthesia.

Stage 3) - Surgical anesthesia. During this stage the skeletal muscles relax, and patient's breathing becomes regular. Eye movements slow, then stop and surgery can begin.

Stage 4) - Medullary Paralysis. This stage occurs if the respiratory centers of the brain that control breathing and other vital functions (medulla) cease to function. Death can result if the patient cannot be revived quickly. This stage should never be reached. Careful control of the amounts of anesthetics administered can prevent this from occurring. That stage four did happen in this case as follows:

A) Malignant hyperthermia - A type of reaction (probably with a genetic basis) that can occur during general anesthesia in which the patient experiences a high fever, the muscles become rigid and the heart rate and blood pressure fluctuates. Malignant hyperthermia added to wrongful transfusions of incompatible blood and allergic reactions to donors blood. (Gale Encyclopedia of

Medicine pg157).

B) That patient Teresa (Graham) Allen was epileptic taking phenobarbital and Deilantin, a schedule IV drug under Title 21 U.S.C. § 812 (relating to controlled substances) with this, patients who have had general anesthesia should not drink alcoholic beverages or take medicines that slow down the central nervous system (such as antihistamines, sedatives, tranquilizers, sleep aids, certain pain medicines, muscle relaxants, and anti-seizure medicines). See Gale Encyclopedia of Medicine, pg158.

1) Interactions: General anesthetics may interact with other medicines. When this happens, the effects of one or both of the drug may be altered or the risk of side effects may be greater. Anyone who is going to receive a general anesthetic should make sure the doctor knows about all other medicines that he or she is taking. This includes prescription drugs, nonprescription medicines, and street drugs. Serious and possibly life - threatening reactions can occur.

C) That according to the autopsy report, at the time of anesthetics was administered to the patient

Teresa (Graham) Allen had food, not long ago ingested in the stomach. With anesthetics being administered caused vomiting, and apnea possible drowning in her own vomit. See autopsy report, Page 11.

D) That as proof through the hospital and autopsy reports elicited facts, as follows: (1) excessive amount of blood administered, caused congestive heart failure, anaphylactic shock, pulmonary edema, wheezing, headache, bursting feeling, lysis, arrhythmias, and urticaria; (2) failure to use a "IN-Line Warming device", caused hyperthermia, a Class III device under Title 21 U.S.C. § 301 under the Medical Device Amendments (MDA) and warrant the FDCA's (Food, Drug, and Cosmetic Act) heaviest regulations; (3) using prolonged anesthesia, knowing patient was using prescription drugs known as Phenobarbital and Dilantin, a schedule IV drug under Title 21 U.S.C. § 812 which caused dangerous reactions; (4) Anesthesia administered, while patient had recently digested food in her stomach causing aggergitation (vomiting), apnea, and possible drowning in her own vomit; See autopsy report, pg 11; (5) allergic reactions to blood transfusions casuing "hemoglobinuric crystals" to form, giving rise

to the failure of the pathologist to discover during autopsy, and giving rise to suspicion, as to why he skipped over these types of tests or observations; (6) wrongful I.V. solution administered causing allergic reactions giving rise to cardiac arrest within two minutes after administration, time of 19:20 hrs. to 19:22. See Hospital Report, pg's 8 right bottom and page 9, top right, under Cardiopulmonary Resuscitation Record.

14) Plaintiff argues the duty owed to his wife Teresa (Graham) Allen by the defendants in both as a physician and nurse which both take oaths, as to physicians, the hippocratic oath and the Declaration of Geneva; and to the nurses, the Nightin Gale Pledge. Both in which swears to the professional care of their patients. In this case at bar, their negligence under professional conduct and duties fell below standards in which the patient trusted them with her life; but the defendants did betrayed that trust giving to them and caused the death of the patient, Teresa (Graham) Allen.

15) Plaintiff argues when operating physician is present at surgical procedure and his patient is injured as a result of negligence during anesthesia procedures, factual issue is presented regarding surgeon's liability pursuant to "Captain of the Ship Doctrine" under which surgeon is liable for all negligence that causes harm to his patient in the operating room in which surgeon

is person of highest authority. See Szabo v. Dryn. Mawr. Hosp., 432 Pa. Super. 409, 638 A.2d 1004 (Pa.Super.1994); Bish v. Greenville Hosp., 7D & C 4th 306 (1989); McConnell v. Williams, 65 A.2d 243 (1949) establishing his team of physicians and nurses under Dr. Douglas Yingling defendants.

16) That a prima-facie case of medical malpractice based upon negligent act or omission requires plaintiff to establish (1) the existence of duty owed by physician to patient; (2) breach of that duty; (3) that breach was the proximate cause of, or substantial factor in bringing about the harm suffered; (4) and damages suffered by patient were the direct result of the harm. Shaw v. Kirschbaum 653 A.2d 12 (Pa.Super.1994); Shannon v. Menulty, 718 A.2d 828 (Pa.Super.1998)

17) Plaintiff has established through exact meaning and cause through pages 1 thru 11 based on "Common Knowledge Doctrine". That through defendants unprofessionalism and through there own efforts of testimony through documenting what they did, is common knowledge. That any lay-person could see that, at first hand in the documentary hospital report, and autopsy report.

A) That the nurses also failed in their duties, which breached their standard of care, because they must have known there was something wrong with the procedures in administering blood transfusions; anesthesia; I.V. solutions plus patient taking prescription medications such as Dilantin and Phenobarbital having the effect

on the nervous system, recent digested food causing apnea, and vomiting; not using an "IN-Line Warming Device" causing hypothermia congestion of blood overloading the heart, causing heart failure urticaria, lysis, and arrhythmias.

B) In *Miller v. Sacred Heart Hospital*, 753 A.2d 829 (Pa.Super.2000) "In the absence of competent evidence of medical opinion the plaintiff may avoid summary judgment only if "The matter is so simple, and the lack of skill or want of care so obvious, as to be within the range of ordinary experience and comprehension of even non-professional person" *Id* at 833. See also *Sacks v. Mambu*, 429 Pa.Super. 498, 632 A.2d 1333 (Pa.Super.1993); *Kearns v. Clark*, 343 Pa.Super. 30,493 A.2d 1358 (Pa.Super.1989); *Murphree v. Bakarar*, 5 D & C 4th 277 (Pa.Com.PL.1990).

18) Plaintiff argues that Clearfield Hospital is liable under Corporate Liability. Our Supreme Court upheld a direct theory of liability against the hospital, stating:

Corporate negligence is a doctrine under which the hospital is liable if it fails to uphold the proper standard of care owed the patient, which is to ensure the patients safety and well being while at the hospital. This theory of liability creates a non-delegable duty with the hospital owes directly to a patient. Therefore,

an injured party does not have to rely on and establish the negligence of a third party. Thompson at 707.

This was first adopted in the Commonwealth in the case of Thompson v. Nason Hospital, 527 Pa. 330, 591 A.2d 703 (Pa.1991). The court then set forth four general areas of corporate liability:

- 1) A duty to use reasonable care in the maintenance of safe and adequate facilities and equipment. (argument of "IN-Line Warming Device" for blood transfusions)

- 2) A duty to select and retain only competent physicians (nurses and physicians lacked skill possessing negligent acts, not being thorough.)

- 3) A duty to oversee all persons who practice medicine within its walls, as to patient care. (Producement of over induced anesthesia).

- 4) A duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients. All policies were violated by physicians & nurses. Shannon, Supra. 718 A.2d at 831

19) Plaintiff argues Clearfield Hospital can be held liable under the doctrine of Ostensible Agency for negligent acts or omissions by an independent doctor. See Goldberg exrel Goldberg v. Isdander, 780 A.2d 654 (Pa.Super.2001)

A) That Pennsylvania Courts have determined that the two factors relevant to finding of Ostensible Agency are: (1) whether the patient looks to the institution, rather than the individual physician for care and; (2) whether the hospital "holds out" the physician, as its employee. See McClellan v. HMO, 413 Pa.Super. 128, 604 A.2d 1053, 1057 (1992). A holding out occurs "when the hospital's acts or omits to act in some way which leads the patient to reasonably believe he or she being treated by the hospital or one of its employees". See Capan v. Devine Providence Hospital, 287 Pa.Super. 364, 430 A.2d 647-49 (1980)

B) Plaintiff has a bearing on the Ostensible Agency factor satisfying both (1) & (2) in section A. That (one) the surgeon, is a resident of Clearfield hospital, as a part from his own office of practice; (2) That his team of other physicians and nurses are also a resident at Clearfield Hospital; (3) these defendants uses all medical supplies; machines, and other equipments, plus uses of drugs (medications & anesthetics) and; (4) operating rooms. Therefore, establishing they are employed by Clearfield Hospital. That the patient believed and trusted the surgeon and staff maintaining the stability of her life. Her life was in their hands, but with recklessness of care and lack of professionalism caused her death.

