

Katherine's daughter may be guilty of false imprisoning Katherine because she intended to confine her mother, did in fact confine her by signing the entombme papers (after a quarrel), and Katherine knew

↓
She was confined. If we assume that Katherine's daughter knew about the statute that requires

a court order in order to commit someone in a nursing home, and ignored it, intent on the daughter's part is not more so established.

However, the nursing home should

know about the statute and also may be guilty of false imprisoning Katherine for the same reasons.

No matter what the answer, there is a statute that

requires a court order. Absent a court order, the

nursing home is in violation of that statute. Custom

~~Negligence~~ does not "trump" statute. The violation of the

statute is ~~the~~ negligence per se and although the

elements of negligence (duty, breach, causation, damages) still have

to be proven, Katherine ~~would be~~ able to proceed with an

action for negligence against the nursing home. However,

there may be no ^{action} negligence against the daughter because

typically ~~household members commit~~ a child ~~does~~ does

not have a legal duty to a parent. (although

morally having one is another topic).

The nursing home had a duty to care for
and protect Katherine. In fact, the "papers" that

her daughter signed may be a valid contract →

that puts the nursing home in a special relationship to its clients/patients. Even if there is no such contractual relationship, the nursing home is in "the care of patients business" just like a hospital or other healthcare facility. Although duty is a question/decision of the Judge, I think the duty of the nursing home to care for Katherine can be established.

The nursing home ~~can~~ be held to a standard of the Reasonably Prudent nursing home.
For example, the RP nursing home would find a way to ~~not~~ distinguish Katherine from Edward. For example, if it is confusing to tell a

handwritten 4 from a T, a RP nursing home

would perhaps type it. It was well known

that the patients names and room numbers were

causing confusion. A RP nursing home would

not take the unreasonable risk of such a mistake

happening. Because it was not only foreseeable

that something like the medication switch would

occur, but ^{also} likely (and was happening), the

nursing home breached its duty to Katherine and

B^{ed}

to Mr. Katrinka, in failing to act reasonably

under such circumstances. The nursing home

may also be held to a Reasonable Practitioner professional

standard where there ^{is} standard of care cared to

patients/clients. Aside from these two standards,

the nursing home may also be negligent by

the PL>B standard. For example, the probability

of a medication mishap is great, the potential

injury is also great, and the burden of fixing

the problem is small. If for example not
^{and inexpensive.}

only type the numbers to distinguish the rooms

but maybe putting something on the door - like

a picture of the patient or a blue or pink bow

so that nurses and other staff are aware of

the room they are entering. (Or even a white initial

if that would distinguish the medication label.) Or

a large note somewhere in the room of the name, milligrams,

and amount of pills to be given.) In any respect,

the burden to fix the problem is not great — ~~but~~ ^{but} the likelihood and gravity of the injuries is.

Although Edward had ~~doubts~~, he recognized

that the pill he was being given was different from the

one he usually gets. A Reasonably Precious patient/person

who recognizes such a thing would mention it to the

nurse. A RP patient/person is expected to

avoid injury if it can be avoided. However, Edward

probably does not owe a legal duty to Katherine; he

has no special relationship to her, no statute requires him

to mention the different pill. Even though he may

be acting negligent by not doing what is reasonably →

under the circumstances, a cause for negligence
requires ^{an action} a duty. (Katherine would have to prove that
Edward owed her that duty). A RP patient/person
would not take such an unreasonable risk in not
mentioning the different pill for fear ~~of~~ his medication
might be given to someone else. But again, no
duty, no action.

Edward's family members ~~are~~ might be able
to bring an action for negligence against the
nursing home for the same reasons stated earlier
for Katherine. The nursing home ~~owes~~ owes patients
a duty of care (standard of care). This duty might be
established by statute or contract (special relationship).

they breached that duty to Edward in the same way they breached it to Katherine's failure to use reasonable care under the circumstances. RP nursing home would have addressed the problems with Katherine and Edward's names/room numbers. It was totally foreseeable that such a medication mishap would happen because of the other minor mishaps that happened prior.

