

2026 PA Super 237

ROBERT BARNES AND BRITTANY BARNES

: IN THE SUPERIOR COURT OF
: PENNSYLVANIA

Appellants

V.

ST. CLAIR HOSPITAL AND JACOB W.
MCBRIDE, D.O.

: No. 1138 WDA 2025

Appeal from the Order Entered August 28, 2025
In the Court of Common Pleas of Allegheny County Civil Division at
No(s): GD No. 21-014407

BEFORE: LAZARUS, P.J., STABILE, J., and NEUMAN, J.

OPINION BY NEUMAN, J.:

FILED: October 26, 2026

Appellants, Robert Barnes (a police officer), and Brittany Barnes (his wife), appeal from the trial court’s August 28, 2025 order granting Appellees’, St. Clair Hospital and Jacob W. McBride, D.O., motion for summary judgment. Appellants argue the trial court improperly barred their claims by applying the professional rescuer doctrine — a common law rule that a professional rescuer, such as a police officer or firefighter, who has been injured while attempting to rescue persons or property, cannot recover from one whose negligence has created the danger, **see, e.g., Heil v. Brown**, 662 A.2d 669, 671 n.3 (Pa. Super. 1995).¹ After careful review, we reverse the trial court’s order and remand.

¹ The 'professional rescuer doctrine' is also known as the 'fireman's rule.' We use these terms interchangeably herein.

The trial court summarized the underlying facts of this matter, as follows:

George Tratras, age 25, was the only child of John Tratras and Ana Tratras. He lived with his parents in a home in M[t.] Lebanon, Allegheny County. John became concerned that his son was having paranoid delusions. [On July 12, 2021,] John completed an application for involuntary emergency examination and treatment under [S]ection 302 of the Mental Health Procedures Act[("MHPA"), 50 P.S. §§ 7101-7503].^[2] In the application[,], John indicated his son George ... accused John of witchcraft. John further indicated his son states he is the high priest from the Old Testament "and will destroy us if we keep doing [the witchcraft]." John finally indicated that his son "George has firearms in the home."

George ... was involuntarily taken to St. Clair Hospital. He was seen there by an emergency room physician who committed him to inpatient psychiatric care at a locked inpatient unit out of "concern for safety for his parents that he is currently living with." George ... then met with [Dr.] McBride, a psychiatrist employed by St. Clair Hospital. Dr. McBride assessed George ... as a low risk with no imminent threat of violence.^[3] Dr. McBride was also informed that a hospital social worker spoke with George[']s father and mother[,], and they informed the social worker they had changed their minds and wanted their son discharged to their

² Our Supreme Court has observed "[t]he various statutory sections of the MHPA as set forth in Purdon's Pennsylvania Statutes, the unofficial codification of Pennsylvania law, are most often described in our decisions by the section numbers used in the original act passed by the General Assembly in 1976." **Matos v. Geisinger Med. Ctr.**, 334 A.3d 288, 295 n.6 (Pa. 2025) (citing Act of July 9, 1976, P.L. 817, No. 143, § 114, amended Act of Nov. 26, 1978, P.L. 1362, No. 324, § 1). Accordingly, in our decision, we also refer to the section numbers from the original act.

³ The record also indicates Dr. McBride had concerns George suffered from psychosis and recommended George stay voluntarily, but George declined. **See** Appellees' Motion for Summary Judgment, 7/11/25, at Exhibit B (Visit Report) at 10. According to Dr. McBride, George said he would consider seeing a psychiatrist in the long term, but he did not "want an appointment made for him from here." **Id.**

home.^[4] Approximately 21 hours after his admission to St. Clair Hospital under an involuntary mental health commitment, George ... was discharged to the Mt. Lebanon home he shared with his parents.

Late in the evening of July 28, 2021, 15 days after George[’s] discharge, he shot both his parents to death in their home. He then telephoned 911[,] and reported that he had murdered his parents. Also on July 28, 2021, [Officer] Barnes began his shift as a patrol officer with the Dormont Police Department at 11:00 p.m. Officer Barnes had approximately 10 years of experience working as a police officer. Officer Barnes and another Dormont Police Officer were dispatched to assist the Mt. Lebanon Police apprehending George..., who told 911 he wanted to surrender to the police. Officer Barnes went to a staging area near the Tratras[es’] Mt. Lebanon home and was told by high[-]ranking police officers “this could be a dangerous situation” and “could absolutely be a worst-case scenario.” Officer Barnes, with a long rifle and wearing 2 ballistic vests, approached the home with 3 other police officers. George ... then began firing a gun at the police, and Officer Barnes was hit by a bullet in the vest. George

⁴ There is evidence in the record, via a note from the social worker, that John and Ana later denied having concerns George would harm anyone or himself. **See** Visit Report at 63-64 (“[Social worker] spoke with [George’s] parents Ana and John. Ana reports she did not want a 302 petitioned [*sic*] and that she would like [George discharged] home today, she denies that [George] needs any inpatient or outpatient treatment, she denies concerns that [George] is a danger to himself or others. John reports to [social worker] that [George] is religious at baseline. He states he would like [George discharged] home, [and] states this was a big misunderstanding following an argument he and [George] had. He reports [George] did not threaten anyone and John denies having concerns that [George] would harm anyone or himself. ... John states he felt pressured by the police to petition the 302, [and] John states his own judgement [*sic*] was impaired when filing the 302 due to his insomnia and lack of sleep the night before.”). The social worker also noted “[p]olice have removed all guns from the home, they are in storage at the police station per John[,]” and “John reports he, his wife, and [George] are unhappy that the guns were removed from the home and...[,] if he knew this would be a repercussion of the 302[,] then he never would have signed the 302 petition.” **Id.** at 65. According to the social worker’s note, John reported George “collects firearms but has never used them inappropriately or threatened anyone with these firearms. ... [John] states [George] had plans to become a registered firearms salesman and open his own gun shop.” **Id.**

... was able to escape from the home to a car. He was followed by the police until he wrecked the car he was driving and used his gun to take his own life.

Although not bleeding, Officer Barnes was quite aware he had been struck by a bullet. He was transported to the Mercy Hospital emergency room and was released at 5:00 a.m. on July 29, 2021. He sustained a contusion and hematoma to his abdominal wall from the bullet hitting his ballistic vests. Officer Barnes reports also injuring his shoulder and back during the incident, with the shoulder requiring surgery in January of 2022. Officer Barnes also was treated for Post Traumatic Stress Disorder and was unable to work for approximately 10 months. However, as a police officer[,], he received Heart and Lung Act benefits (**see** 53 P.S. §[]637) of 100 percent of his salary, but not including the overtime he regularly worked.

