

FORM 4

JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
Pamela and John Mark Crawford,
as Parents of M.C., a minor

CASE NUMBER: 2013-CP-40-2877
Medical University of South Carolina, South Carolina
Department of Social Services, and Greenville Hospital
System
DEFENDANT(S)

Submitted by: Attorney for: Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other Dismissed without prejudice
ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: Defendant Medical University of South Carolina's Motion to Change Venue is DENIED.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Table with 3 columns: Judgment in Favor of (List name(s) below), Judgment Against (List name(s) below), Judgment Amount To be Enrolled. Rows show empty boxes and dollar signs.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge Pett Hood Judge Code 2164 Date February 25, 2014

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this 5 day of Mar, 20 14 to attorneys of record or to parties (when appearing pro se) as follows:

Kenneth M. Suggs

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter

J. Ben Alexander, William H. Davidson II, Barbara Wynne Showers

ATTORNEY(S) FOR THE DEFENDANT(S)

Clerk of Court

Jeanette W. McBride

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Pamela and John Mark Crawford,)
 as Parents of M.C., a minor,)
)
 Plaintiffs,)
)
 v.)
)
 Medical University of South Carolina,)
 South Carolina Department of Social)
 Services, and Greenville Hospital System,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-40-02877

2014 MAR -4 PM 12:18
 JEANETTE W. HOBRIDGE
 C.C.P. & G.S.
 RICHLAND COUNTY
 FILED

ORDER DENYING DEFENDANT MEDICAL UNIVERSITY OF SOUTH CAROLINA'S MOTION TO CHANGE VENUE

Pending before this Court is Defendant Medical University of South Carolina's ("MUSC") Motion to Change Venue made pursuant to Rules 12(b)(3) and 82, SCRCP ("Def. MCV"). On October 21, 2013, this Court heard arguments on MUSC's Motion and the Opposition of Plaintiffs Pamela and John Mark Crawford, as parents of M.C, a minor. For the reasons stated below, this Court denies MUSC's Motion to Change Venue.

FACTUAL BACKGROUND

The relevant facts as alleged by Plaintiffs in their Complaint are as follows. M.C. was born on November 20, 2004, in Greenville, South Carolina with a condition known as ovotesticular Difference/Disorder of Sex Development (DSD), sometimes referred to as "true hermaphroditism" and characterized by the presence of both ovarian and testicular tissue. Compl. at ¶ 16, 19. Several months after birth, on February 16, 2005, a court ordered that M.C. be placed in the custody of the South Carolina Department of Social Services ("SCDSS"), a

statewide agency which has its headquarters in Columbia, in Richland County. *Id.* at ¶¶ 15-16. M.C. remained in the legal custody of SCDSS until December 11, 2006, when he was adopted by Plaintiffs Pamela and John Mark Crawford, who live in Richland County. *Id.* at ¶¶ 34, 39.

While M.C. was in SCDSS's custody, SCDSS social workers consulted with Dr. James Amhrein, an employee of Greenville Hospital System ("GHS") in Greenville County, and Drs. Aaronson and Appiagyei-Dankah, employees of MUSC in Charleston County, regarding M.C.'s ovotesticular DSD. *Id.* at ¶¶ 22, 24. M.C.'s medical treatment team recommended to M.C.'s custodians – social workers at SCDSS – that M.C. be assigned the female gender and undergo a sex assignment surgery to remove his phallus and testicular tissue and reshape his genitals so that his body would appear female. *Id.* at ¶ 28. According to SCDSS policy, a medical procedure of this magnitude required the approval of the State Director of SCDSS, whose headquarters are located in Columbia. *Id.* at ¶ 36. In order for the State Director to give approval, SCDSS policy required that she review a report concerning the planned medical procedure. *Id.* SCDSS policy stated that the report should include information about the "[n]ature of the proposed medical procedure," "[s]ignificant risks presented by the procedure," and reasons "[w]hy the doctor believes the procedure is needed, and the anticipated result of the procedure." *Id.* The State Director, located in Richland County, approved the feminizing sex assignment surgery for M.C, a necessary prerequisite to the eventual surgery. *Id.* at ¶ 37. On April 18, 2006, M.C. underwent the sex assignment surgery to remove his phallus and testicular tissue and make his genitals appear conventionally female. *Id.* at ¶ 30. Now nine years old, M.C, identifies as a boy. *Id.* at ¶¶ 7, 40. M.C.'s parents, Pamela and John Mark Crawford, filed the instant suit on May 14, 2013, asserting that Defendants GHS and MUSC, through their employee doctors, committed medical malpractice by failing to ensure that the decisions about M.C.'s gender assignment and

