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SUPREME COURT OF NEW JERSEY
A-090169-24

JARI ALMONTE and YAHAIRA ALMANZAR, individually and as parents and natural guardians of Jeremy Almonte, an infant, Plaintiffs-Petitioners, v. TOWNSHIP OF UNION; TOWNSHIP OF UNION FIRE DEPARTMENT; TOWNSHIP OF UNION VOLUNTEER AMBULANCE SQUAD; UNION EMERGENCY MEDICAL UNIT; R. IUNGERMAN; "JOHN" BIEDRZYCKI; and NITI SHARMA, M.D., Defendants, and ATLANTIC AMBULANCE CORPORATION; DANIEL PERNELL; DENYEL CUSIMANO; and OVERLOOK MEDICAL CENTER, Defendants-Respondents.	Civil Action On Petition from the Superior Court of New Jersey, Appellate Division Docket No. Below: A-2968-22 Sat Below: Hon. Morris Smith, J.A.D. Hon. Christine M. Vanek, J.A.D. Date Submitted: April 14, 2025

BRIEF OF DEFENDANTS-RESPONDENTS IN OPPOSITION TO AMENDED PETITION FOR CERTIFICATION

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PRELIMINARY STATEMENT

Applying settled principles of statutory construction, the Appellate Division held that the plain language of N.J.S.A. 26:2K-14 of the Emergency Medical Services Act ("EMS Act" or "Act") conferred immunity on Defendants-Respondents and affirmed the granting of summary judgment in their favor. (Pa1-24.) Moreover, after reviewing settled case law concerning the EMS Act and analogizing to immunity under the Tort Claims Act, the Appellate Division concluded that an action taken by paramedics "in good faith" while rendering advanced life support services "favors a subjective definition rather than a definition reliant on 'objective reasonableness,' a phrase which does not appear in the statute." (Pa19-20.)

Petitioners identify no error in the Appellate Division's decision—let alone an unsettled question of public importance, conflict in the case law, or an egregious miscarriage of justice that would warrant this Court's review.

Apart from taking issue with the Appellate Division's construction of the Act, Petitioners' arguments amount to a disagreement with how the Appellate Division applied the settled law to the undisputed facts. These arguments likewise lack merit and do not warrant certification.

COUNTERSTATEMENT OF PROCEDURAL HISTORY

This action was commenced in November 2018 with Petitioners' Complaint alleging negligence against several defendants arising from the emergency care and treatment of their infant son, Jeremy. (Pa9.) Subsequently, they dismissed their claims against the Township of Union and its Fire Department and Volunteer Ambulance Squad, leaving Atlantic Ambulance Corporation ("AAC") and the Union Emergency Medical Unit as Defendants. On March 6, 2020 Petitioners filed an Amended Complaint adding as defendants AAC's paramedic employees David Pernell and Denyel Cusimano, Overlook Medical Center, Niti Sharma, M.D., Union Emergency Medical Unit of NJ, Inc. ("EMU") and its paramedic employees, R. Iungerman and John Biedryzcki. (Pa10.) In February 2022, Petitioners dismissed their claims against Defendants Sharma, EMU, Iungerman and Biedryzcki leaving Defendants-Respondents as the four remaining defendants: paramedics Pernell and Cusimano, AAC, and AHS Hospital Corp./Overlook Medical Center. (Id.)

In February 2023, Respondents moved for summary judgment based on the Act's immunity provision, and AAC and AHS Hospital Corp./Overlook Medical Center also moved for partial summary judgment based on charitable immunity. Petitioners moved to strike the immunity defenses.

The Honorable Alan G. Lesnewich, J.S.C., heard oral argument on March 31 and April 24, 2023. (Pa25.) By Order dated April 26, 2023 accompanied by a written Statement of Reasons, Judge Lesnewich granted Respondents' motion for summary judgment based on the Act and denied Petitioners' motions to strike. (Pa25-41.) Because Petitioners conceded that any immunity granted to the paramedics would also apply to AAC and AHS Hospital Corp./Overlook Medical Center, their motions based on charitable immunity were denied as moot.

