

COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

FILED
February 27, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

GENE L. MILLER,) C/A NO. 03A01-9709-CV-00444
)
 Plaintiff-Appellant,)
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)
 v.) APPEAL AS OF RIGHT FROM THE
) KNOX COUNTY CIRCUIT COURT
)
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)
 TARA L. STURDIVANT, M.D.,)
 JACQUELINE CARUTHERS,)
 and DORIS ROSS,)
) HONORABLE WHEELER A. ROSENBALM,
 Defendants-Appellees.) JUDGE

For Appellant

For Appellees

GENE L. MILLER, Pro Se
Powell, Tennessee

BRUCE A. ANDERSON
Butler, Vines and Babb, P.L.L.C.
Knoxville, Tennessee

MEMORANDUM OPINION¹

¹Rule 10(b) of the Rules of the Court of Appeals provides as follows:

The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.

AFFIRMED AND REMANDED

Susano, J.

Gene L. Miller filed separate actions against Tara L. Sturdivant, M.D., Jacqueline Caruthers, and Doris Ross, for alleged medical malpractice arising out of treatment rendered to him at the Knox County Health Department. The complaints were consolidated in Division Three of the Knox County Circuit Court. The defendants filed a joint motion for summary judgment which was supported by the affidavit of the defendant Sturdivant. The affidavit negates essential elements of the plaintiff's causes of action. The plaintiff failed to file material of the nature, and in the form, contemplated by Rule 56.06, Tenn.R.Civ.P. Since the facts properly before us show that the defendants are "entitled to a judgment as a matter of law," it results that the summary judgment granted to the defendants by the trial court must be affirmed at the plaintiff's costs. See Rule 56.04, Tenn.R.Civ.P. This case is remanded to the trial court for collection of costs assessed below, pursuant to applicable law.

Charles D. Susano, Jr., J.

CONCUR:

Houston M. Goddard, P.J.

William H. Inman, Sr.J.