

NO. 6 7 3 6 - I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

FRANCES M. HAWKINS, and LOUISE MARKERT
as Guardian ad litem for MICHAEL J. HAWKINS,

APPELLANTS,

vs.

KING COUNTY; COMMUNITY PSYCHIATRIC CLINIC,
INC., SEATTLE; ALEXANDER (LEX) MCGRAW and
"JANE DOE" MCGRAW, husband and wife, and
the marital community composed thereof;
and RICHARD SANDERS and "JANE DOE" SANDERS,
husband and wife, and the marital community
composed thereof,

RESPONDENTS.

APPEAL FROM THE SUPERIOR COURT FOR KING COUNTY

THE HONORABLE NORMAN QUINN, JUDGE *A*

BRIEF OF APPELLANTS

FILED
NOV 20 11 2 30

DAVIES, PEARSON, ANDERSON, SEINFELD,
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EXHIBIT 15-1

II.

STATEMENT OF THE CASE

A. STATEMENT OF FACTS.

On July 1, 1975, Michael Hawkins was arrested after assaulting a young girl on the University of Washington campus, under the belief that she was an old girl friend of his named "Thelma." He chased and grabbed the girl, refusing to let her go despite her denial that she was "Thelma". The police arrived and arrested Michael. After his arrest it was discovered that he was in possession of a quantity of marijuana. Although assault charges were not filed, Michael was held on the drug charge. On July 3, 1975, Richard Sanders was appointed to represent Michael Hawkins.

On July 3, 1975, Mr. Sanders had a lengthy telephone conference with Palmer Smith, an attorney hired by Frances Hawkins, Michael's mother, to assist in getting Michael either into a hospital or civilly committed after he had threatened her and his sister and forced them to move out of the family home. (See Dep. of Richard Sanders, taken April 15, 1977, at page 27, lines 16-25; page 28, lines 1-22; and page 31, lines 20-25; page 32, lines 1-20). Mr. Smith advised Mr. Sanders that Michael was seriously mentally ill and dangerous, that he was in need of psychiatric care and treatment, and that he should not be released because of the danger he presented to himself and others. Mr. Smith advised Mr. Sanders that Dr. Elwood Jones, a psychiatrist who knew the Hawkins family and had been treating Mrs. Hawkins in regard to her problems with Michael,

concluded in this opinion.

On July 4, 1975, Mr. Smith hand-delivered a letter to Mr. Sanders restating the substance of the telephone conversation of the previous day, and stating that both he and Dr. Jones would like to meet with him to discuss these matters as soon as possible. (See Dep. of Richard Sanders, page 28, lines 23-25, page 29, lines 1-15). On July 8, 1975, Mr. Smith sent another letter to Mr. Sanders, advising him that a psychiatric examination of Michael could be made under Mrs. Hawkins' medical insurance plan before Michael's release to make an independent determination as to his mental condition and the risk of injury should he be released other than to a hospital. Mr. Smith's letter also stated that if, despite his dangerousness, Michael was released, Mr. Sanders give Mr. Smith and Mrs. Hawkins notice so that they could be forewarned.

On July 8, 1975, Mr. Sanders received a telephone call from Dr. Jones regarding Michael Hawkins' mental condition. Dr. Jones stated that he felt Michael was seriously mentally ill and a danger to himself and others, and that he should not be released. (See Dep. of Richard Sanders, page 39, lines 16-17, page 40, lines 1-25, and page 41, lines 1-13). On that same day Dr. Jones sent a letter to Mr. Sanders again setting forth his medical opinion that Michael ". . . is seriously emotionally ill, of danger to himself and others and should be detained in a controlled setting, be it the jail at this time or a hospital". (See Dep. of Richard Sanders, page 39, lines 6-11).

In the telephone conversation, Dr. Jones advised that he had a 22-page account of Michael's disturbed behavior dating back to 1966 prepared by Michael's sister, Mardia, and that it was available to him if he wished to review it. Mr. Sanders refused to read or review this document stating, "I don't believe Michael would want me to read this." Dr. Jones also stated in his letter that he was available to render any assistance necessary, and that Mr. Sanders was free to contact him at any time.

On July 8, 1975, Mr. Sanders also had a telephone conference with Mr. Smith, Dr. Jones and Mrs. Hawkins regarding Michael's mental condition. (See Dep. of Richard Sanders, page 32, lines 21-25, page 33, lines 1-9). At no time was action taken for the appointment of a guardian or guardian ad litem for Hawkins.

On July 9, 1975, Mr. Sanders appeared at a bail hearing for Michael Hawkins. None of the information related to him was brought to the attention of either the court or prosecutor. Sanders withheld all information that Michael Hawkins might be seriously mentally ill and dangerous. (See Dep. of Richard Sanders, page 26, lines 23-24). Mr. Sanders obtained a release of Hawkins on the latter's personal recognizance.

On July 17, 1975, less than eight days after his release from jail, while in a demented and psychotic state, Hawkins attacked his mother, Frances Hawkins, with a knife, inflicting multiple and severe stab wounds, and left her bleeding and unconscious. Following the attack on his mother, Hawkins

inflicted multiple knife wounds to himself and jumped off the 45th Street Bridge, sustaining numerous and serious injuries, and resulting in the amputation of both legs.

At all times after being assigned as counsel to Hawkins, Richard Sanders was fully aware that Hawkins was severely mentally ill and dangerous. In spite of his knowledge of these facts, he had Michael Hawkins released on his personal recognizance without informing the court of Michael's mental condition, or attempting to refute or disprove the opinions of Dr. Jones, Mr. Smith, Mrs. Hawkins or Mardia Hawkins, or seeking to have a guardian appointed to represent Michael's interest. Richard Sanders' sole concern at all times was to see that Michael Hawkins was released from jail, without regard to Hawkins' best interests or whether he presented a significant danger to himself or others.

Mr. Sanders was aware of Hawkins' incompetence and of the danger of having Michael released, as he states in his deposition taken on April 15, 1977, on pages 31, lines 20-25, and page 32, lines 1-6:

Page 31:

Q. You don't? But you were aware that Palmer Smith and Dr. Jones, the psychiatrist, on July 4th of 1975, were seriously concerned about the wisdom of turning this gentleman loose into society?

A. Well--

Q. Were you or were you not?

Page 32:

A. Well, if I received the letter, I read the letter.

