

brought under the Federal Tort Claims Act (“FTCA”), 28 U.S.C. § 1346 *et seq.*<sup>1</sup> Cleveland challenges certain evidentiary rulings and the district court’s final determination that she failed to prove that the defendant’s conduct fell below the requisite standard of care.

## I

Samuel sought admission to the emergency room at the Bayne Jones Army Community Hospital (“BJACH”), presenting with flu-like symptoms, a slightly elevated respiration rate, and a medical history of diabetes. Samuel was first seen by a triage nurse, who took his medical history and classified him as a “category four,” a low priority patient. Samuel did not indicate that he had a prior history of serious medical conditions, including congestive heart failure, hypertension, and other chronic conditions, nor did he state that he was currently taking medications. Physician assistant George Eubanks (“Eubanks”) then examined Samuel and concluded that he did not need a chest x-ray or other further tests. Eubanks diagnosed Samuel with an upper respiratory infection, bronchitis, and sinusitis, and prescribed a variety of medications: *Entex*, *Proventil*, and *Zithromax*. He then discharged him.

During the time Samuel was in the emergency room, Eubanks did not consult with an attending physician. Furthermore, Eubanks did not review Samuel’s medical file, which contained his full medical history, including his prior congestive heart failure, until one hour after his discharge. After receiving and reviewing the file, Eubanks did not believe that the file indicated any reason to call Samuel back into the ER.

Two days later, Samuel returned to the ER. He was diagnosed with pneumonia resulting from

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<sup>1</sup> Because Samuel Cleveland has passed away, his wife, Bobbie Jean Cleveland, brought suit on his behalf. For clarity, we will refer to the Appellant as “Cleveland” and the decedent as “Samuel.”