Judge Lesnewich first determined that under established Appellate Division precedent immunity under the Act applies if paramedics demonstrate that their actions were "objectively reasonable" *or* performed "with subjective good faith." (Pa36-37.) After carefully reviewing the extensive discovery record, Judge Lesnewich held that "there are no facts considered in the light most favorable to [Petitioners] that would support the argument that in attending to Jeremy's emergency needs, the paramedics acted in anything but good faith." (Pa38.) He further noted that the record established that the paramedics believed that they needed to stabilize Jeremy before transporting him from the ambulance into the hospital, and that at all times they were following the orders of Dr. Sharma, the medical command physician. (Pa37-38.) Because Judge Lesnewich

determined that the paramedics acted with subjective good faith, he did not reach the issue of objective reasonableness. (Pa39.)

Judge Lesnewich further held that the record established that the paramedics acted in accordance with other provisions of the Act (Pa39-40), and rejected Petitioners' argument that the EMS Act's immunity provision should be read with the Act's administrative regulations. (Pa39-40.)

On June 2, 2023, Petitioners appealed to the Appellate Division from the April 26, 2023 order. Following oral argument, the Appellate Division affirmed the granting of summary judgment. (Pa1-24.) In its thorough 23-page opinion dated November 18, 2024, the Court rejected Petitioners' argument that the Act does not immunize subjective good faith conduct as inconsistent with the plain text and purpose of the statute. (Pa15-20.)

The Appellate Division upheld[1] the trial court's conclusion that the paramedics had performed advanced life support ("ALS") services "in accordance with" the statute by maintaining voice communication with and taking orders from Dr. Sharma. (Pa20-22.) The court noted that "[t]he

[1] The Appellate Division considered all of Petitioners' arguments although noting that Petitioners "for the first time on appeal . . . contend the paramedics were not providing advanced life support services [and the statute] must be interpreted narrowly, and 'immunity is granted only for negligence while performing an ALS service.' (emphasis added)." (Pa13.) This Court may choose not to consider these issues because they were not raised in the trial court. See R. 2:10-2.

paramedics contacted their medical command twice and received permission to intubate Jeremy," and that "Dr. Sharma's testimony makes clear that, when she authorized intubation, she was not authorizing a specific number of attempts." (Pa21.) Further, according to the Court, the plain language of the Act's immunity provision does not incorporate implementing regulations. (Pa21-22.) Finally, the Appellate Division determined that "the extensive record, viewed in the light most favorable to [Petitioners], does not support a finding of gross negligence." (Pa23.)[2]

COUNTERSTATEMENT OF FACTS

On August 18, 2012, Jeremy reportedly hit his head and began seizing. (Pa4.) Jeremy's mother called 9-1-1, and an ambulance was dispatched with basic life support ("BLS") team members who arrived at Jeremy's home by 9:00 p.m. (Id.) The BLS crew placed Jeremy on a long board to immobilize his head, neck, and spine. (Pa29.)

Paramedics David Pernell and Denyel Cusimano, an ALS team from AAC, arrived at 9:10 p.m. and assumed Jeremy's care. (Pa5.) They performed neurological, pulmonary, cardiac, and physical assessments and documented

[2] The Appellate Division found that the grant of summary judgment to Defendant AHS Hospital Corp./Overlook Medical Center was not properly the subject of the appeal. (Pa11.)

that Jeremy was unresponsive, having seizures and vomiting clear fluid, which compromised his airway. (Id.)

Pursuant to standing orders, Pernell started an IV, and at 9:17 p.m. he contacted the medical command physician, Dr. Niti Sharma. (Id.) Pernell relayed the team's assessment of Jeremy to Dr. Sharma, who ordered one milligram of an anticonvulsant for the seizures with a second dose if necessary. (Id.) Pernell also requested authorization to intubate in case it became necessary, which Dr. Sharma granted. (Id.) The ambulance left for the hospital at 9:23 p.m. (Id.)