Trial Court Opinion (“TCO”), 11/6/25, at 1-4 (some brackets in original; some capitalization modified).

Officer Barnes and Mrs. Barnes subsequently filed an action against St. Clair Hospital and Dr. McBride.⁵ In the operative complaint, Appellants brought direct liability claims against both St. Clair Hospital and Dr. McBride pursuant to Section 114 of the MHPA for willful misconduct/gross negligence in examining, treating, and discharging George, as well as a claim against St. Clair Hospital for vicarious liability/respondeat superior. **See** Appellants’ Fourth Amended Complaint, 3/24/23, at ¶¶ 131-47, 148-62, 163-65. Mrs. Barnes also advanced a claim for loss of consortium. **Id.** at ¶¶ 166-68.

On July 11, 2025, Appellees filed a motion for summary judgment. First, they argued they did not owe Officer Barnes a duty of care because he was

⁵ Appellants also named the estates of John, Ana, and George as defendants in the lawsuit, but later reached out-of-court settlements with them. TCO at 4.

not a foreseeable victim of Dr. McBride's decision to discharge George from St. Clair Hospital, and the MHPA does not create a duty owed to the public at large. Appellees' Motion for Summary Judgment at ¶¶ 3-4, 12. Second, they contended Officer Barnes' claims are barred by the professional rescuer doctrine and/or the assumption of risk doctrine, arguing Officer Barnes appreciated the gravity of the danger of an armed assailant and cannot recover for a dangerous situation he voluntarily encountered as part of his employment as a police officer. **Id.** at ¶¶ 3, 5, 13.

In response, Appellants first denied Officer Barnes was not a foreseeable victim, arguing Appellees knew or should have known George posed a serious risk of harm to himself, his parents, and the public; claiming it was reasonably foreseeable police officers would have to respond to the scene of any situation involving George; and highlighting George's diagnosis of psychosis, threats against his parents, collection of firearms, and lack of plan to seek further mental health support. **See** Appellants' Brief in Opposition, 8/26/25, at 17, 19-31. Second, Appellants denied their claims are barred by the professional rescuer doctrine and/or the assumption of risk doctrine, stating the professional rescuer doctrine has not been adopted in Pennsylvania and is not typically used in this type of scenario, and any alleged assumption of risk by Officer Barnes would not negate the fact Appellees were grossly negligent in their treatment and discharge of George. **Id.** at 31-32, 34.

On August 28, 2025, the trial court entered an order granting summary judgment in favor of Appellees on all claims based on the professional rescuer

doctrine. Order, 8/28/25. Appellants timely appealed and, after being directed by the trial court to do so, they filed a timely concise statement pursuant to Pa.R.A.P. 1925(b).

The trial court later issued a Rule 1925(a) opinion, explaining the professional rescuer doctrine applied because the risk of being shot was known and obvious to Officer Barnes when he went to apprehend George following the murders. **See** TCO at 9-10. The trial court also indicated the professional rescuer doctrine applies to allegations of gross negligence, as it opined allegations of aggravated forms of negligence have no bearing on Officer Barnes' confronting a known and obvious danger in his police work. **See id.** at 13. Further, to the extent Officer Barnes complained the trial court erred by determining his injuries were not a foreseeable result of Appellees' actions, the trial court stated it only granted Appellees' summary judgment motion based on the professional rescuer doctrine, and "agree[d] with Officer Barnes that foreseeability would be an issue for the jury." **Id.** at 14 (citing **Straw v. Fair**, 187 A.3d 966 (Pa. Super. 2018)).

On appeal, Appellants raise the following issues for our review:

1. Whether the trial court erred, as a matter of law in granting summary judgment to Appellee[s] based on the so-called professional rescuer doctrine, a common law doctrine barring recovery for public-safety officers injured in the line of duty where Pennsylvania's appellate courts have continually applied traditional negligence principles and have expressly declined to adopt the doctrine?
2. Whether the trial court erred in anticipating and applying a broad version of the professional rescue[r] doctrine that conflicts with Pennsylvania's established tort framework, including statutes

such as [the MHPA], which expressly provided for immunity, and exceptions thereto, for mental health facilities and providers in the voluntary and involuntary treatment of persons who are mentally ill?

3. If this Court were to recognize and adopt some form of the professional rescuer doctrine, whether the trial court nevertheless erred in applying it as a complete bar for Appellants' third-party claims against Appellees that sound in gross negligence as permitted by [the MHPA], and which is otherwise treated as an exception to the professional rescuer doctrine?

4. Did the trial court err by allowing the Appellees to escape liability for the dangerous situation their own gross negligence created[?]

Appellants' Brief at 4-5 (some capitalization modified; quotation marks omitted).

At the outset, we recognize:

Summary judgment is appropriate only in those cases where the record clearly demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. When considering a motion for summary judgment, the trial court must take all facts of record and reasonable inferences therefrom in a light most favorable to the non-moving party. In so doing, the trial court must resolve all doubts as to the existence of a genuine issue of material fact against the moving party, and, thus, may only grant summary judgment where the right to such judgment is clear and free from all doubt. On appellate review, then,

an appellate court may reverse a grant of summary judgment if there has been an error of law or an abuse of discretion. But the issue as to whether there are no genuine issues as to any material fact presents a question of law, and therefore, on that question our standard of review is *de novo*. This means we need not defer to the determinations made by the lower tribunals.

To the extent that this Court must resolve a question of law, we shall review the grant of summary judgment in the context of the entire record.

Dobransky v. EQT Prod. Co., 273 A.3d 1133, 1139 (Pa. Super. 2022) (*en banc*) (cleaned up).

