

NO. 27890

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ELVIRA MARIANO, Plaintiff-Appellant, v. ST. FRANCIS
MEDICAL CENTER; DR. CLAYTON D. K. CHONG; DR. WILLIS
CHANG; DR. WINLOVE SUASIN, and DR. ROLAND TAM,
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 05-1-1214)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Watanabe, and Fujise, JJ.)

In this medical malpractice case, Plaintiff-Appellant Elvira Mariano (Mariano), pro se, appeals the "Order Denying [Mariano's] Motion to Set Aside Entry of Judgment Filed by Attorney Ellen Godbey Carson on January 24, 2006 Filed on February 3, 2006[,]" entered by the Circuit Court of the First Circuit¹ (the circuit court) on March 17, 2006.

Mariano's opening brief is very difficult to decipher. She appears to be arguing that the circuit court erred in dismissing her claims² against Defendants-Appellees St. Francis

¹ The Honorable Karen S. S. Ahn presided.

² In her amended complaint filed on July 18, 2005 against Defendants-Appellees St. Francis Medical Center, Dr. Clayton D. K. Chong, Dr. Willis Chang, Dr. Winlove Suasini, and Dr. Roland Tam (collectively, Defendants), Plaintiff-Appellant Elvira Mariano (Mariano) alleged that Defendants: (1) treated her mother, Juliana Raguine (Raguine), with excessive treatments and an overdose of medications; (2) misdiagnosed Raguine's condition "with the intent of concealing of [sic] what truly happened to [her;]" (3) failed to attempt to resuscitate Raguine when she stopped breathing; (4) terminated Raguine's life "against her will and against the family's will . . . by removing her life support[;]" (5) conspired in falsifying Raguine's medical records; and (6) operated on the wrong side of Raguine's neck. Although Mariano filed the action individually and not on behalf of Raguine's estate, the amended complaint failed to state any claim on behalf of Mariano personally, but rather, asserted only claims on behalf of the estate.

ELVIRA MARIANO
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STATE OF HAWAII

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Medical Center (SFMC), Dr. Clayton D. K. Chong, Dr. Willis Chang, Dr. Winlove Suasin, and Dr. Roland Tam (collectively, Defendants) and in entering judgment in Defendants' favor.

The judgment was entered following the circuit court's November 30, 2005 "Order Granting [SFMC's] Motion to Dismiss Filed October 7, 2005" (the Dismissal Order). In SFMC's motion to dismiss, which was joined by the other Defendants, SFMC contended that: (1) Mariano failed to state a claim "because she lack[ed] standing and has failed to plead necessary facts to constitute a legally cognizable claim[;]" (2) the circuit court lacked subject matter jurisdiction because "[t]he Complaint fail[ed] to show any compliance by Mariano or [Julia Raguine's (Raguine)] Estate with the jurisdictional requirements of [Hawaii Revised Statutes chapter] 671[;]" and (3) Mariano failed to join Raguine's estate, which was a "necessary party to the claims raised in the Complaint."

Based on our review of the record, we conclude that the circuit court did not err in entering the Dismissal Order and the judgment. Accordingly, we affirm the "Order Denying [Mariano's] Motion to Set Aside Entry of Judgment Filed by Attorney Ellen Godbey Carson on January 24, 2006 Filed on February 3, 2006[.]"

DATED: Honolulu, Hawai'i, June 21, 2007.

On the briefs:

Elvira Mariano,
plaintiff-appellant, pro se.

Ellen Godbey Carson and
Maren L. Calvert
(Alston Hunt Floyd & Ing)
for defendant-appellee
St. Francis Medical Center.

Mme E. Naktunwald

Corinne K. A. Watanabe

Alana D. H. Fujino

Shelby Anne Floyd and
Danielle N. Degele-Matthews
for defendant-appellee
Winlove Suasini, M.D.

Edmund Burke and
David Y. Suzuki
for defendant-appellee
Clayton D. K. Chong, M.D.

John S. Nishimoto and
David A. Gruebner
for defendant-appellee
Dr. Roland Tam