

COURT OF APPEALS FOR THE EIGHTH DISTRICT OF TEXAS AT EL PASO

Lynda Michelle Gonzalez, Individually, on Behalf of All Wrongful Death Beneficiaries, and as Personal Representative of the Estate of Donna H. Voldahl v. Augustine O. Eleje, M.D.; Augustine O. Eleje, M.D., P.A.; Antonio Morales Ortega, M.D.; Antonio M. Ortega, M.D., P.A.; and Haroutioun S. Shahinian, M.D.

No. 08-24-00338-CV · No. No. 08-24-00338-CV · Decided January 9, 2026

SUMMARY

The Texas Eighth Court of Appeals considered whether the trial court improperly excluded the plaintiff’s sole medical expert in a wrongful-death medical-malpractice action. The court held that the expert was qualified to testify regarding the standards of care applicable to the internal-medicine physician and the hematologist, and it reversed the take-nothing judgment and remanded for a new trial. The excerpt does not show the opinion’s date, reporter citation, or final page.

CASE DETAILS

COURT	Court of Appeals for the Eighth District of Texas at El Paso
WRITING FOR THE COURT	Maria Salas Mendoza, Chief Justice; Palafox, Justice; Larsen, Senior Judge, sitting by assignment
JURISDICTION	Court of Appeals for the Eighth District of Texas at El Paso
DECIDED	January 9, 2026
DOCKET	No. 08-24-00338-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Gonzalez appealed a final take-nothing judgment entered after the trial court excluded her sole medical expert's testimony and granted the appellees' motions for directed verdict in a health-care-liability and wrongful-death action.
STANDARD OF REVIEW	The exclusion of expert testimony is reviewed for abuse of discretion. A trial court abuses its discretion when it acts without reference to guiding rules or principles. An evidentiary error requires reversal when it probably caused the rendition of an improper judgment under Texas Rule of Appellate Procedure 44.1(a)(1).

PRECEDENTIAL VALUE	Published Texas Court of Appeals opinion
PARTIES	Lynda Michelle Gonzalez, individually, on behalf of all wrongful death beneficiaries, and as personal representative of the estate of Donna H. Voldahl v. Augustine O. Eleje, M.D., Augustine O. Eleje, M.D., P.A., Antonio Morales Ortega, M.D., Antonio M. Ortega, M.D., P.A., Haroutioun S. Shahinian, M.D.

TOPICS

medical malpractice

expert testimony

standard of review

appellate procedure

harmless error

PRACTICE AREAS

medical malpractice

health law

evidence

appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by excluding Awad's testimony regarding the standard of care applicable to the internal-medicine, hematology, and infectious-disease physicians.
2. Whether Awad was qualified under Texas law to testify about causation.
3. Whether Awad's causation opinions were speculative.
4. Whether exclusion of Awad's testimony probably caused the rendition of an improper judgment.

HOLDINGS

1. Awad was qualified to testify regarding the standard of care applicable to Eleje, an internal-medicine physician, even though Awad was not board-certified in internal medicine.
2. Awad was qualified to testify regarding the standard of care for a physician administering steroids to a patient with suspected or established infection and sepsis, despite lacking hematology board certification.
3. Awad was qualified to testify regarding the standard of care for an infectious-disease physician managing postoperative abdominal infection and sepsis.
4. Awad was qualified under Texas Rule of Evidence 702 and Texas Civil Practice and Remedies Code section 74.403(a) to offer causation testimony.
5. Awad's causation testimony was not wholly speculative or based on surmise; weaknesses in the factual basis generally affected the testimony's weight rather than its admissibility.
6. The exclusion of Awad's testimony was harmful and probably caused the rendition of an improper judgment because the testimony was critical to both standard of care and causation.

