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Justices revive lawsuit by burned patient

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An intoxicated patient who suffered severe burns in a fire that ignited while he was strapped to a gurney is entitled to a new trial in his negligence suit against the hospital and its employees, the Illinois Supreme Court held Thursday.

The court affirmed the 1st District Appellate's Court's ruling that Almon B. Heastie sufficiently pleaded a cause of action under the doctrine of res ipsa loquitur, and should have been allowed to present that theory to the jury.

The cause of the Oct. 3, 1998, fire at Columbia Olympia Fields Osteopathic Hospital and Medical Center that injured Heastie was never determined, the court's opinion said. However, a lighter was found in the room after the fire.

Writing for a unanimous court in a 34-page opinion, Justice Lloyd A. Karmeier said Heastie sufficiently alleged both elements of res ipsa loquitur by alleging that he was injured (1) by an occurrence that ordinarily does not happen in the absence of negligence and (2) by an instrumentality within the defendant's exclusive control. *Gatlin v. Ruder*, 137 Ill.2d 284, 295 (1990).

"One needs no specialized medical knowledge to understand that allowing a patient restrained on a bed and left alone in a hospital emergency room to be exposed to an ignition source that sets him on fire, as plaintiff alleges happened here, is something that does not ordinarily happen in the absence of negligence," Karmeier wrote.

He added that the hospital controlled Heastie's surroundings.

"Whatever the particular agency or instrumentality that may have led to plaintiff's being set ablaze, it thus appears likely to have been under defendants' exclusive control," Karmeier wrote.

The high court reversed a portion of the appeals court's unpublished order finding that Heastie was properly barred from presenting testimony that hospital employees failed to search him for contraband, like a lighter, before restraining him.

The basis of the appeals court's ruling on that issue was that Heastie's experts were not nurses, so their testimony explaining the standard of care for nurses wouldn't have been allowed under *Sullivan v. Edward Hospital*, 209 Ill.2d 100 (2004).

The high court, however, found that the risks of failing to perform a search for contraband could be commonly understood, so expert testimony wasn't required.

"Even tight restraints may be loosened by a sufficiently powerful, violent or persistent patient," Karmeier wrote. "Pockets or other hiding places may then be reached and dangerous implements accessed. The potential for disaster is exacerbated because, when sequestered, the patient will have an opportunity to act without being observed by others."

Heastie doesn't remember how the fire started. According to the opinion, he was brought to the hospital that night after he was found lying intoxicated in a driveway. It was later determined that he had a nearly lethal blood alcohol concentration of 0.384 percent.

Hospital employees, including emergency room charge nurse Daniela Roberts, decided Heastie needed to be restrained to protect himself and others. Although hospital policy requires that patients be searched for contraband before being restrained, Heastie was not searched, the opinion said.

At about 9:30 p.m., the heat alarm went off in the room where Heastie was confined. Hospital employees entered the room to find Heastie, who was still restrained, on fire, with the flames from the blaze reaching the ceiling.

Heastie suffered third-degree burns from his thighs to his mid-abdomen and parts of the fingers on his right hand were burned off, according to his attorney and the opinion. He is unable to live independently.

Prior to trial, Cook County Circuit Judge James S. Quinlan Jr. granted the defendants' motion to dismiss the res ipsa loquitur count. When the trial began, he denied Heastie's motion in limine seeking to bar the defendants from arguing that Heastie himself negligently caused his injuries. At the same time, however, Quinlan granted a motion in limine by the defendants to preclude testimony that the hospital's failure to perform a contraband check was the cause of Heastie's injuries.

Heastie's theory at trial was that the defendants were negligent for failing to restrain and monitor him properly. The hospital, meanwhile, contended that Heastie himself lit the fire. The jury found in the defendants' favor.

Karmeier wrote that the high court agreed with Heastie's argument that it was unfair for the trial court to allow the defendants to argue that the plaintiff was carrying a lighter and set himself on fire, but at the same time prevent Heastie from presenting evidence that a contraband search would have revealed the lighter and prevented the fire.

The high court rejected the idea that it was factually inconsistent for Heastie to both say that he had no knowledge of how the lighter got in the room but also to contend that if he did use the lighter to set himself on fire, it was because the defendants negligently failed to search him.

"Where, as here, the facts are controverted, determining which, if any, of the possible theories is meritorious is a question of fact for the trier of fact," Karmeier wrote.

Almon B. Heastie v. Daniela Roberts, et al., No. 102428.

Heastie is represented by Lawrence R. Kream, who called the circumstances a "classic case" of res ipsa loquitur.

"The whole point is if you have to tie somebody up in the first place because they are likely to hurt themselves or somebody else, then you have to go through their pockets and take things they might use to hurt themselves or somebody else," Kream said.

The hospital and its employees were represented by Michael E. Prangle and Hugh C. Griffin of Hall, Prangle & Schoonveld LLC. Prangle said he did not yet know whether his client would seek a rehearing. But he took issue with the high court's characterization of some of the facts. While the hospital argued that Heastie caused the fire, Prangle said, the hospital did not allege that a lighter he brought with him was the source of the fire.

Roberts, who according to the opinion was fired from the hospital because of the incident, was represented by Scott L. Howie of Pretzel & Stouffer Chtd. Howie said he had not yet spoken with his client and couldn't comment.