Circuit Court for Baltimore City
Case No. 24-C-16-001915

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1345

September Term, 2017

DAVID WILLIE COFIELD

v.

PARK WEST HEALTH SYSTEMS, INC., ET AL.

Wright,
Graeff,
Salmon, James P.
Senior Judge, Specially Assigned,

JJ.

Opinion by Salmon, J.

Filed: February 19, 2019

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David Cofield appeals from the entry of summary judgment against him in the Circuit Court for Baltimore City in favor of Park West Health Systems, Inc. ("Park West") and its former employee, Michael Johnson ("Johnson").

Cofield sued Park West, his health care provider, and Johnson asserting, *inter alia*, claims for negligence and, as against Park West, a claim of negligent training and supervision arising from alleged breaches of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Pub. Law 104–191, 110 Stat. 1936 (1996), as well as the state law corollary, which he claims, resulted in him being wrongfully indicted for crimes that he did not commit and being incarcerated for four months in pre-trial detention.

Cofield presents one question for our review, which he phrased as:

> Upon review of all the evidence, was the trial court legally correct to conclude that the only possible inference is that Park West Health Systems, Inc.'s violation of HIPAA was not a proximate cause of David Cofield's injury in light of Michael Johnson's subsequent failure to identify David Cofield in a photo array?

We answer "yes" to that question and affirm the judgment of the circuit court.

FACTS AND PROCEEDINGS

Park West is a community health care provider with four offices in Baltimore City, including an office at Reisterstown Road Plaza. Park West primarily provides substance abuse treatment, mental health treatment, and treatment for patients with HIV. In each patient's electronic medical record, Park West maintains a copy of his or her

photographic identification card ("photo ID") to confirm their identity for appointments and for billing purposes.

Cofield has been a patient of Park West since 2006. He receives substance abuse and related mental health treatment from practitioners at the Reisterstown Road Plaza office.

Johnson was employed by Park West as a facility manager and maintenance worker. In that capacity, Johnson was responsible for transporting mail between the four Park West offices and for making bank deposits. He did not interact with Park West's patients and was not familiar with them, nor was he authorized to have access to patients' medical records.

a. The Criminal Case[1]

At 8:45 a.m. on March 30, 2015, Johnson came to the Reisterstown Road Plaza office to pick up outgoing mail and cash to be deposited with a bank. He walked outside to the parking lot and placed those items in the trunk of a Park West vehicle. As he was climbing into the driver's seat of the vehicle, he was accosted by an unknown man who said, "[g]ive me the bag." Johnson began "tussling" with the man, but the unknown man stole a bag that contained cash, as well as Johnson's house and car keys (but not the keys to the facility vehicle).

[1] We state the relevant facts largely as presented by Cofield in his opposition to the motion for summary judgment, with some supplementation from other evidence in the record.

Johnson ran back inside the Park West office and called 911. He then told the two office assistants on duty, Liz Kellner and Sallie Morrow, that he had just been robbed. Michelle Durant, the Park West site administrator for the Reisterstown Road Plaza office, came to the reception area. Durant asked Johnson if he could describe his assailant.[2] Johnson replied that the man was wearing a "lime green jacket, or hood[.]" Kellner noted that "an individual was just in the facility" who matched that description, referring to Cofield, who had had an appointment that morning.[3] Durant directed Kellner to pull up Cofield's electronic medical record and access the copy of his photo ID. Kellner printed out a copy of Cofield's Maryland driver's license, which was the photo ID appellant had previously supplied to Park West. Durant showed it to Johnson. Johnson stated that Cofield "looked like the guy that [he] was tussling . . . with." Johnson dated and signed a short, handwritten statement describing the robbery on the same paper on which the copy of Cofield's driver's license was printed.

Within thirty minutes of the robbery, Detective Alan Savage, an employee of the Baltimore City Police Department ("BPD"), responded to the scene. After speaking with Johnson, Detective Savage took Johnson to the police station. At 2 p.m., which was about five hours after the robbery was first reported, Johnson was asked to review a

[2] Johnson recalled that Durant asked him this question, but none of the staff members remembered asking him.

[3] There were significant disputes about who identified Cofield as a possible suspect, but Johnson recalled that it was Kellner. These disputes are not material, however.

photographic array containing six photographs, including a photograph of Cofield. Johnson was unable to identify anyone from the photographic array.