C) That the duty to uphold the proper standard of care runs directly from the hospital to the patient, an injured party need not rely on the negligence of a third party, such as a doctor or nurse to establish a cause of action in corporate negligence. See *Bordlemay v. Keystone Health Plans, Inc.* 789 A.2d 748 (Pa.Super.2001); *Moser v. Heistand*, 545 Pa. 554, 558, 681 A.2d 1322, 1325 (1996); *Welsh v. Bulger*, 548 Pa. 504, 513, 698 A.2d 581 (1997).

20) Plaintiff asserts the surgeon and his team failed to diagnose the allergic reactions to incompatible blood transfusions; incompatible I.V. solutions, causing dangerous side effects, which caused her death. Also failed to recognize freshly digested food; failed to recognize patient to medication which effected the central nervous system of Dilatin and Phenobarbital. Many dangerous side effects stems from all. See: *Corrado v. Thomas Jefferson Univ. Hosp.* 790 A.2d 1022 (Pa.Super.2001) (failure to diagnose wife's cancer)

A) The argument her would be that the physicians had a duty owed patient to diagnose everything in their professional ethics for the care and want to save human lives; not to avoid diagnosing everything in procedures or regulations in retaining life by advancing negligence as their sidekick, voiding the blame. That both proper standard of care falls on the hospital and surgeons and his team. Claiming they had a legal duty to conform

with a standard of conduct. That there was a reasonably close connection with the misconduct and resulting injury or death. See: Williams v. Syed, 782 A.2d 1090 (Pa.CMWLTH.2001) Id at 1093-94; Billman v. Saylor, 761 A.2d 1208 (Pa.Super.2000). Establishing the defendants breach their duties; and their negligence was the proximate cause and substantial factor in bringing about the harm suffered.

21) Plaintiff asserts defendants, such as the physicians and nurses owed duties in maintaining the life of Teresa (Graham) Allen, under the Hippocratic oath with was supervised by the Declaration of Geneva, the International Code of Medical Ethics and canons of the American Medical Association. The codes of conduct retain the brevity and generality of the Hippocratic Oath, stating in part:

A doctor must always maintain the highest standards of professional conduct. A doctor must practice his profession uninfluenced by motives of profit. A doctor must always bear in mind the obligation of preserving life. A doctor shall preserve absolute secrecy on all he knows about the patient because of the confidence entrusted in him.

A) That the nurses also owed a duty to preserving the life of Teresa (Graham) Allen for which falls under the Nightin Gale Oath. That the International Council

of nurses states that the function of nursing is fourfold-to promote health, prevent illness, restore health and alleviate suffering and that inherent in nursing is "the respect for life", dignity and the rights of man..."! Under Medicine, pg 814, Macropaedia Encyclopedia and pg 823 (Hippocratic Oath).

B) That Clearfield Hospital, defendant in this case is solely responsible for the death of decedent Teresa (Graham) Allen under the doctrine of Ostensity for failure to oversee that such physicians and nurses followed procedures, rules and regulations; in using institutions medical equipment; using the emergency and operating rooms; storage of solutions and blood; anesthesia and other drug inducing blocking agent; x-rays and the full run of the hospital, and the failure to preserve life owed to decedent Teresa (Graham) Allen wife of plaintiff.

CLAIM FOR RELIEF:

1) that the defendants did the act of murder through negligence, failing to follow medical procedures.

2) That through professional misconducts, defendants did deviate from good medical standards. That such deviation was a substantial factor in causing the death.

3) That through defendants negligence and misconducts, that fell below medical standards did increased the risk of death through faulty, procedures, under the hospital's policies.

4) That do to lack of care; lack of protection; lack of preservation of lifeñ lack of standards of professional aptitude in the field of medicine was the "proximate cause" of death to decedent Teresa (Graham) Allen.

5) That the physician in charge in accordance with the "Captain of the Ship Doctrine" finds him responsible in the failure to exercise reasonable care, such failure increased the risk of death, and in fact did occur. The physician (surgeon) guilt comes under the agency theory, as well, for which he holds highest authority.

6) That the Clearfield Hospital is most liable under doctrine of corporate liability for failing to uphold the proper standard of care owed the decedent, and the safety and well being while the stay at the hospital.

A) there are four general areas of Corporate Liability:

1) a duty to use reasonable care in the maintenance of safe and adequate faculties and equipment; 49

Pa. Code § 33.340(a)(2); MDA 21 U.S.C. § 60c

2) a duty to select and retain only competent physicians.

3) a duty to oversee all persons, who practice medicine within its walls, as to patient care.

4) a duty to formulate, adopt and enforce adequate rules and policies to ensure quality care for patients. See § 323 of the reinstatement (second) of torts Doctrine of Ostensity and Corporate Liability.

B) Both surgeon and his team (nurses, physicians, anesthesiologists) and Clearfield Hospital failure to properly record patients complaints under 49 Pa. code § 33.209(a)(3),(h) The board's regulations 429 Reinstatement (second) of tort.

RELIEF REQUESTED:

A) award for compensatory damages in the amount of \$300,000.00 (Three-Hundred Thousand U.S. Currency) the most amount allowed under the Pennsylvania Property and Casualty Guaranty Insurance Association (PPCGIA) 40 P.S. § 991.1803(b)(1)(i)(b).


B) Award for loss of life; pain & suffering; emotional and mental suffering; hardship on the lives of her off spring (children)x3 punitive damages in the amount of \$6.8 million dollars (U.S. currency).

C) Grant other relief the court deems necessary in the interest of justice.

CONCLUSION

Wherefore, the plaintiff request such proceedings to hear his complaint in the Avenues of Justice and any other remedy this honorable court deems necessary.

DATE: 5 / 29 / 03


Jack E. Allen for
Teresa (Graham) Allen
decedent

PROOF OF SERVICE


I am now this 29th day of MAY, 2003 serving
the forgoing Wrongful death/Survival Action upon the defendants
in this case, and in the manner indicated below:

VIA: First Class Mail

Clearfield Hospital
Turnpike Ave.
Clearfield, Pa 16830

Dept. Of State
Medical Board
Bureau of Prof. & Occupational Affairs
Harrisburg, Pa 17120

DATE: 5, 29, 03



Jack E. Allen for
Teresa (Graham) Allen
decedent

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA

2005 JUN -2 A 9:01

1115 18 1995

DEPARTMENT OF LABORATORIES
Charles L. Winek, Ph.D., DirectorCASE ORDER — TOXICOLOGY
Coroner's Office

Autopsy # A95-2050 Deceased's Name Theresa Allen
Autopsy Prosecutor Dr. Rozin Date of Death 7/20/95 Type of Death _____
Blood Drawn by K. Kyser Date 7/20/95 - 10:00 a.m.
Specimens(s) Submitted by _____ Date _____
Specimen(s) Received by L. Covert DoL# T951847 Date 7/20/95 - 11:00 a.m.

SPECIMEN(S) SUBMITTED:

☒ Heart Blood ☒ Urine ☒ Bile ☒ Eye Fluid ☒ Kidney ☒ Liver
☐ Chest Blood ☐ Stomach Contents ☐ Cerebral Spinal Fluid ☐ Brain ☐ Transthoracic Blood
Drugs _____
Other _____

LABORATORY FINDINGS:

BLOOD

Plasma Alcohol - Not Detected
Salicylate - Not Detected
Carbon Monoxide - Not Detected
Cyanide - Not Detected
Barbiturates - Positive: Phenobarbital
Acidic Drugs - Positive: Phenytoin
Neutral Drugs - Not Detected
Benzodiazepines (GLC) - Not Detected
Basic Drugs (GLC) - Not Detected
Barbiturates (GLC) - Positive: Phenytoin, Phenobarbital
TDX Phenytoin - 3.11mcg/ml
TDX Phenobarbital - 6.76mcg/ml

EYE FLUID

Alcohol - Not Detected

Reported by

Walter D. Colom

Charles L. Winek, Ph.D., Director & Chief Toxicologist
Walter D. Colom, M.B., Deputy Director & Assistant Chief Toxicologist

Date

8/18/95



NEED (Trial)

