

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7679
Summary Calendar

BURNELL WEAVER, INDIVIDUALLY, AND AS
ADMINISTRATRIX OF THE ESTATE OF
JIM ALEX WEAVER, JIMMY D. WEAVER,
JEFF A. WEAVER, ANNETTE WEAVER,
JEANETTE WEAVER, CHRISTOPHER MORGAN
WEAVER, and HEATHER BLALOCK WEAVER,

Plaintiffs-Appellants,

versus

DR. JAMES E. HAND and THE FIELD
MEMORIAL COMMUNITY HOSPITAL,

Defendants-Appellees.

Appeal from the United States District Court for the
Southern District of Mississippi
(CA-3:92-638(B)(N))

(March 22, 1994)

Before JOLLY, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Mrs. Weaver and other members of the Weaver family (hereafter referred to collectively as "the Weavers") sued Field Memorial Community Hospital ("Field Memorial") and Dr. James E. Hand for

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

negligence and for violation of the Emergency Medical Treatment and Active Labor Act¹ ("EMTALA"), 42 U.S.C. § 1395dd (1992), in connection with the treatment of Mr. Jim Alex Weaver. The district court granted summary judgment in favor of Field Memorial and Dr. Hand on the EMTALA claim, and dismissed the remaining state law claims, declining an invitation to exercise supplemental jurisdiction over the state law claim. We affirm.

I

On December 3, 1991, Mr. Weaver, a 61-year-old white male, was found collapsed in a restroom at work. He was semi-conscious, had vomited, was incontinent, and complained of severe headaches and neck pain. He was transported by ambulance to Field Memorial in Centreville, Mississippi, where he arrived at approximately 2 p.m. Mr. Weaver was initially examined by Dr. James E. Hand, who determined that Mr. Weaver should be admitted to Field Memorial for observation of flu symptoms. Soon thereafter, Mr. Weaver's family requested that Mr. Weaver be transferred to Southwest Mississippi Regional Medical Center ("Southwest Regional") in McComb, Mississippi, because, in their opinion, Dr. Hand and Field Memorial were providing inadequate care. In response to the family's request for a transfer, Dr. Hand filled out a Patient Transfer Form, which Mr. Weaver's wife signed on Mr. Weaver's behalf. The

¹EMTALA, which is also known as the Anti-Dumping Statute, is a part of the Consolidated Omnibus Budget Reconciliation Act ("COBRA") of 1986.

form noted that at the time of the requested transfer Mr. Weaver's condition was stable.

Mr. Weaver was transported by ambulance to Southwest Regional, arriving at 3:23 p.m., where he was examined by Dr. Thomas Charles Evans. After examining Mr. Weaver, Dr. Evans concluded that Mr. Weaver was probably suffering from a subarachnoid hemorrhage. Upon Dr. Evans's suggestion, the Weaver family agreed to transfer Mr. Weaver to Our Lady of the Lake Regional Medical Center in Baton Rouge, Louisiana, for advanced neurosurgical services. On December 12, 1991, several days after Mr. Weaver's transfer to Our Lady of the Lake, Mr. Weaver died.

II

On October 9, 1992, the Weavers sued Field Memorial and Dr. Hand, arguing that the hospital and the doctor were negligent in their examination and treatment of Mr. Weaver, and that they had violated EMTALA, the COBRA Anti-Dumping Law, 42 U.S.C. § 1395dd (1992). After engaging in discovery, Field Memorial and Dr. Hand moved for summary judgment on the COBRA issue, which the district court granted. The district court held that § 1395dd does not provide a private right of action against a physician.² Moreover, with respect to the hospital, the court held that Field Memorial

²Although the Weavers do not appeal this issue, and they now concede that EMTALA does not provide a private cause of action against a treating physician, Dr. Hand urges us to explicitly hold that EMTALA does not provide a private cause of action against individual treating physicians. Because the Weavers do not appeal this issue, that question is not properly before us.

provided an appropriate medical screening to determine whether Mr. Weavers's condition constituted an "emergency medical condition" under the statute, and that the hospital's conduct after the Weaver family refused to admit Mr. Weaver for additional treatment and observation met the statutory requirements. Finally, because all of the federal claims against both defendants had been dismissed, the district court also dismissed the Weavers's state law claims. The Weavers appeal the district court's grant of summary judgment, and the subsequent dismissal of the state law claims.