Ten days later, on April 9, 2015, Cofield was arrested at Park West while meeting with his case manager. Cofield could not afford bail and was detained pending a preliminary hearing set for May 8, 2015.

The case was assigned to Assistant State's Attorney Nicole Barmore. She received from Detective Savage a partial investigative file that contained a "very bare bones statement of facts" and a copy of Cofield's criminal record. That file, however, did not make any mention of the negative results of the photo array. Based upon that information, ASA Barmore determined to present the case to the Grand Jury. On May 7, 2015, the Grand Jury returned an indictment charging Cofield with attempted carjacking, robbery, second degree assault, theft, and attempted motor vehicle theft.

ASA Barmore subsequently learned about the negative photo array from Cofield's defense attorney.[4] She contacted Detective Savage and asked him to provide her with the negative photo array and any other pertinent materials from the investigatory file. The BPD also recovered latent fingerprints from the exterior of the Park West vehicle and an analysis of those fingerprints, which was not completed until after Cofield was indicted, revealed that the fingerprints recovered did not match those of Cofield. ASA Barmore interviewed several Park West employees whose names were given to her by defense

[4] The record does not reflect how defense counsel learned about the negative photo array.

counsel as character witnesses for Cofield. She also interviewed Johnson multiple times. ASA Barmore found Johnson to be credible, but she was not confident about his identification of Cofield in light of the negative photo array and other exculpatory evidence.

Trial was scheduled for July 24, 2015, but was subsequently postponed until July 30, 2015. On the morning of trial, ASA Barmore decided, in consultation with defense counsel and the trial judge, to determine if Johnson could make an in-court identification of Cofield prior to the start of the trial. After Cofield was transported to the courtroom, but before the trial judge took the bench, ASA Barmore brought Johnson into the courtroom and asked him if he recognized anyone who was involved in the robbery. Johnson replied that he did not. As a result, ASA Barmore entered a *nolle prosequi* as to all the charges against Cofield.

b. The Subject Case

Less than a year later, in March 2016, Cofield filed the instant lawsuit. About a year later, he filed a second amended complaint asserting fifteen counts. The second amended complaint names Park West, Johnson, the BPD, and Detective Savage as defendants. The first eight counts pertained to both Park West and Johnson, asserting claims for: intentional and negligent defamation (Counts I and II); intrusion upon seclusion (Count III); unreasonable publicity (Count IV); false light (Count V); negligence (Count VI); intentional infliction of emotional distress (Count VII); and malicious prosecution (Count VIII). The next six counts pertained to Detective Savage

and/or the BPD, asserting claims for malicious prosecution (Count IX); false arrest (Counts X and XI); false imprisonment (Counts XII and XIII); and violations of the Maryland Declaration of Rights (Count XIV). The last count (Count XV) asserted a claim against Park West only for negligent supervision and training.

In May 2017, Cofield reached a settlement with Detective Savage and the BPD, and a stipulation of dismissal as to those defendants was entered.[5]

Only the negligence and negligent training and supervision counts are at issue in this appeal. In the negligence count, Cofield alleged that Park West and its employees owed him a duty to "protect his interests, health, confidentiality, and his privacy" and that they breached that duty by, *inter alia*, "disclosing [his] private identity" to Johnson "without authorization and in violation of State and Federal patient privacy and confidentiality laws" and by showing Cofield's photo ID to Detective Savage. According to Cofield, as a direct and proximate result of Park West's negligence, he spent four months in jail, lost his job, lost income, and suffered mental anguish. In the negligent training and supervision claim, Cofield alleged that Park West owed a duty to patients to "properly train its personnel to adequately maintain patient confidentiality" and to comply with HIPAA and state confidentiality laws. According to Cofield, Park West breached that duty by failing to "properly implement policies and procedures to protect

[5] Park West and Johnson also entered into a stipulation of dismissal as to a cross-claim they had filed against the BPD and Detective Savage.

patient confidentiality, and to properly train its employees in maintaining patient confidentiality including, but not limited to, in instances where a crime is committed on company premises." In regard to that count, Cofield asserts that as a direct and proximate result of Park West's negligent training and supervision of its employees, employees improperly disclosed Cofield's photograph to Johnson, which in turn resulted in Cofield's arrest and indictment on false criminal charges.

