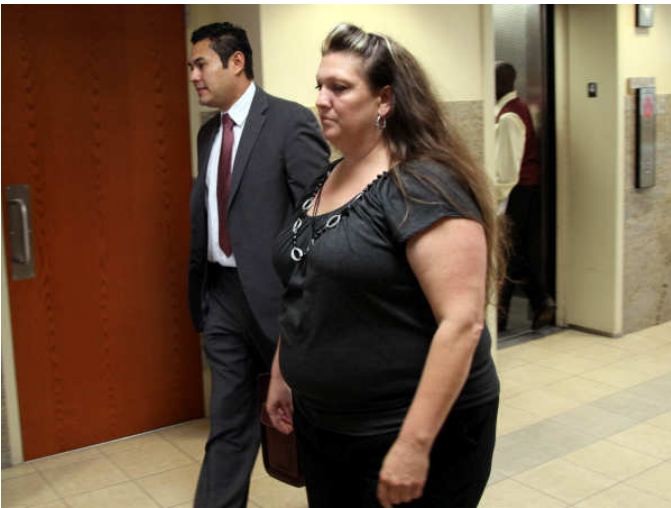


Children's Healthcare Is a Legal Duty, Inc.

136 Blue Heron Lane, Lexington KY 40511
Phone 859-255-2200
Web page: www.childrenshealthcare.org

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E-mail: admin@childrenshealthcare.org
Written by Rita Swan

Equal rights for children under the law



Susan Grady and her attorney

Photo credit: Stephen Pingrey, *Tulsa World*

Oklahoma mom sentenced to prison in son's faith-death

On June 8 Church of the Firstborn parent Susan Grady of Tulsa, Oklahoma, was sentenced to two and a half years in prison for letting her nine-year-old son Aaron die of untreated diabetes. The church has let scores of children die because of its beliefs against medical care.

I was able to attend opening arguments in her trial and to hear the testimony of the first witnesses. Tulsa County Deputy District Attorneys Sarah McAmis and Benjamin Fu prosecuted the case.

A single mother, Grady had had severe difficulties supporting her family. She was nearly homeless. She left the church and sent her children to Indiana to live with her parents for four years.

By 2007, she had a job, and her children came back to live with her. She rejoined the Church of the Firstborn.

The next year her son Aaron was in Mrs. Dietz's third-grade class. Dietz loved the sensitive, artistic boy. In the spring, however, Aaron became

disruptive. He was constantly asking to go to the restroom and was always thirsty.

Dietz told his mother that Aaron might benefit from special education and a doctor's diagnosis would be needed to determine that. In April, Susan took Aaron to Dr. Anglesaria, a family practice doctor providing care through Oklahoma's public insurance program for needy children. Attention deficit hyperactivity disorder was discussed, but no diagnosis was made and Grady was asked to come back.

Grady brought Aaron for a second office visit and this time she told the doctor about his frequency of urination. Anglesaria listened to his heart and lungs but performed no other physical examination and ordered no tests. Instead, she referred him to a psychiatrist.

Grady took Aaron to the psychiatrist but got to see only a physician's assistant. She was asked to return but did not.

Mrs. Dietz contacted Grady to express her concern about Aaron's constant asking to use the restroom and asked her to come for a conference. Grady left a voice mail for Dietz, which according to McAmis, expressed hostility, refusing to come to the school because she had a full-time job and saying (to paraphrase): *I've taken him to the doctors and they say it's all in his head. He is seeking negative attention. I'll send him to school in pull-ups.*

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Assuming that Aaron was only seeking attention, Dietz refused to let him leave the next time he asked to use the restroom. Aaron promptly wet his pants in front of the class.

After that, Dietz let him leave the room as often as he wished to spare him humiliation, and she took Grady's word for it that doctors had diagnosed him appropriately.

Mom knew son was seriously ill but also thought divine healing was coming

By June Aaron was very sick. Susan called her father, a Church of the Firstborn elder, for help. He drove from Indiana, arriving at 3 a.m. He later told the jury that they all "begged God for mercy." Other Church of the Firstborn members also came to the home to pray for Aaron and anoint him with oil.