OFFICE OF THE CORONER
County of Allegheny

643 FOURTH AVENUE • PITTSBURGH, PA 15219 • (412) 350-4800

F. JAMES GREGRIS
ACTING CORONER

FAX: (412) 350-4899

ARNOLD FRIEDMAN, ESQ.
SOLICITORARTHUR G. GILKES, JR.
CHIEF DEPUTY CORONERA. SHAKIR, M.D.
FELLOWSHIP & RESIDENCY DIRECTORLEON ROZIN, M.D.
CHIEF FORENSIC PATHOLOGISTCHARLES L. WINEK, Ph.D.
CHIEF TOXICOLOGIST

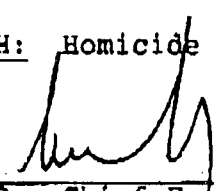
Deceased:	Theresa Allen	Case No.:	A95-2050
Age:	36yrs	Race:	White
Date of Autopsy:	20 Jul 95 8:00 AM	Sex:	Female
Date Reported:	19 Jul 95	Date of Death:	19 Jul 95

ANATOMIC DIAGNOSES:

- I. ~~SHOTGUN WOUND TO THE BACK; PELLETS AND WADDING RECOVERED~~
 - a. ~~Shotgun wound entrance - right posterior distal thorax.~~
 - b. ~~Perforation of the posterior thoracic wall.~~
 - c. ~~Laceration of the right lung and liver.~~
 - d. ~~Hemothorax, right and hemoperitoneum.~~
 - e. ~~Fractures of ribs, right (along the pathway of the blast).~~
- II. STATUS POST THORACOTOMY, LEFT; CELIOTOMY AND PLACEMENT OF RIGHT CHEST TUBE, TERMINAL.

OPINION:

Theresa Allen, a 36 year old white female, died as a result of a single shotgun wound to the back, sustained on July 19, 1995.

MANNER OF DEATH: Homicide
Leon Rozin, M.D., Chief Forensic Pathologist

elj

AUTOPSY REPORT

Case No: A95-2050

Page 2

NARRATIVE SUMMARY:

The autopsy was performed on July 20, 1995, at 8:00 a.m.

Leon Rozin, M.D., Chief Forensic Pathologist, prosecutor.

K. Kyser, Autopsy Room Technician.

L. Zabelsky, Photographer.

EXTERNAL EXAMINATION:

The body is that of a well developed, adequately nourished white female, weighing 130 pounds, measuring 66 inches and appearing to be the stated age of 36 years.

The body is nude.

No jewelry, rings or watch is present.

The temperature of the body is cold to the touch. Rigor mortis is well developed and present to an equal extent in all joints. Purple, non-fixed livor mortis is evident over the posterior parts of the body. The body shows no evidence of decomposition. The skin is pale, dry and smooth.

~~The head and face exhibit no trauma. The head hair is brown and of a medium length. The eyes are brown with pale conjunctivae. The corneas and lenses are transparent. No petechial hemorrhages or congestion is noted in either conjunctivae. The pupils are regular, round, equal, central and measure 0.5cm. in diameter. The ears and external auditory canals are unremarkable. The skeleton of the nose~~

AUTOPSY REPORT

Case No: A95-2050

Page 3

EXTERNAL EXAMINATION:

"Continued"

is intact and no foreign material is present in the nostrils. No foreign material is present in the oral cavity. The gums are normal. The upper and lower teeth are natural and in a good state of dental repair. The lips, oral mucosa and the tongue reveal no evidence of trauma.

The neck is symmetrical and unremarkable.

The shoulders are symmetrical.

The chest is symmetrical and exhibits surgical incisions, which will be described below.

The abdomen is flat and no masses can be palpated through the abdominal wall.

The back is symmetrical and exhibits injuries, which will be described below.

The external genitalia and the anus are unremarkable.

The extremities are symmetrical and exhibit no trauma. Both hands are bagged. The fingernails are regular, clean and unremarkable. The toenails are clean, short and unremarkable. The skin of the legs exhibits no changes. No edema is present in the ankles or legs.

Passive motion of the neck, shoulders, elbows, wrists, fingers, hips, knees and ankles fails to elicit any bony crepitus or abnormal motion.

AUTOPSY REPORT

Case No: A95-2050

Page 4

EXTERNAL EXAMINATION:

"Continued"

No recent needle marks or punctiform scars are noted in either antecubital fossa, interphalangeal spaces of the hands or feet, under the tongue or on the gums.

AUTOPSY REPORT

Case No: A95-2050

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EVIDENCE OF RECENT TRAUMA:EVIDENCE OF SHOTGUN BLAST TO THE BACK:SHOTGUN BLAST OF ENTRANCE:

On the posterior aspect of the right distal thorax, 54cm. below the level of the top of the head and 8cm. to the right of the posterior midline of the back, there is a roughly round shotgun wound entrance with loss of soft tissues (skin, subcutaneous tissues and muscles) measuring 4cm. in diameter. The edges of this wound are hemorrhagic, irregular and have ragged margins. The entry wound is surrounded with satellite perforations (pellet wounds) at the margin of the main defect. The area of pellets measures 5 x 6cm. There is no soot or powder stippling noted around this shotgun wound entrance (with an unaided eye).

TRACK OF THE BLAST:

The shotgun blast perforates the entire thickness of the right posterior thoracic wall, including the ninth, tenth and eleventh right ribs, between the scapular and juxtaspinal lines, creating a defect in the thoracic wall, measuring 5 x 6cm. Then the pellets ~~perforate the lower lobe of the right lung,~~ perforate the right dome of the diaphragm, ~~lacerate the right hepatic lobe and~~ perforate the diaphragm again (the wadding has been retrieved during the surgery and given to Lawrence Township Police). ~~Then the pellets perforate the right ante-~~rior thoracic cage (fifth, sixth and seventh ribs) and enter the

AUTOPSY REPORT

Case No: A95-2050

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EVIDENCE OF RECENT TRAUMA:

"Continued"

EVIDENCE OF SHOTGUN BLAST TO THE BACK:TRACK OF THE BLAST:

→ right breast. Multiple pellets were retrieved from the right breast and adjacent muscles of the chest. There is a marked, dark red, well demarcated hemorrhage along the entire pathway of the blast. There is 400ml. of bloody fluid in the right chest cavity and 300ml. of blood in the peritoneal cavity. ←

SITE OF RECOVERY OF THE PELLETSSee
Pg 9

White, metal pellets have been retrieved with gloved fingers from the hemorrhagic right breast and adjacent muscles of the right anterior distal chest wall. The pellets are preserved in a properly labeled envelope with the name of the deceased and given to autopsy technician K. Kyser for preservation. The wadding has been retrieved by a surgeon during the thoracotomy and sent to the Lawrence Township Police Department.

TRAJECTORY OF THE SHOTGUN BLAST:

The trajectory of the shotgun blast is frontward, minimally rightward and upward.

EVIDENCE OF RECENT MEDICAL AND SURGICAL TREATMENT:

1. A 16cm. transverse, stitched, surgical incision is situated under the left breast.
2. A 20cm. longitudinal, stitched, surgical incision is noted

AUTOPSY REPORT

Case No: A95-2050

Page 7

EVIDENCE OF RECENT MEDICAL AND SURGICAL TREATMENT: "Continued"

along the anterior midline (proximal half) of the abdomen.

3. A chest tube has been inserted in the right lateral wall of the thorax.
4. Hospital needle marks are present in both antecubital fossae.

AUTOPSY REPORT

Case No: A95-2050

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INTERNAL EXAMINATION:BODY CAVITIES:

The body is opened by a "Y" shaped incision. The abdominal fat pad is 1cm. thick at the umbilicus. The undamaged muscles of the chest and abdominal wall are normal in color and consistency. The undamaged ribs, sternum and spine exhibit no fractures. The left pleural cavity is smooth and moist. The right pleural cavity contains 400cc's of bloody fluid. The peritoneal cavity contains 200cc's of bloody fluid. The liver and spleen do not extend below the costal margins. The bladder lies below the symphysis pubis. The organs of the pleural and peritoneal cavities are in their usual positions in situ. The mesentery and omentum are unremarkable.

NECK:

The soft tissues of the neck, thyroid and cricoid cartilages, larynx, and hyoid bone show no hemorrhage or evidence of traumatic injury. Dissection of the neck reveals no traumatic injuries. The laryngeal mucosa is pink. The epiglottis and vocal cords are unremarkable.

