

Children's Healthcare Is a Legal Duty, Inc.

Box 2604, Sioux City IA 51106
Phone 712-948-3500
Web page: www.childrenshealthcare.org

Number 1, 2010, © by CHILD, Inc.
E-mail: childinc@netins.net
Written by Rita Swan

Equal rights for children under the law



*Clackamas County Prosecutors
Greg Horner and Steve Mygrant*

Followers of Christ parents sentenced to prison in son's death

In March Jeff and Marci Beagley of Oregon City, Oregon, were sentenced to 16 months in prison each for letting their son Neil die without medical attention. The Beagleys belong to the Followers of Christ church, which encourages relying only on religious ritual to heal disease.

The Followers have a long and sordid history in Oregon. Scores of children are buried in the church's Carus Cemetery. The deaths went on for decades without investigation.

Meanwhile in Salem, the Oregon legislature gave the Christian Science church one religious exemption right after another. It enacted this defense to a criminal non-support charge:

"In a prosecution for failure to provide necessary and proper medical attention, it is a defense that the medical attention was provided by treatment by prayer through spiritual means alone by adherents of a bona fide religious denomination that relies exclusively on this

form of treatment in lieu of medical attention."
Ore. Rev. Stat. 163.555(2)(b)

In other words legislators decreed that necessary and proper medical care could be provided by prayer alone.

Oregon has this definition of criminal mistreatment:

A caretaker commits the crime of criminal mistreatment if he or she "intentionally or knowingly withholds necessary and adequate food, physical care or medical attention from the child," "causes physical injury to the child," "deserts" the child "with intent to abandon" him, leaves the child "unattended at a place for such a period of time as may be likely to endanger [his] health or welfare," hides or misappropriates the child's money or property, or takes charge of the child "for the purposes of fraud."

But the law also provides that charges of criminal mistreatment "do not apply" to a person who provides a child "with spiritual treatment through prayer from a duly accredited practitioner of spiritual treatment. . . in lieu of medical treatment, in accordance with the tenets and practices of a recognized church or religious denomination" of which the caretaker "is a member or an adherent." ORS 163.206

So a parent could not only deprive a child of medical care, but also desert, abandon, beat, and exploit the child for fraudulent purposes as long as the parent got someone accredited by a "recognized church" to pray for the child.

INSIDE	
Seminar held on Oregon faith deaths	6
Court rejects religious immunity in child sex abuse cases	7
<i>The Last Strawberry</i>	8

These outrageous laws were rubberstamped by the Oregon legislature with scarcely a murmur of concern.

In 1995 a bill was introduced in Oregon with a religious defense to homicide by abuse or neglect. We tried to build opposition to it but learned to our amazement that the Oregon District Attorneys Association supported it. They cavalierly told us that parents who let their kids die because of their religious objections to medical care could still be charged with manslaughter and therefore we had nothing to complain about. The bill passed handily.

Only two years later, however, religious immunity to manslaughter charges was enacted, and again with the ODAA's blessing. The prosecutor who led the work for passage of the bill told us that he was trying to get stiff enhancement penalties enacted in child abuse cases. He had strong opposition from "the left." He could not, he said, stave off opposition from the Christian Science church as well, which he thought spoke for the "entire Christian Coalition."

Church lets three kids die in eight months

In January, 1998, I spoke at a child abuse conference in San Diego and discussed Oregon's huge panoply of religious exemption laws. The new Clackamas County District Attorney Terry Gustafson hurried up to me afterwards and told me about faith deaths in her county.

A few weeks later Bo Phillips, age 11, died of untreated diabetes in Clackamas County—the third Followers of Christ child to die of a readily treatable condition in eight months.

90 kids die in two congregations

Gustafson decided she could not file charges because of all the religious defenses in the criminal code, but she did alert the media. Journalists went to the Followers' cemetery and found 78 children had been buried there since the 1950s. They also found deaths of 12 children in a satellite congregation in Idaho. Oregon State Medical Examiner Larry Lewman said that most or all of the deaths over the previous decade were preventable. His office estimated the death rate among the Followers of Christ children to be 26 times that of the general population. Lewman also reported that four mothers and three of their unborn children died of

easily treatable infections. The mothers all died of puerperal sepsis, common in the 19th century, but virtually unheard of today.

