

IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
AUGLAIZE COUNTY

ERIC J. ELLIOTT,

CASE NO. 2-26-07

PLAINTIFF-APPELLANT,

v.

DR. MATHEW M. JOSE, ET AL.,

OPINION AND
JUDGMENT ENTRY

DEFENDANTS-APPELLEES.

Appeal from Auglaize County Common Pleas Court
Trial Court No. 2025-CV-0175

Judgment Affirmed

Date of Decision: October 5, 2026

APPEARANCES:

Eric J. Elliott Appellant

Michael F. Lyon and *James S. Ginocchio* for Appellees Gregory
Griffin, D.O. and Seth O. Agiro

Karin M. Long for Appellees Suri Vanan, M.D. and Grand Lake
Physician

Michael D. Rice and Brian Sullivan for Appellees Mathew Adrian, M.D. and Mercy Health – St. Rita’s Medical Center

Michael P. Murphy and Holly Marie Wilson for Appellee Mathew M. Jose, M.D.

WALDICK, J.

{¶1} Plaintiff-appellant, Eric J. Elliott (“Elliott”), brings this appeal from the May 26, 2026 judgment of the Auglaize County Common Pleas Court denying his motions to reconsider and granting summary judgment in favor of defendants-appellees Dr. Vanan, Grand Lake Physician Practices (“GLPP”), Dr. Andrien, Dr. Griffin, Mercy Health St. Rita’s, and Dr. Agiro (defendants are collectively referred to in this opinion as “appellees”).¹ For the reasons that follow, we affirm the judgment of the trial court.

Background

{¶2} On October 20, 2025, Elliott filed a pro se medical negligence/malpractice action against appellees.² The “factual background” stated by Elliott in his complaint reads as follows:

¹ At oral argument, Elliott seemed to concede that the only appellee he was seeking summary judgment reversal for was GLPP.

² Elliott also attempted to seek recovery under HIPAA and Ohio Revised Code 3701.74 (related to medical records); however, the trial court granted motions to dismiss these claims against appellees, finding that the statutes did not authorize private causes of action for money damages.

In [Month/Year]³, Plaintiff presented with symptoms indicative of a neurological mass, including [list symptoms]. Despite these red flags, Defendants failed to order or interpret critical imaging timely. When imaging was performed, the October 3rd CT scan clearly showed abnormal findings consistent with a craniopharyngioma. This information was withheld from Plaintiff, delaying treatment and allowing the tumor to progress. Subsequent care was characterized by: * Repeated failures to schedule timely follow-ups * Administration of contraindicated medications. * Ignoring Plaintiff's repeated requests for care and accommodation. * Resistance to releasing complete medical records, necessitating formal HIPAA requests. As a direct result, Plaintiff experienced worsening vision, endocrine dysfunction, cognitive decline, and psychological trauma. Multiple emergency room visits, including those on February [date] and September 1, 2024, were directly traceable to Defendants' failures.

(Doc. No. 1).

{¶3} Affidavits attached to Elliott's complaint indicated that "[t]he essence of this case is that the plaintiff suffered from a craniopharyngioma [a benign, slow-growing tumor] which went undetected by all of the defendants causing a delay in its treatment." Stated differently, Elliott alleged that he first went to an emergency room in February of 2024 complaining of headaches, visual issues and sinus problems. Elliott indicated that despite persistent sinus and neurological complaints, imaging was not ordered until September 9, 2024, after several further medical appointments. The imaging revealed a benign tumor, which Elliott claimed grew in

³ As stated by multiple appellees both to this Court and the trial court, many of Elliott's filings contained areas that were likely produced by artificial intelligence and the filings contained blanks/prompts that were meant to be filled-in later with specifics.

size due to the delay in its discovery and caused him issues. Elliott sought compensatory and punitive damages in the “multi-million dollar range.”⁴

{¶4} Appellees filed answers denying Elliott’s claims. The parties then engaged in discovery and motion practice. Notably, Elliott issued discovery requests and other filings that were not in compliance with the Ohio Rules of Civil Procedure. For example, Elliott failed to comply with Civil Rule 5 regarding service and some of Elliott’s discovery requests were “not capable of response[s] as expected by the Civil Rules.”⁵

{¶5} After significant discovery had been exchanged, Elliott filed a motion seeking additional discovery that would identify treating providers and record custodians. He claimed that records he had received appeared incomplete or inconsistent. Elliott claimed that he still needed, *inter alia*, “metadata” and “audit trails” related to his care. Appellees responded indicating that Elliott was already in possession of all his medical records as exhibited by the records he attached to his motions and pleadings.

{¶6} Elliott designated one expert witness for his case, Dr. Michael Hopfenspriger, an otolaryngologist. However, Dr. Hopfenspriger provided his opinion only with regard to the scope of otolaryngology. Thus he provided no

⁴ Appellees filed a motion to bifurcate and stay discovery related to Elliott’s request for punitive damages pursuant to R.C. 2315.21, and that motion was granted.