We address Appellants' issues together, as they all revolve around whether their allegations of gross negligence against Appellees pursuant to Section 114 of the MHPA are barred by the professional rescuer doctrine and/or the related assumption of risk doctrine. By way of background, with respect to the MHPA, our Supreme Court has explained:

[T]he General Assembly enacted the MHPA in 1976. The purpose of the MHPA is to establish procedures to effectuate the Act's policy — assuring the availability of adequate treatment to those who are mentally ill. 50 P.S. § 7102. The legislature, through the MHPA, and in conformity with principles of due process, sought to assure the availability of voluntary and involuntary treatment "where the need is great and its absence could result in serious harm to the mentally ill person or to others." **Id.** Indeed, treatment under the MHPA can be broadly conceptualized as two types, voluntary and involuntary. The General Assembly stressed that treatment on a voluntary basis is preferable to involuntary treatment, and, in all instances, the least restrictive approach consistent with adequate treatment should be utilized. **Id.** ... [T]he scope of the MHPA is limited, as it establishes rights and procedures only for the involuntary treatment of mentally ill persons, whether inpatient or outpatient, and for the voluntary inpatient treatment of mentally ill persons. Thus, the voluntary treatment of outpatients falls outside the scope of the MHPA.

In furtherance of the policy of the MHPA, the General Assembly also provided limited immunity for certain individuals providing care to the mentally ill. Specifically, [Section] 114 protects from civil and criminal liability those individuals and institutions that provide treatment to mentally ill patients, and, thus, promotes the statutory goal of ensuring such treatment remains available. **Dean v. Bowling Green-Brandywine**, ... 225 A.3d 859, 869 ([Pa.] 2020). This immunity protection, however, does not insulate individuals from liability for acts of willful misconduct or gross negligence. 50 P.S. § 7114.

Generally speaking, a medical professional has no duty under the common law to control the conduct of a patient or warn or protect a third party from a threat by a patient in his or her care, except under certain limited circumstances. **See generally Maas v. UPMC Presbyterian Shadyside**, ... 234 A.3d 427 ([Pa.] 2020); **Emerich v. Phila[.] C[tr.] for Human Dev[.], Inc.**, ... 720 A.2d 1032 ([Pa.] 1998). However, in tort cases, a duty may be imposed, not only by the common law, but also through statute. Based upon Section 114, our Court has found an affirmative duty exists under the MHPA which requires mental health professionals and institutions to avoid willful misconduct or gross negligence in the treatment of mental health patients, and imposes civil liability for a breach of that duty. **Goryeb v. Commonwealth, Dep[t.] of Pub[.] Welfare**, ... 575 A.2d 545, 548-49 ([Pa.] 1990) (finding a party participating in a decision to examine, treat, or discharge a mentally ill patient under the MHPA who commits willful misconduct or gross negligence can be liable for such decision or for any of its consequences); **see also Sherk v. Dauphin**, ... 614 A.2d 226, 232 ([Pa.] 1992) (plurality).

Leight v. Univ. of Pittsburgh Physicians, 243 A.3d 126, 130-31 (Pa. 2020).

Section 114 states, in relevant part:

(a) In the absence of willful misconduct or gross negligence, a county administrator, a director of a facility, a physician, a peace officer or any other authorized person who participates in a decision that a person be examined or treated under this act, or that a person be discharged, or placed under partial hospitalization, outpatient care or leave of absence, or that the restraint upon such person be otherwise reduced, or a county administrator or other authorized person who denies an application for voluntary treatment or for involuntary emergency examination and treatment, shall not be civilly or criminally liable for such decision or for any of its consequences.

50 P.S. § 7114(a).

We next turn our attention to the professional rescuer doctrine, also known as the fireman's rule. We begin our discussion by examining **Ruhl v. City of Phila.**, 29 A.2d 784 (Pa. 1943). In **Ruhl**, Ruhl was a fireman and

responded to a fire caused by an explosion. ***Id.*** at 784-85. Ruhl's lieutenant directed him to go to the other side of the street from where the fire was occurring — a place which the lieutenant considered to be perfectly safe — and remain there until further orders were given. ***Id.*** at 785. As Ruhl stood on the other side of the street as ordered, another explosion occurred, killing him. ***Id.*** The administratrix of Ruhl's estate subsequently filed a negligence suit against a gas company and the city. ***Id.*** at 786. After a jury found in the administratrix's favor, the defendants sought judgment notwithstanding the verdict or a new trial, contending Ruhl had assumed the risk of the danger which resulted in his death. ***Id.*** at 784, 787. Our Supreme Court rejected this claim. It discerned Ruhl was killed in the place the lieutenant ordered him to go and considered to be safe. ***Id.*** at 787. It explained:

It is what a fireman is doing at the time he is hurt that matters, not the mere fact that he is a fireman. In ***Drake v. Fenton***, ... 85 A. 14 [(Pa. 1912)], a fireman on duty inside a burning building was allowed to recover because he fell down an elevator shaft that was unguarded contrary to law. It is one thing to say that a fireman who has gone into a danger zone must take what he gets, and quite another to say that a person who stops short of the danger zone cannot recover because he is a fireman.

4 Thompson on Negligence, sec. 4618, lays down this principle, which is abundantly sustained by the authorities: 'The servant does not accept the risk of dangers proceeding from the special or unforeseen negligence of the master, or of those for whose conduct the master is responsible, or of the negligence of the masters which are unknown to him, such dangers not being ordinarily incident to the business.' ***See also*** 39 C.J. sec. 882, p. 684. It clearly cannot be said as a matter of law that the decedent as a fire patrolman assumed the risk of being killed in a gas explosion which resulted from the fire he officially attended. Such a risk was not ordinarily incident to the discharge of his duties nor did he have any actual or constructive knowledge of it with full

appreciation of the special dangers confronting him. There is no proof that Ruhl smelled gas before the second explosion or that he had any reason to apprehend a second explosion of gas. There is proof that some of his fellow patrolmen smelled no gas. Ruhl had been at the scene less than ten minutes. He went there to perform his duty. It was for the jury to say whether Ruhl showed want of care under the circumstances.