The anticonvulsant medications did not completely stop Jeremy's seizures. (Pa30.) Jeremy's mouth partially opened around 9:28 p.m., and Cusimano was able to insert an oral airway. (Pa5.) Large amounts of fluid were suctioned from Jeremy's oral and nasal airways while ventilation was performed via a bag-valve mask. (Id.) At 9:29 p.m., Jeremy's respiratory drive had decreased. (Id.) The paramedics again called medical command to request airway intervention and Dr. Sharma again authorized intubation. (Pa5-6.) Dr. Sharma ordered rapid sequence intubation ("RSI"), in which medications paralyze facial muscles so that intubation may be accomplished. (Id.) After these medications were administered, Jeremy's jaw unclenched. (Pa31.)

As authorized by medical command, the paramedics then attempted to intubate. Cusimano made the first attempt, but because of persistent vomiting, she could not establish an airway. (Id.) The ambulance arrived at the hospital at 9:37 p.m. (Pa6.) Cusimano made a second attempt to intubate at 9:38 p.m. but the paramedics found Jeremy's airway was still "completely full of fluid." (Id.) Pernell testified that when they pulled into the hospital parking lot, they realized Jeremy still needed intubation, and "the decision was made to stop, secure his airway, and then proceed into the emergency room." (Id.) Pernell explained:

> [I]t would have been like . . . we have to reintubate him because he's already got medications[,] and his heart rate is starting to drop and his oxygen saturation is no good. We have to intubate him and it's easier to do it now than to move with him without the airway in place at all. It would have been reckless to move without it. (Id.)

Cusimano's deposition testimony echoed Pernell's, explaining they wanted to intubate Jeremy before moving him because:

> [B]y the time you get equipment moved over and IV bag down and the stretcher out of the ambulance and walk down the hall . . . it's a minute and a half, almost two minutes before you are transferring care, so that's another minute and a half to two minutes with no oxygen. Would rather take the 45 seconds and both of us work on him together, suctioning and intubating at the same time and get him a good airway, which we were able to do. (Pa6-7.)

At 9:42 p.m., Pernell was successful on the third intubation attempt. (Pa7.) Cusimano also testified that she understood medical command's authorization to intubate allowed paramedics to attempt multiple intubations, if necessary,

without additional authorization for each attempt. (Id.) Dr. Sharma agreed that, when she gave the order to intubate, she was not authorizing a specific number of attempts. (Id.)

As Pernell and Cusimano were preparing to transfer Jeremy into the hospital, he became bradycardic with weak carotid pulses; his heart rate dropped to 47 and they began compressions. (Pa31.) They continued compressions as they transferred him, with his airway tube manually secured, to the Emergency Department ("ED")—where the ED team assumed care. (Id.)

Respondents' expert, Dr. Peter C. Benson, a physician with double-board certification in emergency medicine and emergency medical services, stated that because of Jeremy's condition:

> [I]t would be reasonable to attempt to stabilize him before removing him from the ambulance as he is so critical that moving him out of the ambulance might cause him to further decompensate. This concept is increasingly being taught in EMS courses, and [it] recognizes that moving an extremely critical patient from the ambulance into the Emergency Department is enough to result in cardiac arrest and death. As a result of this concept, it is not uncommon for EMS crews to arrive to a hospital and continue attending to the patient in the ambulance bay for 5-10 minutes while they attempt to further stabilize or "optimize" the patient. (Pa8-9.)

Respondents also submitted the expert report of Michael D'Ambrosio, DO, a physician double-board certified in emergency medicine and neurology & vascular neurology. Dr. D'Ambrosio confirmed that multiple intubation

attempts were consistent with the standard of care, even after the ambulance had arrived at the hospital. (Pa9.)