III

On appeal from a district court's grant of summary judgment, we review the record de novo to determine whether any genuine issues of material fact exist. FED. R. CIV. P. 56(c); Green v. Touro Infirmary, 992 F.2d 537, 538 (5th Cir. 1993). If no genuine issue of material fact exists, we review the record to determine whether the moving party was entitled to judgment as a matter of law. Id. Our review, however, is not limited to the district court's analysis. Harbor Ins. Co. v. Urban Constr. Co., 990 F.2d 195, 199 (5th Cir. 1993). We may affirm a grant of summary judgment on a legal basis not ruled upon below. Id.

EMTALA strictly sets out a hospital's responsibilities toward an individual who enters the emergency room requesting care. Green v. Touro Infirmary, 992 F.2d at 539. Section 1395dd(b)(1) provides that if a person with an emergency medical condition approaches a hospital seeking medical treatment, that hospital must either

provide or offer stabilizing medical treatment or a statutorily appropriate transfer to another health care facility.³ 42 U.S.C. §§ 1395dd(b)(1) & (2) (1992). If, however, the patient refuses to consent to medical treatment, the hospital is deemed to have provided stabilizing medical treatment for purposes of the statute. 42 U.S.C. § 1395dd(b)(2) (1992).

After reviewing the record and based upon the facts of this case, we conclude that there was no EMTALA violation. It is undisputed that after Mr. Weaver arrived at Field Memorial, Dr. Hand suggested that Mr. Weaver be admitted for observation and treatment of flu symptoms. The family, however, believing that Mr. Weaver was not receiving appropriate care at Field Memorial,⁴ requested that Mr. Weaver be transferred to Southwest Regional. Field Memorial, far from refusing to treat Mr. Weaver, offered treatment it thought appropriate and suggested that Mr. Weaver be admitted. Although we recognize that all requests for transfers

³Subsection (c) of § 1395dd sets forth very specific requirements for a proper transfer. It is undisputed that in this case Field Memorial failed to meet some of the requirements of subsection (c). Thus, Field Memorial's transfer of Mr. Weaver cannot satisfy EMTALA requirements.

⁴According to the Weavers, Mr. Weaver, although literally "seen" by Dr. Hand, was not examined by Dr. Hand. The Weavers claim that Dr. Hand briefly surveyed Mr. Weaver's condition and announced that Mr. Weaver was suffering from the flu. The Weavers argue that this was not an appropriate examination under the statute. As the district court noted, this dispute in the facts is not dispositive of the defendants' motion for summary judgment because the hospital effectively offered to admit Mr. Weaver for the purpose of, at least, trying to stabilize his condition, thereby satisfying the statutory requirements as a matter of law.

may not constitute a refusal of treatment under the statute, in this case and under these particular facts, the Weavers's request that Mr. Weaver be transferred to another hospital was essentially a refusal of Field Memorial's offer of services. Thus, we find that Field Memorial did not violate EMTALA.⁵

IV

Based on the foregoing and for the reasons presented, the judgment of the district court is

A F F I R M E D.

⁵The Weavers argued that the district court erroneously construed § 1395dd(b)(1) as requiring either stabilizing medical treatment or a statutorily appropriate transfer. Because the statute clearly and unambiguously requires "either" treatment "or" a transfer, the Weavers's argument to the contrary is meritless. Moreover, because we affirm the district court's dismissal of the COBRA claim, and because the Weavers can refile their lawsuit in Mississippi state court pursuant to Miss. Code Ann. § 15-1-69 (1972), we also affirm the district court's decision to dismiss the remaining state law claims. See 28 U.S.C. § 1367 (Supp. 1993).