Id. (cleaned up). Thus, the Court affirmed the judgment entered in favor of the administratrix. **Id.**

Decades later, in 1988, this Court confronted the fireman's rule in **Mull v. Kerstetter**, 540 A.2d 951 (Pa. Super. 1988), and looked to **Ruhl** for guidance. According to the complaint in **Mull**, Mull, a volunteer fireman, responded to a fire called in by the defendant at his premises. **Id.** at 951-52. Once at the scene, Mull was hosing the fire when he stepped into an open window well, which was unguarded, unmarked, and unprotected, and sustained serious injuries. **Id.** at 952. Mull claimed the defendant was negligent by failing to illuminate the yard, warn about the holes, or keep Mull from falling into the dangerous well. **Id.** The trial court granted the defendant's preliminary objections based on the fireman's rule. **Id.** On appeal, this Court opined:

Our examination of the case law on the subject at hand, albeit sparse, leads us to conclude that the Pennsylvania Supreme Court is not predisposed to adopt the [f]ireman's [r]ule, regardless of whether it be the version that firemen assume the risk of any and all injuries that may befall them while they are on duty or that the rule extends only to negligence which brings firemen to the scene. We do so on the strength of the still viable 1943 decision of our Supreme Court in **Ruhl...**, which the court below has misinterpreted in support of its contrary position.

Id. at 952-53 (cleaned up).

After discussing **Ruhl**, this Court applied **Ruhl's** reasoning to the case before it, explaining:

Instantly, [Mull] claim[s] that the defendant was negligent in maintaining a hazardous condition on his premises in the form of window wells, approximately three to four feet in depth, the detection of which was impaired, purportedly, by the lateness of the hour and the absence of illumination as to their location. Accordingly, as we read the complaint, the breach of duty here asserted does not concern itself with the manner in which the fire was started. Rather, it involves the duty owed to any licensee who enters the premises—it is a duty to warn of dangerous hidden conditions.

In other words, reference to the [f]ireman's [r]ule was inappropriate to the disposition of [Mull's] preliminary objections. Instead, given **Ruhl's** preoccupation with the complainant's conduct ("what was he doing at the time he was hurt"), as opposed to his appellation ("fireman"), the court below should have determined the sufficiency of the complaint under a negligence standard, *i.e.*, was there an allegation of a duty owed the plaintiff by the defendant (either statutory or common law)?, was there a breach of the duty asserted?, and did the plaintiff sustain any injuries as a proximate cause of the breach of the duty owed by the defendant?

In light of the error of law committed by the court below, *i.e.*, relying on the [f]ireman's [r]ule to sustain the defendant's preliminary objections on a *per se* rule that firemen assume the risk of their on-duty injuries as a matter of law, it must be rejected. As a result, we deem it prudent to reverse the order appealed and remand to afford the court below the opportunity to assess the sufficiency of the complaint under general principles of negligence law.

Id. at 953-54 (cleaned up).

This Court again addressed the fireman's rule in **Holpp v. Fez, Inc.**, 656 A.2d 147 (Pa. Super. 1995). There, Holpp, a police officer, responded to a complaint of disorderly conduct at a banquet hall hosting a New Year's Eve party where a fight had broken out among its patrons in the early morning

hours. ***Id.*** at 148. When Holpp arrived at the scene, the fight had already been diffused but he observed some of the guests were intoxicated and rowdy. ***Id.*** Because of the size and nature of the gathering, Holpp agreed to return to the establishment around 2:00 a.m. to assist in dispersing the crowd. ***Id.*** When Holpp returned later, he again observed several intoxicated and rowdy patrons, and another altercation broke out amongst them. ***Id.*** As Holpp was attempting to assist another officer with arresting one of the patrons, he was grabbed by another patron and thrown to the ground, where an unidentified person stepped on his hand. ***Id.*** Holpp suffered hand and shoulder injuries as a result. ***Id.*** Subsequently, he sued the banquet hall, claiming it had been negligent in serving alcoholic beverages to intoxicated patrons and in permitting an unsafe condition to exist on its premises. ***Id.*** The trial court granted summary judgment in favor of the banquet hall, and Holpp appealed. ***Id.***

On appeal, this Court affirmed. We recognized the fireman's rule has not been adopted in Pennsylvania, and instead applied general negligence principles to the matter at hand, explaining:

The "fireman's rule", which provides that a police officer or fire fighter who enters upon the land of another in connection with official duties cannot recover from the possessor of land for subsequent injuries, has not been adopted in Pennsylvania. A police officer who enters upon another's land in his or her official capacity and in response to a call for assistance is generally considered a licensee. In such situations, the land[]owner's duty is to warn the licensee of dangerous hidden conditions. Even if a police officer enters another's land as an invitee, moreover, the possessor of the land does not become an insurer of the officer's

safety. The possessor's duty is only to use reasonable care to protect his or her invitees from unknown or nonobvious dangers.

Here, ... Holpp had been called to the [banquet hall] to quell a disturbance. He agreed to return at a later time to provide further assistance if necessary. When he returned, he was acting in his official capacity, was aware of the potential for violence among patrons who had been consuming alcoholic beverages, and was conscious of the attendant risks. Under such circumstances, whether Holpp be considered an invitee or a licensee, the trial court could conclude, as a matter of law, that [the banquet hall] had breached no duty to ... Holpp.

Id. at 149 (cleaned up).

Finally, this Court revisited the fireman's rule in **Juszczyszyn v. Taiwo**, 113 A.3d 853 (Pa. Super. 2015). In a fact pattern similar to **Holpp**, the complaint alleged Juszczyszyn, a police officer, responded to a disturbance call regarding an unruly patron at a lounge. **Id.** at 855. While attempting to intervene in the disturbance, an intoxicated patron assaulted Juszczyszyn, causing him to suffer injuries. **Id.** Juszczyszyn filed a complaint against the lounge for, *inter alia*, negligence. **Id.** The lounge filed preliminary objections, which the trial court sustained. **Id.** On appeal, we affirmed based on general negligence principles in premises liability cases, applying the same rationale of **Holpp**. **Id.** at 857 ("We are satisfied that the decision in **Holpp** established that under the circumstances presented in the instant case, Juszczyszyn, a police officer who was responding to a call and in the performance of his duties, was a licensee, and [the lounge was] required only to warn [him] of dangerous hidden conditions."). In doing so, in a footnote, we noted with approval a discussion of the fireman's rule from a 1986 court of common pleas decision, "which acknowledged that, despite not formally adopting the

fireman's rule, 'courts almost universally recognize that neither a fireman nor a policeman can recover when their complaint is based on the same conduct that initially created the need for the officer's presence in his official capacity.'" **Id.** at 857 n.4 (citing **Trudnak v. Lilley**, 44 Pa. D. & C.3d 493, 498, 1986 WL 20812 (C.P. Union County 1986)).

