
IN THE SUPREME COURT OF THE UNITED STATES

AUDREY M. CORNUTT, Pro Se
Petitioner

v.

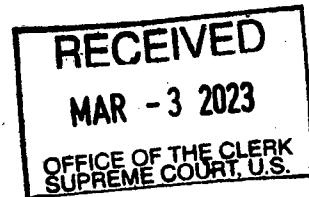
DRS. LAWACZECK, MCKINNON, FEAGIN, CARTER, GEE & DAHL, P.C.
Respondent

*On petition for Writ of Certiorari to the
Supreme Court of the United States for
Appeals from the Supreme Court of Alabama*

PETITION FOR WRIT OF CERTIORARI

Audrey M. Cornutt, pro se

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In the Supreme Court of the United States

Audrey M. Cornutt, Pro Se, Petitioner

v.

Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C., Respondent

Questions Presented for Review

1. Was Summary Judgment the appropriate legal action since there was no agreement between the two parties that nothing needed to be litigated?
2. Can Respondent Dr. Feagin be considered an Expert Witness in his own case?
3. Is it a violation of Petitioner Mrs. Cornutt's Civil Rights for Dr. Feagin to submit her medical records to the court and include in them records belonging to a glaucoma patient who had cataract surgery (Phaco), left eye, on August 15, 2018? Mrs. Cornutt had cataract surgery (Phaco), left eye, on August 16, 2018.
4. Can a claim of fraud against Dr. Feagin be "subsumed by AMLA" (*Alabama Medical Liability Act*)? (See Brief E-Filed by Attorney for Dr. Feagin et al. on 10/07/22, page ii, item II.).

Appendix C

5. Is it a violation of Mrs. Cornutt's Civil Rights to exempt expert witnesses from the rules in *Alabama Rules of Evidence Booklet, 2020 edition, Article VII., Rule 702 (b) (c)*, pp. 28-29?

Appendix D

6. Can proof in photographs and Optical Coherence Tomograms be overcome with words?
7. Is it "Common Knowledge" that the fluids and gels in the eye are clear, colorless?
8. Is it "Common Knowledge" that a pitch-black object that has the draping characteristic of fabric is not a natural part of the inside of the eyeball?

1

*Audrey M. Cornutt,
pro se*

IN THE SUPREME COURT OF THE UNITED STATES

Parties to Proceeding Cases

Audrey M. Cornutt v Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C.

No. SC-2022-0754. Supreme Court of Alabama. Judgment entered 11/30/22, and is
unpublished.

Appx. A

Audrey M. Cornutt v Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C.

No. 01-CV-2021-902863.00. Circuit Court of Jefferson County, Alabama.

Judgment Entered 6/29/22, and is unpublished.

Appx. B

*Audrey M. Cornutt,
pro se*

In the Supreme Court of the United States

Audrey M. Cornutt, Pro Se, Petitioner

v.

Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C., Respondent

JURISDICTION

The date on which the highest state court decided my case was November 30, 2022. A copy of the decision appears at Appendix A.

The jurisdiction of this Court is invoked under 28 U.S. C. 1257(a).

*Audrey M. Cornutt,
pro se*

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*Andrey M. Cornutt,
pro se*

IN THE SUPREME COURT OF THE UNITED STATES

Audrey M. Cornutt, Pro Se, Petitioner

v.

Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C., Respondent

STATEMENT OF THE CASE

SURGERY: On August 16, 2018, Mrs. Cornutt of Jefferson County, Alabama, had cataract surgery on her left eye performed by Dr. Rayder Wyatt Feagin, II, at the Birmingham Surgery Center. In the *Operative Report: Description of Procedure* on line 17, Dr. Feagin wrote the following: "The Posterior capsule was polished with a Terry squeegee." ...

Appx. E

CATARACT SURGERY is the only time Mrs. Cornutt's left eye has been opened. For an unknown reason on August 16, 2018, a black foreign object that has the draping characteristic of fabric entered her left eyeball during cataract surgery by Dr. Rayder Wyatt Feagin, II.

All PATIENT RECORDS that Dr. Feagin has submitted to the court show Mrs. Cornutt's surgery date as August 15, 2018, instead of August 16. The records appear to belong to a glaucoma patient. Mrs. Cornutt's personal/ family history, comments about true events before 2009 and other comments about her have been added.

