

Pembroke Hospital wrongly held patient, court says

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BOSTON — The state’s highest court has found that Pembroke Hospital wrongly held a patient against his will after it was unable to find a family member to take him.

The Supreme Judicial Court ruled Thursday that the hospital violated state law by failing to discharge the patient after a three-day mental health civil commitment in 2015 and was wrong to then take him to South Shore Hospital for a second opinion later used in court to secure a longer six-month commitment. The patient is no longer in the care of Pembroke Hospital and was referred to only by the initials D.L. in the lawsuit.

State law allows mental health professionals to involuntarily commit mental health patients for three days if the professionals believe there is a likelihood of serious harm to the patient or public. Hospitals may then petition the court for a longer commitment.

D.L. was taken to Pembroke Hospital in December 2015 based on suicidal statements, according to the decision. The hospital petitioned the court to keep the patient past the initial emergency three-day commitment, but was denied.

Hospital staff were unable to find a family member willing to take him in and worried about the patient’s “worsening psychosis.” Rather than leave the hospital, the patient was taken to South Shore Hospital for a second evaluation, court records indicate.

After being seen by a doctor at South Shore Hospital, D.L. was held for a second three-day commitment at Pembroke Hospital, which then successfully petitioned for a longer stay.

The patient moved to dismiss the petition, but a District Court judge denied the motion and D.L. was committed for an additional six months. A state Appeals Court later upheld the District Court judge's decision.

In writing for the court, Justice Kimberly Budd said that because D.L. wasn't held lawfully, the District Court did not have jurisdiction to rule on the civil commitment.

"Although we have no reason to believe that Pembroke acted in bad faith ... we nonetheless cannot conclude that Pembroke was in compliance with the strict requirements of (the law)," Budd wrote. "As the District Court initially had found that D.L.'s mental illness did not create a 'likelihood of serious harm,' the fact that D.L. did not have a place to live upon his release was not a proper ground for Pembroke to involuntarily restrain him."

Ray Robinson, CEO of Pembroke Hospital's parent company, Arbour Health Systems, said in a statement that every action the hospital took in D.L.'s case "was solely for the safety and well-being of the patient."

"Further, the court noted that if a safe discharge could not be arranged for a patient following the denial of a petition for commitment and a patient's family members were not available to care for the patient, such a circumstance could give rise to an appropriate reconsideration of the petition," he said. "It was under these beliefs and circumstances that Pembroke took action in this situation."

Pembroke Hospital is owned by Arbour under the umbrella of Pennsylvania-based Universal Health Systems. The hospital came under increased scrutiny after a patient died there in 2015 and has been criticized for leaving some of its beds empty at times of high demand for psychiatric care.

Arbour has closed two other mental health facilities in Massachusetts amid accusations of poor treatment. One, in Westwood, was shut down by the state Department of Mental Health in 2017. The other, in Lowell, was closed in 2018 after a history of citations.

D.L.'s lawyer did not immediately respond to a request for comment.



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