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Two former aides at ECMC nursing facility are cleared by grand jury in neglect case

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Two former employees of Erie County Medical Center's skilled-nursing facility who were accused of neglecting a resident of the now-closed nursing home on Grider Street have been cleared by an Erie County grand jury.

The grand jury voted last week not to indict Donna M. Laury, 48, and Nakeia T. Green, 35, both certified nurse's aides from Buffalo, according to their attorneys.

Buffalo City Court Judge Kevin J. Keane confirmed Thursday that an attorney from the state Attorney General's Office, which had filed charges against the two aides last September in City Court, told him that there was no indictment and that the charges were dismissed.

Frank Bogulski, Green's attorney, said the aides' actions were not criminal, but the result of short-staffing. "They should have gone after the managers for short-staffing," he said.

Thomas J. Quatroche Jr., ECMC's senior vice president, said ECMC has received four out of five stars from the Centers for Medicare and Medicaid Services for its staffing levels at its Terrace View Long-Term Facility, which opened in February 2013 on Michigan Avenue after ECMC closed the skilled-nursing facility on Grider.

He added that ECMC cooperated with the attorney general's investigation "to determine if these individuals violated the law, and they were cleared by the grand jury." He declined to comment further.

Attorney General Eric T. Schneiderman had announced the charges Sept. 23 after an investigation into the aides' treatment of a 79-year-old resident who had Alzheimer's disease and dementia, couldn't walk and was totally dependent on nursing staff for her care.

The investigation relied on a hidden camera placed in the patient's room and revealed an alleged pattern of neglect in December 2012, Schneiderman said.

The two aides were accused of violating the resident's personal care plan by failing to use two people when performing incontinence care and failing to use a mechanical lift to transfer the resident. When the aides did use a mechanical lift, they allegedly failed to use two people to operate it. The aides then allegedly falsified documents in an effort to conceal their actions.

The aides were charged with felony counts of falsifying business records and misdemeanor counts of endangering the welfare of an incompetent or physically disabled person and willful violation of public health laws.

Laury and Green were placed on leave during the investigation and eventually fired.

Phillip Dabney Jr., Laury's attorney, said his client was overjoyed by the dismissal of the charges.

"This case has had a tremendous effect on her," he said, adding that she has been unemployed since she was fired and that her application for unemployment benefits was denied because of the pending charges.

Now that she has been cleared, he said, she hopes to find a job, noting that she has more than 15 years of experience and had a clean employment record before she was charged.

Bogulski said the Attorney General's Office had offered Green a plea to a misdemeanor after she was charged and before the case went to the grand jury. He said she refused to plead guilty, adding that she testified before the grand jury.

"The case involved no criminality," he said. "It was all due to short-staffing." He added that the patient suffered no harm as a result of the aides' conduct.

Bogulski said the case was very upsetting to his client, a single mother with three children who worked at ECMC for eight years and had a previously unblemished record. "She took great pride in her work," he said.

He praised Green for her courage in fighting the charges and testifying before the grand jury.

Bogulski said that the union has filed a grievance challenging the two firings and that he is confident his client will get her job back with full back pay.

Bogulski and Dabney are challenging the state Labor Department's denial of their clients' applications for unemployment benefits.

The Attorney General's Office declined to comment.

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