KEY QUOTATIONS

"In a lawsuit against a physician for a patient's injury or death, only a physician can serve as an expert witness on whether the defendant departed from accepted medical standards if that physician:" (5)

“Instead, the offering party is required to establish that the expert has “knowledge, skill, experience, training, or education” regarding the specific issue before the court that would qualify the expert to give an opinion on that particular subject.” (7)

“Weaknesses in the facts underlying an expert’s opinion generally go to the testimony’s weight rather than its admissibility, and an opinion is no evidence only if it is based completely on speculation and surmise.” (24)

“Gonzalez’s case depended entirely on Awad’s testimony; without it, there was no evidence on the appropriate standard of care for each Appellee, or on causation.” (28)

FACTUAL BACKGROUND

Donna H. Voldahl, who had significant preexisting conditions including end-stage kidney disease, underwent gallbladder-removal surgery and was subsequently hospitalized several times for persistent abdominal pain, elevated white blood cell counts, and suspected or documented infection. During a later hospitalization, physicians discovered an abdominal abscess and a perforated, inflamed portion of the transverse colon; Voldahl later developed respiratory failure and died after life support was withdrawn. Gonzalez's medical expert, Samir Awad, opined that the defendants' postoperative care, including failure to identify and treat infection and increasing prednisone while infection and sepsis were suspected, breached applicable standards and contributed to the outcome.

PROCEDURAL HISTORY

Gonzalez sued the appellee physicians and two professional associations, alleging negligent postoperative diagnosis and treatment that caused or contributed to Voldahl's death. The trial court excluded expert Samir Awad's testimony concerning standard of care and causation, granted directed verdicts for the appellees, and entered a take-nothing judgment. Gonzalez's motion for new trial was overruled by operation of law, and she appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court's take-nothing judgment is reversed, and the case is remanded for a new trial.

CASES CITED

- Johnson v. Harris, 546 S.W.3d 293, 300 (Tex. App.—El Paso 2017, no pet.)
- Mack Trucks, Inc. v. Tamez, 206 S.W.3d 572, 578 (Tex. 2006)
- Broders v. Heise, 924 S.W.2d 148, 151-54 (Tex. 1996)
- Medlin v. King, 705 S.W.3d 267, 287 (Tex. App.—El Paso 2024, pet. denied)
- Tenet Hosps., Ltd. v. Garcia, 462 S.W.3d 299, 306 (Tex. App.—El Paso 2015, no pet.)
- Roberts v. Williamson, 111 S.W.3d 113, 122 (Tex. 2003)

- Palafox v. Silvey, 247 S.W.3d 310, 316 (Tex. App.—El Paso 2007, no pet.)
- Ponder v. Texarkana Mem'l Hosp., Inc., 840 S.W.2d 476, 477-78 (Tex. App.—Houston [14th Dist.] 1991, writ denied)
- El Paso Specialty Hosp. Ltd. v. Gurrola, 510 S.W.3d 655, 659 (Tex. App.—El Paso 2016, no pet.)
- Coastal Transp. Co. v. Crown Cent. Petroleum Corp., 136 S.W.3d 227, 233 (Tex. 2004)
- In re Commitment of Ausbie, No. 14-18-00167-CV, 2021 WL 1972407, at *7 (Tex. App.—Houston [14th Dist.] May 18, 2021, pet. denied) (mem. op.)
- Dallas Cnty. v. Crestview Corners Car Wash, 370 S.W.3d 25, 55 (Tex. App.—Dallas 2012, pet. denied)
- In re Commitment of King, 657 S.W.3d 16, 26 (Tex. App.—El Paso 2022, pet. denied)
- Creech v. Columbia Med. Ctr. of Las Colinas Subsidiary, L.P., 411 S.W.3d 1, 13 (Tex. App.—Dallas 2013, no pet.)
- LMC Complete Auto., Inc. v. Burke, 229 S.W.3d 469, 478 (Tex. App.—Houston [1st Dist.] 2007, pet. denied)
- Wilson v. Shanti, 333 S.W.3d 909, 915 (Tex. App.—Houston [1st Dist.] 2011, pet. denied)
- White v. Scaff, No. 13-10-00408-CV, 2012 WL 2608626, at *3, *10 (Tex. App.—Corpus Christi July 5, 2012, pet. denied) (mem. op.)
- Hous. Auth. of City of El Paso v. Beltran Elec. Contractors, Inc., 550 S.W.3d 707, 714-15 (Tex. App.—El Paso 2018, pet. denied)
- Gammill v. Jack Williams Chevrolet, Inc., 972 S.W.2d 713, 725-28 (Tex. 1998)
- Sears, Roebuck & Co. v. Abell, 157 S.W.3d 886, 897 (Tex. App.—El Paso 2005, pet. denied)
- State v. Cent. Expressway Sign Assocs., 302 S.W.3d 866, 870, 874 (Tex. 2009)
- Int. of C.C.O., 714 S.W.3d 198, 210 (Tex. App.—San Antonio 2024, no pet.)