Witnesses told police that in the days before he died, Aaron had trouble breathing and was vomiting, but that had stopped, which led Grady to believe that her son was getting better.

Aaron was able to eat only pureed vegetables and drink broth and juice. He had to be carried to the bathroom. But local Firstborn pastor Earl Weir said that on June 4 the boy "was talking and everything. He was just acting like he had the flu or something."

On June 5 Aaron did not talk or respond. He died that afternoon. No one in the home called 911 or sought any medical care.

Needed to prove faith and please God

Grady told the police she thought he just had the flu and was shocked at his death, but also admitted some church members had suggested he might have diabetes. Her father mentioned the option of medical care, but Susan said she would "leave this in the hands of the Lord."

She admitted that some COF members do go to doctors, but they are considered weak in faith. She told the police she did not want to show "weakness" and "disappoint God." She admitted feeling the need, as a newly returning member, to prove her faith.

Defense attorney Robert Nye said that Grady did what she had been taught and everything that she thought was effective. She acted in what she thought were the best interests of her son, he said.

Doctor defends missing symptoms of diabetes

Dr. Anglesaria was combative and defensive on the stand. If she had done a simple urine test when she was told the boy was constantly going to the bathroom, she would have known he had diabetes, but she insisted she was following the clinic's established protocol. She gave reasons why the urination issue had not concerned her then. She claimed she would have done a complete physical examination of Aaron after getting the psychiatrist's diagnosis.

Doctor breaks down on seeing photos

Then on redirect examination, prosecutor McAmis walked up to her and showed her photos of Aaron on his death bed. "Dr. Anglesaria, if a child came to you looking like that, what would you do?" McAmis asked.

Anglesaria was stunned. She could not answer and began to cry. The judge excused her.

The next witness was a detective. The photos of Aaron were then shown to the jury for use in his testimony, and I must say they are the most heart-rending photos I've ever seen in these faith-death trials. Aaron had been a beautiful child. His thick, wavy hair was almost bright gold. His open eyes were deeply sunk in their sockets and nearly every bone in his body was protruding. In April at the doctor's office he weighed 68 pounds. On June 5 he weighed 52 pounds.

The defense witnesses were several members of Church of the Firstborn, who testified about their beliefs, Mrs. Grady's good character, and her love for Aaron.

They did not sway the jury, who convicted Grady of second-degree manslaughter and recommended a prison sentence after four hours of deliberation.

Bishop: state is persecuting church

For Bishop Dan Davis of the Eastland Church of the Firstborn, their decision showed that the Firstborners were faithful Christians. "Christ taught that if we lived righteously, we would suffer persecution," he told the press.

He further said that even though the state is persecuting his church, "We still want to be a good example of what our beliefs are," and those beliefs include trusting Christ "100% for our health" and "loving everyone as we love ourselves."

The defense attorneys plan to appeal Grady's conviction. They say her behavior was reasonable given her religion and upbringing.

Sources include KJRF, June 8, 2012.

The missing defendants

Oklahoma has one of the strongest reporting laws in the nation. "Every person having reason to believe" that a child is a "victim of abuse or neglect" *must* report the case to the Oklahoma Department of Human Services. "No privilege or contract shall relieve any person from the requirement of reporting. . . ." The "reporting obligations" are "individual." No employer or supervisor can interfere with them. Okla. Stat. 10A §1-2-101(B) 1, 3, 4

Knowingly and willfully failing to "promptly report suspected child abuse or neglect" is a misdemeanor. Okla. Stat. 10A §1-2-101(C)

At least seven members of the Church of the Firstborn were in Aaron Grady's home as the boy struggled to breathe and had to be carried to the bathroom. If any of them had called 911 or Child Protective Services, Aaron's life could have easily been saved. In CHILD's view they should have been charged with failure to report.

Oklahoma's shame: a new religious exemption to child neglect

1997 was a bad year for children: Washington, West Virginia, and Oregon all passed religious defenses to felony crimes against children.

We at CHILD, though, took heart that they were the last laws passed in this country giving religious exemptions to child abuse or neglect charges and that since 1997 several states have repealed or modified the exemptions. The trend is toward equal protection of children.

