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Insights

Mental Health Provider's Tarasoff* Duty is Alive and Well in Indiana

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By: Robert A. Anderson and Hillary N. Buchler

The Indiana Court of Appeals recently held that healthcare providers could be liable for failing to take steps to protect a patient's grandfather against an imminent danger demonstrated by the patient's conduct and statements across several trips to the emergency department. In **Coplan v. Miller** (Ct. App. Ind. November 12, 2021), Zachary Miller's grandmother filed suit against a hospital and several individual healthcare providers after Zachary attacked and killed his grandfather with a frying pan.

The healthcare providers moved for summary judgment, claiming immunity from civil liability under **Indiana Code § 34-30-16-1**. That statute provides immunity from civil liability for failing to predict, warn, or take precautions to protect people from a patient's violent behavior unless the patient has communicated to the provider an actual threat of physical violence, takes actions, or makes statements indicating an imminent likelihood of the patient attacking or killing someone.

The parties in the case agreed that the patient had not communicated to any of the providers an actual threat of physical violence against his grandfather. However, between December 9, 2016 and January 10, 2017, Zachary was taken to the local hospital exhibiting various psychotic and/or paranoid symptoms. He threatened to strangle his mother, threatened to kill himself, believed the TV was talking to him, kicked his grandfather and threatened to kill him, killed the family dog, and claimed to be receiving messages from the "Illuminati". Within hours after being released from the Emergency Department the final time, he beat his grandfather to death with his fists and a frying pan.

The Court of Appeals ruled that Zachary's conduct, taken as a whole, over the 30-day period created questions of fact regarding whether the patient presented an imminent danger that he would use physical violence to cause serious personal injury or death. The Court held that a reasonable trier of fact could conclude that the providers had a duty to warn or take reasonable precautions consisting of the following: (1) making reasonable attempts to communicate the threat to the victim; (2) make reasonable efforts to notify a police department or other law enforcement agency; (3) seek civil commitment of the patient; or (4) take reasonable steps to prevent the patient from using physical violence until police could be summoned to take custody of the patient.

The healthcare providers urged the Court to consider each interaction with the patient over the 30 days as a separate transaction under the statute. The Court declined to do so and indicated that a provider's duty to warn could be triggered by circumstances occurring over several visits. The healthcare providers also argued that the grandparents were already aware of the patient's violent propensities, which relieved the providers of any independent duty to warn. The Court concluded that there were questions of fact regarding those assertions.

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*__Tarasoff v. Regents of University of California, 551 P.2d 334 (Cal. 1976)__, was a ground-breaking case rendered by the Supreme Court of California recognizing a duty by a mental health provider in certain limited circumstances to take measures to protect persons specifically identified and threated by patients in the course of treatment.