

Cullen victims' survivors can sue hospital

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Victims of serial killer Charles Cullen can sue a Pennsylvania hospital that warned other local facilities -- but not Somerset Medical Center -- to steer clear of the former registered nurse, a New Jersey judge has ruled.

Officials at St. Luke's Hospital of Bethlehem, Pa., called a number of other Lehigh Valley hospitals after Cullen resigned in June 2002 to warn them of "strong circumstantial evidence" linking Cullen to stolen medications found in a needle bin. They also told the hospitals that Cullen was listed as a "do not rehire" and about his generally "bizarre behavior."

But when Somerset Medical Center called the hospital that summer, St. Luke's refused to say whether Cullen was eligible to be rehired at its hospital, according to court records. Instead, officials there simply confirmed Cullen's position and that he had worked at the hospital for two years.

Cullen, who got the job at Somerset Medical Center in September 2002, went on to murder 13 patients and attempt to kill three others at the Somerville hospital. Cullen ultimately pleaded guilty to murdering 29 patients at New Jersey and Pennsylvania hospitals, including five at St. Luke's. He currently is serving a life sentence.

In a victory for the families of his victims at Somerset Medical, state Superior Court Judge Bryan Garruto found that the inconsistent message by St. Luke's opened it to possible civil liability for negligence, since the hospital had reason to believe Cullen could harm patients.

"The problem is that St. Luke's assumed a duty to patients who would be under Mr. Cullen's care, but then took it upon itself to choose who will live and who will die," Garruto wrote in the decision filed last week. "Whether St. Luke's breached its duty to the individual plaintiffs and to Somerset is an issue for the fact-finder."

The decision paves the way for the families of 16 victims at Somerset Medical to continue their lawsuits against St. Luke's, which had sought to be dismissed as a defendant because it gave only a "neutral reference."

It also marks the first time a New Jersey court has ruled on whether a former employer has a duty to disclose negative information about an employee to a prospective boss who calls for a reference.

"I think the judge clearly did the right thing," said attorney Leonard Weitzman, who represents families of three of Cullen's victims. "To deny liability, we felt, was outrageous."

Attorney Michael Barrett, who represents the families of two victims, said Somerset Medical has always maintained it would not have hired Cullen had St. Luke's been forthright.

"If you believe Somerset Medical Center -- and what they say is, 'We never would have hired this guy if we were told he was not eligible for rehire' -- then what happened at Somerset Medical Center wouldn't have happened," Barrett said.

St. Luke's Hospital and its attorney, William Mead Jr. of Cherry Hill, did not respond to calls seeking comment on the ruling.

There is no trial date yet for the case. Attorneys for the families said rulings are expected soon on motions made by other hospitals where Cullen worked that also want to be dismissed as defendants. Cullen was fired from or forced out of at least six health care facilities.

The Cullen case prompted New Jersey to pass a law in 2005 that requires hospitals to give truthful job references and shields them from lawsuits when they do so in good faith. It also requires criminal background checks for all health care professionals when licenses are renewed.

Pennsylvania followed months later with a similar law that gives businesses immunity from lawsuits based on truthful appraisals of employees shared with a prospective employer.

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