The trial of Susan Grady (above) brought to light, however, that Oklahoma has recently added a religious exemption to its child abuse or neglect laws. Previously, the crime of felony neglect defined neglect by referring to a civil statute that had no religious exemption. In May, 2009, the state

legislature repealed the civil statute. The state still had a crime of felony neglect, but no definition of it.



Sarah McAmis, Tulsa County Asst. District Attorney and Director of Crimes Against Children, had to prosecute Susan Grady under 2009 laws.

Then in 2010, in the process of renumbering many statutes, the legislature defined felony neglect by referencing Title 10A § 1-1-105 par. 46 in the children's code, which does have a religious exemption. It states, "Nothing in this paragraph shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or person having custody or control of a child, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child."

Only state in last fifteen years

Oklahoma thus became the only state to enact a religious defense or exemption to child neglect since 1997. It may have happened inadvertently. There was no debate or discussion about it.

However unintentional, the statutory changes had big consequences for the prosecution of Susan Grady. Her attorneys petitioned the court to dismiss the felony neglect charge because there was no definition of the crime when Aaron died in June, 2009. The judge dismissed the neglect charge, but allowed a second-degree manslaughter charge to stand.

Neglect charge reinstated

Felony neglect can carry a life sentence, while second-degree manslaughter has a maximum penalty of four years in prison. The Tulsa County District Attorney's office appealed and District Judge Kurt Glassco reinstated the neglect charge. "The plain meaning of the words 'child' and 'neglect' would put a person of ordinary common

intelligence on notice of the prohibited behavior,” Glassco ruled.

Thereafter the defense attorneys argued that the neglect charge should be dismissed because she could not be prosecuted under current laws with the 2010 religious exemption. Prosecutors responded by pointing out that she was being charged “under the law as it existed at that time [of her son’s death].”

Neglect charge rejected a second time

Shortly before Grady came to trial in May, 2012, the trial court judge, William Kellough, told the parties he would not issue jury instructions for neglect, so prosecutors had no choice but to drop the neglect charge and pursue only a second-degree manslaughter charge.

More Oklahoma faith-deaths after Aaron

At least two Church of the Firstborn children have died in Oklahoma without medical care since 9-year-old Aaron Grady died in 2009. In both cases authorities said Oklahoma law allowed the parents to withhold medical care from their children.

Premature baby lived only four hours

Silas Benjamin Dobbs died on December 28, 2011, in Oklahoma City. His mother Patricia got no prenatal care and delivered him in breech presentation in her bedroom. A midwife, whom we believe was an unlicensed Church of the Firstborn midwife, arrived after he was born. The baby weighed only 1.3 pounds.

About three and a half hours after his birth the midwife noticed that the baby began to have shallow breathing and then stopped breathing. She blew air into his lungs without success and then 911 was called.

Mom dies at age 25

On January 16, 2012, Patricia herself died of acute osteomyelitis and a blood clot. Like her son, she got no medical care. She was 25 years old and left two preschoolers motherless.

Firstborners remained convinced both deaths were God’s will. In the baby’s obituary, “Aunt

Carrie” wrote to Silas, “God’s plan is perfect, He needed you more than me, you lived for a short time, then you gained your wings.” She promised that she would “strive” to get to heaven soon and join him. In Patricia’s obituary, she was described as “above all a faithful servant of the Lord.”

An Oklahoma City police detective told CHILD that no charges would be filed in the baby’s death because Oklahoma law allows parents to withhold medical care on religious grounds.

Boy dies of infectious disease

On April 26, 2012, four-year-old Troy Damelio died in his family’s mobile home north of Chandler, Oklahoma. The parents told authorities he had been sick with a fever for about a week. The press reported the cause of death was “tick fever.”

Lincoln County District Attorney Richard Smothermon announced that no charges would be filed. “The law is clear that [the parents] legally can withhold medical care based on religious beliefs,” the press reported him as saying.

