

**REGIONAL COURT OF PERM**

**DECREE**

**25 March 2011 in case No. 44a-230-2011**

Deputy Chairman of the Regional Court of Perm Surkov P.N. considered the supervisory complaint of S. on decree of the justice of the peace of court district No. 116 of Municipality of Sivinsk of Permskiy Region dated 24 November 2010, on judgment of the judge of Regional Court of Sivinsk of Permskiy Region dated 11 January 2011 in case about administrative offence of S.U. envisioned by Article 13.14 of the Codex of administrative offences of the Russian Federation (hereinafter – CoAO RF),

established:

21 October 2010 by decree of the prosecutor of Sivinskiy region, justice councillor Grishin S.A. a suit was filed against S.U., date of birth, residing under address: <...> about administrative offence envisioned by Article 13.14 of CoAO RF, which establishes administrative responsibility for disclosing of information, access to which is limited by the federal law (except of the cases when disclosure of such information entails criminal responsibility), by a person, who received access to such information due to execution of official and professional responsibilities, except the cases envisioned by Article 14.33 part 1 of CoAO RF.

According to the decree dated 5 October 2010 S.U. being an official - head doctor of the medical institution, violating Article 61 of the Fundamental of the legislation of the Russian Federation about healthcare of citizens, according to which information about the fact of asking for a medical help, health condition of a citizen, disease's diagnose and other information received during his examination and treatment constitute medical secrecy, on 24 September 2010 issued an extract from the S.'s patient card without his consent and without a court's request for an unauthorized person – K., that is he allowed the disclosure of the information, access to which is restricted by the federal law.

By the decree of the justice of the peace of court district No. 116 of Municipality of Sivinsk of Permskiy Region dated 24 November 2010 S.U. was found guilty in committing administrative offence envisioned by Article 13.14 of CoAO RF, he was exempted from the administrative responsibility due to insignificance of the committed offence, he was given an oral reprimand. The case about the administrative offence against S.U. discontinued.

By the decision of the judge of Regional Court of Sivinsk of Permskiy Region dated 11 January 2011 the mentioned decree was left unchanged, the S.'s complain was left unsatisfied.

In the supervisory complain submitted by S. to the Regional court of Perm on 8 February 2011 the question of abolition of judicial decrees is raised. The applicant does not agree with the termination of the proceedings in administrative offence case against S.U. upon Article 2.9 of CoAO RF and conclusions of the court about insignificance of the committed offence.

In order to check arguments of the supervisory complain the case about the administrative offence dated 11 February 2011 was requested and on 1 March 2011 was received by the Regional court of Perm.

The copy of the supervisory complain of victim S. was sent to S.U., S.U.'s objections were not received by the Regional court of Perm.

After reviewing the case and arguments of the complaint, grounds for cancelation or revision of the decrees made by the court were not found.

The findings of the justice of the peace and the judge of the regional court about presence of administrative offence, envisioned by Article 13.14 of CoAO RF, in S.U.'s actions are correct, properly motivated and justified. They are supported by the statement of the victim S. dated 4 October 2010 of acting prosecutor of Sivinsk district of Permskiy Region (case page 5); extracts from S's patient card dated 24.09.2010 and without specified date (case pages 6, 25, 26-27); explanations of circumstances of the case by victim S., physician N., S.U., head doctor MU "Sivinskaya CRH" L., K., M., secretary of court sessions M., administrator of the Regional Court of Sivinsk A. (case pages 7, 8, 9, 11, 12, 13, 14, 15); record of proceedings on civil case No. 2-83-2010 dated 3 September 2010 and 24 September 2010 about inclusion of the statements from the S.'s medical history to the civil case materials (case pages 20-21, 22-23); extract from the order appointing S.U. the head doctor (case page 29); duty regulations of the head doctor of the Severokommunarskoi district hospital (case pages 30-33); statements of S.U. and S. during court hearings on 23 November 2010 (case pages 46-50).

The court instances evaluated presented evidence and made reasoned conclusion about the guilt of S.U. in committing administrative offence, envisioned by Article 13.14 of CoAO RF. Taking into account that information received by K. and M. from S.U., which included medical secrecy, was used by these persons solely for the consideration of the civil case in the court, others did not have access to this information, no evidence was presented to prove that backwash effects for S. took place as a result of the actions of S.U., the court instances made a correct conclusion about the insignificance of the offence in actions of S.U., gave him an oral reprimand and discontinued the proceedings.

The arguments of the applicant of the supervisory complaint that the offence committed by S.U. is insignificant do not give evidence about illegality of the court decrees.

According to the provisions of Article 2.9 of CoAO RF in case when insignificant administrative offence takes place judge, body, official who is authorized to decide upon cases about administrative offences, can release the person committed administrative offence from administrative responsibility and limit themselves to a reprimand.

According to the point 21 of the Resolution of the Plenum of the Supreme Court of the RF dated 24.03.2005 No. 5 "On certain questions arising for courts while applying the Code of the Russian Federation of administrative offences" if while considering case insignificance of the committed offence would be established judge according to Article 2.9 of CoAO RF may relieve the guilty person of the

administrative responsibility and limit themselves to a reprimand, what should be indicated in decree to discontinue proceedings in the case.

Insignificant administrative offences are actions or inaction, although formally containing attributes of an administrative offence, but due to the nature of committed offence and offender's role, size and severity of harm do not represent essential breach of protected public relations.

Having established the circumstances of the case, the court reasonably did not find in actions of S.U., who provided an unauthorized person K. with extract from the S.'s patient card, profit, personal interest, any other unlawful purpose while using the information, which includes medical secrecy, to harm S.

The court instances came to the correct conclusion that the purpose of usage of the information received by S.U., which includes medical secrecy, was the most complete and comprehensive establishment of circumstances in the civil case about damage caused to the applicant S. as a result of an accident.

Objective evidence, which would prove that because S.U. provided an extract from the S.'s patient card the health condition of S. deteriorated, was not presented by the applicant in the supervisory complaint for the court.

Assessing the evidence submitted by the parties according to requirements of Article 26.11 of CoAO RF and making the conclusion about the insignificance of the offence committed by S.U., the court took into account that his actions formally contained attributes of administrative offence, but given the nature of the committed offence, size and severity of harm did not lead to result essential breach of protected public relations.

Other evidence, which would indicate breach of substantive and procedural norms of law by the courts, the supervisory complaint does not contain, there are no grounds for cancellation of the court decrees.

The justice of the peace and the judge of the regional court gave proper evaluation of the collected evidence, their findings are motivated, and they are based on correct application of substantive and procedural norms of law.

Based on the above, guided by Article 30.17 CoAO RF part 2 point 1 of CoAO RF,

held:

Decree of the justice of the peace of court district No. 116 of Municipality of Sivinsk of Permskiy Region dated 24 November 2010, decision of the judge of the Regional Court of Sivinsk of Permskiy Region dated 11 January in case on administrative offence envisioned by Article 13.14 of CoAO RF against S.U. to be left unchanged, the complaint of S. to be left unsatisfied.

Deputy Chairman  
Of the Regional Court of Perm  
SURLOV P.N.

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