Study of child mortality in faith-healing sects

That year also Dr. Seth Asser and I published the largest study of child mortality in faith-healing sects. Our *Pediatrics* article reported on 172 deaths of U.S. children over 21 years. We found that 140 would have had at least a 90% likelihood of survival with timely medical care. The group included 28 Christian Science children, but no Followers of Christ children because we had not heard of the sect when we did our research.

Between our *Pediatrics* article and the 78 children's deaths in Clackamas County, the public was outraged. A CHILD member asked his state representative, freshman Republican Bruce Starr, a conservative Christian, to sponsor a bill repealing nine of Oregon's religious exemptions dealing with medical care for sick and injured children, and Starr did so.

House Democrats were jealous and introduced their own bill, which had only a few inconsequential differences from Starr's. They also tried to use the faith-healing issue as a bargaining chip for repealing mandatory minimum sentences.

Legislators try to please Christian Scientists and child advocates

Then as usual the Christian Scientists entered—well-dressed, professional, and tenaciously besieging legislators.

What do legislators do when two groups take strong, passionate, opposing positions on a bill?

They split the difference. So the first committee passed a bill that repealed six of the nine religious exemptions we were trying to repeal. Before the bill got to the floor, the committee chair had decided to invert the order, repealing the other three and keeping the six.

In the Senate the chair of Judiciary set up a work group on the House bill and invited the Christian Science church to send attorneys to it. The work group met in secret and the names of non-legislators present were not put in the public record.

Not surprisingly, the bill that came out of the work group and passed the committee was strongly tilted to the Christian Science church. It repealed a

different three religious exemptions and changed the duty of parents from providing “medical care” to providing “health care” because the church claims its spiritual methods are “health care.”

For all the work group’s concessions, however, the church later went behind their backs and urged other senators to vote against that bill, a House bill sponsor told us.

Pet fur bill saves the day

Meanwhile, over in the House, our allies became concerned that the Senate would never pass the bill, and it would die. So they attached yet another version—repealing five religious exemptions—onto a bill protecting dogs and cats from fur traders.

The Senate sponsor of the pet fur bill was angry, but it got the ball moving, and in August, 1999, a bill repealing five of the nine religious exemptions and leaving the standard of care at “medical care” rather than “health care” was signed into law.

Although the new law left Oregon with religious defenses to homicide by abuse and first-degree manslaughter, it was clear that faith healers could be prosecuted for second-degree manslaughter and other crimes.

Laws seemed to change behavior for years

We hoped that clearer laws would change the Followers’ behavior, and for years it seemed that they had. Terry met with some of their leaders and explained the new statutes to them. People told us they saw Followers with their children in hospital emergency rooms. The Followers continued to have fetal deaths for mothers who got no prenatal care or medical attention at childbirth, but we didn’t hear of another born child dying of medical neglect until 2003, and investigators decided not to pursue charges because the parents disclosed no awareness of symptoms of a serious illness.

In 2008, however, two Followers’ children, Ava Worthington and Neil Beagley, died of treatable illnesses without medical care, and in 2009 a Followers’ baby died at nine hours old without medical care.

No medical care for any symptoms, parents say

Fifteen-month-old Ava died of bronchial pneumonia, which was likely exacerbated by a cyst

called a hygroma that grew on her neck to the size of a softball. The Followers performed healing rituals over her the last two days of her life, and about 200 Followers were in her home when she died. Her parents, Carl and Raelene Worthington, told police that they would not have gotten medical care for her regardless of the symptoms. In 2001 they lost a son in an unattended home delivery.

They were charged with criminal mistreatment and second-degree manslaughter in Ava’s death. The prosecutors seemed to have a very strong case against the first Followers of Christ parents ever charged for medical neglect.

Parents: illness trivial or being healed by prayer

At trial, however, the Followers claimed that they didn’t think the growth was a serious problem—adults in their family had them. They claimed their healing rituals did not indicate awareness of a serious illness—they did those rituals all the time for all kinds of trivial problems. They said they saw her breathing become easier moments before her death. They believed that “improvement” was because of their rituals so they broke their fast and went into the kitchen to eat. They were totally surprised and shocked by Ava’s death, so shocked in fact that they didn’t know what they were saying to the police.

