

Civil Claim: Doctor Should Have Reported Child Abuse

Follows Criminal Conviction

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The first doctor to be convicted under state law making it a crime to fail to report child abuse to state authorities is now facing a civil lawsuit filed yesterday on behalf of the child, who is alleged to have suffered severe brain injuries as a result of the abuse, according to court records.

The complaint in *Wilson v. Cho* was brought by the parents of Sheila Wilson, who is now 4 years old: The father, Rodofis R. Wilson, and mother, Sheila Bellmon, in the complaint accuse Dr. Jay C. Cho of failing to exercise due care consistent with medical standards and the Child Protective Services Law.

Also included in the suit were Poplar Medical Center, Dr. Rudolph Fontanillo and Alert Pharmacy. The defendants allegedly were involved in the treatment of Sheila Wilson from January 1994 to March 1994.

The complaint, filed by lawyers Thomas Kline of the Philadelphia firm Kline & Specter, states that Cho's conduct "constituted willful, wanton, reckless disregard of the life and safety of his patient."

Cho and Poplar are being sued for violating the child protection statute, which binds him to recognize and report child abuse. All of the defendants are being sued under a negligence theory. Cho and Poplar are also being sued for intentional infliction of emotional distress.

"It is the only such action I am aware of," under the child protection law, Kline said. "This case is one in which [a defendant] has been tried and convicted in the criminal court." According to Kline, "the criminal conviction of the statutory violation is tantamount to a finding of negligence.

"The facts speak for themselves," he said. "The facts developed in the criminal investigation show that there was a pattern of conduct [on the part of Sheila's foster-caregiver] that had been well-established."

According to testimony at a 1995 criminal trial, Cho saw second and third-degree burns on the child but failed to take any action. When he saw Sheila for the last time, on March 18, 1994, it was too late, as she suffered massive brain damage as a result of repeated scaldings, the complaint said.

The trial judge in the case said that, before Sheila's March 18, 1994, visit to his office, Cho had ample evidence of serious child abuse but chose not to alert authorities. Cho, a general practitioner, first saw Sheila at the Poplar Medical Center at 1029 Poplar St. in January 1994, when Sheila was living with a foster parent named Cynthia Ketrles. According to Kline, Sheila came under Ketrles' care in August 1992.

Treated Foster Mother, Too

The doctor provided health care and made prescriptions not only to Sheila but also Ketrles. The complaint alleges that before January 1994, Sheila was healthy, and that Cho and the other defendants negligently failed to take steps to recognize, report and treat Sheila's case as one involving child abuse.

Among them, the codefendants had more than 10 opportunities to see Sheila Wilson, yet failed to recognize child abuse and report the matter to authorities under the state Child Protective Services Act. Cho examined two other children under Ketrles' care and treated them for burns and blisters, but did not make any reports of child abuse, according to the complaint.

An examination of Sheila Wilson on March 18, 1994, revealed burns on the child's hands, buttocks and vaginal area, according to the complaint. Cho then allegedly saw that some of the burns, old and new, on Sheila, formed a pattern indicating immersion in scalding water. After the March 18 examination, Sheila Wilson was rushed to the Children's Hospital of Philadelphia and diagnosed with third-degree burns, severe malnutrition and shaken baby syndrome, among other things, according to the complaint. The CHOP doctors concluded the baby's maladies were "the result very clear neglect and physical abuse, all of which earlier was ignored and went unreported and untreated by defendant."

Apologetic

On April 7, 1994, after being arrested for violating the Child Protective Services Act and for recklessly endangering the life of the child, Cho made a statement to the police in which he was quoted as saying that he "wants to apologize, for all the problems I caused. I should have reported it to the police."

Cho was convicted of the criminal charges in February 1995, the complaint said. He was sentenced to three months probation.

"Sheila is in a chronic vegetative state," Kline said. "She is burned and mutilated beyond one's imagination and has no ability to respond or communicate, and she is cared for constantly. This is a tragedy of epic proportions." The 4-year-old is in need of around-the-clock medical care,

according to Kline. "It will take millions of dollars to care for this poor little child over the course of her lifetime," he said.

According to Kline, state officials are proceeding with hearings aimed at stripping Cho of his license to practice medicine in Pennsylvania. The lawyer for Cho, James I. Devine of Plymouth Meeting, Montgomery County, could not be reached for comment by *The Legal Intelligencer* yesterday afternoon. The case, No. 1789, March 1996, has not yet been assigned.

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