DISCOVERY: On April 30, 2021, Mrs. Cornutt saw an Optical Coherence Tomography (OCT) scan/image of her left eye. The scan/image showed the scaly look her retina at the top and a pitch-black foreign object, looped over itself, lying in the bottom of her eyeball. The scan/image was displayed on Dr. Feagin's examining room computer screen where Mrs. Cornutt had been directed to go. The OCT technician had told Mrs. Cornutt minutes before that she had seen "a blip."

OFFICE VISIT WITH DR. FEAGIN: On May 28, 2021, Dr. Feagin denied what Mrs. Cornutt had seen on April 30, 2021. That day he showed Mrs Cornutt scans/images of her left macula, center vision. But he refused to show her retinal scans/images of the bottom of her left eye. He refused Mrs. Cornutt's repeated requests to do so.

FALSE MEDICAL RECORDS FROM DR. FEAGIN: On June 16, 2021, Mrs. Cornutt picked up a #10 white envelope at Dr. Feagin's office that contained a letter showing Mrs. Cornutt's left cataract surgery date incorrectly as August 15, 2018, instead of August 16. Also in the envelope were copies of 12 macular scans/images made from May 14, 2010, through April 30, 2021, with Mrs. Cornutt's identification on them. The scans **did not** belong to Mrs. Cornutt. She immediately asked an office assistant for **ALL** her records. The assistant printed a **second set** macular scans/images with the same dates and with Mrs. Cornutt's identification on them. The second set of scans **belonged** to Mrs. Cornutt.

MEDICAL MALPRACTICE SUIT FILED: On October 22, 2021, Mrs. Cornutt, Pro Se, filed suit against Drs, Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C. Dr. Feagin has refused to submit to the court Mrs. Cornutt's medical records, including scans/images of both her eyes that he has made since 2006.

Mrs. Cornutt considered Dr. Mathew Sapp her Expert witness, but there was no contract.

MOTION FOR SUMMARY JUDGMENT was Filed on June 10, 2022, by Defendant Drs. Lawaczeck, McKinnon, **Feagin, Carter, Gee & Dahl, P.C.** Included with motion were filings from Dr. Feagin and two expert witnesses; Dr. Richard Feist and Dr. Matthew Sapp. All three were Mrs. Cornutt's doctors. Their filings were Mrs' Cornutt's medical records and their affidavits.

Dr. Feagin's patient records for Mrs. Cornutt showed her left cataract surgery date incorrectly as August 15, 2018. Most of the patient records he submitted appeared to belong to a glaucoma patient. Mrs. Cornutt has never been diagnosed with or treated for an eye disease or an eye infection or an eye injury. Mrs. Cornutt has used eye drops only in two cataract surgery protocols.

Dr. Feist submitted to the court an altered/air-brushed photograph of the inside of Mrs. Cornutt's left eye. He made an Optos Advance photograph on July 7, 2021, and showed it to Mrs. Cornutt on his computer screen. In the area where the pitch-black object lay, there were two white, index-type cards with 90-degree corners, lying on each other at an angle. Dr. Feist pointed to the white cards and said, "That's an anomaly." Appx. F

Dr. Sapp's patient records, scans/images and Optos Advance photographs show the pitch-black object in Mrs. Cornutt's left eye and are genuine, true. During Mrs. Cornutt's first visit with Dr. Sapp she received the first photograph of the pitch-black foreign object. Dr. Sapp said, "I don't know what that is." Mrs. Cornutt did not learn of a change in his diagnosis until after he had prepared an affidavit for Dr. Feagin.

FACTS OF SCIENCE: All fluid and gel in the eyeball are clear, colorless. Clumps of gel can make a shadow IN VISION. Mrs. Cornutt has a Weiss Ring shadow sometimes. It is a small marble-size shadow that appears IN HER VISION from time to time at the 10:00 o'clock position.

THE BLACK FOREIGN OBJECT IS NOT IN MRS. CORNUTT'S VISION. She can see it in Optical Coherence Tomography scans/images and in Optos Advance photographs.

AFFIDAVITS

Affidavits as shown in *Brief E-Filed by Appellee/Dr. Feagin et al. on 10/7/22*

Excerpts from Affidavits of Drs. Feagin, Feist and Sapp

Page 6, paragraph 9, line 3

From Dr. Feagin's Affidavit

"These photos attached to the complaint

Exhibit "D" are blow-ups of the fundus

Images taken by Dr. Sapp."