4-year-old liked God’s plan for his life

As with the Dobbs’s family deaths, the Firstborners were convinced that Troy’s death was God’s plan and that the boy loved his religion. The obituary said that “Troy loved going to church with his mommy and daddy, learning about the Lord, being around the Brethren and singing loudly. . . .” His parents will cherish the special memories of the little boy’s “joy. . . in hearing his daddy reading the Bible to him,” it continued.

State got medical care for boy’s mom

Troy’s mother, Melinda James Damelio, likely walks this earth today because of medical intervention when she was a child. In 1987 her little brother Luke died in a car accident when the family lived in Oregon. A relative took the James family to their home. None of them called for medical help.

Sheriff’s deputies came to the home and found four-year-old Melinda had also been injured in the accident. They ordered an ambulance. She was taken to the hospital and treated for multiple cuts, scrapes, and a possible head injury. Surgery was done under court order.

Child's life threatened

Melinda was then released to her parents with a county public health nurse appointed to monitor her condition periodically. In 1989 the nurse saw alarming symptoms. Again the parents refused to get medical care.

The nurse told the court that Melinda's stomach and extremities were swollen because of fluid retention and she could be at risk for kidney failure.

Firstborn mom flees state with sick child

On May 5, 1989, the court ordered medical care for Melinda. Her mother immediately fled the state with Melinda and her siblings. The father and a Firstborn bishop were jailed for six weeks for refusing to tell the state where the girl was.

In August she was found in Washington and got medical treatment for a kidney disease. She was returned to Oregon and made a ward of the state until age 21.

Child "knew" she disliked medical care

Melinda's mother complained bitterly on a national television talk show about the state's forcing medical care upon them. She said then six-year-old Melinda was "no dummy. . . . She knows what she wants. She didn't for one minute like the hospital, even when she got to where she was feeling better."

Mrs. James also said, "My main goal is to reach heaven. You gotta die to go to heaven, no matter what age you are."

From Oregon to Oklahoma

Melinda turned 21 in 2004. Maybe Oregon maintained medical supervision of her until then. Now, however, she, her mother and a brother live in Oklahoma where they were free to let a four-year-old child suffer for a week and die.

Sources include *The Shawnee News-Star*, June 8, 2012; KUSH April 30, 2012; *Tulsa World*, May 19, 2012; *Hillsboro Argus*, May 30, June 20, and Sept. 28, 1989; *Forest Grove News-Times*, Oct. 11, 2012; and *The Oregonian*, June 7, 17, and 22, 1989.

Oklahoma must change

Oklahoma is the only state in the nation to have added a religious exemption to its child abuse or neglect laws in the past fifteen years. Many children have died in Oklahoma because of religious beliefs against medical care.

We call upon Oklahoma to care about the children in faith-healing sects. Repeal the laws making them second-class citizens—laws that deprive them of protections you extend to other children.

Send a clear message that all parents, regardless of their religious beliefs, must obtain necessary medical care for their children.

North Dakota defeats religious privilege amendment

To our relief North Dakota soundly rejected a "religious freedom restoration amendment" to its constitution on June 12 by 64% to 36%.

It read:

Government may not burden a person's or religious organization's religious liberty. The right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be burdened unless the government proves it has a compelling governmental interest in infringing the specific act or refusal to act and has used the least restrictive means to further that interest. A burden includes indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.

Led by Catholic church and fundamentalists

The Catholic Church took the lead in gathering 30,000 signatures to put the amendment on the ballot. Nationwide, the church has opposed requirements that pharmacists dispense contraceptives against their will, Catholic hospitals provide reproductive health services, and Catholic institutions provide health insurance covering those services.

A right-wing fundamentalist group, the North Dakota Family Alliance, also promoted the amendment.

In 1997 the U.S. Supreme Court struck down a federal Religious Freedom Restoration Act as an

unconstitutional imposition of federal power. Since then RFRA bills have been introduced in many states and passed in some.

Even trivial and indirect “burdens” prohibited

The typical wording for the RFRA statute prohibits “substantial” burdens on religion, but there was no such caveat in the North Dakota ballot measure.

“The door will be wide open for every religious believer who is suffering even the most minimal of inconveniences to simply avoid the law,” warned church-state scholar Marci Hamilton of Cardozo School of Law.

