January 29, 2025

To:

Hon. David W. Paulson
Circuit Court Judge
Electronic Notice

Amy Vanderhoef
Clerk of Circuit Court
Racine County Courthouse
Electronic Notice

Mark Budzinski
Electronic Notice

Katherine E. Cortesy
Electronic Notice

David J. Pliner
Electronic Notice

Ryan Thomas Thornton
Electronic Notice

You are hereby notified that the Court has entered the following opinion and order:

2023AP601   Ryan Thomas Thornton v. Ascension All Saints Hospital
(L.C. #2022CV1244)

Before Gundrum, P.J., Neubauer and Grogan, JJ.

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Ryan Thomas Thornton appeals pro se from an order dismissing his medical malpractice lawsuit against Ascension All Saints Hospital, et al. (collectively, Ascension). Thornton contends that the circuit court erred in denying his motion to subpoena hospital records from Ascension. Based upon our review of the briefs and record, we conclude at conference that this

case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2021-22).[1] We affirm.

On November 1, 2022, Thornton's father passed away following an extended hospitalization. One week later, Thornton filed a medical malpractice lawsuit blaming Ascension for his father's death. As part of the lawsuit, Thornton filed a motion to subpoena his father's hospital records from Ascension.

The circuit court denied Thornton's motion to subpoena his father's hospital records from Ascension, citing a lack of authority for the request and the importance of preserving patient confidentiality. It subsequently dismissed Thornton's medical malpractice lawsuit for lack of standing.[2] This appeal follows.

On appeal, Thornton indicates that he "agrees" with the circuit court's decision to dismiss his medical malpractice lawsuit for lack of standing, as he has not yet been made personal representative of his father's estate. However, Thornton insists that he should still receive the hospital records in question.[3] According to Thornton, those records are needed to determine the extent of the medical malpractice committed.

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[1] All references to the Wisconsin Statutes are to the 2021-22 version unless otherwise noted.

[2] Thornton's status as the deceased patient's son was, by itself, insufficient to confer standing to sue. *See Czapinski v. St. Francis Hosp., Inc.*, 2000 WI 80, ¶2, 236 Wis. 2d 316, 613 N.W.2d 120 (adult children are not included in the class of claimants that can recover for medical malpractice following a patient's death).

[3] In particular, Thornton is interested in obtaining records of all medications administered to his father during the hospitalization and the approximate date/time that his father received a catheter.

As noted by Ascension, the potential relevance of the hospital records to a medical malpractice claim is really beside the point in this appeal. After all, if Thornton lacked standing to bring his lawsuit against Ascension in the first place (which he concedes in his brief and we agree with that concession), then it follows that he also lacked standing to demand hospital records as part of the lawsuit. Accordingly, we perceive no basis to disturb the circuit court's decision denying Thornton's motion to subpoena hospital records from Ascension.[4]

Upon the foregoing reasons,

IT IS ORDERED that the order of the circuit court is summarily affirmed, pursuant to WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Samuel A. Christensen
Clerk of Court of Appeals

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[4] To the extent we have not addressed an argument raised by Thornton on appeal, the argument is deemed rejected. *See State v. Waste Mgmt. of Wis., Inc.*, 81 Wis. 2d 555, 564, 261 N.W.2d 147 (1978).