

Nos. 1-13-3455, 1-14-0804 (cons.)

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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CHRISTOPHER ORLANDO,	)	Appeal from the
	)	Circuit Court of
	)	Cook County
Plaintiff-Appellant,	)	
	)	
v.	)	No. 10 L 10348
	)	
XIMENA LLOBET, M.D., individually and as an	)	
employee of Infinity Healthcare Physicians, S.C.;	)	Honorable
INFINTY HEALTH CARE PHYSICIANS, S.C.,	)	Jeffrey Lawrence,
a Wisconsin corporation; IMAD M. AL-BASHA, M.D.,	)	Judge Presiding.
individually and as an employee of Psychiatric	)	
Clinics of Northern Illinois, S.C.; PSYCHIATRIC	)	
CLINICS OF NORTHERN, ILLINOIS, S.C.,	)	
an Illinois corporation; BETHANY BREMMER,	)	
individually and as an employee of SwedishAmerican	)	
Health System Corporation and as an employee	)	
of SwedishAmerican Hospital; SWEDISHAMERICAN	)	
HEALTH SYSTEM CORPORATION, an Illinois	)	
not-for-profit corporation; and SWEDISHAMERICAN	)	
HOSPITAL, an Illinois not-for-profit corporation,	)	
	)	
Defendants-Appellees,	)	
	)	
DONALD C. ROBERTS,	)	
	)	
Defendant.	)	

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JUSTICE MASON delivered the judgment of the court.<sup>1</sup>  
Justices Lavin and Hyman concurred in the judgment.

#### ORDER

- ¶ 1 *Held:* Trial court properly granted summary judgment to various medical personnel and their employers based on finding that plaintiff's admission for inpatient psychiatric evaluation was court-ordered and thus, plaintiff could not establish, as a matter of law, that defendants' alleged negligence caused his admission.
- ¶ 2 Plaintiff-appellant, Christopher Orlando, appeals from an order of the circuit court of Cook County entering summary judgment and dismissing his complaint against various defendants arising out of his involuntary commitment to SwedishAmerican Hospital's psychiatric ward on June 15, 2005. After evaluation by a psychiatrist the following day, Christopher was released. Christopher sued the hospital, hospital personnel, various doctors and their employers and a private detective who transported him to the hospital, asserting a variety of claims including medical negligence, false imprisonment and violations of the Illinois Mental Health and Developmental Disabilities Act. 405 ILCS 5/3-500, *et seq.* (West 2004) (Act). Finding no error in the judgment in favor of defendants, we affirm.

¶ 3 BACKGROUND

- ¶ 4 Christopher's parents, Deborah and Lorenzo Orlando, were divorced on June 15, 1998, in proceedings filed in the circuit court of Winnebago County, Illinois. Deborah was granted sole custody of the couple's two children.
- ¶ 5 On September 23, 2004, the court appointed Dr. Lyle Rossiter, a psychiatrist, to conduct a custody evaluation. On June 14, 2005, the child representative appointed by the trial court to represent the interests of the couple's children presented the trial judge

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<sup>1</sup> This matter was recently assigned to Justice Mason.

with Dr. Rossiter's report. The court reviewed the report in chambers, apparently with counsel present, entered a protective order prohibiting the lawyers for Deborah and Lorenzo from releasing a copy or otherwise disseminating information from the report and continued the matter to the following day. Present at the hearing the following day were Lorenzo and his counsel, counsel for Deborah and the child representative. Both Christopher and his younger brother were present in the courthouse, but not in the courtroom.

¶ 6 At the outset of the hearing, Lorenzo sought leave to file a petition for an order of protection, requesting, among other relief, that the court award him custody of his minor children and that Christopher, then age 15, be immediately admitted to the psychiatric unit of SwedishAmerican Hospital for evaluation and treatment. The record reflects that the court then provided the parties' lawyers with copies of Dr. Rossiter's report and recessed the proceedings to allow them to review it. When the hearing reconvened, Lorenzo's counsel presented the court with an emergency petition to change custody and the court proceeded to conduct a hearing on both petitions.

¶ 7 Counsel for Lorenzo represented during the hearing that the report suggested that Christopher was "an extremely mentally and emotionally ill young man and that it is absolutely a matter of immediate and urgent necessity that his custody be changed so that he might receive the psychiatric and emotional mental care and treatment as recommended by Dr. Rossiter." Lorenzo's counsel further advised the court that if his petition was granted, Lorenzo would bring his son to SwedishAmerican Hospital "so that he might be admitted as an inpatient for psychiatric evaluation and treatment." The child representative also advocated granting the relief requested in both petitions and, in

particular, that Christopher's immediate admission for psychiatric evaluation was in his best interests. The child representative further expressed her preference that the hospital be provided a copy of Dr. Rossiter's report for use in its evaluation.