CARDIOVASCULAR SYSTEM:

The heart weighs 215 grams. The pericardium has been surgically opened and contains no liquid. The epicardial surface is smooth. The external configuration of the heart is unremarkable. The right and left ventricles are unremarkable. The endocardium and valve leaflets

AUTOPSY REPORT

Case No: A95-2050

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INTERNAL EXAMINATION:

"Continued"

CARDIOVASCULAR SYSTEM:

are smooth, transparent and exhibit no thrombi, vegetations or fibrosis. The trabeculae carneae and papillary muscles are unremarkable. The chordae tendineae are usual. The right ventricle is 0.2cm. thick and the left ventricle is 1.2cm. thick. The coronary arteries have their usual distribution with a right predominance. The coronary ostia are normal in patency. Multiple cross sections at 0.2cm. intervals show no pathological changes. The myocardium is of usual consistency, brown and grossly homogeneous.

The aorta is unremarkable.

The venae cavae are unremarkable.

RESPIRATORY SYSTEM:

The shotgun blast in the right lung has been previously described. The right lung weighs 375 grams and the left lung weighs 260 grams. The tracheal mucosa is unremarkable. The pleurae are delicate and glistening. The lungs are not distended and are variegated pink-gray to red-gray. The lung parenchyma is of usual consistency. The lung tissue is slightly edematous. No nodularity is seen.

The extra and intrapulmonary bronchi are unremarkable. The pulmonary arteries and veins exhibit no pathological change. The hilar and mediastinal lymph nodes are not enlarged.

AUTOPSY REPORT

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INTERNAL EXAMINATION:

"Continued"

HEPATOBIILIARY SYSTEM:

The shotgun blast to the right hepatic lobe has been previously described. The liver weighs 1190 grams. The capsule of Glisson is transparent. The external surface is smooth, glistening and light brown (pale). The borders are sharp. The parenchyma is of usual consistency and brown with the usual lobular architecture.

The gallbladder has delicate walls and contains a few cc's of light brown bile and has a smooth mucosa. No stones are present.

The intra and extrahepatic biliary ducts are patent. The hepatic and portal veins and the hepatic artery are unremarkable.

HEMOLYMPHATIC SYSTEM:

The spleen weighs 105 grams and is of usual consistency. The capsule is glistening and thin. The internal architecture is clearly defined.

GASTROINTESTINAL SYSTEM:

The esophagus is empty and unremarkable. The stomach contains 150cc's of partially digested food (mushrooms, meat, vegetable). The remainder of the gastrointestinal system is unremarkable.

The appendix is identified.

UROGENITAL SYSTEM:

The right kidney weighs 115 grams and the left kidney weighs 125

AUTOPSY REPORT

Case No: A95-2050

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INTERNAL EXAMINATION:

"Continued"

UROGENITAL SYSTEM:

grams. The surfaces are smooth and glistening. The capsules strip easily, revealing a red-brown surface. The ~~conerico-medullary junction~~ ~~is well defined~~. The calyceal and collecting systems are not remarkable. ~~The renal arteries and veins are unremarkable.~~

The ureters are not dilated or obstructed.

The bladder is empty and contracted. The bladder exhibits the usual mucosa and muscularis. The ureteral orifices are patent.

The vaginal canal is patent. ~~The cervix is not remarkable.~~ The uterus is not enlarged and is of usual shape. ~~The endometrial and endocervical cavities are not remarkable.~~ The myometrium is uniform. ~~The adnexae are not remarkable.~~

ENDOCRINE SYSTEM:

~~The adrenals, thyroid, parathyroids, pancreas and pituitary are not remarkable.~~

MUSCULOSKELETAL SYSTEM:

~~There are no gross bony deformities. The muscles are well developed and of the usual color and consistency. The sternum, ribs and spine exhibit the usual bone density and marrow.~~

CENTRAL NERVOUS SYSTEM:

~~The scalp is reflected, revealing no trauma. The calvarium is removed, revealing no evidence of epi or subdural hemorrhages. The~~

AUTOPSY REPORT

Case No: A95-2050

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"Continued"

INTERNAL EXAMINATION:CENTRAL NERVOUS SYSTEM:

dura mater does not exhibit any stains or discolorations. The lepto-
meninges are not remarkable.

The brain weighs 1495 grams and is of usual consistency. The sulci and gyri occupy their usual position and exhibit a normal depth. The blood vessels at the base do not reveal any aneurysms or other abnormalities. The cerebral and cerebellar hemispheres are symmetrical and the surface does not display any scar tissue. The ventricles contain the usual amount of colorless fluid. The cerebellar tonsils are not herniated. Multiple sections through the cerebrum, cerebellum, pons, midbrain and medulla exhibit the usual internal pattern with no focal or diffuse lesions.

The skull is intact.

*Epileptic*NOTE:

Blood, bile and eye fluid are taken for toxicologic analysis.

Neutron activation test obtained at beginning of the autopsy.

All evidence was collected by K. Kyser and placed in an appropriately labeled envelope with the name of the deceased.

AUTOPSY REPORT

Case No: A95-2050

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MICROSCOPIC EXAMINATION:

The microscopic examination is consistent with the gross findings and final pathological diagnoses.

10 2 A 5 201

13

EMERGENCY DEPARTMENT RECORD

TERESA ALLEN

02/19/1959 189-50-5124

MOSIENKO, K DAVID

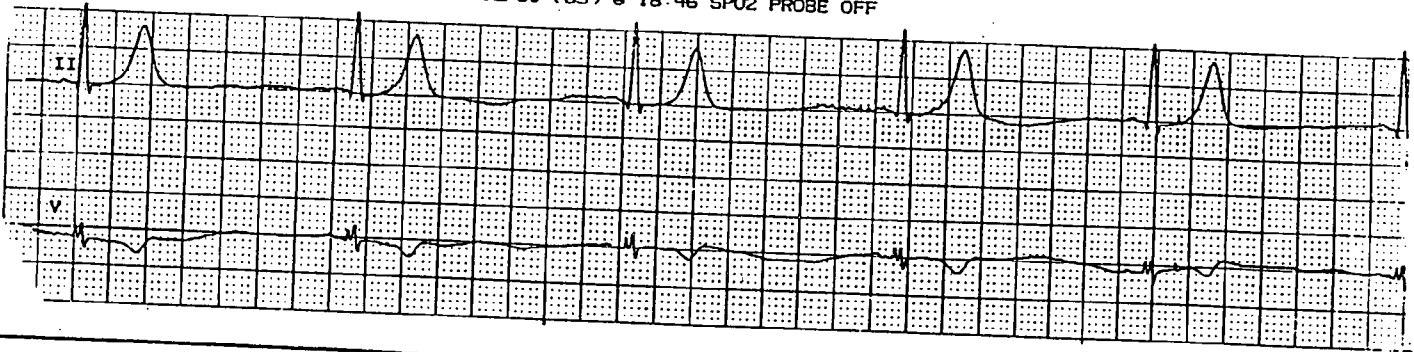
01/19/95 F E/R

CLEARFIELD HOSPITAL

MONITORING RECORD

DATE: 7-19-95 DIAGNOSIS: Sunshoe wound to the back

ALARM SAVED *HR LO 45* ED-TRMA1 19-JUL-1995 18:50:46 ALM VOL 70%
625 MM/S HR 45 ARR FULL PVC 0 NBP 102/80 (89) @ 18:46 SPO2 PROBE OFF



ME: 6:50pm

COMMENTS:

RHYTHM: Brady

SIGNATURE: Janice Smiered

E:

COMMENTS:

RHYTHM:

SIGNATURE:

COMMENTS:

RHYTHM:

SIGNATURE:



HOSPITAL

NURSING FLOW SHEET

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42257741

071624

ALLEN, TERESA

04/19/1959

189-53-5724

ROSEMARY K DAVI

07/19/95

F

TIME 6:42 P.M.	DATE 7-19-95	CATEGORY I	6 units blood	←
CHIEF COMPLAINT: Gunshot wound to the back		CATEGORY II	2000 cc LR	? ←
		CATEGORY III	1500 cc NSS	? ←
HISTORY:		CATEGORY IV	2000 cc LR	←
VISUAL ACUITY	TIME	TEMP	PULSE	RESP.
O.D.	6:45 AM		59	
O.S.	6:50 AM		50	
O.U.	6:51 AM		92	
B/P				
		173/110		
		102/80		
		112/81		
CORRECTED		TILTS	TIME	0-2
UNCORRECTED				9

ASSESSMENT COMPLETED	TIME	INITIALS	TIME	MEDICATION & DOSAGE	ROUTE	SITE	INITIALS
Neuro	6:41 AM	qs					
Resp / CV	6:42 AM						
Integumentarily	6:42 AM						
GI	6:42 AM						