Another distinction of North Dakota’s ballot measure was its prohibition of indirect burdens on religion. “This new language lays claims to rights to government funds, reduced fines, mandatory inclusion in government programs, and use of public facilities,” Hamilton charged.

Automatic exemptions

The North Dakota Catholic Conference argued that it would save lobbyists and legislators a lot of time because religious exemptions would be put in automatically. “Legislators would not have to foresee the impact of a bill on every type of religious believer,” wrote NDCC director Christopher Dodson. “Lobbyists would not have to review the hundreds of bills introduced each session and seek necessary exemptions.”

State should be able to use many remedies

That was exactly what alarmed CHILD. We wrote to North Dakota’s child welfare organizations arguing that the state should not be confined to a single “least restrictive means” to protect children.

The Christian Science church, for example, has argued that parents who withhold lifesaving medical care from children on religious grounds should be immune from criminal charges because criminal prosecution is not the least intrusive means to achieve the state’s compelling interest in the welfare of children. The church also claimed before Con-



North Dakota Badlands and Little Missouri River

Credit: North Dakota Tourism

gress that prayer is “excellent health care” and that, under RFRA, the government had the burden of proving that medical care was better than prayer.

It also argued, during the years RFRA was federal law (1994-1997), that RFRA obligated states to enact religious exemptions to all preventive and diagnostic measures, such as immunizations, metabolic testing, hearing tests, and prophylactic eye drops, and that the state had a compelling interest in requiring health care over parents’ religious objections only when the child was seriously ill.

RFRA killed child sex abuse suit and contempt citation

CHILD pointed out to the North Dakota organizations cases in which RFRA hindered state efforts to collect child support. In *Hunt v. Hunt*, 648 A.2d 843 (Vt. 1994), the Vermont Supreme Court held that where the non-supporting father was a member of a church that prohibited support of children who lived outside of the closed religious community, the contempt citation must be dismissed because RFRA required that the state confine its means for collecting support to the lowest restriction on religious practice.

Also while the federal RFRA was in force, a Colorado Appeals Court used it in a ruling against a child who sued a church counselor and church for alleged inappropriate contact. The Court ruled that,

if the counselor's conduct was based on sincere religious beliefs, the jury should be instructed to rule for the defendants. A concurring judge noted that RFRA "modifie[d] state tort law," and that "allowing a tort remedy without, at a minimum, a jury instruction allowing deference to religious belief, would substantially burden the counselor and church's free exercise" and that "without such an instruction, there is no compelling state interest here to allow plaintiffs to pursue a tort remedy." *DeBose v. Bear Valley Church of Christ*, 890 P.2d 214 (Colo. 1995) (as modified on denial of rehearing).

73 calls; population well informed

CHILD was concerned that the North Dakota ballot measure might pass without much attention. Ballot measures are much more difficult and more expensive to oppose than bills. With ballot measures the whole population has to be educated about the issue and voter turnout can be very low in a summer election.

However, there was strong and wide opposition expressed by women's groups, civil liberties organizations, student groups, and the press. North Dakotans Against Measure 3 organized several days and evenings of call-ins. In one I made 73 calls to North Dakotans urging a "no" vote. Those hardy folks have a keen interest in politics; only one of the 73 said he would not vote in the election.

The campaigns on the ballot measure were enormously expensive. Filings with the Secretary of State showed that over \$700,000 was spent.

State can't intervene in religion-based child abuse and neglect

CHILD wishes that organizations would also oppose a North Dakota law preventing Child Protection Services from intervening in religion-related abuse and neglect cases. It reads:

A decision that services are required may not be made when the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. N.D. Centennial Code § 50-25.1-05.1(2)

This law is a shocking betrayal of children and we don't have \$700,000 to get it repealed, but at least the state constitution does not mandate even broader injustices.

CHILD urged State Dept. to deny visa for exorcist

A Nigerian woman who calls herself the world's first Lady Apostle, Helen Ukpabio, was scheduled to perform "Marathon Deliverance Sessions" in Houston, Texas, this year for the Glorious Praise Ministries.