Having reviewed the relevant law, we now consider the parties' arguments. Appellants argue, "[f]or over eighty years, since **Ruhl**...[,] Pennsylvania's appellate courts have consistently rejected a *per se* bar on recovery for public-safety officers," instead applying "the traditional princip[les] of negligence that focus on what the officer was doing at the time of the injury and what duty, if any, was owed by the defendant." Appellants' Brief at 9. According to Appellants, the trial court "elevated the mere fact that Appellant was an on-duty police officer over an analysis of the specific duty Appellees owed to Officer Barnes under the [MHPA]." **Id.** at 11. Under Section 114(a) of the MHPA, Appellants say mental health professionals and institutions have an affirmative duty to avoid willful misconduct or gross negligence in the treatment of mental health patients, and civil liability is imposed for breach of that duty. **Id.** at 12. Further, if this Court were to adopt a form of the professional rescuer doctrine, Appellants say claims of gross negligence and willful misconduct should be exceptions to it. **Id.** at 14.

Appellees, on the other hand, advance the trial court was correct to rely on the professional rescuer doctrine. Appellees' Brief at 7. According to Appellees, because Officer Barnes was employed to confront the danger

George posed as part of his police duties, this is a textbook professional rescuer doctrine case. **Id.** They also point out Officer Barnes was aware of the specific risks associated with the situation when he was dispatched to arrest George. **Id.** Appellees argue Pennsylvania has endorsed rather than rejected the professional rescuer doctrine, claiming this Court “has consistently emphasized the fundamental principle that a professional rescuer who has been called to confront a dangerous situation cannot recover as a result of the precise danger confronted.” **Id.** at 21 (citing **Juszczyszyn, supra; Holpp, supra**). They additionally claim this Court has recognized the professional rescuer doctrine applies in situations where a plaintiff police officer is allegedly harmed as a result of inadequate mental health treatment. **Id.** at 21-22 (citing **Heil, supra**).⁶ To the extent Appellants insist claims of gross negligence and willful misconduct should be exceptions to the professional rescuer doctrine, Appellees maintain the circumstances behind the emergency have no relevance to the doctrine’s application. **Id.** at 23. Finally, Appellees advance the professional rescuer doctrine furthers vital public interests necessary for a well-ordered society. **Id.** at 27; **see also id.** at 28 (advocating for the application of the professional rescuer doctrine to (1) encourage the public to seek assistance of professional rescuers; (2) preserve public trust by not conditioning rescue on potential tort recovery;

⁶ We discuss **Heil** further *infra*. **See** footnote 8, *infra*.

and (3) spreading the risk and cost of injuries to public-safety officers through the government that employs them).

Our review of the relevant case law, discussed *supra*, demonstrates a fireman's rule has not been adopted or applied by appellate courts in Pennsylvania and, instead, an emergency responder's tort claims are evaluated under general principles of negligence law. **See Ruhl, supra; Juszcyszyn, supra; Holpp, supra; Mull, supra.** Thus, we reject the assertion by the trial court and Appellees that the professional rescuer doctrine applies here.^{7, 8}

⁷ Insofar as Appellees make public policy arguments as to why adopting some form of the professional rescuer doctrine is beneficial to society, we are bound by existing precedent choosing to apply general negligence principles rather than adopt such a rule. **See Hillbrook Apartments, Inc. v. Nyce Crete Co.**, 352 A.2d 148, 152 (Pa. Super. 1975) ("[W]e are not free, as an intermediate appellate court, to overrule the decisional law enunciated by the Supreme Court of Pennsylvania.") (citations omitted); **see also Commonwealth v. May**, 271 A.3d 475, 482 (Pa. Super. 2022) (recognizing a three-judge panel of this Court is not empowered to overrule another panel of the Superior Court).

⁸ Appellants point out that, in **Juszcyszyn**, this Court noted approval for a trial court's discussion acknowledging that, "despite not formally adopting the fireman's rule, 'courts almost universally recognize that neither a fireman nor a policeman can recover when their complaint is based on the same conduct that initially created the need for the officer's presence in his official capacity.'" **Juszcyszyn**, 113 A.3d at 857 n.4 (citing **Trudnak, supra**). However, because the **Juszcyszyn** Court applied general negligence principles of premises liability law to reach its disposition, we consider this language to be *dicta*. **See In re Huff**, 334 A.3d 232, 245 n.11 (Pa. 2025) ("*Dicta* is an opinion by a court on a question that is directly involved, briefed, and argued by counsel, and even passed on by the court, but that is not essential to the decision. *Dicta*, thus, has no precedential value.") (cleaned up; italicization (Footnote Continued Next Page))

To the extent the trial court and Appellees also suggest Officer Barnes assumed the risks of the situation through his employment as a police officer and by voluntarily encountering the danger, we also deem the more general doctrine of assumption of risk inapt to bar Appellants' claims under the MHPA. The assumption of risk doctrine "eliminates a defendant's duty of care to the plaintiff where the plaintiff has consented to relieve the defendant of that duty or the plaintiff has voluntarily participated in an activity which carries an inherent risk of the very damages which the plaintiff sustained." **Massaro v. McDonald's Corp.**, 280 A.3d 1028, 1037 (Pa. Super. 2022) (citations omitted).⁹ Importantly, unlike the cases discussed above, this is not a

added); **see also McKeehan v. Milton S. Hershey Med. Ctr.**, 328 A.3d 1059, 1065 n.1 (Pa. Super. 2024) (observing this Court is not bound by decisions of the court of common pleas).

Similarly, we consider language from **Heil** — cited by Appellees — to be non-controlling. In **Heil**, this Court indicated in a footnote that, although Pennsylvania has previously declined to adopt the fireman's rule in a landowner's duty context, there was no prohibition to its application in circumstances where a mental health patient having a psychotic episode drove his car into a police van, injuring a police officer who subsequently sued the patient's providers. **See Heil**, 662 A.2d at 671, 671 n.3. This Court has already determined this footnote is *dicta*. **See Bole v. Erie Ins. Exch.**, 967 A.2d 1017, 1021 (Pa. Super. 2009) (deeming the footnote about the fireman's rule in **Heil** to be *dicta*, as the **Heil** Court also found the situation was not reasonably foreseeable). We also observe the **Heil** Court did not explain its reasoning for why the fireman's rule could apply in situations other than premises liability, nor why cases like **Mull** and **Holpp** did not control.