Katherine's injuries and Edwards death were caused by the nursing home staff dispensing incorrect medication. "But for" the nursing home staff giving the incorrect medication, Edward might be alive and Katherine would not have suffered such devastating injuries. →

The nursing home is not only the cause-in-fact
for both patient's injuries but also a proximate
cause. Proximate cause is established after cause-in-fact
to and helps to substantiate that the injuries were
probably caused by the negligent act. The nursing
home obviously neglected to check on Edward from the
time he took the medication until his hanging and
so that failure to check on him might be established
^{the cause of his death}
by Res Ipsa Loquitur. Absence any direct evidence, a
jury may infer negligence by the circumstantial evidence.
Would Edward be alive if the nursing home staff
(correct the mistake)
would have checked on him? Edward's family would
have to convince a jury to make that inference →

but it does not seem difficult to ob. He was ^{to} already known
to be deeply depressed and his family might argue that a RP
nursing home would have checked on him more often than
non-depressed patients.

Although Katherine's co-inhabitants may not owe
her a duty (legal duty) to call for help, she was seen
by a nurse's aid. Katherine fainted and was on the
floor and a RP person/staff member would have gone
over to a patient on the floor. That aide owed
Katherine a duty to use reasonable care under the
circumstances > "the circumstances" is a nursing home
facility where there are usually frail, elderly, and sick
patients. The aide breached her duty to Katherine by →

walking past Katherine. However, the nursing home should stipulate that staff can ignore a call if there may be another emergency. Having stated that, a RP person/staff member would go to the aid of another patient in their presence who might need assistance. Katherine might not have sustained such devastating injuries but for the neglect of the aide.

The nursing home's part-time music therapist would also be directly liable in an action for negligence. After all

he is a staff member of the nursing home regardless of the fact that he is not a "medical" staff member.

Even if he were a visiting music therapist, he'd be held to the RP person/professional standard of care.

If was unreasonable to not summon help when

he saw Katherine on the floor or at least go →

over to her. The burden of doing so costs nothing.

Although Scott did aid Katherine, he is only

10 years old and will be held to the RP child standard -

a standard that takes into consideration the age,

experience, and intelligence of the child. He may

have more experience and even perhaps more intelligence

than most 10 year olds but in fact, he may have

done too much in one sense and not enough

in the other. For example, he wet his "hanky"

and wiped her face and neck - a RP child of ten

would have probably summoned help immediately -

at least before doing anything else. Although one

could argue that he "battered" Katherine because →

he intended contact, there was contact, and that contact was harmful, I don't think it would be actionable because he ^{may} lack the mental capacity to fully appreciate that he is injuring her.

Scott's "helping" further delayed Katherine getting the help she needed but he may not be guilty of negligence ~~because~~ if he owed her no duty. Katherine

would have to prove that a ^{maybe} 2P child of 10 (~~especially~~
^{sort} with his training) would reasonably conclude that she

needed help and his failure to summon help further

injured her. Since negligence is about damages, I

would go this route, it is the nursing home that has the money! (and the duty to begin with.)

Although Edward contributed to his death, his ^{physical} condition was worsened by the medication mix-up. He was in extreme pain and could not walk because of the reaction from the medication. Even though a RP patient / person would "speak up" about the difference in the pill - he owed no ^{legal} duty to the nursing home to alert them of this fact. The nursing home was in exclusive control of the medications as well.

Although Katherine did not contribute to her own injuries the nursing home may try to argue that ^{since} she did not mention or question or seek guidance from the nursing home, she ~~contributed~~ assumed the risks by not stating so. This would probably not sit well with a jury because even if she ^{of staying there}

didn't mention that she did not sign the entrance papers, no patient assumes the risk of a medication mix up. She'd have to knowingly and voluntarily assume that specific risk (like Edward.) Edward knew that the pill was different and not only made a conscious decision to take it anyway but hoped it would kill him, the nursing home might try to argue contributory negligence - which would be a complete bar to recovery for his family - but he didn't tell anyone he knew of the medication mix up - so how would the nursing to know what he knew (a mouthful but the nursing doesn't know this fact - we do!!) →

Even if he wrote a note and the staff later found it, they owe the duty, and no one "assumes the risk" of such a mix-up like the one presented here. He may have wanted to do but he did not knowingly and voluntarily know he'd suffer the rare side effects.

It is for those reasons I assign the nursing home to both patient's caregivers in full. There was no legal duty by other patients or visitors to use not only reasonable care but a standard of care to both patients. The medication was under the exclusive control of the nursing home staff and the medication was cause-in-fact to both Katherine's 

refuses and Edwards. No matter how many

staff were involved - any and all of the

nursing home staff that had anything to

do with those patients that day can be held

liable for negligence. the staff member that

dispensed the medicine may be "more liable"

but what about the management for

failing to alleviate the confusion of the names/

room numbers in the first place, and the 2

staff who passed Katherine, or neglected Edward?

from the time
of his meds → hanging

All jointly - severally liable!