NURSING PROGRESS RECORD

6:42 AM	Pt brought to ED by ALS crew. Pt intubated endotracheally prehospital, being bagged & 100% O ₂ via ET tube. Pt unresponsive.	1
6:42 AM	2 large bore IVs inserted prehospital infusing wide. - NS	2
6:42 AM	Dr. Yingling and Dr. Mesniko present upon patient arrival to ED. - JS	3
6:45 PM	Pt reintubated endotracheally by Dr. Binyork. Pt being bagged & 100% O ₂ via ET tube by respiratory therapist. Remains unresponsive. HR 59 BP 173/110. Blood drawn for labs via femoral stick by Dr. Yingling. JS	4
6:50 AM	B.S. RIC inserted right AC by Dr. Mesniko, replacing prehospital right AC catheter. 2 units O neg blood infusing under pressure thru RIC catheter. Foley cath inserted by Rosemary McMaisters RN & difficult. Pulse 50, BP 102/80. Pt remains intubated endotracheally being bagged & 100% O ₂ . Cardiac monitor rhythm bradycardic. - QS	5
6:52 PM	Dr. Aycock at bedside also. Femoral pulse thrumby to palpation. - QS	6
6:53 PM	Nasogastric tube inserted via right nare by Dr. Aycock. BP 112/81 Pulse 92. Continues to be bagged & 100% O ₂ via ET tube. 2 additional units O negative blood infusing thru large bore IVs. - QS	7
6:53 PM	Chest tube inserted right chest by Dr. Yingling. Chest tube connected to pleural. Pleural connected to low continuous suction. Chest tube secured by Dr. Yingling & suture and occlusive dressing. - JS	8
6:57 PM	BP 120/75 Dr. Yingling and Dr. Aycock attempting to visualize gunshot wound. Large amount of bleeding from gunshot wound. Tissue fragments noted on litter beneath patient. 2 units O positive blood infusing thru large bore IVs. Pt continues to be bagged & 100% O ₂ via ET tube. Remains unresponsive. - QS	9
6:58 PM	BP 117/41. - QS	10
NURSES SIGNATURE		11
qs Jennifer S. Simon		12
		13
		14
		15
		16
		17
		18
		19

[illegible]

PREOPERATIVE DIAGNOSIS: *Gunshot wound Chest/abd.*POSTOPERATIVE DIAGNOSIS: *same*OPERATIVE PROCEDURE: *Ext laparotomy*X-RAY: *Wt*TYPE OF ANESTHESIA: ☒ GENERAL ☐ LOCAL ☐ SPINAL BLOCKANESTHESIOLOGIST/ANESTHETIST: *Dr. Bryant*DATE: *7-19-95*O.R. #: *2*

PRE-OP ASSESSMENT: (CHECK ALL APPLICABLE BOXES)

PATIENT IDENTIFICATION: F ☐ M ☐ R ☐ VERBAL ☐ CHARTNPO AFTER MN: ☐ YES ☐ NO-SINCEVERIFICATION OF PROCEDURE/LOCATION: ☐ VERBALKNOWN INFECTIOUS DISEASE: ☐ NONE ☐ LIST: *WBC 11.49 RBC 1.49 H+H 4.6/14.6*MENTAL/EMOTIONAL STATUS: ☐ ALERT ☐ ORIENTED ☐ DISORIENTED ☐ SEDATED ☐ AGITATED ☐ UNRESPONSIVELIMITATIONS: ☐ NONE ☐ AUDITORY ☐ VISUAL ☐ LANGUAGE ☐ MOBILITY ☐ OTHER: *LIED*PERSONAL ITEMS: ☐ NO ☐ LIST: *unresponsive*COMFORT MEASURES IMPLEMENTED: ☐ WARM BLANKET ☐ OTHER: *unresponsive*COMMENTS: *Stat from ER. gunshot wound to R chest*

TIMES

PATIENT IN

PATIENT OUT

RN SIGNATURE: *Amelia*WOUND CLASSIFICATION: ☐ CLEAN ☐ CLEAN CONTAMINATED ☐ CONTAMINATED ☐ INFECTEDCIRCULATING NURSES: *Amelia*SCRUB NURSES: *Therese*SPECIMENS/CULTURES SENT TO PATHOLOGY ☐ NONEIMPLANTS ☐ NONE

SITE

MANUFACTURER

MODEL #

SIZE

LOT/SERIAL #

NURSING DIAGNOSIS: POTENTIAL FOR ANXIETY RELATED TO KNOWLEDGE DEFICIT.

PLAN & IMPLEMENTATION:

☐ GIVE CLEAR, CONCISE EXPLANATIONS.☐ COMMUNICATE PATIENT CONCERNS TO OTHER HEALTH CARE MEMBERS.

GOAL: DEMONSTRATES DECREASED ANXIETY.

☐ CONVEY CARING, SUPPORTIVE ATTITUDE.☐ REMAIN WITH PATIENT DURING INDUCTION.☐ OTHER *pt unresponsive*EVALUATION: DEMONSTRATED UNDERSTANDING OF EXPLANATIONS: ☐ YES ☐ NO

NURSING DIAGNOSIS: POTENTIAL FOR INJURY.

PLAN & IMPLEMENTATION:

☐ COMPLETE PRE-OP ASSESSMENT.☐ POSITION FOR SURGERY: ☒ SUPINE ☐ LITHOTOMY ☐ PRONE ☐ Tourniquet SITE: *1500 H₂O x 3*☐ JACKKNIFE ☐ LT. LATERAL ☐ RT. LATERAL ☐ OTHER: *chest tube*☐ SKIN PRE-OP ☐ INTACT ☐ OTHER: *chest tube*☐ APPLY GROUNDING PAD. SITE: *High ESU # 12*APPLIED BY: *HO* GROUNDING PAD LOT # *23454*☐ APPLY SAFETY STRAP TO *High Card*☐ OTHER

GOAL: PATIENT WILL REMAIN INJURY FREE.

BONY PROMINENCES

TOURNIQUET SITE: *#*

INFLATED:

DEFLATED:

PRESSURE:

SKIN POST-OP: ☐ INTACT ☐ OTHER

CHECKED BY:

INITIAL APPROPRIATE BOX

COUNTS	PRE-OP	1ST	2ND	3RD
SPONGES	<i>1</i>	<i>C</i>	<i>C</i>	<i>C</i>
NEEDLES	<i>1</i>	<i>C</i>	<i>C</i>	<i>C</i>
INSTRUMENT	<i>1</i>	<i>C</i>	<i>C</i>	<i>C</i>

EVALUATION: TOLERATED PROCEDURE WITH NO APPARENT INJURY: ☐ YES ☐ NO ☐ SURGEON NOTIFIED OF COUNTS. IF COUNTS INCORRECT, ACTION TAKEN:

NURSING DIAGNOSIS: POTENTIAL FOR INFECTION.

GOAL: AVOIDANCE OF PATIENT INFECTION.

PLAN & IMPLEMENTATION:

☐ AREA SHAVED:☐ SKIN PREP: ☐ PROVIDONE IODINE SCRUB & SOLUTION ☐ OTHER

AREA PREPPED

☐ URINARY CATHETER (SIZE/TYPE): *place on manual no drainage*☐ DRAINS/PACKING (SIZE/TYPE/SITE): *flora vac intact*☐ DRESSING, TYPE: *4x4*☐ OTHER: *intact all tubes, lines*EVALUATION: AVOIDANCE OF PATIENT INFECTION ATTEMPTED: ☐ YES ☐ NOCOMMENTS/OTHER DIAGNOSIS: *1926- pt declared dead by Dr. Bryant*PATIENT DISCHARGED: ☐ RECOVERY ROOM ☐ ICU ☐ ROOM #REPORT GIVEN TO: *2031 transported to home by Nelson*CIRCULATING NURSE SIGNATURE: *Amelia*SCRUB NURSE SIGNATURE: *Therese*

7/19/95

POST OP. DIAGNOSIS

GSN of chest & Abdomen

OPERATION PERFORMED

Laparotomy

SURGEON

MDA

CRNA

POSITION

ANESTHESIA

START

STOP

PROCEDURE

START

STOP

DRUG TOTALS

(P) PENTOTHAL	MG
(D) DIPRIVAN	MG
(K) KETAMINE	MG
(A) ATRACURIUM	MG
(C) CURARE	MG
(M) MIVACRON	MG
(N) NORCURON	MG
(S) SUCCINYLCHOLINE	MG
ZEMURON	MG
FENTANYL	UG
SUFENTANYL	UG
VERSED	MG