On June 30, 2017, Park West and Johnson moved for summary judgment. They argued that Cofield's negligence-based claims failed as a matter of law for several reasons. First, they disputed that Cofield's photo ID was protected health information under HIPAA.[6] Even if it was protected health information, Park West argued that the disclosure of the photo ID fell within HIPAA's law enforcement carve-out and, in any event, HIPAA does not create a private cause of action for patients. Park West maintained that it was not liable for negligent supervision and training for the same reasons, and because the deposition testimony of numerous Park West employees demonstrated that employees were properly trained regarding HIPAA compliance.

Cofield opposed the motion for summary judgment. He attached to his opposition thirteen exhibits, including the complete transcripts of deposition testimony given by himself, Johnson, ASA Barmore, Kellner, Morrow, Durant, and other Park West

[6] Protected health information includes all "individually identifiable health information," in any form, that is maintained or transmitted by a covered entity. 45 CFR § 160.103.

employees; a copy of the indictment; a copy of the handwritten statement Johnson made on the photocopy of Cofield's photo ID[7]; a copy of the negative photo array documentation; and an affidavit from an attorney practicing health care law averring that photographic identification maintained in a patient's electronic medical record is protected health information.

Cofield argued that his photo ID was protected health information because it identified him as a patient of Park West, and that the law enforcement carve-out under HIPAA only applied to disclosures to law enforcement personnel and thus did not permit the disclosure of protected health information by Durant and/or Kellner to Johnson. Cofield conceded that he did not have a private cause of action under HIPAA but argued that HIPAA nevertheless established the standard of care for employees of a healthcare facility vis-à-vis its patients' protected health information. He argued, moreover, that the evidence was overwhelming that Park West was "inept and incompetent in its implementation of health information privacy policies and training its staff on how to handle the foreseeable instance of criminal activity" at one of its locations. He relied upon deposition testimony given by Shawntay Bell, Park West's health information manager at the time of the robbery, who testified that Park West's HIPAA compliance policies were outdated and that she left her job there, in part, because Park West failed to properly handle HIPAA violations.

[7] This was a deposition exhibit attached to ASA Barmore's deposition testimony.

A hearing on the motion for summary judgment was held on August 7, 2017. Counsel for Park West focused her argument relative to the negligence and negligent training and supervision counts on the lack of proximate causation. She argued that the substantial factor test applied because "two or more independent negligent acts" were alleged: 1) the disclosure of Cofield's photo ID, and 2) Detective Savage's initial failure to disclose the negative photo array to ASA Barmore. Defense counsel maintained that Detective Savage's omission, which she characterized as "huge substantial gross negligence," caused the injury to Cofield, not the disclosure of the photo ID. She argued, moreover, that the negligent training and supervision count also should fail because there was no evidence that HIPAA required training relative to criminal activity at a health care facility.

Cofield's attorney responded that Park West staff violated HIPAA when they disclosed a description of Cofield and his photo ID to Johnson for a purpose unrelated to the provision of healthcare or any other authorized purpose. He agreed that the BPD was negligent but argued that Park West's negligence "plant[ed] the seed . . . that . . . Cofield was the person who robbed Mr. Johnson" and, along with the negligence of the BPD, was a substantial factor that caused Cofield's injuries. He emphasized that Johnson never would have accused Cofield had Park West staff not identified him as a potential suspect and that ASA Barmore testified at her deposition that Johnson's initial identification on Cofield, based upon his photo ID, was the reason she brought the case before the grand jury. The court admitted into evidence a transcript of Johnson's taped interview with

Detective Savage on March 30, 2015, and copies of Park West's HIPAA policies, both of which were offered by Cofield.

In rebuttal, Park West's counsel emphasized that ASA Barmore also testified at her deposition that, had she known about the negative photo array when she was assigned the case, she would have conducted an additional investigation and was unsure if she would have brought the case before the grand jury.

At the end of the hearing, the court held the matter *sub curia*.[8] On August 15, 2017, the court entered an order granting summary judgment in favor of Park West and Johnson on all counts. As pertinent, the court ruled that "there [was] no evidence that any negligence on the part of Park West . . . with respect to the disclosure of a photograph of Plaintiff from his medical file was the proximate cause of any injury to Plaintiff in light of Defendant Johnson's failure to identify Plaintiff in the photo array[.]"

We shall include additional facts in our discussion of the issues presented.