ARGUMENT

CERTIFICATION SHOULD BE DENIED BECAUSE THE APPELLATE DIVISION CORRECTLY APPLIED THE PLAIN LANGUAGE OF THE ACT AND SETTLED LAW TO THE UNDISPUTED FACTS

As relevant here, "[c]ertification will be granted only if the appeal presents a question of general public importance which has not been but should be settled by the Supreme Court or . . . in other matters if the interest of justice requires." R. 2:12-4.[3] Cases involving the application of established principles to the facts do not satisfy this standard. In re Cont. for Route 280, Section 7U Exit Project, 89 N.J. 1, 1 (1982); Bandel v. Friedrich, 122 N.J. 235, 237 (1991). Certification will be granted in the "interest of justice" only if the decision below is "palpably wrong, unfair or unjust," results in "an egregious miscarriage of justice," or jeopardizes "[t]he rights of innocent persons, or an unwary public." Mahony v. Danis, 95 N.J. 50, 52 (1983) (Handler, J. concurring).

Petitioners do not meet these exacting standards. They argue only that certification is warranted because the Appellate Division erred in holding that

[3] Petitioners do not contend that other grounds for certification are satisfied here—that the appeal presents a question "similar to a question presented on another appeal to the Supreme Court" or that "the decision under review is in conflict with any other decision of the same or a higher court or calls for an exercise of the Supreme Court's supervision." R. 2:12-4.

(i) the EMS Act immunizes subjective good faith conduct; (ii) the paramedics acted in accordance with the statute by maintaining voice communication with and taking orders from Dr. Sharma; (iii) the statute's immunity provision does not incorporate the statute's implementing regulations; and (iv) the record does not support a finding that the paramedics were grossly negligent. (Amended Petition for Certification ("Am. Pet.") 9-17.) These arguments are without merit.

I. The Appellate Division Correctly Held That the Act Immunizes Subjective Good Faith Conduct

The New Jersey Legislature enacted the EMS Act to protect paramedics and other emergency responders from civil liability when providing ALS care (see definition in N.J.S.A. 26:2K-7a), under urgent and often unpredictable conditions. The Act immunizes paramedics for ALS services performed in good faith and in accordance with its provisions. It provides in relevant part that:

> No mobile intensive care paramedic, licensed physician, hospital or its board of trustees, officers and members of the medical staff, nurses or other employees of the hospital, first aid, ambulance or rescue squad, or officers and members of a rescue squad, shall be liable for any civil damages as the result of an act or the omission of an act committed while in training for or in the rendering of advanced life support services in good faith and in accordance with this act.

N.J.S.A. 26:2K-14 (1984).

Relying on longstanding precedent, the Appellate Division defined "good faith" under the Act as embracing a subjective test of "honesty of purpose and

integrity of conduct without knowledge, either actual or sufficient to demand inquiry, that the conduct is wrong." (Pa15) (quoting Frields v. Saint Joseph's Hosp. & Med. Ctr., 305 N.J. Super. 244, 248 (App. Div. 1997)). The Appellate Division also recognized that good faith may alternatively be assessed under a standard of objective reasonableness. (Pa15-17.) Thus, under the EMS Act, summary judgment is warranted when first responders show that their actions "were objectively reasonable or that [they] performed them with subjective good faith." (Pa15-16.) (quoting Frields, 305 N.J. Super. at 248).

The Appellate Division's conclusion that the Act immunizes subjective good faith conduct follows directly from the plain meaning of the statutory text and settled principles of statutory construction, the statutory purpose, and this Court's settled precedent.

While the Act does not contain a definition of "good faith," it is well-established that "[i]n the absence of any explicit indication of special meaning, words of a statute are to be given their ordinary and well understood meaning." Levin v. Parsippany-Troy Hills Twp., 82 N.J. 174, 182-83 (1980); accord Great Atl. & Pac. Tea Co. v. Borough of Point Pleasant, 137 N.J. 136, 143 (1994) (same). The ordinary meaning of "good faith" is necessarily subjective: "honesty or lawfulness of purpose." *Good Faith*, Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/good%20faith (last

visited Apr. 6, 2025). In fact, the Appellate Division's definition of "good faith" ultimately stems from this Court's decision in Smith v. Whitman, 39 N.J. 397 (1963), where that term in a fraudulent conveyance statute was defined by consulting its ordinary meaning: "honesty of purpose and integrity of conduct with respect to a given subject." Id. at 405.

