

Forced Psychiatric Medication: Court Dismisses Patient's Excessive Force Suit Against Nurses.

The patient had been involuntarily committed to a mental health center where she was forcibly injected with medication against her will on two separate occasions.

The first incident occurred right after the patient objected to her and other patients' snack privileges being curtailed.

Two security guards were directed by a nurse to go get the patient and escort her to an examination room. Then the nurse came in and administered the injection.

The second incident began when the patient became agitated over the fact her sitter was following her around the unit and was not giving her any personal space.

The psychiatrist was summoned by the sitter. The patient and the psychiatrist got into a heated argument about the course of the patient's treatment. The patient had been reading a book which questioned the efficacy of conventional psychiatric practice. Such reading material was not allowed on the unit.

The psychiatrist told the patient she needed to calm down. That had no effect, so the psychiatrist instructed two nurses to inject the patient with medication.

The patient was injected by one of the two nurses while the other nurse and the same two security guards as before forcibly restrained the patient.

The test for excessive force is whether the force was applied in good faith for a legitimate purpose, or was applied maliciously or sadistically to cause harm.

The court will also ask whether the action was taken for a legitimate purpose or was undertaken for purposes of punishment.

When treatment is performed by a nurse acting as a medical professional pursuant to a physician's order, the law presumes it has a legitimate purpose.

The presumption of a legitimate purpose is lost only if a substantial departure can be shown from accepted professional judgment, practice or standards so as to demonstrate that professional judgment was not the reason behind the action in question.

UNITED STATES DISTRICT COURT
ILLINOIS
June 15, 2015

The patient's lawsuit alleged excessive force and retaliation for exercise of her First Amendment right to Freedom of Speech.

The US District Court for the Northern District of Illinois dismissed the nurses from the lawsuit who were involved in the second incident, but not the nurse involved in the first.

As to the second incident it was clear from the court record that the nurses were acting under a fresh and direct order from the physician who had just assessed the patient as being agitated to the point that forced sedation was medically indicated.

The Court was not convinced that the nurses in the second incident had any reason to suspect the physician's medical judgment or any legal duty to refuse or even to discuss with him his order for forced medication with a sedative.

While carrying out ostensibly legitimate physician's orders, the law presumes a nurse's actions are legitimate medical treatment and not excessive force.

As to the first incident, the nurse's decision came quickly on the heels of a complaint from the patient. The Court saw grounds for the patient's claim that she was a victim of retaliation for speaking out.

There was nothing in the court record about a fresh assessment by a physician or a nurse that the patient's acute emotional or psychological status warranted sedation, or a physician's order, before the nurse made the decision to direct that the patient be forcibly medicated. ***Webber v. Hussain***, 2015 WL 3747687 (N.D. Ill., June 15, 2015).

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