STANDARD OF REVIEW

On summary judgment, a court "shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment

[8] The court advised the parties at the outset of the hearing that it had only just received in chambers Cofield's opposition to the motion for summary judgment that morning and had not had a chance to read it. The court ruled that it would not consider Park West's reply in deciding the motion for summary judgment.

as a matter of law." Md. Rule 2-501(f). "[O]nce the moving party has provided the court with sufficient grounds for summary judgment, the nonmoving party must produce sufficient evidence to the trial court that a genuine dispute of a material fact exists." *Jones v. Mid-Atlantic Funding Co.*, 362 Md. 661, 676 (2001). "The facts properly before the court as well as any reasonable inferences that may be drawn from them must be construed in the light most favorable to the non-moving party." *Serio v. Baltimore County*, 384 Md. 373, 388 (2004). "If the trial court decision turns on a question of law, not a dispute of fact, we review the trial court's decision for legal correctness without deference." *Blackburn Ltd. P'Ship v. Paul*, 438 Md. 100, 108 (2014).

DISCUSSION

a. Pertinent HIPAA Regulations[9]

HIPAA "governs the confidentiality of medical records and regulates how and under what circumstances 'covered entities' may use or disclose 'protected health information' about an individual." *United States v. Elliott*, 676 F.Supp.2d 431, 436 (D. Md. 2009). As noted earlier, "'[p]rotected health information' includes all individually identifiable health information maintained or transmitted in any form, as well as any oral

[9] Cofield references the Maryland Confidentiality of Medical Records Act, Md. Code (2000, 2015 Repl. Vol.), section 4-301 *et seq*. of the Health General Article, in his second amended complaint. The MCMRA protects confidentiality of "medical records," which are defined to include any information that "[i]dentifies or can readily be associated with the identity of a patient[.]" *Id.* at § 4-301(i)(1). Appellant's arguments in support of summary judgment and the brief he filed in this Court, aside from one perfunctory reference, were focused on HIPAA. Thus we focus our analysis on the federal law.

statement made about medical treatment or conditions." *Id*. at 436-37 (citing 45 CFR § 160.103). For purposes of this opinion, we assume, without deciding, that the copy of Cofield's photo ID that was maintained in his electronic medical record was protected health information because it identified him as a patient of Park West.

HIPAA generally prohibits the dissemination by a covered entity, including a health care provider such as Park West, of protected health information "unless the individual has authorized its use and disclosure." *Id*. at 437. An exception to that general rule permits a covered entity to disclose protected health information, without prior authorization, "for a law enforcement purpose to a law enforcement official" if conditions delineated in paragraphs (f)(1) through (f)(6) are met. 45 CFR § 164.512(f). Paragraph (f)(2) permits disclosure of certain limited information "in response to a law enforcement official's request . . . for the purpose of identifying or locating a suspect . . . ." *Id*. at § 164.512(f)(2). Information permitted to be disclosed under this exception includes the patient's name, date of birth, date and time of treatment, address, and a description of the patient, "including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos." *Id*. Paragraph (f)(5) governs permitted disclosures when there has been "criminal conduct that occurred on the premises of the covered entity." It permits disclosure "to a law enforcement official [of] protected health information that the covered entity believes in good faith constitutes evidence" of that criminal conduct. *Id*. at 164.512(f)(5).

b. Applicable Maryland Law

Maryland recognizes, under the doctrine known as the "Statute or Ordinance Rule" that, "in some instances, the duty of care in a negligence action may arise from statute or regulation." *Blackburn*, 438 Md. at 103. "[W]here there is an applicable statutory scheme designed to protect a class of persons which includes the plaintiff," a "defendant's duty ordinarily 'is prescribed by the statute' or ordinance and . . . the violation of the statute or ordinance is itself evidence of negligence." *Brooks v. Lewin Realty III, Inc.*, 378 Md. 70, 78 (2003), *abrogated on other grounds by Ruffin Hotel Corp. of Md., Inc. v. Gasper*, 418 Md. 594 (2011) (quoting *Brown v. Dermer*, 357 Md. 344, 358 (2000)). In the case at bar, Cofield asserts that Park West's alleged violation of HIPAA is evidence of negligence. Because the circuit court granted summary judgment on the sole ground that proximate cause was not established as a matter of law, we shall assume for purposes of this opinion that a violation of HIPAA may form the basis for a negligence action and that Park West violated HIPAA when it disclosed his photo ID and his description to Johnson.[10] *See, e.g.*, *Eid v. Duke*, 373 Md. 2, 10 (2003) ("it is an 'established rule of Maryland procedure that, in appeals from grants of summary