⁵ For example, Elliott issued “Requests for Admission” that contained requests such as “Admit that no imaging was ordered at Visit X” and “Admit that no imaging was ordered at Visit Y[.]”

admissible opinions with regard to any deficiencies of the emergency room medical personnel Elliott had filed complaints against, which included appellees Dr. Griffin and Dr. Agiro, as to how they violated the standard of care or how they proximately caused Elliott harm. Further, Dr. Hopfenspriger “expressed no opinion regarding any breach of a standard of care by Dr. Vanan – possibly for the reason that [Elliott] never consulted with Dr. Vanan.”

{¶7} Appellees moved for summary judgment in this matter, and summary judgment was granted to all appellees except Grand Lake Physician Practices. The trial court determined that the expert affidavit submitted by Dr. Hopfenspriger did question the standard of care at GLPP by a nurse practitioner and a physician’s assistant; however, neither individual was named as a party to this action. Moreover, the trial court held that the affidavit submitted by Elliott failed to demonstrate that his expert “met the practice requirements set forth in Evidence Rule 601(A)(2)(b).” Elliott was given 14 days to establish a foundation for the expert opinions by Dr. Hopfenspriger as to the employees of GLPP.

{¶8} On May 18, 2026, Elliott provided a supplemental affidavit establishing that Dr. Hopfenspriger met the practice requirements in Evid.R. 601(A)(2)(b). Nevertheless, the expert’s supplemental report stated as follows with regard to causation:

9. I am not offering an opinion that the delay probably caused significant objective tumor progression, additional structural damage,

or made the surgery materially more difficult, unless additional records support that conclusion. Based on the records I have reviewed, that issue remains limited.

{¶9} In addition to filing the supplemental affidavit, Elliott filed motions to reconsider the trial court's summary judgment decisions, which were not final orders. On May 26, 2026, the trial court filed final judgment entries granting summary judgment to GLPP, the last remaining defendant, and holding that the undisputed facts showed that Elliott had no medical testimony to support that any conduct by GLPP (or the other appellees) proximately caused harm to him. Thus summary judgment was also granted to GLPP and Elliott's motions to reconsider were overruled.

{¶10} Elliott now brings the instant appeal challenging the trial court's determinations, asserting the following assignments of error for our review.

Assignment of Error No. 1

The trial court erred and abused its discretion by granting summary judgment while Plaintiff's Civ.R. 56(F) discovery into provider-controlled facts necessary for expert causation review remained unresolved, deferred, or stayed.

Assignment of Error No. 2

The trial court erred by equating Plaintiff's patient access to medical records with discovery access to provider-controlled system evidence necessary to evaluate causation, including audit trails, routing logs, metadata, access records, result-transmission records, acknowledgment records, and provider communications.

Assignment of Error No. 3

The trial court abused its discretion by allowing compressed dispositive-motion practice and discovery restrictions to proceed after Plaintiff placed the court on notice that disability-related limitations affected litigation pacing, processing load, communication-load tolerance, and meaningful participation.

{¶11} Due to the nature of the discussion, we elect to address the assignments of error together.

First, Second, and Third Assignments of Error

{¶12} In his assignments of error, Elliott argues that the trial court erred by granting summary judgment to appellees and by overruling his motions for reconsideration. More specifically, Elliott contends that the trial court erred by granting summary judgment before he had received “complete discovery.”

Standards of Review

{¶13} An appellate court reviews a trial court’s decision on a motion for summary judgment *de novo*. *Birkmeier v. St. Rita’s Med. Ctr.*, 2018-Ohio-2343, ¶ 14 (3d Dist). Trial courts may grant a motion for summary judgment when “(1) no genuine issue as to any material fact remains to be litigated, (2) the moving party is entitled to judgment as a matter of law, and (3) it appears from the evidence that reasonable minds can come to but one conclusion and that conclusion is adverse to

the party against whom the motion for summary judgment is made.” *Hamilton v. Hector*, 117 Ohio App.3d 816, 819 (3d Dist. 1997).

{¶14} The party moving for summary judgment bears the burden of showing that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *Dresher v. Burt*, 1996-Ohio-107. Additionally, ““upon appeal from summary judgment, the reviewing court should look at the record in the light most favorable to the party opposing the motion.”” *Hamilton*, quoting *Campbell v. Hosp. Motor Inns, Inc.*, 24 Ohio St.3d 54, 58 (1986). Once the moving party satisfies its burden, the nonmoving party “may not rest upon the mere allegations or denials of the party’s pleadings, but the party’s response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial.” Civ.R. 56(E).

{¶15} By contrast, a trial court’s determination on a motion for reconsideration will not be disturbed on appeal absent an abuse of discretion. *Creddu v. Clough*, 2012-Ohio-2242, ¶ 25 (11th Dist.).