⁹ This Court has recognized the assumption of risk doctrine has fallen into disfavor but remains viable in Pennsylvania. **See, e.g., Staub v. Toy Factory, Inc.**, 749 A.2d 522, 528 (Pa. Super. 2000) (*en banc*) (discussing, *inter alia*, our Supreme Court's attempts to abolish and limit the assumption of risk doctrine, and the debate about whether assumption of risk can exist in a comparative negligence jurisdiction).

premises liability case. Instead, here, Appellants brought their claims against Appellees pursuant to Section 114 of the MHPA, asserting they were grossly negligent in examining, treating, and discharging George. As mentioned *supra*, under the MHPA, Appellees have a statutory duty “to avoid willful misconduct or gross negligence in the treatment of mental health patients, and [the statute] imposes civil liability for a breach of that duty.” **Leight**, 243 A.3d at 130 (citations omitted). We fail to see how the assumption of risk doctrine can apply in a professional negligence case and eliminate Appellees’ statutory duty to treat mental health patients within the standard of care. In our view, a provider’s duty under the MHPA is unignorably distinct from the duty to warn in premises liability cases. Being able to assume the risk of negligence — let alone gross negligence or willful misconduct — in the treatment and discharge of mental health patients “would be specious when considered against the strict legal, ethical[,] and professional standards that regulate the healthcare profession.” **Brady v. Urbas**, 111 A.3d 1155, 1162 n.7 (Pa. 2015) (citation omitted).¹⁰ The firemen’s rule and/or assumption of

¹⁰ In **Brady**, our Supreme Court considered whether a doctor may introduce evidence that a patient was informed of and acknowledged various risks of surgery in a medical negligence case. **Brady**, 111 A.3d at 1157. The Court determined that, “in a trial on a malpractice complaint that only asserts negligence, and not lack of informed consent, evidence that a patient agreed to go forward with the operation in spite of the risks of which she was informed is irrelevant and should be excluded.” **Id.** at 1162-63. In reaching this holding, the Court observed “there is no assumption-of-the-risk defense available to a defendant physician which would vitiate his duty to provide treatment according to the ordinary standard of care.” **Id.** at 1162. While we
(Footnote Continued Next Page)

risk doctrine cannot eliminate a provider's statutory duty under the MHPA to avoid willful misconduct or gross negligence in the treatment of mental health patients.

Accordingly, based on the foregoing, we determine neither the professional rescuer doctrine, nor the broader assumption of risk doctrine, bars Appellants' claims. We therefore conclude the trial court erred in granting summary judgment in favor of Appellees on this ground.

Because we may affirm the trial court's order on any basis, however, we consider the other ground upon which Appellees sought summary judgment.¹¹ In the trial court, Appellees argued they did not owe Officer Barnes a duty of care because he was not a foreseeable victim of Dr. McBride's decision to discharge George. Appellees' Motion for Summary Judgment at ¶ 4. Neither

recognize **Brady** involved the question of the admissibility of evidence in a standard medical malpractice case, we are persuaded by its reasoning that an assumption of risk defense would not diminish a physician's duty to abide by the applicable standard of care in rendering treatment.

¹¹ See, e.g., **Riverview Carpet & Flooring, Inc. v. Presbyterian SeniorCare**, 299 A.3d 937, 957 n.14 (Pa. Super. 2023) ("It is a well-settled doctrine in this Commonwealth that a trial court can be affirmed on any valid basis appearing of record. The precept may be applied even though the reason for sustaining the judgment was not raised in the trial court, relied on by that court in reaching its decision, or brought to the attention of the appellate courts.") (cleaned up); **Moss Rose Mfg. Co. v. Foster**, 314 A.2d 25, 26-27 (Pa. Super. 1973) ("As an appellate court, we may affirm the judgment of the lower court where it is correct on any legal ground or theory disclosed by the record, regardless of the reason or theory adopted by the trial court. It is not necessary that we agree fully with the reasons for a trial court's judgment. We may affirm on other grounds as long as the judgment rendered is correct.") (cleaned up).

party has directly raised this issue on appeal, and we rely heavily on the filings of the parties below in addressing it.¹²

Below, Appellees argued, in order to proceed under the duty created by Section 114, a plaintiff must be a foreseeable victim of the mental health patient. **See** Appellees' Brief in Support of Motion for Summary Judgment, 7/14/25, at 6-9.¹³ They claimed the stated purpose of the Section 302 petition and George's subsequent treatment "was due to the perceived inability to care for himself, *not* threats to random persons." **Id.** at 8 (emphasis in original; citation omitted). They say George "did not know who Officer Barnes was at any point prior to his death. During his treatment..., [George] did not exhibit any animosity towards Officer Barnes or police officers in general. Nor did he express a desire to use his firearm collection to shoot or harm any person." **Id.** at 8-9 (citations omitted). For these reasons, Appellees conclude they are entitled to summary judgment as a matter of law, as "Officer Barnes was not a foreseeable victim of [George] or of [his] mental health treatment and

¹² We reiterate the trial court did not grant summary judgment in favor of Appellees on this basis, as it determined "foreseeability would be an issue for the jury." TCO at 14 (citing **Straw, supra**).

¹³ The primary case relied on by Appellees to support their argument is **Miller v. Holy Spirit Hosp. & Health Sys.**, 100 A.3d 315 (Pa. Super. 2014) (unpublished memorandum). **See** Appellees' Brief in Support of Motion for Summary Judgment at 8. This is an unpublished, non-precedential memorandum decision by our Court filed before May 1, 2019. Thus, we may not consider it. **See** Pa.R.A.P. 126(b) (stating only unpublished, non-precedential decisions filed **after** May 1, 2019, may be considered for their persuasive value).

Officer Barnes cannot assert that he was owed a duty by [Appellees].” **Id.** at 9.

In response, Appellants stated liability under the MHPA can be imposed for the discharge decision itself or for any of its consequences. **See** Appellants’ Response in Opposition, 8/26/25, at 23 (citing 50 P.S. § 7114(a)). They say the words ‘any of its consequences’ in Section 114(a) indicate the legislature’s acknowledgment that discharging a severely mentally disabled person is a potentially serious danger not only to the patient himself, but to others as well. **Id.** (citing **Goryeb**, 575 A.2d at 549). Appellants claim both the emergency room physician and Dr. McBride determined George was suffering from psychosis and needed treatment. **Id.** at 22. According to Appellants, Appellees were aware of George’s collection of firearms, lack of plan to seek further mental health support, and his compulsion to intervene in his parents’ lack of religious practice and threats toward them. **Id.** at 17, 19-22. Appellants contend Office Barnes was a reasonably foreseeable victim of Appellees’ discharge decision as George presented a serious risk of harm to himself and his parents, as well as the police officers who would have to respond to any criminal situation involving George. **See id.** at 17, 27-31. **See also generally** Appellants’ Brief at 15-26 (discussing, at times, foreseeability).