Nearly every illness ebbs and flows to some extent, and people who are determined that God is on their side and who willfully avoid medical information often seize upon some symptom or change of symptoms as proof of a miracle. In Ava’s case the change in her breathing meant only that she was close to death.

Jury excuses parents for good intentions

The jury believed the parents, however. The jury forewoman said that, given their culture and religion, the parents may have had no awareness that their baby was seriously ill. She claimed that their good intentions exonerated them even though the jury was instructed that intentions were not an element of the crimes. One juror had apparently lied to the lawyers about her religious beliefs.

The jury acquitted Raelene of both charges because husbands are supposed to make all decisions in Followers’ families and perhaps also because she came to court visibly pregnant. Carl was convicted

only of criminal mistreatment. He served less than two months in jail, but was required to provide regular medical care and checkups for his surviving children for five years.

Medical neglect reported to social services

At Ava's deathbed were her maternal grandparents, Jeff and Marci Beagley. Questioned by police after Ava's death, Marci defended the Followers' practice of withholding medical care.

The Beagleys' 16-year-old son Neil became very ill shortly after the death of his little niece in March. His aunt reported to the Department of Human Services that Neil's throat was closed up, he was having trouble breathing, and she was afraid he might die.

Family: illness is trivial; DHS believes them

When DHS worker Jeff Lewis visited, Neil was sitting in a chair with a blanket around him. Two years later Marci testified that she had been afraid Neil would die in March—that his symptoms looked more serious in March than in June. But she did not express that concern to Lewis at the time. Both Neil and his parents said he was just recovering from a cold or flu.

Alone with Lewis, Neil said he did not want to go to a doctor. Lewis pointed out to him that he had the legal right to seek medical care on his own initiative.

Lewis also explained to the family that DHS could petition the court for an order for medical care despite their religious objections. He said Neil could express his own views at the hearing and the judge would take into consideration his objection to medical care.

Neil did not appear seriously ill to Lewis during his ten-minute visit, so DHS took no further action.

Three months later Neil died of complications from a bladder outlet obstruction that he had probably had all his life. On autopsy, urine was sloshed throughout his abdomen and even in his lungs. His kidneys were working at 4% of capacity, and his heart had swollen to twice the normal size trying to cope with the damage. He vomited nearly daily the last week of his life. A "feeding journal" kept by his mother recorded that Neil was eating only tiny amounts of food, sometimes just a spoonful, for eight days and was even being fed baby food.

A public official initially told the press that Oregon law allowed Neil to refuse medical care. In fact, Oregon law allows minors to consent to medical care at age 15 but not to refuse it. Oregon law does, however, have much lower penalties for fatal neglect of 15- to 17-year-olds than of other children. Oregon's manslaughter and homicide by abuse or neglect laws apply only to deaths of children under 15 years old, and its criminal mistreatment law still has a religious exemption for 15- to 17-year olds who belong to faith-healing churches.

The Beagleys were charged with criminally negligent homicide, which has a maximum penalty of ten years in prison.

Followers explain beliefs and practices

A clear picture of their religious beliefs about health care emerged from the trial in January, 2010. Mrs. Beagley stated, "If your faith is not there, then don't waste your time with it. It has to be one or the other. You either have faith that God will heal or you seek medical attention."

The Beagleys say they asked Neil a number of times if he wanted to go to a doctor, and Neil always said "No." Mr. Beagley told police he was "proud" of his son for being true to his faith. Mrs. Beagley said they "wanted to honor Neil's wishes."

Like Christian Scientists and Faith Tabernacle members, the Followers think care from eye doctors and dentists does not violate their faith, and the Beagleys had used those medical services.

Unlike Christian Science theology, the Followers' faith allows them to try home remedies and even search the internet for diagnosis and over-the-counter remedies. During Neil's final illness Mr. Beagley surfed the internet for information on how to relieve peptic ulcers, and the Beagleys gave their son glucerna, a food supplement for adults with diabetes.

Mrs. Beagley gave birth at home without medical attention.

Like members of other faith-healing groups, the Beagleys saw disease as supernaturally or attitudinally caused. They believed that Neil's serious illness shortly after Ava died was caused by his grief. And, of course, Neil's apparent recovery strengthened their faith in divine healing.

Their attorneys said DHS worker Jeff Lewis told them 16-year-olds had the legal right to refuse medical care, but Lewis denied saying it.

