

IN THE SUPREME COURT OF THE STATE OF NEVADA

VICTORIA ENRIQUEZ-CAMPE, AS
GUARDIAN AD LITEM OF THE
MINOR CHILDREN ZENA NEGERON,
MICAYLA ENRIQUEZ, ISAAC DANIEL
ENRIQUEZ, PHYLLIS ENRIQUEZ,
AND ASENCION ENRIQUEZ,
Appellants,

vs.

DAVID GOLDMEN; MARK V. SUHANY,
M.D.; AND SOUTHERN NEVADA
ADULT MENTAL HEALTH SERVICES,
AN AGENCY OF THE NEVADA
DIVISION OF MENTAL HEALTH &
DEVELOPMENT SERVICES,
Respondents.

No. 42196

FILED

JUN 28 2004

JANE H. H. BLACK
CLERK OF SUPREME COURT
BY *J. R. Rial*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a final judgment in a medical malpractice and negligence case. Eighth Judicial District Court, Clark County; Michael A. Cherry, Judge.

Appellant Victoria Enriquez-Campe filed a complaint in the district court against Dr. Mark Suhany, Southern Nevada Adult Mental Health Services (SNAMHS), and David Goldmen. She alleged medical malpractice against Dr. Suhany and SNAMHS for discharging Connie Enriquez from the mental health facility, and negligence against Goldmen for his role in a subsequent automobile-pedestrian accident that killed Connie. Ultimately, the district court dismissed Victoria's claims against

Dr. Suhany and SNAMHS for failure to comply with NRS 41A.071. In addition, the district court granted summary judgment to Goldmen. We conclude that the district court did not err.

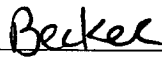
NRS 41A.071 requires the dismissal of any medical malpractice action that is filed without a supporting affidavit from a medical expert “who practices or has practiced in an area that is substantially similar to the type of practice engaged in at the time of the alleged malpractice.” Victoria secured an affidavit from Reverend James Peterson. Rev. Peterson is a clergyman who was a pastoral counselor for a counseling service in New Jersey. He has a B.A. in psychology and master’s degrees in religion and divinity. At some point, Rev. Peterson received training as a chaplain at a Delaware psychiatric hospital. We conclude that Rev. Peterson’s affidavit fails to satisfy NRS 41A.071; thus, the district court properly dismissed Victoria’s claims against Dr. Suhany and SNAMHS.


The district court also correctly granted summary judgment for Goldmen on the negligence claim. Summary judgment is warranted when there is no genuine dispute over the facts and the moving party is entitled to judgment as a matter of law.¹ Although issues of negligence are generally considered to be issues of fact, this court has stated that a party’s negligence becomes a question of law when the evidence will


¹NRCP 56(c).

support no other inference.² According to the police report and eyewitness accounts, Goldmen was not to blame for the accident. Further, Victoria was unable to provide any evidence that would indicate Goldmen was at fault.

Accordingly, we ORDER the judgment of the district court AFFIRMED.


_____, J.
Becker


_____, J.
Agosti


_____, J.
Gibbons

cc: Hon. Michael A. Cherry, District Judge
Attorney General Brian Sandoval/Las Vegas
John H. Cotton & Associates, Ltd.
Law Offices of Melissa P. Harris
Victoria Enriquez-Campe
Clark County Clerk

²See Shepard v. Harrison, 100 Nev. 178, 678 P.2d 670 (1984); Horvath v. Burt, 98 Nev. 186, 643 P.2d 1229 (1982).