FLUIDS IN

5% D/LR	cc	OTHER	cc
LR	cc	BLOOD	cc
NSS	cc	ALB/HESP	cc

FLUIDS OUT

EBL	cc	URINE	cc
-----	----	-------	----

REMARKS

arrhythmia by IV 1920
ventricular fibrillation
1922
Defibrillated x3
No improvement
pronounced death at
1926 by SC
Yingling

Time: 1900 20 220

Oxygen (l/min) 20 Air (l/min) 20

H₂O (ml) (%)

F / D / K

FENTANYL 100

ATACUR

N/S (2) 40

UR

EBL / NS 100

Urine (ml) 100

EBL (ml) 100

EKG

W O₂ Inspired

O₂ Saturation

End Tidal CO₂

Temp: 36.5

Baseline Values

98

O SAT

110

BP

120

P

H/H

Tidal Volume

Resp. Rate

Peak Pressure

PEEP

Symbols for Remarks

PRE-PROCEDURE

Identified Chart Reviewed

Pre-Anesthetic State:

Awake Asleep

Apprehensive Confused

Uncooperative Unresponsive

Calm

PATIENT SAFETY

Anes. Machine Checked

Safety Belt On Axillary Roll

Armboard Restraints Arms Tucked

Pressure points checked and padded

Eye Care:

Ointment Pads

Taped Goggles

MONITORS AND EQUIPMENT

Steth. Precord Esoph.

Non-Invasive B/P Continuous EKG

Pulse Oximeter Oxygen Sensor

End Tidal CO₂ Gas Analyzer

Temp Nerve Stimulator

Warming Blanket Oesoph.

Airway Humidifier Fluid Warmer

NG/OG Tube Foley Catheter

Tourniquet:

UP DOWN PRESSURE

ANESTHETIC TECHNIQUE

General: Pre-Oxygenation LTA

Rapid Sequence Cricoid Pressure

Intravenous Inhalation

Intramuscular Rectal

Regional: Spinal Epidural

Axillary Bier Block Ankle Block

Prep

Position Site

Needle

Drug

Dose

Drug

Dose

Attempts X Level

Catheter See Remarks

M.A.C.

AIRWAY MANAGEMENT

Intubation: Oral Nasal

Stylet Used Tube Sign

RAE Armored Endobronch.

Direct Blind Fiberoptic

Uncuffed Air

Blade

Secured at cm.

Attempts x ET CO₂ present

Asynchronous Difficult

Breath Sounds

Airway: Oral Nasal Difficult

Circuit: Circle NRB See Remarks

Mask Case Nasal Cannula

Via Tracheostomy Simple O₂ mask

RECOVERY

B/P P

O₂ SAT RESP.

AWAKE VENTILATOR

DROWSY NASAL OXYGEN

SOMNOLENT MASK OXYGEN

UNAROUSABLE T-PIECE OXYGEN

INTUBATED ORAL/NASAL AIRWAY

IV PRESENT: Yes No

Remaining 500 cc

Site & Size

IV STARTED: TIME: 1920

Size & Type 16 gauge 2

Loc. Used A-LINE

R L Forearm CVP

R L Ant. Fossa

Other

07 '95

FOR COURT

Picture
Taken

Allen.

92257741 071624

10/17/95 169-50-5724
 J. K. DAVID
 10/17/95

SYMBOL KEY:

RESPIRATIONS

- NONE + POOR ++ GOOD

BAGGING / COMPRESSIONS

YES - NO

CLEARFIELD HOSPITAL
CARDIOPULMONARY RESUSCITATION RECORD

DATE: 7-19-95

TIME OF ARREST 1:23 TIME OF CODE

RECOGNIZED BY Dr. Bryant

CALLED IN BY

TEAM MEMBERS PRESENT:

Dr. Bryant
 Dr. Bryant
 Dr. Bryant
 Dr. Bryant
 Dr. Bryant

LOCATION:

☐ PRE-HOSPITAL
☐ ER
☐ ICU/TELEMETRY
☐ OR
☒ OT/IR
☐ SPU
☐ MED/SURG 123
☐ PEDS
☐ OTHER
☐ WITNESSED
☐ NOT

TIME CODE STOPPED 1:23 OUTCOME: DEATH

PRONOUNCED BY Dr. Bryant

☐ LIFE SUPPORT EQUIPMENT
☐ TRANSFER ☐ ICU ☐ OTHER

VITAL SIGNS / DC SHOCK

CPR

(NOTE DOSE AND ROUTE)

TIME	PATTERN	WATTS	HR	RR	BP	BAG	COMPRESSIONS	ATROPINE	EPINEPHINE	LIDOCAINE	IV MEDICATIONS
1:23	VF	350	0	0	0	✓	✓	✓	✓	✓	✓
2:23	VF	300	0	0	0	✓	✓	✓	✓	✓	✓
3:23	VF	300	0	0	0	✓	✓	✓	✓	✓	✓
4.											
5.											
6.											
7.											
8.											

COMMENTS

1.	VF 300 → VF 350 4 line present										
2.	VF 300 → VF 350 4 line present										
3.	VF 300 → VF 350 4 line present										
4.											
5.											
6.											
7.											
8.											

SIGNATURE OF PERSON COMPLETING FORM:

DATE: 7-19-95

SIGNATURE OF PHYSICIAN:

DATE:

F.B.I.

CORONER'S FIELD REPORT

Clearfield County, PA
R. JOEL HEATH, CoronerTELEPHONE
(814) 339-7528ADDRESS
P.O. Box 145
Osceola Mills, PA 16868

NAME TERESA G. ALLEN Sex F Race W
HOME ADDRESS LAWRENCE PARK VILLAGE - APT 4C - CLEARFIELD, PA 16830
Birthdate 3/19/59 Age 36 Mo. Days Soc. Sec. No. 189-50-5724
Date/Time Pronounced: Day 7/19/95 Time 7:26 PM Married Never Married
of Death: Widowed Divorced ✓ LIED

Estimated: Day SAME Time SAME Separated Unknown

CAUSE OF DEATH: a. SHOTGUN WOUND TO THE BACK
b.
c.

Other Significant Conditions:

MANNER OF DEATH: Natural Suicide Undetermined
Accidental Homicide ✓ Under Investigation

Pronounced Dead By D. YINGLING M.D. Location CLED HOSP O.R.

Next of Kin (Notified):

Name JANET McCracken Relationship SISTER
Address KERR ADDITION - CLEARFIELD, PA Telephone 765-2328

Place of accident, collapse, etc.: (include township or borough) LAWRENCE TWP.Means of Identification Condition of Body: Fully clothed ✓ Partially clothed Unclothed Describe: Preservation: Well Preserved ✓ Decomposed Describe: Estimated Rigor: None ✓ Complete Head Arms Legs Livor: None Front Back ✓ Localized Blood: Absent Present ✓ Location Time Call Rec'd From Time of Arrival Photos Taken NO

Apparent Wounds: None _____ Gunshot ☒ _____ Stab _____ Blunt Force _____

Describe Primary: RT. BACK

Primary Location: Head _____ Neck _____ Chest _____ Abdomen _____ Extremities _____

Hanging: Yes _____ No ☒ _____ Means _____

Deceased Found: Date 7/19/95 Time 6:19 P By Whom WITNESSED

Address (if different) _____

Location: Apartment ☒ _____ House _____ Townhouse _____ Other (describe) _____

Entrance By: Key _____ Cutting Chain _____ Forcing Door _____ Other (describe) _____

Condition of other doors & windows: Open _____ Closed _____ Locked _____ Unlocked _____

Body Found: Dining Room _____ Living Room _____ Bedroom _____ Kitchen _____ Attic _____

Basement _____ Other (describe) PARKING LOT

Location in Room: _____

Position of body: On back ☒ _____ Face Down _____ Other (describe) _____

Conditions of Surroundings: Orderly _____ Untidy _____ Disarray _____ Normal? _____

Lights _____

Evidence of Last Food Preparation:

Where: _____

Type: _____

Dated Materials and Where Found:

Mail: _____

Newspapers: _____

Vehicle Involved: Make _____ Color _____ Reg. # _____

Last Contact with Deceased: Date _____ Type of Contact: _____

Name of Contact: _____ Phone: _____

Police or Emergency Personnel Notified By: _____

Name ? _____ Relationship _____

Address _____ Telephone _____

Date _____ Time _____ Manner _____

Evidence of Drug Use: (Prescription and Nonprescription) Yes _____ No ☒List or Describe _____

Doctor _____ Address _____ Phone _____

Evidence of Drug Paraphernalia: Yes _____ No ☒ Describe: _____
_____Evidence of Alcohol Intake: Yes _____ No ☒ Describe: _____

Weapons Present:

Gun: Yes ☒ No _____ Caliber 12g. Make SAVAGE PUMPModel 67E Serial No. D3799163Knife: Yes _____ No ☒ Describe: _____

Other: (describe) _____

Disposition of Weapon(s): LAWRENCE T. P.D.Evidence of Sexual Deviate Practices: Yes _____ No ☒ Describe: _____
_____Investigating Officer: PATROLMAN COLLINS Department LT.P.D.

