



# Bell v. Chance, 188 A.3d 930 (Md. Ct.App. 2018)

Topics Covered: Abusive Litigation Against Physicians

## Outcome: Very Favorable

### Issue

The issue in this case was what standard of care should apply to a physician who discharged a patient from a psychiatric hospital.

### AMA Interest

The AMA opposes lawsuit abuse and respects patient autonomy.

### Case Summary

Brandon Mackey had a long history of mental illness. On March 13, 2011, following an attempted suicide, he was admitted to Bon Secours Hospital and placed under the care of Leroy M. Bell, MD, a psychiatrist and a Bon Secours employee. Nine days later, Mackey was discharged.

On April 1, 2011, Mackey again attempted suicide and was again involuntarily admitted to Bon Secours under Bell's care. Bell saw Mackey on an almost daily basis. During this admission, Mackey was compliant with his medications. He did not attempt to injure himself, and he denied being suicidal. He repeatedly asserted his desire to be released.

On April 9, 2011, Bell discharged Mr. Mackey. At the time of discharge, Mackey indicated that he was looking forward to going home, and he agreed to comply with Bell's discharge plan. His conversation indicated that he was "future-oriented" and that he had activities that he wanted to accomplish. The next day, however, he took his own life.

Patricia Chance, the representative of Mackey's estate, sued Bell and Bon Secours, claiming Bell had negligently discharged Mackey.

The estate called an expert witness, Nicola G. Cascella, a psychiatrist, on the standard of care. Cascella testified that the medical records showed that the medication prescribed for Mackey was not adequately alleviating his symptoms of psychosis at the time of discharge. Therefore, Mackey was at high risk of suicide, and he should have remained in the hospital until such time as the medication might alleviate his symptoms. Accordingly, Bell failed to meet the standard of care generally applicable to psychiatrists under such circumstances.

The jury found for the estate, but Bell and Bon Secours moved for judgment notwithstanding the verdict. They argued that the proper standard of care was not, as Cascella had testified, what a reasonable psychiatrist would have done solely in regards to Mackey's medical condition.

Rather, they said, the standard was whether Bell had discharged Mackey in good faith and with a reasonable basis for his decision.

The trial judge found that Mackey was concerned with his personal liberty as well as his medical condition. The judge noted that Maryland Health-General Article § 10-618 provides that physicians who seek to have their patients involuntarily committed are not liable for such commitment if they act “in good faith and with reasonable grounds.” Thus, the statute balances patients’ interest in freedom from involuntary commitment against their interest in proper medical care. If physicians did not have the latitude as provided in the statute, they would be unduly incentivized, in close cases, to commit their patients involuntarily, thus diminishing their patients’ liberty interests.

The trial judge found that the evidence showed that Bell had acted in good faith and with reasonable grounds. Cascella had not refuted this finding. Therefore, the judge vacated the jury verdict and entered judgment for Bell and Bon Secours.

Mackey’s estate appealed to the Maryland Court of Special Appeals, an intermediate level appellate court. By a split decision, the court reversed, holding that Cascella’s testimony that defendants had violated the standard of care by discharging Mackey before his symptoms showed improvement was sufficient to find liability.

Bell and Bon Secours appealed to the Court of Appeals, the highest court in Maryland. The Court of Appeals, citing the Litigation Center *amicus* brief, found that § 10-618 applied to this case. Thus, a physician who allows a patient to be involuntarily released from a mental hospital prior to a full determination by an administrative law judge of the involuntary commitment standards is immune from liability, provided, as here, that the physician acted in good faith and with reasonable grounds. The Court of Special Appeals was reversed, and judgment was ordered for the defendants.

### **Litigation Center Involvement**

The Litigation Center and the Maryland State Medical Society filed an *amicus* brief in the Maryland Court of Appeals. The brief argued that, when making decisions involving involuntary commitment of patients, psychiatrists should consider their patients’ interest in personal freedom as well as their patients’ medical state.

Maryland Court of Appeals brief