Page 14, paragraph 6, line 4

From Dr. Feist's affidavit

'Based on my review of these photos and my education, training and experience, it is my opinion that what the arrow is pointing to is either a **consolidation of vitreous gel** resulting from her posterior vitreous detachment or an optical aberration common with this model of camera."

Page 15 paragraph 8 last sentence

From Dr. Sapp's affidavit

"What is present in her left eye is a Weiss ring which is a natural result of her **posterior vitreous detachment**."

Motion against SUMMARY JUDGMENT was filed by Mrs. Cornutt on 6/22/22.

SUMMARY JUDGMENT HEARING

The Hearing regarding motions for and against Summary Judgment was June 24, 2022, in Judge Vance's courtroom. The hearing lasted 7 to 10 minutes. There were no discussions about the case. There were no agreements between the two parties: Attorney Mr. Todd Huntley and Mrs. Cornutt Pro Se. Judge Vance said that he would make a decision.

Judgment against Plaintiff Mrs. Cornutt was entered 06/29/22, in the Circuit Court of Jefferson County, Alabama.

Judgment against Plaintiff/Appellant Mrs. Cornutt, was entered 11/30/22 by the Supreme Court of Alabama.

REASONS FOR GRANTING THE PETITION

The Constitution and Amendments name our rights, and the Alabama Legislature makes the laws to protect them for us. Our rights include a right to a trial and a right to be treated equally under the law.

In this case, the *Alabama Medical Liability Act* allowed false testimony from expert witnesses and fraud in medical records, both with impunity.”

Examples from this case:

1. Affidavit testimony (page 6,paragraph 9) by Dr.Feagin. He was looking at an enlargement of an Optos Advance Photograph of the inside of my left eye showing the black foreign object. He said the arrow I had drawn pointed to a consolidation of posterior vitreous gel. Medical dictionaries describe posterior vitreous gel as clear, colorless.
2. He changed the date of my injury.
3. Merged my medical records with another patient's records.
4. The Counsel for the Defendant/Respondent said, “*AMLA* subsumes fraud.”

ALABAMA RULES of CIVIL PROCEDURE BOOKLET 2020 EDITION.

Rule 56 Summary Judgment, pp 92-94, was the procedure used when I lost my right to a trial.to a trial. **There were NO undisputed facts.** Can a Defendant/Respondent function as an expert witness to deny the plaintiff/petitioner a trial?

Who or what is selecting the winners and losers in Alabama?

I pray the Court will consider all the truly injured people in Alabama who have lost their day in court and will grant this petition. Thank you.

In the Supreme Court of the United States

Audrey M. Cornutt, Pro Se, Petitioner

v.

Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C., Respondent

CONCLUSION

The petition for a writ of certiorari should be granted.

Audrey M. Cornutt, pro se

Date: February 28, 2023

IN THE SUPREME COURT OF THE UNITED STATES

AUDREY M. CORNUTT, Pro Se
Petitioner

v

DRS. LAWACZECK, MCKINNON, FEAGIN, CARTER, GEE & DAHL, P.C.
Respondent

PROOF OF SERVICE

I, AUDREY M. CORNUTT, do declare that on this date, as required by Supreme Court Rule 29, I have served the enclosed PETITION FOR A WRIT OF CERTIORARI on that party's counsel by depositing an envelope containing the above documents in the United States mail properly addressed with first-class postage prepaid.

The name and address of counsel served:

Mr. R. Todd Huntley
Attorney for Respondent
Starnes Davis Florie LLP
100 Brookwood Place, 7th Floor
Birmingham AL 35209

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 28 2023

Audrey M. Cornutt

Audrey M. Cornutt. Pro Se

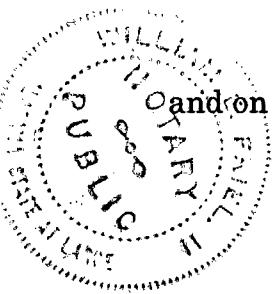
AFFIDAVIT OF AUDREY MASHBURN CORNUTT

State of Alabama

County of Jefferson

Before me, the undersigned authority, a Notary Public in and for said state and county, personally appeared Audrey M. Cornutt, who being by me first duly sworn, deposes and states as follows:

1. My name is Audrey M. Cornutt. I am a senior citizen, and I have personal knowledge of the facts set forth herein.
2. At times relevant to this affidavit, I am retired from the Social Security Administration. I am mentally competent and physically able to live independently in my home of many years. I am mobile without aid of any kind. I drive my automobile anywhere I need or care to go. My grown and married children all live out of state.
3. I am in court pro se because the injury I sustained to my left eye during Dr. Feagin's cataract surgery on August 16, 2018, was not discovered until April 30, 2021. The case against Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C. was filed on October 22, 2021, in the Circuit Court of Jefferson County, Alabama.
4. I affirm that the words I write and say are true based on my records and on my ability to remember.