[10] Cofield contends the circuit court's August 15, 2017 Order determined conclusively that Park West acted negligently by disclosing his photo ID to Johnson. The court did not so rule. The order states that "there [was] no evidence that *any* negligence on the part of Park West" was the proximate cause of the injury to Cofield. The use of the word "any" makes plain that the circuit court was ruling that *even if* the disclosure of Cofield's photo ID amounted to negligence, that that breach was not the proximate cause of the injury. In any event, we are concerned only with the issue of proximate cause for purposes of this opinion.

judgment, Maryland appellate courts, as a general rule . . . will consider only the grounds upon which the [trial] court relied in granting summary judgment'" (quoting *Lovelace v. Anderson*, 366 Md. 690, 695 (2001) (some internal quotation marks omitted)). An exception to that general rule is applicable if the circuit court would have no discussion but to grant summary judgment on an alternative ground.

The "Statute or Ordinance Rule" has two prongs: "(a) the violation of a statute or ordinance designed to protect a specific class of persons which includes the plaintiff, and (b) that the violation proximately caused the injury complained of." *Lewin Realty*, 378 Md. at 79; *see also Austin v. Buettner*, 211 Md. 61, 70 (1956) ("the mere violation of a statute or ordinance will not support an action for damages, even though it may be evidence of negligence, unless there is legally sufficient evidence to show that the violation was the proximate cause of the injury"). The parties agree that Cofield, as a patient of Park West, a covered entity under HIPAA, was a member of the "specific class of persons" that the federal law was designed to protect. Satisfaction of the proximate cause prong, on the other hand, is sharply disputed.

Generally, "[p]roximate cause as a component of negligence is established if it is a cause in fact of the injury and a legally cognizable cause." *Collins v. Li*, 176 Md. App. 502, 539 (2007). In assessing if an actor's negligence was the cause in fact of an injury, Maryland courts apply one of two tests: the "but for" test or the "substantial factor" test. *Id*. The "but for" test applies "when the injury would not have occurred in the absence of the defendant's negligent act." *Yonce v. SmithKline Beecham Clinical Labs., Inc.*, 111

Md. App. 124, 138 (1996). The substantial factor test applies when "two or more independent negligent acts bring about an injury[.]" *Pittway Corp. v. Collins*, 409 Md. 218, 244 (2009). Under those circumstances, "an actor's conduct is a cause-in-fact of the plaintiff's injuries when it is 'a substantial factor in bringing about the harm.'" *Levitas v. Christian*, 454 Md. 233, 250 (2017) (quoting *Pittway Corp.*, 409 Md. at 244, in turn quoting *Restatement (Second) of Torts* § 431 (Am. Law Inst. 1965)).

Legal causation, on the other hand, involves "considerations of fairness or social policy" to determine if a defendant should "be held legally responsible for the consequences of an act or omission." *Peterson v. Underwood*, 258 Md. 9, 16 (1970). That determination ordinarily turns on the foreseeability of the harm to the plaintiff. *See, e.g., Pittway Corp.*, 409 Md. at 246 ("legal causation most often involves a determination of whether the injuries were a foreseeable result of the negligent conduct"). When, as here, the alleged negligence is a violation of a statute or ordinance, however, the foreseeability inquiry concerns "whether . . . the harm suffered is of a kind which the drafters intended the statute to prevent." *Lewin Realty*, 378 Md. at 79 (citation and quotation marks omitted).

c. Parties' Contentions

Cofield contends there were material disputes of fact that precluded the grant of summary judgment as to proximate causation. He maintains that the negligence of Park West in disclosing his photo ID resulted in the only positive identification of him, and, according to ASA Barmore's deposition testimony, was the driving force that lead to his

indictment. He asserts, moreover, that the BPD's negligence in not turning over the negative photo array was not, as a matter of law, a superseding cause of his injury, but that, in any event, there is at least a dispute of fact on this issue. As to legal causation, he urges that the harm he suffered was a foreseeable result of the HIPAA violation *and* was a type of harm HIPAA was enacted to prevent.