Ukpabio claims to have been a teenaged witch betrothed to Satan and then saved by God and given a mission "to set the captives free by the gospel."

Apostle: many children demon-possessed

She believes that nearly every family has a member who is demon-possessed and in need of exorcism. She claims that children who are sickly, scream at night, break plates, or don't pay attention at school are demon-possessed. She has become very wealthy with her books and movie *The End of the Wicked*, which depicts children gathering by moonlight to devour their parents' flesh.

Some types of Pentecostalism in Africa are suffused with indigenous tribal beliefs and heavily focused on identifying evil spirits and performing deliverance rituals. Witchcraft accusations against children have exploded, which some observers trace directly to Ukpabio.

Torture, murder, and expulsion

Children accused of being witches have been burned to death, buried alive, beaten, cut, poisoned, had nails driven into their skulls and had acid poured down their throats. Campaigners against witchcraft accusations claim more than a thousand accused children have been murdered in two of Nigeria's states within the past decade. Thousands more children are homeless on the streets because their families believe they are witches and have rejected them.

Though Ukpabio has come to Houston in years past and preached to its Nigerian immigrant population, opposition to her appearance erupted this year—likely because the abuses to children stigmatized as witches are now more widely known. Secular humanist organizations spoke out against her. Petitions were circulated on the internet asking the U.S. State Department to deny her a visa.

The Glorious Praise Ministry fought back promising that Ukpabio would not exorcise children in Houston and charging its opponents with “an attack against the work of Jesus Christ,” who also cast out demons.

Did the United States, with its strong protections for freedom of speech and religion, have grounds to refuse entry to someone who said she was coming just to preach the Christian gospel? CHILD researched the federal laws on granting visas in order to develop a legal and persuasive rationale for the State Department to deny Ukpabio a visa.

CHILD cites federal law for visa policy

We prepared a letter to Secretary of State Hillary Clinton quoting the Immigration and Nationality Act §212(a):

E(iii) Commission of Acts of Torture or Extrajudicial Killings
Any alien who, outside of the U.S., has committed, ordered, incited, assisted, or otherwise participated in the commission of
(I) any act of torture as defined in Section 2340 of title 18 of the United State Code or
(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note) is inadmissible.

Though Ukpabio says she herself performs non-abusive exorcisms she has clearly incited abuse, torture, and killing of children, we argued.

CHILD’s letter was cosigned by the Institute for Science in Medicine, National Child Protection Training Center, and Houston-based Justice for Children. It is posted on our webpage at www.childrenshealthcare.org.

We have not received a response from the State Department. However, Ukpabio eventually cancelled her U.S. appearance claiming that she had received death threats from Stepping Stones Nigeria, a respected UK-based organization working to protect African children accused of witchcraft.

Sources include the *Houston Chronicle*, March 12, 2012; *The Guardian*, July 29, 2010, and *Huffington Post*, Oct. 18, 2009.

In memoriam: Judge Dean James



CHILD gratefully acknowledges a gift by Helen James of Celina, Ohio, in loving memory of her husband, Honorable Judge Dean James.

In *State v. Miller* Judge James ruled Ohio’s religious defense to felony child endangerment and manslaughter, ORC

2919.22a, unconstitutional because it established religious privilege and violated constitutional rights of children and parents to due process and equal protection. See *State v. Miller*, Mercer County Common Pleas Court, Ohio #86-CRM30 and 31.

“the hope of this court”

Judge James concluded with a moving plea to the Ohio legislature: “It is the hope of this Court that these types of cases will not have to be pursued by the prosecution in the remaining eighty-six counties.

Unfortunately, this 1987 ruling was not appealed so it has effect only in Mercer County.

25 years later

Though some Ohio legislators told our supporters the law would be repealed, it did not happen. Twenty-five years later Ohio still has two counties where parents are required to get necessary medical care for children regardless of their religious beliefs and 86 counties where religious objectors have the legal right to let their children die without medical care.

NOTE: CHILD has a new address of 136 Blue Heron Place, Lexington KY 40511 and a new phone number of 859-255-2200.