No. 22980--Riffe v. Armstrong

Workman, J., dissenting,

Because the majority appears to eliminate the good faith exception to a claim for false imprisonment arising from a void or defective physician's certificate, I must respectfully dissent. The law in this area is accurately stated in Williams v. Smith, 348 S.E.2d 50 (Ga. App. 1986), an opinion relied on by the majority.

> Where one is taken into custody pursuant to a procedurally valid certificate of a physician authorizing involuntary mental treatment, the resulting detention is not "unlawful." Although such detention may give rise to other claims, a cause of action for false imprisonment is not among them. Where one is held in custody pursuant to a void or defective physician's

> certificate, there is a viable claim for false imprisonment, but only if the certificate was not issued in "good faith."

Id. at 54.

Under the Williams standard, a physician[1] who executes a certificate for involuntary commitment that is later determined to be void or defective is liable only if the certificate was not issued in good faith. 348 S.E.2d at 54. While the facts of the instant case may not be the equivalent of those instances when a full-fledged examination is not possible due to the individual's mental and physical state, nonetheless, there are foreseeable instances when a full

[1]Presumably, the standard would extend to individuals in addition to the physician whose alleged liability arises from the issuance of the physician's certificate.

psychiatric examination may not be possible prior to the circuit court's issuance of an order permitting the individual to be taken into custody for the purpose of holding a probable cause hearing. See W. Va. Code § 27-5-2(b)(4). In such instances, it would not appear fair to the physician to hold him or her liable for false imprisonment in the event the individual is ultimately determined not to need psychiatric treatment unless the physician issued the certificate in bad faith. Yet, the majority's distinction that allows recovery when an examination has been falsely certified, but not when the examination has been faulty or inadequate, does not appear to include this critical defense of good faith. Indeed, the majority seems to obscure the importance of such defense.

The majority goes further askew in applying the facts of this case to the law. Under the Williams decision, properly applied, the second category--that of a void or defective physician's certificate--is what seems to have occurred in this case. The Appellant turns her claim for false imprisonment on the language within the physician's certificate that states that Dr. Robertson "ha[s] personally observed and examined Ruth Riffe." Because the physician's admitted examination of Appellant at the time the certificate was issued was limited to his observations of her from the nurse's station, the Appellant argues that his statement within the certificate that he "examined" her was false. Given that the definition of a mental status examination is generally stated in terms of "objective observations of the subject's appearance and manner of

presentation[,]" I would disagree with the conclusion reached by the majority that the physician's certificate was false because of the lack of a complete examination. M. Binder, Psychiatry in the Everyday Practice of Law § 3.3 (3rd ed. 1992). While Dr. Robertson's examination was limited to his observations of Appellant, nonetheless, I would still conclude that an examination, within the accepted psychiatric meaning of that term, occurred.

I further part ways with the majority's analysis because all of the procedural protections at the heart of statutory procedures governing involuntary commitment were followed. It was not a procedurally invalid physician's certificate that caused Appellant to be committed, but rather an arguably defective or void certificate, under

the Williams standard, due to the lack of an actual examination. Since the procedural steps for obtaining involuntary commitment were followed to the letter, this case should be analyzed under the majority's own two-pronged standard as a faulty or inadequate examination case. As the majority clearly states, quasi-judicial immunity should be extended in such cases. Only if the faulty or inadequate examination was performed in bad faith should quasi-judicial immunity not be extended to those necessary participants in the commitment procedure. Otherwise, as observed by the Princeton Community Hospital Association, "[e]ntities and

---

While I do not believe that the examination conducted by Dr. Robertson was indeed inadequate for purposes of determining whether involuntary commitment procedures should be initiated due to his opportunity to observe Appellant's mental state, I nonetheless proceed to discuss this case in terms of faulty or inadequate examination for

individuals providing health care to the public will no[] longer be willing to risk the liability associated with initiating the involuntary commitment process."

The irony of this case is that the Appellees were trying to help this woman. When she, in rapid succession, threatened both homicide and suicide; jerked the hospital's phone out of the wall; kicked the door and otherwise acted out in a rather dramatic and threatening fashion, what were the personnel in the behavioral medicine unit to do? While they could have had the Appellant arrested, they were clearly trying to act humanely and at the same time, to select the appropriate therapeutic solution for the Appellant's

---

purposes of this dissent.

own best interests.

I wish to further point out that even under the majority's theory, the defense of justification that the Appellees raised below remains a valid defense on remand. Under this common law theory, provided Appellees acted in good faith to protect Appellant from harming herself or others in connection with restraining Appellant and instituting the involuntary commitment proceedings, their actions may be viewed as justified.

Much unnecessary confusion results from the approach taken by the majority. For instance, the majority loosely employs the terms "false" and "falsely certified." What the majority is referring to as

"false" is the use of the term "examined" on the physician's certificate without an accompanying full examination. As explained above, I depart from the conclusion shared by the majority that a full examination is necessarily required. Notwithstanding this difference, however, it still appears improper to refer to the instant case as one in which the certificate is false when it is not the certificate about which the majority truly complains, but the nonexistence of a full examination. Moreover, upon analysis, the two categories that the majority creates for purposes of analysis--falsely certified or faulty or inadequate examination--appear to be one and the same.

Lastly, I find the majority opinion rambling and difficult to understand. The result created is one of those cases that gives the

judicial system a reputation for having no common sense whatsoever. Mental health professionals out in the real world know the kinds of aggravated mental distress human beings get into, especially in family settings. They, as helping professionals, are frequently called upon for help and intervention. They will probably be much more cautious in the future in trying to help people.