Audrey Mashburn Cornutt

On February 26, 2023, Audrey M. Cornutt appeared before me and having been first duly sworn did state that the above and foregoing Affidavit is true & correct. William E. Fries, Jr.
NOTARY PUBLIC
My Commission Expires December 30, 2014

IN THE SUPREME COURT OF ALABAMA



November 30, 2022

SC-2022-0754

Audrey M. Cornutt v. Drs. Lawaczeck, McKinnon, Feagin, Carter, Gee & Dahl, P.C. (Appeal from Jefferson Circuit Court: CV-21-902863).

CERTIFICATE OF JUDGMENT

WHEREAS, the appeal in the above-styled cause has been duly submitted and considered by the Supreme Court of Alabama and the judgment indicated below was entered in this cause on November 10, 2022:

Affirmed. No Opinion. Sellers, J.—Parker, C.J., and Bolin, Wise, and Stewart, JJ., concur.

NOW, THEREFORE, pursuant to Rule 41, Ala. R. App. P., IT IS HEREBY ORDERED that this Court's judgment in this cause is certified on this date. IT IS FURTHER ORDERED that, unless otherwise ordered by this Court or agreed upon by the parties, the costs of this cause are hereby taxed as provided by Rule 35, Ala. R. App. P.

I, Megan B. Rhodebeck, certify that this is the record of the judgment of the Court, witness my hand and seal.

Megan B. Rhodebeck

**Clerk of Court,
Supreme Court of Alabama**



AlaFile E-Notice

01-CV-2021-902863.00

Judge: ROBERT S. VANCE

To: AUDREY M CORNUTT MRS
audcornutt@gmail.com

NOTICE OF COURT ACTION

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

AUDREY M. CORNUTT V. RAYDER WYATT FEAGIN II
01-CV-2021-902863.00

A court action was entered in the above case on 6/29/2022 10:20:04 AM

ORDER

[Filer:]

Disposition: GRANTED

Judge: RSV

Notice Date: 6/29/2022 10:20:04 AM

JACQUELINE ANDERSON SMITH
CIRCUIT COURT CLERK
JEFFERSON COUNTY, ALABAMA
JEFFERSON COUNTY, ALABAMA
716 N. RICHARD ARRINGTON BLVD.
BIRMINGHAM, AL, 35203

205-325-5355
jackie.smith@alacourt.gov



IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA
BIRMINGHAM DIVISION

CORNUTT AUDREY M.,)
Plaintiff,)
)
V.) Case No.: CV-2021-902863.00
)
FEAGIN RAYDER WYATT II,)
LAWACZECK,
MCKINNON,FEAGIN,CARTER,GE)
E & DAHL PC,
Defendants.)

SUMMARY JUDGMENT

In this medical malpractice case, pending is the defendant's motion for summary judgment. In support thereof, the defendant has filed affidavits from Dr. Rayder Feagin, who treated the plaintiff, and of Dr. Richard Feist and Dr. Mathew Sapp, who subsequently saw the plaintiff. Their testimony confirms that in performing the eye surgery on the plaintiff, Dr. Feagin met the applicable standard of care and did not cause any injury to the plaintiff. While the plaintiff has filed voluminous medical records in response, she has not submitted any expert affidavits to oppose the motion.

Under numerous reported decisions in this State, the plaintiff's failure to present expert evidence proves fatal:

[O]rdinarily, in a professional malpractice case, once the defendant offers expert testimony in his behalf (albeit his own opinion), establishing lack of negligence, the defendant is entitled to a summary judgment, unless the plaintiff counters the defendant's evidence with expert testimony in support of the plaintiff's claim. See *Phillips v. Alonzo*, 435 So.2d 1266 (Ala.1983).

Swendsen v. Gross, 530 So. 2d 764, 768 (Ala. 1988).

Accordingly, SUMMARY JUDGMENT is entered in favor of the defendant on all claims of the plaintiff, who shall have and recover nothing. This is the final order in this action, with costs taxed as paid.

DONE this 29th day of June, 2022.

/s/ ROBERT S. VANCE
CIRCUIT JUDGE

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