I was able to attend closing arguments in the trial. As I waited in the hall for the courtroom to open, Marci Beagley's mother comforted her by quoting Jesus as saying that "the world hated me before it hated you."

"the loudest thing in the case"

Steve Mygrant began for the state. He pointed out that Neil couldn't walk or get out of bed the last days of his life. He couldn't even lift his hands to hold a cup. The feeding journal shows that Neil was taking in only a small fraction of what a normal teenager would eat and drink and much of that he was vomiting back up. The feeding journal stops 23 hours before the boy died. Mrs. Beagley refused to say why she stopped writing in it. "That silence is the loudest thing in the case," Mygrant said. "Neil was not eating or drinking anything."

The family and other Followers made their version of a 911 call twice with the ritual of laying on of hands, Mygrant said. Even when Neil stopped breathing they didn't call for medical help or do CPR.

Pressures on isolated boy

Mygrant pointed out that Neil had been home-schooled since third grade. He couldn't go to a school nurse; he had no friends whose parents were health care providers. He was devoted to his dad and wanted to be just like him. Neil was only 5'5" tall and weighed only 120 pounds. His dad hovered over him throughout the last night of his life "casting that big shadow." And yet the parents put the whole weight of deciding to break with the church and his parents' faith on a very sick and frightened boy.

Three doctors who testified for the state said they were not aware of any other child dying from a urinary tract blockage.

Judge Steven Maurer allowed testimony about the death of the Beagleys' granddaughter Ava, but not about any other deaths of Followers' children. The Beagleys were in Ava's home when she died and had to be aware that withholding medical care could be risky, Mygrant said.

"This is who we are. This is what we do," Marci told the officials investigating Ava's death.

They followed their faith and as a result, Neil was on the autopsy table when he was first seen by a doctor, Mygrant concluded.

Defense: parents acted reasonably

Wayne Mackeson, Mr. Beagley's attorney, said the prosecution had attempted to portray the Beagleys as religious fanatics who had martyred their son. "That was their theory of the case and then there was no turning back," he charged.

Mackeson emphasized that the DHS worker consulted with a doctor and other professionals about questions to ask the Beagleys and later again about the symptoms he had seen. Lewis knew the Beagleys were relying on prayer. Lewis concluded on April 2 that Neil had a self-limiting illness and the parents were caring for him adequately.

Everything in the June autopsy photos was present on April 2, but the family who saw Neil every day and professionals who were not part of the church concluded in April that Neil showed no symptoms of a serious illness, Mackeson said.

The Beagleys, he continued, reasonably compared Neil's condition in June to that in March. Neil looked worse in March, but had recovered through prayer then.

All of Neil's symptoms in June were "non-specific." They could have been symptoms of many viral illnesses, Mackeson argued.

Steve Lindsey, Mrs. Beagley's attorney, said her core values were respect, charity, and the Golden Rule. She knew her son was mature and responsible. She respected her son's choices.

Lindsey argued that the doctors have no right to speculate on Neil's condition because, as they themselves admitted, they had never before seen a case with a blockage that severe, toxins in the blood that high, etc.

Deputy District Attorney Greg Horner had the last word. He spoke for fifty minutes without notes. He told the jury they were chosen because they represented the community and could render judgment on how reasonable parents in Clackamas County care for their children. He pointed out that the state's witnesses, including the three doctors, were local people while the doctors who testified for the defense were from out of state.

Parents won't make decision against their faith

Horner reminded the jury that Mackeson had asked his client on the stand, "What would you do if your son was hit by a car?" Mackeson probably thought he was tossing him a softball and Jeff would reply that of course he would take his son to a hospital immediately if he could see blood gushing out and comprehend the emergency as in a car accident.

Instead, Horner recalled, Jeff Beagley hemmed and hawed and finally said, "Well, I probably wouldn't be the first one there."

Beagley didn't want to make a choice that showed a lack of faith.

As Marci said, "It was [Neil's] wishes. It was his faith we were relying on." His parents didn't want to take responsibility for going to a doctor.

Like Mygrant, Horner said the laying on of hands showed the Followers' awareness that Neil's illness was extremely serious. The ritual involves many church members coming to the home. The Beagleys had never done it for a child before Neil's illness in March. They did the ritual twice more during his fatal illness in June.