Petitioners' argument—that the Act does not immunize subjective good faith conduct—thus conflicts the ordinary meaning of "good faith" and the statute's plain language. This properly ends the inquiry. See Garden State Check Cashing Serv., Inc. v. Dep't of Banking & Ins., 237 N.J. 482, 489 (2019) ("If a statute's plain language is clear, we apply that plain meaning and end our inquiry."); Shipyard Assocs., LP v. City of Hoboken, 242 N.J. 23, 38-39 (2020) ("[I]t is not our function to rewrite a plainly written statute or to presume that the Legislature meant something other than what it conveyed in its clearly expressed language.").[4]

[4] The Act's subsequent legislative history supports this conclusion. In 2022, the Legislature amended the Act to expand the types of medical providers and services that it covers. Compare N.J.S.A. 26:2K-14 (1984), with N.J.S.A. 26:2K-14 (2022). The statute was otherwise unchanged. If the Legislature believed that courts had been applying an improper definition of "good faith," it could have clarified that definition. It did not. See Maeker v. Ross, 219 N.J. 565, 575 (2014) ("[T]he Legislature is presumed to be aware of judicial construction of its enactments." (citation omitted)).

Petitioners' argument also undermines the statute's purpose. The Legislature recognized that "emergency medical personnel should not be inhibited in performing [emergent life-saving] services by fear of tort liability." de Tarquino v. City of Jersey City, 352 N.J. Super. 450, 456 (App. Div. 2002). But if the statute were to immunize objectively reasonable conduct only, it may not always preclude tort liability even for negligence. See Hempstead v. Robinson, 1 N.J. 32, 35 (1948) ("Failure to exercise reasonable care under given circumstances is negligence."); see also Canico v. Hurtado, 144 N.J. 361, 366 (1996) ("We recognize the apparent inconsistency in simultaneously describing conduct as both negligent and objectively reasonable.").

This Court's settled decisions further support the Appellate Division's judgment. As Petitioners acknowledge (Am. Pet. 10), this Court has held that, under the Tort Claims Act ("TCA"), which analogously provides immunity for "acts in good faith,"[5] "[s]ummary judgment . . . is appropriate if public employees can establish that their acts were objectively reasonable *or* that they performed them with subjective good faith." Canico, 144 N.J. at 365 (1996) (emphasis added); accord Alston v. City of Camden, 168 N.J. 170, 186 (2001) (same); see also Fielder v. Stonack, 141 N.J. 101, 137-38 (1995) (Stein, J.,

[5] Under the TCA, "[a] public employee is not liable if he acts in good faith in the execution or enforcement of any law." N.J.S.A. 59:3-3.

concurring) (defining "good faith" under the TCA as "honesty of purpose and integrity of conduct without knowledge, either actual or sufficient to demand inquiry, that the conduct is wrong") (citation omitted).

There is no reason to define "good faith" differently under the EMS Act by departing from its ordinary and accepted meaning. See Murray v. Plainfield Rescue Squad, 418 N.J. Super. 574, 586 (App. Div. 2011) ("In seeking the meaning and sense of the qualifying term 'good faith,' we consider it reasonable to look to the interpretation of that term as it is used in describing the qualified immunity of public employees under [the TCA]."), rev'd in part on other grounds, 210 N.J. 581 (2012). Indeed, as the Appellate Division correctly noted, "[t]he rationale for granting qualified immunity under either statute is the same, as neither police officers nor EMTs and paramedics should be 'inhibited in performing [their duties] by fear of tort liability' when responding to emergencies." (Pa20 (citation omitted)); see Alston, 168 N.J. at 187 (noting that good faith immunity under the TCA ensures "[p]rompt response to criminal complaints" and that "[a]n officer who is forced to stop and check his weapon may lose valuable time, possibly allowing the suspect to escape").

