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NEGLIGENCE-LIABILITY OF HOSPITAL FOR SUICIDE OF PATIENT

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NEGLIGENCE—LIABILITY OF HOSPITAL FOR SUICIDE OF PATIENT—Decedent, a patient in the advanced stages of labor awaiting transfer from the labor room to the delivery room of defendant hospital, opened a window, unhooked the screen and jumped or fell to her death below. It was assumed by the court that death was caused by intrapartum psychosis, a condition which plaintiff claimed was recognized by the medical profession as a hazard of childbirth. Decedent had exhibited no unusual symptoms and had previously been through two normal

pregnancies. The jury was allowed to find defendant negligent in not providing for constant attendance and in failing to bar the window of the labor room. Judgment for the plaintiff in the trial court was reversed by the appellate division. On appeal by the plaintiff to the Court of Appeals, *held*, reversed, two judges dissenting. *Santos v. Unity Hospital*, 301 N.Y. 153, 93 N.E. (2d) 574 (1950).

The general duty of a hospital is to provide such care and attention for the safety of the patient as his mental and physical condition may reasonably require.[1] In determining whether this obligation has been fulfilled, the usual view is that no one is required to guard against a hazard which a reasonable man under the circumstances would not anticipate as likely to happen.[2] Thus it is held that those in charge of a patient are not required to anticipate that he will jump or fall through a window unless they have knowledge of language or conduct by the patient that should lead them to realize that the patient is in danger from his own actions.[3] Sometimes the anticipated danger is from intentional self injury.[4] At other times injury caused by an attempt to flee from some supposed danger may be foreseen.[5] Sometimes danger can be foreseen in allowing unrestricted movement when the patient is not possessed of all his protective faculties.[6] These cases should be distinguished in order to determine whether the hospital in a particular case should be held liable for negligence. Delirium may be a sufficient warning that special care should be used to prevent an accidental injury to the patient[7] but it is usually held to be insufficient to charge a hospital with notice of a suicidal mania or an irrational fear which may cause an attempt to escape through a window.[8] Violence, when accompanying delirium, has been held sufficient notice to call for special protection from intentional self injury[9] though there is authority to the contrary.[10] Notwithstanding the lack of complete accord as to what constitutes sufficient notice to require special care, all the cases seem to agree that to find negligence there must be some evidence which would lead the hospital to realize that this very patient is in danger from his own actions. In the principal case the patient apparently was normal and healthy and had

[1] Wetzel v. Omaha Maternity Hospital, 96 Neb. 636, 148 N.W. 582 (1914). For a general discussion of the liability of hospitals for improper care of patients, see 22 A.L.R. 341 (1923), 39 A.L.R. 1431 (1925), 124 A.L.R. 186 (1940).

[2] Fetzer v. Aberdeen Clinic, 48 S.D. 308, 204 N.W. 364 (1925).

[3] Wood v. Samaritan Institution, 26 Cal. (2d) 847, 156 P. (2d) 470 (1945); Hawthorne v. Blythewood, 118 Conn. 617, 174 A. 81 (1934).

[4] Daley v. State, 187 Misc. 99, 64 N.Y.S. (2d) 32 (1946); Tate v. McCall Hospital, 57 Ga. App. 824, 196 S.E. 906 (1938).

[5] Robertson v. Charles B. Towns Hospital, 178 App. Div. 285, 165 N.Y.S. 17 (1917); Emory University v. Shadburn, 47 Ga. App. 643, 171 S.E. 192 (1933).

[6] Durfee v. Dorr, 131 Ark. 369, 199 S.W. 376 (1917); Davis v. Springfield Hospital, (Mo. App. 1917) 196 S.W. 104, (on retrial) (Mo. App. 1920) 218 S.W. 696.

[7] Supra note 6.

[8] Breeze v. St. Louis & S.F. Ry., 264 Mo. 258, 174 S.W. 409 (1915); Fetzer v. Aberdeen Clinic, supra note 2; Wood v. Samaritan Institution, supra note 3; Davis v. Springfield, supra note 6. *Contra*, Wetzel v. Omaha Maternity Hospital, supra note 1.

[9] Spivey v. St. Thomas Hospital, 31 Tenn. App. 12, 211 S.W. (2d) 450 (1947); Wood v. Samaritan Institution, supra note 3.

[10] Illinois Cent. R. Co. v. Cash's Administrator, 221 Ky. 655, 299 S.W. 590 (1927).

twice before experienced this type of situation without unusual difficulty. There was evidence to show that intrapartum psychosis is an exceedingly rare affliction.[11] Furthermore, there does not appear to have been any evidence that deceased had an intrapartum psychosis beyond the fact that she was in labor. It is submitted that in the light of the prior decisions in this field, the evidence as a whole was insufficient to warrant the jury in finding the hospital negligent, either in not providing constant attendance for this patient or in not barring the window of the labor room.

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[11] Principal case at 576.