The DHS worker testified that if he had seen the symptoms that the Beagleys saw in June, he would have immediately gotten medical care for Neil, Horner reminded the jury.

The Beagleys have no health insurance because, Horner charged, they don't plan to get their children medical care.

Standard is reasonable person, not good intentions

After Horner's argument Judge Maurer instructed the jury that the state had to prove beyond a reasonable doubt that the Beagleys "failed to be aware of a substantial and unjustifiable risk and this failure is a gross deviation from the standard of care that a reasonable person would exercise."

The jury convicted the Beagleys of criminally negligent homicide by a 10-2 vote. Oregon and Louisiana are the only states that allow non-unanimous verdicts in criminal trials, and that will be challenged on appeal.

The jury had the same emotional conflict as the Worthington jury in that the Beagleys were sincere, loving parents, but this jury followed the law and their instructions. The jurors had been carefully

screened by a questionnaire asking about their attitudes on maintaining health, their experiences with medical doctors, what types of decisions they made in their families, when children should be allowed to make major decisions, whether the state should have the right to intervene in the family, and, of course, about their religious beliefs.

"graveyard nearly full"; "it just has to stop"

Judge Maurer sentenced the Beagleys to 16 months in prison and three years of post-prison supervision. He called his decision heart-wrenching and agreed with jurors who said the Beagleys were good people, but added, "The fact here is that too many children have died. Unnecessarily, needlessly, they have died, and there is a graveyard nearly full of their bodies. It has to stop. It just has to stop."

Marci Beagley is the first mother to be convicted in an Oregon faith-death. In 1996 a Church of the Firstborn mother was acquitted of all counts in Linn County, and in 2009 Followers mother Raelene Worthington was acquitted. Jurors in both cases said they acquitted the mothers because the husbands were the decision-makers for the family. Mr. Beagley was also presented as the lord of the household, but the prosecutors insisted that a mother had a duty to her child superseding any religious model of family structure.

The Beagleys' youngest child is now 16.

D.A.'s letter to Followers

In April Clackamas County District Attorney John Foote sent letters to 415 families who belong to the Followers of Christ Church, asking to meet with them and their leaders to discuss how to keep more children from dying without medical care.

"Is there an opportunity for us to agree under what circumstances parents should take their children to a doctor or hospital for appropriate medical care?," Foote asked.

"It is not our preference to prosecute parents for failing to give their children medical care," he wrote. "Our first preference is to have parents take on that responsibility so that children do not die. . ."

"As you know, the law in Oregon is very clear. All parents are legally required to protect their children," Foote continued. "There are no exceptions to this rule."

Two months later fewer than a handful of Followers have replied, and they did not offer to participate in the proposed meeting.

The Oregonian newspaper has excellent and extensive coverage of the trial at its website, www.oregonian.com, including photos of Ava and Neil, their parents *et al.*

Seminar held on Oregon faith deaths

In January the Oregon State University Philosophy Department held a seminar in Corvallis entitled “What More in the Name of God? Religious Liberty, Faith Healing, and Care for Children.” Shawn Peters, author of *When Prayer Fails*, and I were invited to present.

Phil Davis, the manager of the Christian Science church’s worldwide lobbying and public relations, was in Oregon during the Beagley trial, likely to explain to the media that Christian Science had nothing in common with the Followers of Christ.

A week before the seminar, the Christian Science church contacted the professor in charge and requested the right to bring in their own speaker, Steve Lyons, a Boston attorney who had defended Christian Science parents who let their son die without medical treatment.

This was granted. Lyons spoke before me. He was derogatory about my work and got into a shouting match with Peters, accusing him of wanting to do away with the right to trial by jury.

My talk was titled “Oregon children: hostages of fortune” and discussed how all systems that should have protected children in faith-healing sects broke down in Oregon and continue to be imperfect. About 200 people, including several Oregon CHILD members, attended.

Church: we have “scientific prayer;” others have “faith-cure”

The church scheduled a talk in Corvallis by a Christian Science teacher the day after the seminar and took out a quarter-page ad in the student newspaper. Entitled “The Who, Why & How of Raising Kids and Christian Science,” the talk was billed as explaining how “scientific prayer” heals children of disease and was “not to be confused with faith-cure.”