We recognize:

In Pennsylvania, the elements of a cause of action based on negligence are:

- (1) a duty or obligation recognized by the law requiring the defendant to conform to a certain standard of conduct for the protection of others against unreasonable risks;
- (2) defendant's failure to conform to the standard required;
- (3) a causal connection between the conduct and the resulting injury;
- (4) actual loss or damage resulting to the plaintiff.

R.W. v. Manzek, ... 888 A.2d 740, 746 ([Pa.] 2005).

As to the element of duty, "[i]t is a fundamental principle of tort law [that] there cannot be a valid claim sounding in negligence unless there is a duty upon the defendant in favor of the plaintiff which has been breached." **Alumni Ass'n v. Sullivan**, ... 572 A.2d 1209, 1210–1211 ([Pa.] 1990). "The existence of a duty is a question of law for the court to decide." **Manzek**, 888 A.2d at 746; **see also** Restatement (Second) of Torts § 328B(a) and (b) ("[I]n an action for negligence the court determines ... (a) whether the evidence as to the facts makes an issue upon which the jury may reasonably find the existence or non-existence of such facts; (b) whether such facts give rise to any legal duty on the part of the defendant").^[14] However, "[t]he determination of whether an act or failure to act constitutes negligence ... in view of all the evidence has always been particularly committed to determination

¹⁴ The comment to Clause (b) states:

It is the further function of the court to determine whether, upon facts in evidence which the jury may reasonably find to be true, the law imposes upon the defendant any legal duty to act or to refrain from acting for the protection of the plaintiff. This decision is always for the court. Thus it is no part of the province of a jury to determine what duty a possessor of land owes to an undiscovered trespasser. (**See** § 333.) Where the existence of the duty will depend upon the existence or non-existence of a fact as to which the jury may reasonably come to either one of two conclusions—as for example, whether the trespasser was in fact discovered—then it becomes the duty of the court to instruct the jury as to the defendant's duty, or absence of duty, if either conclusion as to such fact is drawn.

Restatement (Second) of Torts § 328B, Cmt. on Clause (b).

by a jury.” **Snead v. SPCA**, 929 A.2d 1169, 1183 (Pa. Super. 2007) (internal quotations and citations omitted).

Straw, 187 A.3d at 983 (some brackets added).

We next consider **Goryeb**. In **Goryeb**, Geiger was brought to a state hospital by a police sergeant. **Goryeb**, 575 A.2d at 546. The sergeant completed an Involuntary Emergency Examination and Treatment application pursuant to Section 302(a) of the MHPA, wherein the sergeant asserted Geiger was severely mentally disabled and posed a clear and present danger to himself and others. **Id.** Specifically, the sergeant advised he had encountered Geiger carrying a hunting knife and threatening to use it on himself if he did not receive immediate help. **Id.** The sergeant also relayed that Geiger told the sergeant that, a week earlier, he had held a loaded .357 Magnum to his head while contemplating suicide because he was so distraught over the termination of his relationship with his girlfriend of five years, Marie. **Id.** An hour after his arrival at the hospital, a physician determined Geiger met the statutory criteria for involuntary emergency admission, as Geiger was diagnosed as severely mentally disabled and in need of treatment. **Id.** Under the statute, an involuntary admittee must be discharged within 120 hours of admission unless, within such period, he is admitted to voluntary treatment or a certification for extended involuntary emergency treatment, stating the grounds on which extended emergency treatment is believed to be necessary, is filed with the court of common pleas. **Id.** Geiger was discharged within the 120-hour period, and no certification for extended emergency treatment was filed. **Id.** One week after his discharge, Geiger entered premises occupied by

Marie, her current boyfriend, and another male, and shot all three residents before turning the gun on himself. ***Id.*** at 546-47. Marie and her boyfriend were seriously wounded, and the other male died. ***Id.*** at 547.

Marie, her boyfriend, and the other male's estate (collectively "residents") sued the hospital, the Commonwealth, the Department of Public Welfare, and a hospital physician (collectively "providers"), alleging they were grossly negligent and committed willful misconduct in discharging Geiger when they knew or should have known he was a continuing danger to himself and to others, especially Marie and those associated with her. ***Id.*** The providers moved for summary judgment, raising the defense of sovereign immunity. ***Id.*** The trial court denied the motion and, on interlocutory appeal, the Commonwealth Court reversed. ***Id.*** Our Supreme Court then granted the residents' petition for allowance of appeal. ***Id.***

In deciding whether the providers had immunity, the Court considered the interplay between the Sovereign Immunity Act, 42 Pa.C.S. § 8521 *et seq.*, and the MHPA, namely Section 114(a). ***Id.*** at 547-48. In construing the two statutes, the Court determined, "[w]hen a Commonwealth party participates in a decision that a person be examined, treated or discharged pursuant to the [MHPA], such a party shall not be civilly or criminally liable for such decision or for any of its consequences except in the case of willful misconduct or gross negligence." ***Id.*** at 548-49. The Court then explained:

Having established that liability may attach in the event of willful misconduct or gross negligence, we must now determine the proper extent of the potential liability. Or, in other words, to

whom is the duty owed? For guidance we must look to the language of the statute[, *i.e.*, Section 114(a)]. The converse reading of the statute is that a person committing willful misconduct or gross negligence shall be “liable for such decision or *for any of its consequences*.” [50 P.S. § 7114(a)] ([e]mphasis supplied). Clearly, the words “any of its consequences” indicate the legislative recognition that discharging a severely mentally disabled person, especially an involuntary admittee who has been classified, by statutory definition, as a clear and present danger to himself or others, is a potential serious danger not only to the patient himself but to “others[.]” In the instant case, the “others” who could foreseeably be affected by a wrongful discharge of ... Geiger, and consequently those to whom a duty is owed, would surely include Marie ... and those closely associated with her (including the other [residents]).¹⁶ This determination of duty is consistent with Section 319 of the Restatement (Second) of Torts¹⁷ and our own prior case law. “Under well established precedent, if plaintiff produces sufficient evidence to demonstrate the mental condition of [the patient] warranted the duty asserted, the hospital would clearly be responsible for injury to the person or property of third parties where such injury resulted from a hospital’s negligent failure to meet its responsibility.” **Vattimo v. Lower Bucks Hospital, Inc.**, ... 465 A.2d 1231, 1240 ([Pa.] 1983) (Mr. Chief Justice Nix concurring and dissenting opinion).

