

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON  
October 16, 2002 Session

**GINNIE LEACH, ET AL. v. TIM TAYLOR, ET AL.**

**A Direct Appeal from the Circuit Court for Gibson County  
No. 7852 The Honorable Clayburn Peeples, Judge**

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**No. W2002-01091-COA-R3-CV - Filed December 30, 2002**

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Holly Kirby Lillard, J., dissenting separately.

The majority in this case concludes that there are no allegations in the complaint from which it can be inferred that the Defendants knew the statements regarding the condition of the Decedent's body were false. I respectfully dissent.

At the time the statements in question were made, the Defendants had embalmed the body in preparation for burial, and thus had personal knowledge of its condition. Even if it is assumed that some of the statements made were the result of misunderstanding or lack of knowledge of the process of harvesting organs for transplant, the allegations included some statements about which there could be no misunderstanding. For example, the Defendants allegedly told Plaintiffs that the medical personnel who harvested the organs "even took his private parts." If this statement was false, the Defendants, having embalmed the body, had to know it. Regardless of the ultimate explanation for the statements, I believe that the Plaintiffs are entitled to proceed, and that dismissal based on the pleadings alone is erroneous. Therefore, I would reverse the decision of the trial court.

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HOLLY KIRBY LILLARD, J.