

Court of Claims of Ohio

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AHMED CAMARA, Admr.

Plaintiff

v.

THE OHIO STATE UNIVERSITY MEDICAL CENTER EAST

Defendant

Case No. 2013-00030

Judge Patrick M. McGrath
Magistrate Holly True Shaver

JUDGMENT ENTRY

{¶1} Plaintiff brought this wrongful death action against defendant for the death of Patreace Spruiel-Camara (Camara). The court conducted a trial on the issue of liability, and on February 13, 2015, the magistrate issued a decision recommending judgment in favor of defendant.

{¶2} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” On February 26, 2015, plaintiff timely filed objections to the magistrate’s decision along with a transcript of the proceedings, and defendant filed a response on March 4, 2015.

{¶3} According to the magistrate, Camara presented to defendant’s emergency room on July 28, 2009 for bone pain due to sickle cell disease, a genetic blood disorder. After Camara arrived at the emergency room, she was evaluated by Dr. Ann Haynes, the attending physician. Although Dr. Haynes was not Camara’s primary care physician, she had treated Camara before for pain crises associated with her sickle cell disease. After taking a history and examining Camara, Dr. Haynes ordered tests and

an IV of pain medication and normal saline. Dr. Haynes noted that Camara exhibited no abnormalities in her physical examination, including no shortness of breath, coughing or abdominal pain, fever, chills, sweats, abnormal or painful urination, tachycardia, hypotension, dry mucous membranes, or poor skin turgor. The tests showed that Camara's hemoglobin level was 7.1, with her normal range being between 6.5 to 8.2, and a hematocrit level of 21.1. Camara's reticulocyte count was 14.2 percent, which was also consistent with her previous visits. Her bilirubin level was 5.3, with her normal range being between 4 and 8. Her urinalysis tested positive for nitrites and the presence of bacteria, and contained one to two white blood cells. Approximately two hours after her admittance, Camara was discharged after reporting her pain had decreased from a nine out of ten to a five out of ten.

{¶4} After being discharged, Camara spent the evening with her aunt, Marilyn Cole (Cole). The next morning, Cole found Camara unresponsive and she was pronounced dead by the medics who arrived on the scene. Her autopsy revealed that the cause of death was "massive sickling of red blood cells due to sickle cell disease." Magistrate's Decision, at 2.

{¶5} Plaintiff presented the testimony of Dr. George Shaw, who is board certified in emergency medicine, and Dr. Robert Sklaroff, who is board certified in internal medicine, medical oncology, and independent medical examinations. Although Dr. Sklaroff specializes in medical oncology and hematology, he did pass the board certification test for hematology, and has not practiced in an emergency room setting since the 1970s. Neither witness is an expert in sickle cell disease.

{¶6} Defendant presented the testimony of Dr. Martin Steinberg, who is board certified in internal medicine and hematology. He has treated patients with sickle cell disease for 45 years and heads the Center of Excellence in Sickle Cell Disease at Boston University. Defendant also presented the testimony of Dr. David Talan, who is board certified in internal medicine, emergency medicine, and infectious diseases. Dr.

Talan also testified that he has managed patients with sickle cell disease in an emergency room setting.

{¶7} On a claim of medical malpractice, a plaintiff must prove, (1) the standard of care recognized by the medical community; (2) the failure of defendant to meet the requisite standard of care; and (3) a direct causal connection between the medically negligent act and the injury sustained. *Bruni v. Tatsumi*, 46 Ohio St.2d 127, 346 N.E.2d 673 (1976). The burden rests on plaintiff to prove by a preponderance of the evidence that the physician's actions fell below the standard of care. *Id.* Furthermore, it is well-settled that the magistrate, as the trier of fact, is free to believe or disbelieve all or any of the testimony presented. *State v. Hudson*, 10th Dist. Franklin No. 06AP-335, 2007-Ohio-3227.

{¶8} The court initially notes that many of plaintiff's objections to the magistrate's findings are merely objections to the magistrate's summary of the testimony presented at trial. Although the court finds that the magistrate accurately described the testimony presented, it will nevertheless address the objections below.

{¶9} Plaintiff objects to the magistrate's decision based on fourteen specific errors. First, plaintiff objects to the magistrate's findings that Camara did not have an infection when she was released from the emergency room. Based upon the testimony of Drs. Steinberg and Talan, Camara did not have any indicators for a urinary tract infection and the presence of nitrites in her urine could be explained by elevated levels of bilirubin, which is a natural consequence of sickle cell disease. The presence of white blood cells in the urine was also explained to not be significant for infection due to the sample not being a clean-catch sample. Dr. Talan also testified that the urinalysis showed no presence of leukocytes which is a strong indicator of infection. Lastly, both doctors along with Dr. Haynes testified that the results of the urinalysis did not indicate that Camara was suffering from a urinary tract infection on the day of her hospital visit.

