

Stillborn Fetus Mishandled By Nurses: Court Dismisses Case, Finds No Intentional Infliction Of Emotional Distress.

A pregnant woman began having severe cramps at ten and one-half weeks. Her husband put her in the car and began the trip to the hospital.

On the way she bled very heavily in the car. Her clothing and shoes became soaked with blood even though she had a towel between her legs during the trip.

At the hospital the emergency room nurses had her remove her blood-soaked clothing. The woman testified later that she told the nurse she believed she had passed something big while still in the car and it was still in her pants.

The nurse removed several large blood clots from her legs and put them in a bowl for the physician to examine. She continued to pass blood clots and the nurse did the same thing with them. The physician did a D&C and discharged her home.

The nurses assumed she did not want her clothing back, but asked her anyway. She said she did want it back, so the nurse placed her clothing in a white plastic bag and gave it to her at discharge.

When she got home she took her blood stained clothing from the plastic bag to wash it. In the laundry room at home she discovered the stillborn fetus in her blood-soaked pants.

No Intentional Infliction of Emotional Distress / Case Dismissed

While acknowledging the severe shock and emotional distress she must have felt the Court of Appeals of Georgia dismissed her lawsuit against the hospital.

The court commented it may have been negligent for the nurse not to examine her clothing before bagging it. However, if a negligent individual has not inflicted any actual physical injury the negligent individual cannot be sued for emotional distress. By definition a negligent act is not done intentionally even if it does cause shock or distress. **Roddy v. Tanner Medical Center, Inc.**, ___ S.E. 2d ___, 2003 WL 21525268 (Ga. App., July 8, 2003).

There is no evidence the emergency room nurses or other hospital personnel who cared for the mother when she came in having a miscarriage knew the stillborn fetus was in the mother's clothing they bagged and returned to her.

Both parents did experience a horrific shock and lasting emotional distress, and that is part of what is necessary to sue for intentional infliction of emotional distress, but the most important element of their lawsuit is lacking.

Negligence is not intentional. Negligence is not the same as deliberate, malicious, wanton or reckless disregard of the rights of others.

If the defendant has inflicted no direct physical injury on the victim, the victim can sue for nervous shock or fright only when the act which caused the shock or fright was committed intentionally, deliberately, maliciously or wantonly, that is, with an utter disregard of the act's consequences upon others.

COURT OF APPEALS OF GEORGIA
July 8, 2003

Sepsis: Court Finds No Fault With Nurses' Or Physician's Care.

The patient's next of kin sued his family practice physician claiming negligence caused the patient's death which the family practice physician himself attributed to sepsis. The Court of Appeals of Ohio agreed with the dismissal of the case entered by the county common pleas court judge, finding no negligence.

The standard of care in a skilled nursing facility is for vital signs to be taken twice daily by the nurses.

The standard of care in a skilled nursing facility is for the patient actually to be seen at least once a month by the physician unless the nurses detect a problem that requires the patient to be seen immediately.

COURT OF APPEALS OF OHIO
June 27, 2003

The eighty-eight year-old patient was admitted to a skilled nursing facility from the hospital. He had multiple medical problems including hypothyroidism for which he was taking thyroid hormone, depression and early prostate cancer.

The court said the nurses followed the legal standard of care in a skilled nursing facility taking his vital signs twice daily. His a.m. temp and blood pressure were low and he was sweating profusely, so the nurse called the physician. They believed it was an overdose of thyroid, so the physician ordered a blood draw to test for that.

His p.m. temp and BP were much lower. The nurse phoned the physician, who said to have him taken to the E.R. He died at the hospital the next morning. **Weiner v. Kwiat**, 2003 Ohio 3409, 2003 WL 21487995 (Ohio App., June 27, 2003).