

DARREN HOLSTON, Plaintiff-Respondent,
v.
SHERIEF HOLSTON, Defendant,
and
ENGLEWOOD HOSPITAL AND MEDICAL CENTER, Defendant-Appellant.

DOCKET NO. A-6129-07T1
Superior Court of New Jersey, Appellate Division.
Argued May 11, 2009-Decided

Before Judges Carchman, R.B. Coleman and Sabatino.

On appeal from the Superior Court of New Jersey, Chancery Division, Bergen County, Docket No. C-290-08.

Michael L. Prigoff argued the cause for appellant (Lebson, Prigoff & Baker, attorneys; Mr. Prigoff, on the brief). Respondent did not file a brief.

Watchtower Bible & Tract Society of New York, Inc., Legal Department, attorneys for amicus curiae Watchtower Bible Trust Society of New York, Inc. (Paul D. Polidoro and Philip Brumley, on the brief).

PER CURIAM

On August 5, 2008, defendant Sherief Holston (Sherief), raised as a Jehovah's Witness, came to defendant Englewood Hospital and Medical Center (the Medical Center), because she was about to give birth to her third child. Upon Sherief's admission, she executed an advance directive pursuant to the New Jersey Advance Directives for Health Care Act, N.J.S.A. 26:2H-53 to-78. The directive provided, in part, that Sherief did not want a blood transfusion under any circumstance, even if a physician determined it would save her life. Sherief gave birth to the third child that day without the need for a blood transfusion. On August 6, 2008, Sherief underwent a post-partum tubal ligation at the Medical Center, following which she suffered severe internal bleeding and had to be placed in a medically-induced coma to help keep her alive.

On August 12, 2008, Darren Holston (Darren), plaintiff, Sherief's husband, filed an emergency verified complaint in the Chancery Division seeking to compel the Medical Center to administer a blood transfusion to Sherief. Following a hearing that same day, Judge Contillo determined that the directive did not apply to Sherief's tubal ligation, appointed Darren as Sherief's special medical guardian, and permitted the special medical guardian to order any medically necessary blood transfusions. We granted an emergent stay of that order; however, the Supreme Court of New Jersey later that same evening reversed and reinstated the original trial order. Sherief received the transfusion, emerged from the coma, and was discharged from the hospital in good health. No further transfusions associated with the August 2008 advance directive are contemplated. We

remanded the matter back to the trial judge to consider, among other issues, whether the matter should be dismissed as moot.

At the remand hearing, counsel appeared on behalf of Darren and indicated that her client “no longer had any stake in the dispute.” Although the hospital wanted to proceed, Judge Contillo dismissed the litigation as moot, concluding that the case has lost its “contestedness.”

The Medical Center appeals, conceding that the case is moot but urging that we should address the merits. It asserts that the underlying issue is one of substantial importance that is likely to reoccur and is capable of escaping review.^{FN1} The amicus brief joins in that request.

^{FN1}. The Medical Center also argues that the original trial order should be reversed because Judge Contillo applied the incorrect legal standard in finding the advance directive inapplicable.

We decline to do so. We recognize that the issue is significant, but its significance warrants that it be litigated by joining the issue with litigants on both sides with a continuing stake in this matter able to advocate their respective positions.

We affirm the January 2, 2009 order of the Chancery Division dismissing the case as moot substantially for the sound reasons expressed by Judge Contillo on remand.