Analysis

{¶16} At the outset of our review, we emphasize that Elliott has produced no admissible evidence from his expert indicating that any of the appellees proximately caused him harm. Rather, the only evidence in the record from an expert witness indicates that Elliott’s “craniopharyngioma is a very rare, slow-growing, benign

tumor. Scientifically, more likely than not, Mr. Elliott suffered absolutely no change in his treatment, outcome, prognosis or harm of any kind whatsoever related to the timing with which he received his results or the subsequent care for his craniopharyngioma.” (Doc. No. 100, Ex. A.). In fact, Elliott’s expert specifically stated that he was “not offering an opinion that the delay probably caused significant objective tumor progression, additional structural damage, or made the surgery materially more difficult, unless additional records support that conclusion.”

{¶17} Moreover, as the trial court determined, Elliott’s expert was only qualified to provide an opinion related to otolaryngology, which meant there was no admissible evidence establishing any liability by emergency room appellees Dr. Agiro and Dr. Griffin. Elliott also was never treated by Dr. Vanan because Elliott himself canceled his appointment, thus establishing no duty of care related to that defendant even if there was evidence of proximate causation, which there is not.

{¶18} Therefore, all of Elliott’s claims failed either because Elliott did not have expert testimony establishing that any appellee violated the applicable standard of care, or, in the instance of GLPP, Elliott did not have expert testimony establishing that any member of GLPP’s staff was the proximate cause of an injury. *Hitch v. Thomas*, 2010-Ohio-3630, ¶ 17 (6th Dist.) (“To establish a claim of medical malpractice, a plaintiff must prove by expert testimony the applicable standard of care, a breach of that standard of care, and that the breach was a proximate cause of the injuries alleged.”).

{¶19} Elliott seeks to subvert the trial court’s summary judgment ruling on appeal by claiming that he needed more discovery to establish the issues of duty of care and/or proximate cause. Elliott argues that the “core error is simple: the trial court converted unresolved discovery into a merits failure.” (Appt.’s Br. at 8). Elliott contends that he sought “meta data” and “audit trails” that were not provided to him in discovery.

{¶20} However, as multiple appellees point-out, discovery was exchanged in this matter and Elliott had unfettered access to his own medical records. Nevertheless, Elliott actually attempted to compel appellees on multiple occasions to provide medical records for Elliott for instances wherein Elliott was not even treated by the appellees. The trial court determined that such requests were declared a “nullity” as noncompliant with civil rules. Elliott repeatedly requested discovery in manners that were not compliant with civil rules, leading to the trial court making the following ruling:

Thus, the Court directs Plaintiff to fully comply with all Ohio Rules of Civil Procedure, Local Rules of this Court and all other applicable rules and legal standards. The use of artificial intelligence to assist with litigation procedures is acknowledged as a current device; however, such assistance does not excuse Plaintiff or any other counsel from noncompliance with Rules, lack of accuracy or research, etc.

(Doc. No. 53).

{¶21} Because of Elliott's numerous, non-compliant filings, the trial court placed limits on discovery, but only after Elliott had received discovery from the appellees. Nevertheless, despite the trial court's ruling, Elliott continued to issue discovery requests, baldly making claims that meta data or an audit trail would have provided information from which his expert could have extrapolated proximate cause (or in some cases, a standard of care).

{¶22} We note that trial courts have broad discretion over discovery matters. *State ex rel. Mason v. Burnside*, 2007-Ohio-6754, ¶ 11. As the record clearly established that significant discovery had been exchanged and Elliott had been repeatedly noncompliant with the Ohio Rules of Civil Procedure, we can find no abuse of discretion with the trial court's ruling related to discovery. Moreover, this is particularly true given that Civ.R. 56(B) allows a defending party to file for summary judgment at any time before a trial has been set.

{¶23} Simply put, discovery had been exchanged. Elliott had access to his own medical records. Appellees moved for summary judgment. Elliott did not produce any evidence establishing either a breach of the standard of care or of proximate cause by the appellees. Therefore, Elliott has not shown any abuse of discretion related to the trial court's discovery orders, and he has not shown that the trial court erred by granting summary judgment in favor of appellees. He has also not shown that the trial court abused its discretion by denying his motions to reconsider.

{¶24} Finally, we note that Elliott argues that the trial court erred by not providing disability-related accommodations. However, in making his argument, he largely complains that *appellees* characterized his numerous filings as excessive or improper. He does not point to any specific actions by the trial court that violated his rights; rather, he contends that the “compressed litigation timing” was difficult for him due to his disability.

{¶25} Elliott contends that he was deprived of a fair opportunity to oppose summary judgment, but the record reflects otherwise. The trial court provided Elliott the ability to respond to the summary judgment motions, the ability to correct his deficient expert affidavit, and the ability to file motions for reconsideration. There is no indication that the trial court denied Elliott any reasonable accommodations for a disability. For all of these reasons, Elliott’s first, second, and third assignments of error are overruled.

Conclusion

{¶26} Having found no error prejudicial to Elliott in the particulars assigned and argued, his assignments of error are overruled and the judgment of the Auglaize County Common Pleas Court is affirmed.

Judgment Affirmed

ZIMMERMAN, P.J. and WILLAMOWSKI, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignments of error are overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Juergen A. Waldick, Judge

William R. Zimmerman, Judge

John R. Willamowski, Judge

DATED:
/jlm