Petitioners' contrary arguments lack merit. They contend that, unlike the TCA, the EMS Act should be "narrowly construed" because it is "in derogation of the right of citizens under common law allowing redress for wrongful

conduct." (Am. Pet. 11.) To begin with, however, Petitioners overlook that the TCA also departs from the common law, see Frugis v. Bracigliano, 177 N.J. 250, 275 (2003), and their own authority suggests that both statutes should be construed the same way. See Marshall v. Klebanov, 188 N.J. 23, 37 (2006).[6]

More importantly, the attempted distinction at issue is an irrelevant distraction. The Appellate Division afforded "good faith" a plain and ordinary meaning and did not expand the scope of the statutory language. By excluding subjective good faith conduct from the immunity conferred by the Act, Petitioners are not advocating for a narrow construction of the statute—they are distorting its plain meaning. Thus, the Appellate Division did not deviate from the principle that statutes departing from the common law or granting immunity from tort liability should be narrowly construed. (See Am. Pet. 4, 11 (citing Velazquez ex rel. Velazquez v. Jiminez, 172 N.J. 240, 257 (2002)); Marshall, 188 N.J. at 37.)

Petitioners also seek support from the Act's purpose, along with a 1984 statutory amendment. (See Am. Pet. 11-12, 19-20.) By Petitioners' own account,

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[6] In seeking to distinguish the two statutes, Petitioners quote from Canico that, under the TCA, the Legislature established "immunity as the general rule and liability as the exception." (Am. Pet. 10 (quoting Canico, 144 N.J. at 364).) But there the Court was discussing a different and broader "absolute immunity" provision of the TCA, not the TCA's qualified good faith immunity provision. See Canico, 144 N.J. at 363-64.

however, the amendment had nothing to do with the definition of good faith. (See id. at 5 ("In 1984, the statute was amended to expand the list of approved [ALS] procedures . . . .").) And as for the statutory purpose, as already explained, declining to immunize subjective good faith conduct would defeat that purpose by drastically curtailing or even eliminating the immunity the statute confers.

II. The Appellate Division Correctly Held That the Paramedics Acted in Accordance With the Act

Nor is certification warranted based on Petitioners' claim that "a question of fact was presented" as to whether the paramedics complied with another provision of the EMS Act by "maintain[ing] direct voice communication with and . . . taking orders from" medical command. (Am. Pet. 13; N.J.S.A. 26:2K-10 (1984).) Petitioners do not explain why this claim meets the certification standard—in any event, Petitioners are wrong. As the Appellate Division found, the undisputed facts show that "[t]he paramedics contacted their medical command twice and received permission to intubate Jeremy," and that "[w]hile responding to Jeremy's emergency, the paramedics relied on their authorization and instructions from medical command to intubate Jeremy when his breathing became difficult to manage." (Pa21-22.) And "Dr. Sharma's testimony makes clear that, when she authorized intubation, she was not authorizing a specific number of attempts." (Pa21.) Thus, the undisputed facts show that in working

to intubate Jeremy, the paramedics acted pursuant to orders of Dr. Sharma, with whom they maintained appropriate communication under the statute.

Petitioners assert that the paramedics did not contact Dr. Sharma for 17 minutes. (Am. Pet. 12-13.) But the statute does not require paramedics to reestablish contact with medical command at certain set intervals. And such a requirement would make no sense. During that interval, the paramedics were responding to an emergency in acting to save the life of a critically ill patient by carrying out Dr. Sharma's orders and intubating Jeremy as authorized. Petitioners thus offer no basis to overturn the Appellate Division's conclusion on this point—let alone to certify the issue to this Court.[7]

III. The Appellate Division Correctly Held That the Act's Immunity Provision Does Not Incorporate Implementing Regulations

Drawing on settled principles of statutory construction and the plain meaning of the statutory text, the Appellate Division also correctly rejected Petitioners' argument that the Act's immunity provision incorporates implementing regulations. (Pa21-22.) To reiterate, the statute grants immunity