¶ 8 The court admitted into evidence Dr. Rossiter's report, which it described as "comprehensive," and based on the report's "very serious and disturbing conclusions and recommendations," granted Lorenzo's petitions, awarded Lorenzo temporary custody of the couple's children and, with respect to Christopher, ordered

"he shall immediately be brought to SwedishAmerican Hospital for a psychological evaluation. During this process there will be no contact between [Deborah] and her family and the hospital unless Christopher's psychiatrist allows or directs such contact."

¶ 9 Written orders on both petitions were entered. Although the orders indicated that Lorenzo's petitions were "granted," neither order specifically directed Christopher's immediate admission to SwedishAmerican Hospital. The order of protection specified that Deborah was prohibited from contacting the minors, including at SwedishAmerican Hospital.

¶ 10 After the hearing, Christopher was transported to SwedishAmerican Hospital's emergency room where an intake was conducted and he was ultimately admitted to the psychiatric unit. Defendants, Dr. Ximena R. Llobet, an emergency room physician, and Bethany Bremmer, a hospital employee, participated in the intake evaluation. Another defendant, Dr. Imad M. Al-Basha, a psychiatrist, was consulted by telephone. The following day, Christopher was examined by a psychiatrist and discharged.

¶ 11 Upon reaching majority, Christopher filed this lawsuit against Drs. Llobet and Al-Basha, their respective employers, Bremmer, SwedishAmerican Hospital and SwedishAmerican Health System. (Donald C. Roberts, a private detective who Christopher alleged transported him to the hospital, was also named as a defendant, but is not a party to this appeal.) Christopher asserted various claims, all premised on what he contended was his wrongful admission to SwedishAmerican Hospital.<sup>2</sup> The common thread running through the allegations of the complaint was that all of the defendants, alone and in combination, acted negligently and in violation of the Act in admitting Christopher as an inpatient. For example, Christopher claimed that Dr. Llobet and Bremmer included false and inaccurate information in Christopher's medical records without attempting to corroborate that information and that Dr. Al-Basha, who Dr. Llobet and Bremmer consulted by telephone, never personally examined Christopher or made the required written findings before recommending his admission to the psychiatric unit.

¶ 12 Defendants were represented by separate counsel in the trial court. Dr. Llobet and Infinity were the first defendants to move for summary judgment. In their motion, these defendants cited the proceedings in the circuit court of Winnebago County and argued that, as a matter of law, Christopher's admission was authorized under the Act because it was pursuant to a court order following Christopher's evaluation by Dr. Rossiter.

¶ 13 Specifically, the Act provides that a minor may be admitted to a mental health facility for inpatient treatment if the facility director finds that the minor has a mental illness or emotional disturbance "of such severity that hospitalization is necessary." 405

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<sup>2</sup> The exception was the false imprisonment claim against Roberts, not at issue in this appeal, in which Christopher alleged that Roberts handcuffed him and took 2 ½ hours to transport him to SwedishAmerican Hospital, which, the complaint alleges, was less than two miles from the courthouse.

ILCS 5/3-503(a) (West 2004). The application to the facility director for admission may be executed by, among others, a parent. 405 ILCS 5/3-503(b) (West 2004). Section 3-503(a) further provides:

*"Except in cases of admission under Section 3-504, prior to admission, a psychiatrist, clinical social worker, clinical professional counselor, or clinical psychologist who has personally examined the minor shall state in writing that the minor meets the standard for admission."* (Emphasis added.) 405 ILCS 5/3-503(a) (West 2004).

Section 3-504, in turn, provides that if a court finds, based on an evaluation by a mental health professional, that admission to a mental health facility is necessary in order to complete an examination of the minor, the court may order that the minor "be admitted to a mental health facility pending examination and may order a peace officer or other person to transport the minor to the facility." 405 ILCS 5/3-504(d) (West 2004).

¶ 14 Citing the Winnebago County court's specific direction that Christopher be immediately transported to SwedishAmerican Hospital for inpatient evaluation pursuant to Dr. Rossiter's recommendation, Llobet and Infinity argued that nothing they did or failed to do proximately caused Christopher's admission. Rather, they were mandated to admit Christopher pursuant to the court's order and the admission was consistent with the Act's requirements. The trial court agreed and granted their motion for summary judgment. Following a finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Feb. 26, 2010), Christopher timely filed a notice of appeal.

¶ 15 The remaining defendants followed suit, filing *seriatim* motions for summary judgment advancing essentially the same legal arguments. The trial court granted the

motions of the remaining defendants (with the exception of Roberts) on February 21, 2014, and again entered a Rule 304(a) finding. Following Christopher's timely appeal, these matters were consolidated.

