

DAILY REPORT

Psychiatric Hospital Facing Suit Again for Releasing Killer

The decision reverses Glynn County State Court Judge Bart Altman's dismissal of the lawsuit against Psychiatric Solutions, owner of Focus by the Sea.

By **Katheryn Tucker** | November 08, 2017 | Originally published on **Daily Report Online**



Judge Charlie Bethel, Georgia Court of Appeals (Photo: John Disney/ALM)

Nearly nine years after a just-discharged psychiatric patient murdered two people in Florida, the [Georgia Court of Appeals](#) has ruled that the surviving children can sue the hospital that sent her home.

“One who takes charge of a third person whom he knows or should know to be likely to cause bodily harm to others if not controlled is under a duty to exercise reasonable care to control the third person to prevent him from doing such harm,” [Judge Charlie Bethel](#) wrote.

With the approval of Presiding Judge Christopher McFadden and Judge Elizabeth Branch, Bethel cited a Court of Appeals case, *Bradley Center, Inc. v. Wessner*, 161 Ga. App. 576 (1982). “This court ruled that, due to the special relationship between the defendant mental health provider and the patient, the provider owed a duty to third parties,” Bethel said.

The decision reverses Glynn County State Court Judge Bart Altman’s dismissal of the lawsuit against Psychiatric Solutions, owner of Focus by the Sea. Amy Kern had been an involuntarily committed patient at the private psychiatric hospital on three separate occasions following violent actions, Bethel wrote. She attempted suicide. She chased her boyfriend with an ax. And she threatened to kill him with a tire iron.

“Amy Kern had an extensive mental health history dating back to 1999, and she suffered from a series of psychotic breaks which resulted in violent conduct,” Bethel said.

Bethel said the trial judge was wrong to hold the family to the standards of medical malpractice cases and distinguished this one on the reason for the discharge. It wasn’t a medical decision. Rather, the hospital sent Kern home because her insurance stopped paying the bill, Bethel said.

Twelve days later, she killed her grandmother, Donna Kern, and her aunt's boyfriend, William Chapman, Bethel wrote. News reports from the 2009 murders said she drove from the Georgia coast to Florida, shot the aunt's boyfriend with a gun stolen from her father's home and bludgeoned her grandmother with a tire iron.

Beverly Kern sued on behalf of Donna Kern's children. Harriet Curles and Tillie Knight sued on behalf of Chapman's children.

"We appreciate the court's careful consideration of the case-specific facts and the law," Michael Terry of Bondurant, Mixson & Elmore said in an email. "It is a detailed and thoughtful analysis. We look forward to our clients finally having their day in court."

Terry represents the families, along with Timothy Rigsbee of Bondurant, Nathan Williams of the Williams Litigation Group in Brunswick, Darren Penn of Penn Law in Atlanta and Jeffrey Harris of Harris Lowry Manton in Savannah.

The hospital's legal team includes Patrick O'Connor, Christopher Ray and Irving William Drought III of Oliver Maner in Savannah. The hospital team could not be reached immediately.

Amy Kern was found not guilty by reason of insanity. Until 2016, she was held in a Florida state mental hospital. A report in the Palm Beach Post said Circuit Judge Joseph Marx ordered her release on the advice of doctors and her transfer to a less-restrictive residential treatment center, reminding her to take her medicine.

The cases are *Curles v. Psychiatric Solutions*, No. A17A1298, and *Kern v. Psychiatric Solutions*, No. A17A1299.