Louisiana Supreme Court rejects religious immunity claims in child sex abuse case

In April the Louisiana Supreme Court rejected a Catholic church’s argument that the First Amendment insulated it from “breach of fiduciary duty” claims of plaintiffs who alleged they had been sexually abused by a priest when they served as altar boys.

Is church liable for post-abuse damages?

The church acknowledged that negligence and *respondeat superior* claims could proceed against the church for allowing the abuse, but argued that it should not be liable for events after the abuse. “Any alleged actions or inactions taken by the Diocese once the abuse ended did not cause Plaintiffs’ alleged damages and are irrelevant,” the church argued.

The church also argued that the plaintiffs’ “breach of fiduciary duty” claims were really unconstitutional “clergy malpractice” claims requiring court intrusion into church “discipline, faith or custom” and “the spiritual relationship between the church and its parishioners.” They argued that a fiduciary duty must be established by a contract.

Breaches of trust can be examined without violating First Amendment rights

CHILD joined in an amicus brief supporting the plaintiffs. Amici argued that a fiduciary duty was created not only by a written contract but also by “a special relationship of confidence or trust,” which gives one party “opportunity to take unfair advantage” of the other.

Special trust relationships commonly exist between clerics and their parishioners, but the damage caused by breaches of that trust can be evaluated by courts without passing judgment on the religious aspects of the relationships, we said.

Without opinion, the Louisiana Supreme Court issued a writ denying the church’s First Amendment claims and allowing the plaintiffs’ breach of fiduciary duty claims to stand.

The amicus brief was written by Marci Hamilton of Cardozo School of Law and cosigned by eight national organizations, Child Victims Voice of Delaware, and Cardozo Advocates for Kids. The

Children's Healthcare Is a Legal Duty, Inc.
Box 2604
Sioux City, Iowa 51106

ADDRESS SERVICE REQUESTED

Louisiana Supreme Court continued

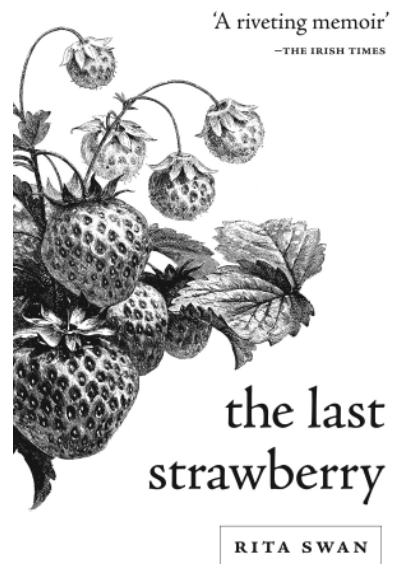
case is captioned as John Doe XIV, John Doe XV and John Doe XVI vs. Jack Doe, Jack Doe II, Jack Doe III and his Predecessors and Successors, Fireman's Fund Insurance Company and Guideone Insurance Company.

"This cold, dwindling American delusion"

Hag's Head Press in Dublin, Ireland, has just published Rita Swan's *The Last Strawberry*, a memoir of her family's ordeal when she and her husband Doug lost their only son Matthew in 1977 because of relying on Christian Science practitioners to heal him.

Caroline Fraser, author of *God's Perfect Child: Living and Dying in the Christian Science Church*, says of it: "Eloquent, harrowing, unsparingly honest, *The Last Strawberry* is the ultimate Christian Science 'testimony,' the last word on this cold, dwindling American delusion. Readers will take courage from Rita Swan, who faced the most devastating loss, learned its hard lessons, and turned to helping others escape the clutches of magical thinking."

The 64-page book is available in a signed and numbered edition of 100 copies at www.hagsheadpress.com or directly from CHILD at \$19 for U.S. orders and \$15 for CHILD members. Both prices include postage and handling.



About CHILD Inc.

A member of the National Child Abuse Coalition, CHILD is dedicated to stopping child abuse and neglect related to religious beliefs, cultural traditions, or quackery. CHILD provides research, public education, and amicus briefs. It opposes religious exemptions from child health and safety laws. See especially the Policy and Legal section of our webpage at www.childrenshealthcare.org.

Membership in CHILD is by application. Dues are \$35 a year for an individual or family or \$15 a year for a full-time student. All donations to CHILD are tax-exempt.