

IN THE
SUPREME COURT OF THE UNITED STATES

DEVI PORTER - PETITIONER

VS.

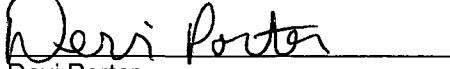
BALTIMORE WASHINGTON MEDICAL CENTER - RESPONDENTS

MOTION TO DIRECT THE CLERK TO FILE OUT-OF-TIME

Dear United States Supreme Court,

I've just picked up my petitions from my P.O. Box yesterday. I know I was a day late in mailing the petitions, and I need this Court to please forgive me. The Appeals Court of Maryland's Order was filed and signed on April 19, 2019, therefore, I believed that my Appeal to the United States Supreme Court was due to be mailed on July 19th, 2019. Everything was ready to be mailed on July 18th, however, I didn't make it to the post office in time. I wasn't worried as I believed I had until the next day to mail the petitions. It was an honest mistake; please forgive my ignorance as I am a pro se litigant. I have so many federal and state laws to support my case, and I have spent so much time and money fighting to try and help prevent my ordeal with Respondents from happening to anyone else.

Respectfully and Sincerely,


Devi Porter

08-01-19
Dated

RECEIVED
AUG - 6 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

DEVI PORTER

v.

**BALTIMORE WASHINGTON
MEDICAL CENTER**

* **IN THE**
* **COURT OF APPEALS**
* **OF MARYLAND**
* **COA-PET-0517-2018**
* **(No. C-02-CV-18-002488, Circuit
Court for Anne Arundel County)**
* **(No. D-07-CV-17-012527, District
Court for Anne Arundel County)**

O R D E R

Upon consideration of the petition for a writ of certiorari to the Circuit Court for Anne Arundel County and the answers filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Mary Ellen Barbera

Chief Judge

DATE: April 19, 2019

Appendix A

DEVI PORTER

Plaintiff

v.

BALTIMORE WASHINGTON
MEDICAL CENTER INC.

Defendant

* IN THE

* CIRCUIT COURT FOR

* ANNE ARUNDEL COUNTY

* MARYLAND

* Case No.: C-02-CV-18-002488

ORDER

Upon consideration of Appellant's Amended Memorandum, filed on October 11, 2018, Appellee's Response, filed on October 23, 2018, and the record, and for the reasons stated in the foregoing Memorandum Opinion, it is by the Circuit Court for Anne Arundel County, hereby

ORDERED, that the decision of the District Court is **AFFIRMED**.

Signed: 1/14/2019 10:06 AM



Judge Glenn L. Klavans

Appendix B

DEVI PORTER * IN THE
Plaintiff * CIRCUIT COURT FOR
v. * ANNE ARUNDEL COUNTY
BALTIMORE WASHINGTON * MARYLAND
MEDICAL CENTER INC.
Defendant * Case No.: C-02-CV-18-002488

* * * * *

MEMORANDUM OPINION AND ORDER

This matter came before the Court on October 25, 2018, on a Record Appeal from the District Court of Maryland for Anne Arundel County. Upon consideration of the record and the submitted memoranda, it is by the Circuit Court for Anne Arundel County, hereby,

ORDERED, that the decision of the District Court is **AFFIRMED**. This matter arises out of a lawsuit wherein Plaintiff sought to recover damages against Defendant for alleged medical negligence. Plaintiff filed suit against Defendant in District Court, seeking damages of \$29,999.00. Plaintiff, appearing *pro se*, testified on her own behalf and offered one document as an exhibit; however, she did not call any expert witness to testify on her behalf. At the close of Plaintiff's case, Defendant moved for judgment on the basis that in nearly all medical malpractice cases, Maryland law requires the plaintiff offer expert testimony as to the standard of care, breach and causation. The District Court granted Defendant's Motion for Judgment. Plaintiff filed the instant appeal.

Plaintiff's memorandum generally alleges that Defendant acted negligently in its interactions with her and does not directly argue that the District Court's judgment in favor of Defendant as a matter of law was in error. Defendant appears to contend that relying on case law

Appendix C

as well as Maryland and federal statutory provisions is sufficient to establish a *prima facie* claim for negligence without expert testimony.

In medical malpractice cases in Maryland, a plaintiff may establish a “*prima facie* case for medical negligence by proving (1) the applicable standard of care; (2) that this standard has been violated; and (3) that this violation caused the complained of harm.” *Sterling v. Johns Hopkins Hosp.*, 145 Md.App. 161, 169, 802 A.2d 440 (2002). Due to the complex nature of medical malpractice cases, expert testimony is required to establish the breach of standard of care. *Barnes v. Greater Baltimore Med. Ctr., Inc.*, 210 Md.App. 457, 481, 63 A.3d 620 (2013). In the instant case, Plaintiff did not present any expert testimony as to the applicable standard of care, breach, or causation. As a result, Plaintiff failed to establish a *prima facie* claim for medical negligence.

In deciding a record appeal, the circuit court must consider the evidence produced at trial in a light most favorable to the prevailing party, and if substantial evidence was presented to support the trial court’s determination, it is not clearly erroneous and cannot be disturbed. *Ryan v. Thurston*, 276 Md. 390 (1975). In the instant case, there is substantial evidence to support the District Court’s finding that Plaintiff did not establish a *prima facie* for medical negligence due to Plaintiff’s failure to present expert testimony as to the standard of care, breach, and causation. Plaintiff admitted as much in front of the District Court when she said, “I have no witness. I was gonna use my doctor, but she didn’t want to and I didn’t want to subpoena her. So I have no witness, and I feel I really don’t need one because I have state laws and federal laws to support my, my claims or my case.” Tr. 6:11-15. The District Court did not err when it granted Defendant’s Motion for Judgment on the basis that Plaintiff’s failure to provide expert testimony

was fatal to Plaintiff's medical negligence claim against Defendant. Accordingly, the District Court's ruling was not clearly erroneous and should not be disturbed.

IT IS SO ORDERED.

Signed: 1/14/2019 10:06 AM



Judge Glenn L. Klavans

**Additional material
from this filing is
available in the
Clerk's Office.**