

Sexual Assault: Female Psych Patient’s Case To Go Forward.

The Court of Appeals of Tennessee ruled that a female psychiatric patient’s case could go forward against the facility where she allegedly was sexually assaulted by a male fellow patient.

According to the Court, male patients admitted to this facility were by the very fact of having been admitted to the facility known to be prone to unpredictable and potentially violent and assaultive behavior.

The facility’s staff should have appreciated the vulnerability of a twenty year-old female patient suffering from acute psychosis and hallucinations.

The core technical legal issue was whether the patient’s case could go forward without being backed by an expert’s opinion as to the standard of care.

The Court ruled that a non-licensed non-professional staff person such as a security guard could have appreciated the danger to this patient and recognized the steps necessary to keep potentially assaultive male patients separated from her. Thus the legal issue was not professional malpractice, which requires expert testimony, but ordinary negligence, for which no expert is needed. **Brister v. HCA, 2011 WL 2395218 (Tenn. App., June 8, 2011).**