

Negligence suit results in \$688K settlement

Mentally impaired woman raped, impregnated

The plaintiff, a developmentally disabled person with an IQ of less than 24 months and with no ability to speak, was residing in an adult foster care group home when she was raped and impregnated. As a result, she gave birth to a son. Plaintiff's counsel said the plaintiff does not have the mental capacity to know that she has a child and her son is being raised by the plaintiff's father.

The plaintiff did not have the mental capacity to consent to sexual intercourse. Although she missed her menstrual cycle for three consecutive months, the group home failed to report the pregnancy during that time period.

The group home attempted to keep the pregnancy a secret from the plaintiff's family members. When the family attempted to visit the plaintiff, they were told either that the plaintiff was sick or that she was not home. This went on for several months during which time the group home also petitioned the probate court for an order allowing the child to be aborted. However, because they delayed petitioning for the procedure, the time lapsed in which the operation could be performed. Thereafter, the group home came up with a plan to allow one of their employees to adopt the unborn child, still without notifying the plaintiff's family members that the plaintiff was scheduled to give birth to a child.

After the family finally discovered the pregnancy, the plaintiff's father sought legal counsel in an attempt to have access to his daughter and to take guardianship of the child once the birth took place. After emergency petitions were filed, the plaintiff's father was finally able to see his daughter and grandson at the hospital on the day his daughter gave birth.

A civil and criminal investigation commenced regarding the rape. Plaintiff's counsel said the group home made false allegations to the detective who was assigned to the case, including 1) saying that possibly the plaintiff's father raped her and fled to Puerto Rico; 2) suggesting that no male ever had access to the plaintiff; and 3) suggesting that this was an immaculate conception as described by the Adult Protective Service worker who was assigned to the case. The group home then indicated that the plaintiff was raped at Pontiac Central High School where she attended a class five days a week with other developmentally disabled persons.

Counsel asserted that the police investigation was diverted by the group home. The police not only received false information, they also had records withheld. Instead of doing a vigorous investigation or DNA testing on the limited number of males that the plaintiff had contact with, the police agency instead gave up and closed their case.

Settlement amount: \$687,500

Attorney for the plaintiff: James O. Elliott