Disposition of Body: _____

Per _____

Autopsy: Yes ☒ No _____ Reason: DETERMINE CAUSE OF DEATHBy: A.C.C.O. Location PON., PA.Blood Drawn: Yes ☒ No _____ Kit Number _____ Time _____Valuables Retained: SEE REPORTDisposition of Valuables: LT.P.D.Operator's License Attached: Yes _____ No ☒ OLN _____

Mileage form _____ To _____

Total Miles Traveled: _____

Telephone _____ Miscellaneous _____

NARRATIVE

INCIDENT OCCURRED IN PARKING LOT OF
LAWRENCE PARK VILLAGE APTS. AT APPROX. 6:19 PM,
7/19/95. THE VICTIMS EX-HUSBAND APPROACHED HER
TO TALK. SHE REFUSED HIS ADVANCES & WAS WALKING
AWAY WHEN HE PRODUCED A 12g PUMP SHOTGUN FROM
HIS VEHICLE & SHOT HER ONCE IN THE BACK AT A
DISTANCE OF APPROX. 10 FEET. SHE WAS TRANSPORTED
TO CLEARFIELD HOSPITAL & TAKEN TO SURGERY.
(ALL AVAILABLE HOSPITAL REPORTS ATTACHED) SR.
WAS PRONOUNCED DEAD DURING SURGERY BY SURGEON
D. YINGLING AT 7:26 PM. DR. YINGLING STATED THE
DECEASED HAD EXTENSIVE DAMAGE TO RT. LUNG, LIVER,
& DIAPHRAM - ALSO MASSIVE HEMORRHAGE. DR. YINGLING
REMOVED THE SHOTGUN WAD DURING SURGERY. RETAINED
BY LAWRENCE TWP. P.D.

WHEN OBSERVED AT HOSPITAL, THE DECEASED
HAS AN APPROX 2" WOUND TO THE RT. BACK. SEVERAL
PELLET WOUNDS ENCIRCLE THE MAIN WOUND. THERE
ARE ALSO TWO SURGICAL INCISIONS, ONE ON THE
MID-ABDOMEN & ONE UNDER LEFT BREAST. HOSPITAL
IV PUNCTURES TO BOTH UPPER EXTREMITIES & CHEST
TUBE ARE PRESENT.

BODY TRANSPORTED TO A.C.C.O. VIA FENCE
TRANSPORT 7/20/95

SEVERAL PELLETS & CLOTHING & EFFECTS GIVEN
TO LAWRENCE TWP. P.D.

ALLEGED ASSAILANT, JACK E. ALLEN,
SEEN DURING THE ATTACK & IN POLICE CUSTODY.


CORONER/Deputy Coroner

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA

2005 JUN -2 A 9:01



Commonwealth Court of Pennsylvania

Charles R. Hostutler
Deputy Prothonotary/Chief Clerk

July 7, 2003

Irvis Office Building, Room 624
Harrisburg, PA 17120
717-255-1650

TO:

RE: Allen v. Clearfield Hospital et al
No.366 MD 2003

Trial Court/Agency Dkt. Number:

Trial Court/Agency Name:

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572
is the entire record for the above matter.

Contents of Original Record:

Original Record Item	Filed Date	Description
----------------------	------------	-------------

Date of Remand of Record:

Enclosed is an additional copy of the certificate. Please acknowledge receipt by signing,
dating, and returning the enclosed copy to the Prothonotary Office or the Chief Clerk's office.

Commonwealth Court Filing Office

Signature

7-15-03

Date

WILLIAM A. SHAW

Prothonotary

Printed Name
Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

FILED

JUL 15 2003

m/32351m

William A. Shaw

Prothonotary/Clerk of Courts

COPY TO COMM COURT

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JACK E. ALLEN FOR THE
DECEDENT TERESA ALLEN,
Petitioner

:

:

v.

:

CLEARFIELD HOSPITAL et al.,
Respondents

:

No. 366 M.D. 2003

PER CURIAM

ORDER

NOW, June 5

, 2003, it appearing that petitioner seeks money damages and sounds in the nature of a tort, and it further appearing that petitioner resides in Clearfield County and that venue may lie in that county, ~~this case is hereby transferred to the Court of Common Pleas of Clearfield County.~~ See 42 Pa. C.S. §5103.

The Chief Clerk shall certify a photocopy of the docket entries of the above matter and the record to the prothonotary of the Court of Common Pleas of Clearfield County.

FILED

JUL 15 2003
m/3130/m
William A. Shaw
Prothonotary/Clerk of Courts

Certified from the Record

JUN - 6 2003
and Order Exit

Docket Number: 366 MD 2003

Page 1 of 3

July 7, 2003



Jack E. Allen, for The
Decedent Tereas Allen,
Petitioner

v.

Clearfield Hospital, Douglas Yingling, M.D.,
David Mosienko, M.D., Philip Aycok, M.D.,
Veronica Pirow, RN Supvr., Annette
Dufour, RN, Rosemary McMaster, RN,
Marlene Gearhart, RN, Melissa Gearhart,
Tala Condon Blyarth, (Anesthesiologist),
L. Hendushot, Asst. (Anesthesiologist),
Respondents

FILED

JUL 15 2003

Di 13:30/4
William A. Shaw

Prothonotary/Clerk of Courts

Initiating Document: Petition for Review

Case Status: Closed

June 5, 2003

Completed

Case Processing Status:

Journal Number:

Case Category: Miscellaneous

CaseType:

Inmate Petition for Review

Consolidated Docket Nos.:

Related Docket Nos.:

COUNSEL INFORMATION

Petitioner Allen, Jack E.

Pro Se: ProSe

Appoint Counsel Status:

IFP Status: Pending

Attorney: Allen, Jack E.

Bar No.:

Law Firm:

Address: DA-0984 SCI Houtzdale
P O Box 1000
Houtzdale, PA 16698-1000
Phone No.:

Fax No.:

Receive Mail: Yes

Certified from the Record
JUL 07 2003
and Order Exit

TRIAL COURT/AGENCY INFORMATION

Court Below:

County:

Division:

Date of Order Appealed From:

Judicial District:

Date Documents Received: June 2, 2003

Date Notice of Appeal Filed:

Order Type:

Docket Number: 366 MD 2003

Page 2 of 3

July 7, 2003



Judge:

Lower Court Docket No.:

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description
----------------------	------------	---------------------

Date of Remand of Record:

BRIEFING SCHEDULE

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Exit Date	Party Type	Filed By
June 2, 2003	Petition for Review Filed		Petitioner	Allen, Jack E.
June 2, 2003	Application to Proceed In Forma Pauperis		Petitioner	Allen, Jack E.
June 5, 2003	Transfer	6/6/2003		Per Curiam
This matter is transferred to the Court of Common Pleas of Clearfield Co. as venue appears to lie in that county.				
July 7, 2003	Transfer to Court of Common Pleas Clearfield County			Commonwealth Court Filing Office

SESSION INFORMATION

Journal Number:

Consideration Type:

Date Listed/Submitted:

Docket Number: 366 MD 2003

Page 3 of 3

July 7, 2003



DISPOSITION INFORMATION

Related Journal Number:

Judgment Date: 6/5/2003

Disposition Category:

Disposed Before Decision

Disposition Author:

Per Curiam

Disposition:

Transfer

Disposition Date:

6/5/2003

Dispositional Comments:

This matter is transferred to the Court of Common Pleas of Clearfield Co. as venue appears lie in that county.

Dispositional Filing:

Author:

Filed Date:

REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date:

Reargument Disposition:

Date:

Record Remitted:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JACK E. ALLEN for The Decedent :

Teresa Allen :

-vs-

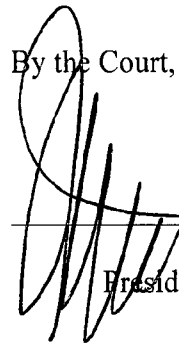
03-1034-CD
Misc. Dkt.