genital surgery were made with appropriate informed consent, and that SCDSS, through its employees, committed gross negligence in authorizing the surgery. *Id.* at ¶¶ 41-55.

DISCUSSION

The South Carolina Tort Claims Act, under which M.C. has brought his claims in this case, states that “[j]urisdiction for any action brought under this chapter is in the circuit court and brought in the county in which the act or omission occurred.” S.C. Code Ann. § 15-78-100(b). The Complaint states causes of action against Defendants MUSC, SCDSS, and GHS. Among these are claims that Defendant SCDSS injured M.C. through the gross negligence of its employees in authorizing the sex assignment surgery. *See* Compl. at ¶¶ 51-55. One of the key acts of negligence that M.C. has alleged against SCDSS is that the SCDSS State Director was first presented with a proposal to authorize the sex assignment surgery and then approved the surgery, allowing it to go forward without further investigation or adequate consideration of the long-term implications. *Id.* at ¶¶ 36-37, 54. The Complaint additionally states that the main office of SCDSS is in Richland County. *Id.* at ¶ 15. Accordingly, because key “acts or omissions” underlying M.C.’s causes of action occurred in Richland County, and because SCDSS headquarters is located in Richland County, venue is appropriate here. *Jeter v. South Carolina Dept. of Transp.*, 369 S.C. 433, 633 S.E.2d 143 (2006).

MUSC inaccurately asserts that Plaintiffs have made no allegations that support venue in Richland County, ignoring the fact that the Complaint alleges that SCDSS committed significant, tortious actions in Richland County. *See* Def. Memorandum in Support of MCV at 2. The Complaint, in fact, alleges that M.C. was injured by tortious actions taken by various Defendants in Greenville County, Richland County, and Charleston County. *See* Compl. at ¶¶ 13-15.

The South Carolina Tort Claims Act does not address venue for causes of action in which there were multiple acts or omissions occurring in several different counties. *See* S.C. Code Ann. § 15-78-100(b). However, the South Carolina Supreme Court has stated that “[p]roper venue in one county . . . does not exclude proper venue in another county where equally authorized under the statute.” *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 239, 442 S.E.2d 598, 600 (1994). Therefore, applying the rule in this case, venue would be proper in either Greenville, Richland, or Charleston counties. Richland is the most central of these counties.

When there are multiple defendants in a case, venue is generally proper in any county where the action may be brought. *See* S.C. Code Ann. § 15-7-30(b); *Jeter*, 369 S.C. at 442 (“However, where there are multiple defendants in different counties, the plaintiff may properly bring the action in the county where anyone of the defendants resides at the time of the commencement of the action.”). In such cases, the plaintiff has the “right of election” as to where to bring the action. *Id.* Thus, by filing this case in Richland County, where the South Carolina Tort Claims Act authorizes venue, instead of Charleston County, Plaintiffs have simply exercised their right of election as to one venue out of three possible options.

In making its Motion to Change Venue, MUSC has not argued that litigating this case in Richland County is a hardship or works a prejudice toward it. Indeed, MUSC cites no practical reason why venue should be moved or why Plaintiffs’ lawful choice of venue should not be allowed.

CONCLUSION

For all the foregoing reasons, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant MUSC's Motion to Change Venue is DENIED.

IT IS SO ORDERED.

Re Hood

The Honorable Robert E. Hood
Fifth Judicial Circuit

February 25, 2014