

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
July 27, 2010 Session

TINA JOHNSON, ET AL. v. DAVID J. RICHARDSON, M.D.

**Direct Appeal from the Circuit Court for Shelby County
No. CT-003760-01 Karen R. Williams, Judge**

No. W2009-02626-COA-R3-CV - Filed August 12, 2010

SEPARATE CONCURRENCE

HOLLY KIRBY, JUDGE, concurring separately:

I concur in the majority opinion, but concur separately only to elaborate on establishing the similarity of medical communities for the purpose of qualifying a medical expert witness.

The majority quotes excerpts from Dr. Sheppard's testimony in which he makes misstatements about demographic information such as population size. A physician such as Dr. Sheppard is not an expert in demographics; the expertise he brings to the courtroom is on the medical issues that are before the court. To the extent that the similarity of medical communities is established through demographic information, this can be introduced into evidence by means other than the physician expert's testimony, so long as the physician expert puts the demographic information into context, such as explaining why the availability of certain medical specialties in the compared communities may be significant in a given case.

In this case, however, the plaintiff chose to introduce the demographic information into evidence through the testimony of her physician expert witness. I agree with the majority that the evidence in the record did not show that Springfield, Missouri and Memphis, Tennessee are similar medical communities, and therefore the trial court did not err in disqualifying Dr. Sheppard as an expert witness.

HOLLY M. KIRBY, JUDGE