CLEARFIELD HOSPITAL, ET AL. :

ORDER

NOW, this 16th day of July, 2003, upon consideration of Application for In Forma Pauperis status filed on behalf of Jack E. Allen, it is the ORDER of this Court that in forma pauperis status is REFUSED.

By the Court,



President Judge

FILED

JUL 17 2003

William A. Shaw
Prothonotary

FILED

Encls

of 11:20 AM
JUL 17 2003

William A. Shaw
Prothonotary

ICC Jack Allen w/ IFP denied letter

DA-0984

SCF Houtzdale

PO Box 1000

Houtzdale, PA 16840-1000

ICC - Clearfield Hospital

ICC - Dept. of State

Medical Board

Bureau of Professional &

Occupational Affairs

Harrisburg, PA 17120

WILLIAM A. SHAW
PROTHONOTARY
AND
CLERK OF COURT

CLEARFIELD COUNTY



DAVID S. AMMERMAN
SOLICITOR

JACQUELINE KENDRICK
DEPUTY PROTHONOTARY

P.O. Box 549
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641 Ext. 1330
FAX(814)-765-7659

COPY

July 17, 2003

Jack E. Allen
DA-0984
SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000

RE: Civil Complaint, 03-1034-CD

Dear Mr. Allen:

Please be advised that your Petition to Proceed In Forma Pauperis in the above case has been denied by the Court.

You may proceed with this action by submitting the \$85.00 filing fee with this office along with a copy of this letter.

A certified copy of the Court's Order is enclosed. According to the Rules of Civil Procedure, the Prothonotary's Office may strike your filing if payment is not received in full within ten (10) working days from the date of this letter.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Enclosures

WILLIAM A. SHAW

**PROTHONOTARY
AND
CLERK OF COURT**

JACQUELINE KENDRICK

DEPUTY PROTHONOTARY

CLEARFIELD COUNTY



**P.O. Box 549
CLEARFIELD, PENNSYLVANIA 16830
(814) 765-2641 Ext. 1330
FAX(814)-765-7659**

DAVID S. AMMERMAN

SOLICITOR

August 1, 2003

Jack E. Allen
DA-0984
P.O. Box 1000
Houtzdale, PA 16698-1000

Dear Mr. Allen:

I am returning your Notice of Appeal to the Commonwealth Court for being incomplete.

Please complete the Notice of Appeal per Rules of Civil Procedures and resubmit for filing.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

Jack E. Allen for the
decedent Teresa Allen
vs
Clearfield Hospital, et. AL


NO: 03-1034CD

NOTICE OF APPEAL

Notice is hereby given that Jack E. Allen for the decedent Teresa Allen above named APPEALS To The COMMONWEALTH COURT from an order denying In Forma Pau Peris as refused dated 16Th day of July, 2003 said order is attached.

DATE:

7-30-03
8-27-03


Jack E. Allen
DA-0984
P.O. Box 1000
Houtzdale, PA 16698-1000
for the decedent Teresa
Allen

FILED

SEP 02 2003

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

JACK E. ALLEN for The Decedent :

Teresa Allen :

-vs- :

03-1034-CD
Misc. Dkt.

CLEARFIELD HOSPITAL, ET AL. :

ORDER

NOW, this 16th day of July, 2003, upon consideration of Application for In Forma Pauperis status filed on behalf of Jack E. Allen, it is the ORDER of this Court that in forma pauperis status is REFUSED.

By the Court,

/s/ JOHN K. REILLY, JR.

President Judge

I hereby certify this to be a true
and attested copy of the original
statement filed in this case.

JUL 17 2003

Attest.

[Signature]
Prothonotary/
Clerk of Courts

PROOF OF SERVICE

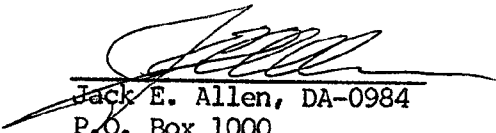
I am now this 27th day of AUGUST, 2003 serving the foregoing Notice of Appeal upon the person or persons in this wrongful Death Action Law suit and in the manner indicated below which satisfies the requirements of PA Rules of Civil procedures;

VIA: FIRST CLASS MAIL:

Commonwealth Court of PA
RM. 626 South Office BLDG.
Harrisburg, PA 17120

Clearfield Hospital
Turnpike Ave
Clearfield, Pa 16830

Attorney General of PA
16th Fl. Strawberry Square
Harrisburg, PA 17120


Jack E. Allen, DA-0984
P.O. Box 1000
Houtzdale, Pa 16698-1000

FILED

2009 0118

SEP 02 2003

1 cc to Comm. Ct. per

their instructions

William A. Shaw

Prothonotary/Clerk of Courts



IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jack E. Allen for the
decedent Teresa Allen,

Appellants

v.

Clearfield Hospital, et al.

03-1034-CD

No. 1972 C.D. 2003

PER CURIAM

ORDER

NOW, October 2, 2003, upon consideration of the above appeal in this matter, and it appearing that the order appealed denied in forma pauperis status, but did not dismiss the case, the appeal is quashed on the basis that it is not taken from a final order. See Pa. R.A.P. 341(b), 311, 313.

Certified from the Record

OCT - 3 2003

and Order Exit

FILED

OCT 06 2003

W/2:00/W
William A. Shaw

Prothonotary/Clerk of Courts

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jack E. Allen for the :
decedent Teresa Allen, :
Appellants :

v. :

Clearfield Hospital, et al. :

03-1034-CD

No. 1972 C.D. 2003

PER CURIAM

ORDER

NOW, October 2, 2003, upon consideration of the above appeal in this matter, and it appearing that the order appealed denied in forma pauperis status, but did not dismiss the case, the appeal is quashed on the basis that it is not taken from a final order. See Pa. R.A.P. 341(b), 311, 313.

Certified from the Record

OCT - 3 2003

and Order Exit

OCT 06 2003
11/2:00/11

11/02

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jack E. Allen for the :
decedent Teresa Allen, :
Appellants :

v. :

93-1034-CD

Clearfield Hospital, et al. :

No. 1972 C.D. 2003

PER CURIAM

ORDER

NOW, October 2, 2003, upon consideration of the above appeal in this matter, and it appearing that the order appealed denied in forma pauperis status, but did not dismiss the case, the appeal is quashed on the basis that it is not taken from a final order. See Pa. R.A.P. 341(b), 311, 313.

**Certified from the Record
OCT - 3 2003
and Order Exit**

OCT 06 2003
11/21/00/11
Promoted to Clerk of Courts

11/21/00/11



SUPREME COURT OF PENNSYLVANIA
WESTERN DISTRICT

JOHN A. VASKOV, ESQUIRE
DEPUTY PROTHONOTARY

PATRICIA A. NICOLA
CHIEF CLERK

October 31, 2003

RECEIVED
11/3/03

801 CITY-COUNTY BUILDING
PITTSBURGH, PA 15219-2463
(412) 565-2816
www.aopc.org

Mr. Jack E. Allen
DA-0984
P.O. Box 1000
Houtzdale, PA 16698-1000

03-1034-CD

In Re: Jack E. Allen, Petitioner v. Commonwealth of Pennsylvania
No. 77 WT 2003

Dear Mr. Allen:

We received your "Petition for Writ of Mandamus and/or Extraordinary Relief" on October 3, 2003. After carefully examining the records of your previous matters in this Court, we have determined that this filing would not be precluded by the decisions in those matters. Nevertheless, before this matter can be docketed, you must make a few corrections and additions. First, all of the documents you sent were photocopies; none contained an original signature. Accordingly, we are returning one copy for you to affix your signature and send back to us. Second, Pennsylvania Rule of Appellate Procedure 3307 requires that your petition be accompanied by an "Application for Leave to File Original Process" (original and eight copies). As with your mandamus petition, you must serve a copy on the opposing party or their counsel and provide us a proof of service indicating that you have done so and in what manner. If, as it appears, you are seeking relief against the court of common pleas, the caption should be revised to reflect that the court is the respondent, not the Commonwealth. Finally, we require a filing fee of \$40.00 or an application for leave to proceed in forma pauperis and verified statement in support. Sample documents are enclosed for your reference.

Very truly yours,

Office of the Prothonotary

cc: Paul E. Cherry, Esq.
William A. Shaw, Clerk of Courts