{¶10} Relatedly, plaintiff also objects to the magistrate's inclusion of Dr. Steinberg's testimony that he did not think that a lack of notation by Dr. Haynes regarding the microscopic urinalysis demonstrates that she did not review or consider an infection. Dr. Haynes herself testified that she would not have discharged Camara without reviewing the results of the tests she ordered first. She also testified that the results are usually attached to the patient's file and her practice is to review the results before ordering any patient to be discharged.

{¶11} With regard to plaintiff's third objection that the magistrate found that Camara was significantly hydrated, the court notes that the magistrate did not in fact make such a finding in her recommendation. Rather, the magistrate summarized the testimony of Drs. Haynes and Talan that Camara was not significantly dehydrated, which does not automatically presume that Camara was significantly hydrated as plaintiff states.

{¶12} In plaintiff's fourth and sixth objections, plaintiff disagrees with the testimony presented at trial that it was prudent of Dr. Haynes to release Camara and to do so without first consulting Dr. Ahmed Ghany, Camara's sickle cell physician. Upon review of the record, the court finds that Dr. Haynes met the standard of care when she evaluated Camara before discharging her. The record also shows that Camara's test results were all within the range of her prior hospital visits, and nothing was so unusual to merit a consultation with Dr. Ghany. Therefore, Dr. Haynes did not fail to meet the standard of care by not consulting Dr. Ghany before releasing Camara.

{¶13} Plaintiff's fifth and seventh objections address plaintiff's argument that the magistrate failed to place sufficient weight on the testimony of Drs. Shaw and Sklaroff. Based on the magistrate's decision, it is clear to the court that she considered both Dr. Shaw and Dr. Sklaroff's testimony. The magistrate thoroughly summarized the testimony of both doctors and, as stated above, is free to believe or disbelieve any of the testimony presented as the trier of fact. Furthermore, the court has independently

reviewed the testimony of all of the expert witnesses presented and agrees with the magistrate's conclusions.

{¶14} Plaintiff also objects in his eighth and ninth objections to the competency of Drs. Steinberg and Talan to testify about cause of death as well as Dr. Steinberg's competency to testify about the standard of care for an attending physician in an emergency room. With regard to Dr. Steinberg's testimony on cause of death and standard of care, his testimony was framed through his expertise in the causes of death of sickle cell anemia patients and the standard of care for treating sickle cell patients, which he is qualified to discuss. Regarding the testimony of Dr. Talan, it was plaintiff's counsel who opened the door to the line of questioning about cause of death. By introducing cause of death in his questioning, plaintiff waived any objection to the answers he received as well as any follow-up questions by defendant regarding the issue.

{¶15} Finally, plaintiff argues in its tenth through fourteenth objections that Drs. Steinberg and Talan could not definitively give a specific cause of death and did not provide credible evidence to rebut the coroner's autopsy report. Plaintiff also asserts that the magistrate incorrectly concluded that the massive sickling of red blood cells was not the cause of death even though the autopsy stated that it was the cause of death. "[T]he coroner's factual determinations concerning the manner, mode and cause of death, as expressed in the coroner's report and the death certificate, create a nonbinding rebuttable presumption concerning such facts in the absence of competent, credible evidence to the contrary." *Vargo v. Travelers Ins. Co., Inc.*, 34 Ohio St.3d 27, 30 (1987). Although the coroner found that cause of death was massive sickling of red blood cells, the testimony presented by Dr. Steinberg was that the three common sudden causes of death in sickle cell patients are massive pulmonary embolism, lethal arrhythmia, and sudden cardiac decompensation. Dr. Steinberg ruled out pulmonary embolism and testified that Camara most likely died from an arrhythmia or cardiac

decompensation, although he could not be sure which one, because Camara suffered from both pulmonary hypertension and chronic myocarditis. This opinion was supported by Dr. Talan's testimony that Camara's death was likely from an arrhythmia because of her chronic myocarditis. Furthermore, Dr. Talan testified that massive sickling is a natural occurrence after an acute event, like arrhythmia, causes a sickle cell patient's heart to stop.

{¶16} Upon review of the record, the magistrate's decision, and the objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. As experts in sickle cell disease and emergency medicine, Drs. Steinberg and Talan's interpretation of Camara's symptoms is more complete and informed for the treatment of a patient with sickle cell disease presenting to the emergency room. The court further finds that plaintiff failed to prove his claim by a preponderance of the evidence, that the magistrate did not abuse her discretion, and that her findings were not contrary to law or against the manifest weight of the evidence. Therefore, the objections are OVERRULED, and the court adopts the magistrate's decision and recommendation as its own, including the findings of fact and conclusions of law contained therein. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge

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