¹⁶ We are not called upon here to determine, and we do not decide, the full ambit of those “others” to whom a duty is owed.

¹⁷ “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.”

Id. at 549 (some footnotes omitted). Our Supreme Court therefore reversed the order of the Commonwealth Court and remanded the case to the trial court. **Id.**¹⁵

¹⁵ As for the definition of foreseeability, our Supreme Court has endorsed the view that “duty extends to those within the foreseeable orbit of risk of harm.” (*Footnote Continued Next Page*)

Here, viewing the record in the light most favorable to Appellants as the non-moving party, **see Dobransky, supra**, it shows John stated on the Application for Involuntary Emergency Examination and Treatment pursuant to Section 302 that:

George has been paranoid for the last week. Accusing us of doing things we have not done. George claims that he is a priest from the Old Testament. Claims that he is invisible and nothing can hurt him. George has been claiming that he is Jesus. Accusing us of witchcraft. States that he is the high priest and will destroy us if we keep doing it. George has firearms in the home. He has not been sleeping.

Appellees' Motion for Summary Judgment, 7/11/25, at Exhibit A (Application for Involuntary Emergency Examination and Treatment) at 3. In upholding the Section 302 petition, the record indicates the emergency room physician saw evidence that George had delusions and was concerned for the safety of George's parents. **See** Appellants' Response to Summary Judgment Motion, 8/26/25, at Exhibit C (Dep. of Dr. McBride) at 149; **id.** at Exhibit D (Dep. of James Pearce Van Meerbeke, M.D.) at 49-50, 57-58.

In Dr. McBride's subsequent visit report, written after he examined George, he opined he was concerned George suffered from psychosis. Visit Report at 10. Dr. McBride noted George "[m]akes frequent use of religious language" and "is concerned about his parents['] lack of religious practice[.]"

See Walters v. UPMC Presbyterian Shadyside, 187 A.3d 214, 224, 236 (Pa. 2018); **see also id.** at 236 (conveying "duty requires foreseeable harm to a foreseeable class of plaintiffs" and that "[a]n act cannot be negligent unless the harm is foreseeable to the class to which the complaining party belongs") (citations and quotation marks omitted; emphasis in original).

Id. When asked to explain his parents' lack of religious practice, Dr. McBride conveyed George feels his parents "do not take care of themselves of the bodies [*sic*] and this is frustrating to him." **Id.** In response to Dr. McBride's asking if George needs to intervene in his parents' lack of religious practice, Dr. McBride said George indicated he only intervenes "by persuasion, and even then [George] is starting to think that he will not be able to do that and must live in [*sic*] let live." **Id.** Dr. McBride also relayed George spoke to him "in some detail about his plans for his guns[,] but stated he does not intend to use the weapons to harm anyone, and reported that George declined to stay voluntarily for treatment or have an appointment made for him with a psychiatrist. **Id.** Appellants' expert opined "a careful and concerned physician acting in Dr. McBride's stead would have recognized [George] presented an immediate and very serious danger to himself, his parents, and the public, particularly police officers who would be called upon to respond to the scene of ... crimes...." Appellants' Response to Summary Judgment Motion, 8/26/25, at Exhibit A (Independent Psychiatric Eval. by Adam J. Sky, M.D., D.F.A.P.A.) at 5.

Based on the foregoing, we cannot determine, as a matter of law, that Appellees did not owe Appellants a duty under Section 114. A jury could reasonably find George had previously threatened to destroy his parents if they kept practicing witchcraft, making it foreseeable that John and Ana could

be harmed by a wrongful discharge of George.¹⁶ If George were to act on his threat to destroy his parents, it would also be foreseeable that law enforcement — such as Officer Barnes — would need to respond to the scene, placing their own safety at risk.¹⁷ Accordingly, Appellees are not entitled to summary judgment on the alternative basis that Officer Barnes was not a foreseeable victim. Therefore, we reverse the trial court’s order granting summary judgment in favor of Appellees and remand for further proceedings.

Order reversed. Case remanded. Jurisdiction relinquished.

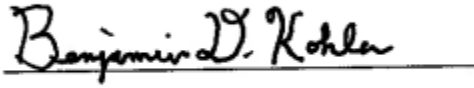
President Judge Lazarus joins the opinion.

¹⁶ We recognize John later denied he had concerns George would harm himself or anyone else, and that George had threatened anyone. **See** Visit Report at 63-64. Additionally, we acknowledge on the Section 302 Application for Involuntary Emergency Examination and Treatment, John only checked the box that George was a clear and present danger to himself, not others. **See** Application for Involuntary Emergency Examination and Treatment at 2 (representing George “has acted in such a manner as to evidence that he ... would be unable, without care, supervision[,] and the continued assistance of others, to satisfy his ... need for nourishment, personal or medical care, shelter, or self-protection and safety, and that there is reasonably probability that death, serious bodily injury[,] or serious physical debilitation would ensue within 30 days unless adequate treatment were afforded under the act...”). We also recognize that parts of the record indicate the police had removed all guns from the Tratrases’ home. **See** Visit Report at 65. However, we reiterate that we must view the record in the light most favorable to Appellants in deciding whether summary judgment in favor of Appellees was warranted. **See Dobransky, supra.**

¹⁷ While George did not make a specific threat to harm law enforcement officers, we observe Geiger in **Goryeb** did not make threats against Marie or those closely associated with her, but only threats to harm himself. Yet, our Supreme Court determined Marie and those closely associated with her could foreseeably be affected by a wrongful discharge of Geiger and were owed a duty pursuant to Section 114.

Judge Stabile files a dissenting opinion.

Judgment Entered.

A handwritten signature in black ink, reading "Benjamin D. Kohler", is written over a horizontal line.

Benjamin D. Kohler, Esq.
Prothonotary

DATE: 10/26/2026