

Fall: Court Finds No Proof Of Negligence, Case Dismissed.

The sixty-three year-old patient was admitted to the hospital through the emergency department for chest pain, tachycardia and anemia.

She had a recent history of black tarry stools and chronic problems with osteoporosis, Type II diabetes and cardiac abnormalities.

She was first sent to the ICU and five days later transferred to a med/surg floor.

At that time she required assistance with her activities of daily living, basic hygiene and transfers.

She needed assistance because of generalized weakness and deconditioning related to poor oxygenation of the blood due to anemia which was probably related to a gastrointestinal bleed. She was on O₂ through a nasal cannula.

Her mobility was limited and she used a cane. A sign was posted in her room to alert her caregivers to her high fall risk.

Patient Fell In Bathroom

The evening of her first day on the med/surg floor an aide assisted her to the toilet in the bathroom and reminded her to call for assistance when she was done.

After that a nurse who was passing by the room heard the patient calling for help, went to help her and found her on the bathroom floor. She had a fracture of the left distal femur which required surgery.

The US District Court for the District of Arizona dismissed the lawsuit the patient filed against the hospital.

No Evidence of Negligence Committed By the Nurses Aide

The only facts the Court was given to consider were that the aide assisted the patient to the bathroom, reminded her to call for help when she was done, left her unattended on the toilet and the patient ended up on the floor with an injury.

There was no evidence that the aide's conduct fell below the standard of care in assessing the patient's needs, relying on others' assessments or not providing assistance that was called for. Nothing was in the nursing notes, physicians' orders or plan of care that stand-by assistance was necessary for this patient or any proof that a nursing or other assessment would have revealed such a need. **Mann v. US**, 2012 WL 2131988 (D. Ariz., June 12, 2012).

It is possible in some cases for the court to draw an inference of negligence just from the fact the accident happened, if the accident is the type which experience has shown does not normally occur when due care is exercised.

However, the general rule in medical negligence cases is that the patient must provide expert testimony to establish what was the caregiver's standard of care under the circumstances, show that the caregiver's errors or omissions fell below the standard of care and prove, again by expert testimony, that the caregiver's errors or omissions injured or harmed the patient.

A patient's fall is not a scenario where the courts depart from the general rule.

It is necessary for the patient to have expert testimony as to the assessments that were done or should have been done leading up to the incident.

Weighing the benefits versus the risks of leaving a particular patient on the toilet by herself is not a judgment that falls within the common experience of lay persons on a jury.

UNITED STATES DISTRICT COURT
ARIZONA
June 12, 2012

Fall: No Nursing Negligence, Case Dismissed.

The eighty-two year-old diabetic patient was admitted to the hospital for fluctuating blood-sugar levels.

She had been living alone at home and could walk without assistance.

After two days in the hospital the physician ordered her discharged. She wanted to shower before leaving. An RN helped her undress and the patient walked into the shower unassisted. The RN asked if she wanted a shower chair. She said she did so the nurse went and got one and placed it in the shower for her.

The RN left to take care of another patient and returned when the patient, still sitting in the shower, was just finishing. The RN turned off the water.

Two Versions of the Fall

The patient claimed she asked the nurse to turn off the water, which the nurse did, then asked for a towel, and the nurse gave her one. Then she asked the nurse, who was by this time standing in the doorway to the corridor, for assistance but the nurse did not assist her. The patient tried to walk barefoot from the shower back to her bed and fell.

The nurse testified she laid towels on the floor before the patient started showering, helped the patient dry herself, used dry towels to dry the floor, dried the patient's shoes and offered them to her, which she refused, then tried to lead her back to bed with one hand while she used her quad cane with the other hand. While they were trying to negotiate the narrow doorway from the bathroom to the hospital room itself, the patient fell.

The patient broke her hip in the fall.

The Supreme Court of Mississippi dismissed the patient's case.

Even if the patient's version of the events was true there was no solid evidence that the nurse's actions fell below the standard of care.

The mere fact that an accident happens in a healthcare setting does not lead to an inference that the accident was caused by negligent assessment or other error or omission by the patient's healthcare providers, the Court pointed out. **Crosthwait v. Southern Health**, ___ So. 3d ___, 2012 WL 2044420 (Miss., June 7, 2012).