¶ 16

## ANALYSIS

¶ 17

It is axiomatic that we review summary judgment orders *de novo*. *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). Summary judgment is appropriate "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2014). "The purpose of summary judgment is not to try a question of fact, but to determine if one exists." *Robidoux v. Oliphant*, 201 Ill. 2d 324, 335 (2002). "In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent. A triable issue precluding summary judgment exists where the material facts are disputed or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts." *Williams*, 228 Ill. 2d at 417.

¶ 18

Although the non-moving party "need not prove his case at the summary judgment stage, he must come forth with some evidence that arguably would entitle him to recover at trial." *Keating v. 68th & Paxton, L.L.C.*, 401 Ill. App. 3d 456, 472 (2010). " 'If the party moving for summary judgment supplies facts that, if not contradicted, would warrant judgment in its favor as a matter of law, the opponent cannot rest on his pleadings to create a genuine issue of material fact.' " *Land v. Board of Education of City*

*of Chicago*, 202 Ill. 2d 414, 432 (2002) (quoting *Harrison v. Harden County Community Unit School District No. 1*, 197 Ill. 2d 466, 470 (2001)).

¶ 19 Under these well-settled standards, the trial court's orders granting defendants' various motions for summary judgment must be affirmed. The transcript of the hearing on Lorenzo's emergency petitions establishes beyond argument that the court ordered that Christopher be immediately transported to SwedishAmerican Hospital for inpatient psychiatric evaluation. That is precisely the relief Lorenzo sought in his emergency petition for an order of protection and in his petition to change custody. When the court entered an order "granting" those petitions, it was unnecessary to recite verbatim all of the relief awarded, particularly given the clarity of the transcript. See *In re William H.*, 407 Ill. App. 3d 858, 866 (2011) (court's oral pronouncement of its decision prevails over a written order). As the transcript demonstrates, all parties understood that Christopher would immediately be taken from the courthouse to SwedishAmerican Hospital for inpatient evaluation. Thus, Christopher's argument that there was no "order" mandating his admission to SwedishAmerican Hospital finds no support in the record.

¶ 20 Given these undisputed and indisputable facts, it is clear that, as all the medical defendants argued, Christopher's admission to SwedishAmerican Hospital was a direct result of the court's order and was not "caused" by anything defendants did or failed to do. Proximate cause is one of three elements the plaintiff in a negligence action must prove. *Robinson v. Boffa*, 402 Ill. App. 3d 401, 403 (2010); *Hooper v. County of Cook*, 366 Ill. App. 3d 1, 6 (2006). While proximate cause normally presents an issue of fact for the finder of fact to decide, "[p]roximate cause may be determined as a matter of law where the facts show that the plaintiff would never be entitled to recover." *Rahic v.*



*Satellite Air-Land Motor Service, Inc.*, 2014 IL App (1st) 132899, ¶ 19 (citing *Abrams v. City of Chicago*, 211 Ill. 2d 251, 257 (2004)).

¶ 21 Christopher does not argue that defendants were at liberty to disregard the court's order or that the doctors or hospital personnel were required to conduct an independent evaluation as a precondition to his admission. Rather, it is apparent from Christopher's allegations regarding "inaccurate" and "false" information contained in his medical records that personnel at SwedishAmerican Hospital relied on the findings regarding Christopher's mental status in Dr. Rossiter's report as part of the intake process. And it is those findings that prompted the Winnebago County court to order Christopher's inpatient admission.

¶ 22 Further, the Act specifically exempts court-ordered admissions based on an evaluation by a mental health professional from section 3-503(a)'s requirement of a pre-admission in person examination and written findings that the minor meets the standard for admission. Thus, Christopher's allegations that the doctors and hospital personnel determined that Christopher should be admitted without conducting the personal examination and making the written findings required by section 3-503(a) are beside the point. Likewise, Christopher's allegations that the various medical personnel who participated in his intake at the hospital were negligent in their assessment of his mental health status are irrelevant. Nothing in the Act requires or permits a hospital that has been ordered to admit a minor for psychiatric evaluation to re-evaluate the minor prior to admission. On this record, Dr. Rossiter's report, itself prepared pursuant to court order, places Christopher's inpatient admission squarely within section 3-504, which permits the court to order the minor's inpatient admission for evaluation.

¶ 23 No further discovery in the case could have controverted the transcript of the proceedings in Winnebago County that establish beyond question that the cause of Christopher's inpatient admission was Dr. Rossiter's report and the court's order based on that report. Thus, we need not address Christopher's further arguments that the trial court erred in refusing to postpone consideration of defendants' motions pending discovery or in refusing to strike Dr. Llobet's affidavit submitted with her reply brief.

¶ 24 CONCLUSION

¶ 25 Summary judgment in favor of defendants was warranted given that Christopher could not establish an essential element of his claims: causation. Thus, we affirm the orders of the circuit court of Cook County granting defendants' motions for summary judgment.

¶ 26 Affirmed.