[7] Petitioners also contend that the Appellate Division mischaracterized the testimony of their expert, Dr. Brown, as agreeing that "direct voice communication does not mean a constant, live stream of communication." (Am. Pet. 13 (quoting Pa22).) But that characterization was accurate. (See Petitioners' Appellate Division Appendix at 385 (Dr. Brown Dep. Tr.) ("Q. . . . EMT's are not required to have the medical command doctor . . . on speakerphone the entire time during the transport, right? A. Correct.").)

for ALS services performed in good faith "and in accordance with *this act*," i.e., other provisions of the EMS Act. N.J.S.A. 26:2K-14 (1984) (emphasis added). This section does not refer to regulations. The Appellate Division thus correctly declined Petitioners' invitation to "rewrite a plainly written enactment of the Legislature [or] presume that the Legislature intended something other than that expressed by way of the plain language." (Pa22 (quoting In re Registrant H.D., 241 N.J. 412, 418 (2020)).)

Indeed, the Legislature knows how to incorporate regulations—it did exactly that in another section of the Act. Under a section that requires hospitals to be authorized to provide ALS services, "[t]he commissioner may withdraw his authorization if the hospital or unit violates any provision of this act *or rules or regulations promulgated pursuant thereto*." N.J.S.A. 26:2K-12(d) (emphasis added). The absence of similar language in the statute's immunity provision is presumptively intentional. See Shipyard, 242 N.J. at 38 ("[W]here [the Legislature] includes particular language in one section of the statute but omits it in another section of the same [a]ct, it is generally presumed that [the Legislature] acts intentionally and purposely in the disparate inclusion or exclusion." (citation omitted)).

Petitioners suggest that adhering to the plain meaning of the statute's text would create an "absurd result, contrary to public policy" and the statutory

purpose by making the regulations "less relevant" and encouraging paramedics to "ignore" them. (Am. Pet. 14-15.) But they do not specify which regulations paramedics will purportedly be encouraged to ignore, and, regardless, immunity from tort liability in certain circumstances does not create an incentive act contrary to law. The statute reflects a legislative choice to encourage quick, decisive action in life-threatening situations without fear of tort liability, while permitting the Department of Health to oversee and regulate every other aspect of the performance of ALS services.[8] Nothing about that choice is absurd, contrary to public policy, or contrary to the statutory purpose.

IV. The Appellate Division Correctly Held That the Paramedics Were Not Grossly Negligent

Finally, Petitioners' assertion that a question of fact existed as to whether the paramedics were grossly negligent does not warrant certification. (Am. Pet. 15-17.) Petitioners do not even try to explain why this claim involves anything but the application of established legal principles to the undisputed facts. That alone defeats certification. See Bandel, 122 N.J. at 237.

Nonetheless, the Appellate Division correctly concluded that nothing in the record suggests that the paramedics failed to "'exercise slight care or

[8] The Department of Health oversees compliance with the implementing regulations. See generally N.J.S.A. 26:2K-9; N.J.A.C. 8:41A-5.2.

diligence,' rising to gross negligence." (Pa24 (quoting Steinberg v. Sahara Sam's Oasis, LLC, 226 N.J. 344, 364 (2016)); see also Steinberg, 226 N.J. at 364-65 ("[G]ross negligence is an indifference to another by failing to exercise even scant care or by thoughtless disregard of the consequences that may follow from an act or omission."). To the contrary, the record shows that the paramedics decided to intubate Jeremy before moving him out of the ambulance (i) pursuant to authority granted by Dr. Sharma and (ii) based on a good faith and reasonable belief it would have been inappropriate and even reckless to move a critically ill patient without first stabilizing him. (See Pa5-9, 29-31.) Petitioners have no convincing response. Thus, there is no error in the Appellate Division's conclusion as to gross negligence.

CONCLUSION

For the foregoing reasons, Certification should be denied.

Dated: April 14, 2025

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