Park West responds that the circuit court correctly determined that the "sole proximate cause of [Cofield]'s injuries was the negligence of the [BPD] and Detective Savage." Moreover, according to appellees, even if this action were the cause-in-fact of appellant's injury, legal causation was not established as a matter of law both because the injury suffered by Cofield was not a reasonably foreseeable result of the alleged negligent conduct and because, under the Statute or Ordinance Rule, the type of harm suffered was not "of a kind which the drafters [of HIPAA] intended the statute to prevent." (quoting *Lewin Realty*, 378 Md. at 79).

d. Analysis

In order to sustain a claim for negligence or negligent training and supervision, Cofield was obligated to show that his injury, i.e., his arrest and indictment for robbery and related charges and the collateral consequences thereof, would not have occurred but for the negligent disclosure of his protected health information, *and* that that harm was a foreseeable result of that negligence. We conclude that Cofield failed to meet his burden as to legal causation and, thus, the circuit court did not err by granting summary judgment on both claims.

As discussed, foreseeability of harm, viewed through the lens of the Statute or Ordinance Rule, involves the question of whether the violation of the statute at issue caused an injury that was of the type the drafters of the statute intended to redress. The decision in *Blackburn*, 438 Md. at 100, is instructive. There, the Court of Appeals reasoned that a COMAR regulation governing barriers around recreational pools was designed to prevent young children from accidental drownings and near drownings. In light of that purpose, evidence that an apartment complex violated those regulations and that a 3-year old plaintiff was able to enter the locked pool and suffer a near drowning was sufficient to create a jury question on proximate causation. *Id.* at 128; *see also Lewin Realty*, 378 Md. at 89 (*prima facie* case of negligence established when landlord violated Baltimore City Housing Code's lead paint provisions, and a child living at the landlord's premises suffered lead paint poisoning, the very "kind of injury intended to be prevented by the [Housing] Code"); *Wietzke v. Chesapeake Conference Ass'n*, 421 Md. 355, 393-95 (2011) (evidence that a church's construction of a surface parking lot caused violations of ordinances pertaining to sediment and storm water control, resulting in flooding on a neighboring residential property, was sufficient to defeat a motion for judgment because the homeowners were within the class the ordinance was designed to protect and the harm, "liquid containing sediment . . . being deposited onto the premises of another" was the kind the statute was intended to prevent); *Moore v. Myers*, 161 Md. App. 349, 365 (2005) (evidence that dog owner violated local ordinance by permitting his pit bull to be unrestrained, causing the plaintiff to run into the road where she was hit by a car,

established a *prima facie* case of negligence because the ordinance was "designed to protect the public against the hazards of personal injury or property damage caused by roaming animals" (citation omitted)).

We return to the case at bar. HIPAA was enacted, in part, to provide for the confidentiality of medical records by regulating who may disclose protected health information and under what circumstances. The overarching purpose of the regulations governing disclosure is to ensure that confidential information about a patient's health conditions and treatment is not shared without his or her authorization, except in certain limited circumstances. HIPAA was not enacted, however, to protect a patient from being identified as a potential suspect in a crime committed at or near a covered entity's office. To the contrary, the regulations ensure that identifying information about a patient may be disclosed to law enforcement personnel, without the patient's authorization, if a patient is suspected of having committed a crime. *See* 45 CFR 164.512(f)(2). Similarly, disclosure is permitted to law enforcement if a crime is committed on the premises of the covered entity and if agents of the covered entity believes, in good faith, that the information provided is relevant to the investigation of that criminal conduct. *Id*. at 164.512(f)(5).

In this case, there is no question but that Johnson and the other employee of Park West acted in good faith in reacting to a felony that had just occurred on Park West's premises. If agents of Park West had strictly followed HIPAA, undoubtedly they simply would have waited for Detective Savage to arrive, then showed the detective appellant's

photo I.D. and told him the same thing they told Johnson. Detective Savage, of course, would then have shown Johnson appellant's picture (as Durant did) and asked him if this was the person who robbed him. If they had done this, there would have been no HIPAA violation. The fact that the exact sequence of events was not followed was not the proximate cause of appellant's injury.

Moreover, the harm alleged by Cofield was not, as a matter of law, the type of harm that HIPAA was designed to prevent. As mentioned, the main purpose of the HIPAA statute was to ensure that confidential information about a health condition or treatment is not, without the patient's consent, shared with the public. The only information about Cofield disclosed by Park West staff to Johnson (and through him, to the BPD) was appellant's name, a photograph of him, and a physical description. The appellees revealed nothing concerning any treatment appellant had received or was receiving. The disclosure, therefore, was not the legal cause of appellant's injuries. The circuit court did not err in granting summary judgment in favor of the appellees.

JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANT.