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clinical negligence update

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Inquest into Death at HMP Blakenhurst

Nelsons has acted for the family of 25 year old Martin Green from South Derbyshire, who died from dehydration in HMP Blakenhurst on 15th July 2002 while serving a 12 month sentence for motoring offences.

During the 22-day inquest into his death, held before HM Coronor for Worcestershire (Geriant Williams), Nelsons represented Martin Green's partner Rachel Briggs and their four children. The jury found that the medical care Martin received was inadequate and serious failures in his treatment contributed to his death.

Martin was found dead in his cell in the prison healthcare centre where he was undergoing detoxification for drug addiction. At the time of his death he weighed just 6st 10lbs. The cause of death was dehydration and electrolyte imbalance, as a consequence of repeated vomiting. He was also found to have two duodenal ulcers.

This case raised very serious questions about the quality of prison healthcare. Martin was owed a particular duty of care while in the custody of the state and that duty was not met.

Labeled just another druggy by the prison, nursing and medical staff that came across him, no-one believed Martin when he told staff that he did not have the normal symptoms of withdrawal. Long-standing stomach problems were not investigated and despite his requests Martin was not taken to hospital. On 14 July, a doctor was sufficiently concerned that he arranged for Martin to go to hospital for IV fluid treatment, but the transfer did not happen due to prison staffing problems on that day. Martin was found dead the next morning. All the expert evidence is that he probably would have survived with an IV line carrying fluids and saline.

The jury's narrative verdict was highly critical of the treatment Martin received, concluding that "there was a general lack of management support and teamwork... the frequency of vomiting and lack of hydration in someone with an extremely low body mass index, coupled with poor assessment, planning and communication, contributed significantly to Mr Green's death."

Martin's family believe that his death was unnecessary and avoidable. The family, which has waited five long years for justice for Martin, were satisfied that the jury shared their concerns as to Martin's appalling treatment.

Client Brings Case Against GP

The firm has recently acted on behalf of a client who initially intended to bring a claim against her GP as, two weeks after attending her GP surgery complaining of a headache and generally feeling unwell, she suffered a stroke.

The client was admitted to hospital having suffered a catastrophic stroke which has left her hemiplegic. At the hospital, it was diagnosed that she had a predisposition to strokes as she had been, for some time, suffering from a clotting disorder called Anti-phospho-lipid Syndrome (APS). It was likely that she had been suffering from this condition for many years.

Looking back through her medical records, it was discovered that she had attended another hospital four years earlier when she had been suffering with pneumonia. She had had a blood test on that occasion and the blood test showed that she had a clotting disorder which, had it been investigated further, would have probably been shown up to be APS. Had she started on anti coagulant medication at that stage, it is likely that this would have prevented her suffering a stroke.

The case was recently settled for a substantial fixed figure.

Action Against Medical Accidents (AvMA)

Over the years, the firm's Clinical Negligence group has developed a working relationship with AvMA. As a result of this, we are able to draw upon the resources that AvMA have to help us with our cases and to help our clients.

If we require help with recommending an expert or barrister or with research about a case, we are able to ask AvMA for assistance.

Death by Natural Causes in Circumstances of Neglect

Nelsons has represented the family of Winifred Dalton following her death from septicaemia caused by clostridium difficile (C-diff) infection. The inquest was held before HM Coroner for Coventry (Mr David Sarginson) in which a jury returned a verdict of death by natural causes in the presence of neglect under the care of two Coventry hospitals.

Claims of neglect whilst she was at the Caludon Centre and former Walsgrave Hospital, centred on whether tests for C-diff should have been taken sooner and whether the delay led to her death.

Mrs Dalton was 69 when she was admitted to Walsgrave Hospital in November 2005 and was sent home on 26th November without any clear diagnosis. She was then re-admitted to a different ward, with the consultant in charge of her care describing her as largely a "social" admission. During this admission, her family became aware that she was suffering badly from diarrhoea.

The family was given a bag of soiled laundry to take home, which they discovered contained clothing soaked in half a litre of diarrhoea. Following this, the family had telephoned the hospital to complain and ask that they provide hospital underwear and pyjamas to Mrs Dalton, since she was still suffering from diarrhoea. Notwithstanding this, the nursing notes did not contain any observations that Mrs Dalton was suffering from diarrhoea. In fact, as the jury found, this omission was significant.

Before going into hospital, and well into her admission, Mrs Dalton had been receiving two "broad spectrum" antibiotics, cephalexin (9 to 23 Nov) and co-amoxiclav ("augmentin" – 20 Nov to 5 Dec). She had also been given omeprazole for vomiting and lactulose for constipation (28 Nov to 5 Dec).

The prescription of broad-spectrum antibiotics (especially augmentin) and also Mrs Dalton's age, made her particularly susceptible to infection with C-diff, the principal physical symptom of which is diarrhoea. The presence of C-diff can be detected by a simple laboratory test of a stool sample, which ought normally to take 24-48 hours to come through, but Mrs Dalton was not tested until much later.

On 9th December 2005, Mrs Dalton was transferred to a psychiatric hospital, the Caludon Centre. The family said that her diarrhoea had continued there, confirmed by entries in nursing notes and in notes taken by her doctor. On 12th December, a stool sample was taken and sent to the laboratory to be tested. Results were obtained on 14th December showing that her diarrhoea was positive for C-diff. However, that lab result was placed on a computer to which the nurses did not have access, the doctor who had ordered the sample was away for five days and the piece of paper recording the result was not taken to the ward but put in a correspondence file. Accordingly, it was not until 19th December 2005 that Mrs Dalton started receiving treatment with metronidazole, the principal treatment for tackling C-diff infection.

On 21st December, Mrs Dalton's husband had attended the ward and found his wife lying in her own faeces, with no nursing staff available and his wife telling him that she had not had her medication. Mr Dalton had eventually found a doctor, who had made a complaint about the lack of nurses and the medication not having been recorded on the prescription chart. Extra nursing cover had then been sent to the ward.

On the morning of 22nd December 2005, Mrs Dalton had suffered a fall and the doctor in the Caludon Centre was sufficiently concerned that her physical condition was such that she should be transferred to Walsgrave Hospital. The doctor there had disagreed and had refused to take a transfer at that point, pending further investigation. Part of that further investigation was the taking of a blood sample, which got left in the wrong box in the pathology laboratory (although, as it happened, this omission was not causally relevant to death). Later that day, Mrs Dalton's condition had deteriorated such that she was sent by ambulance to Walsgrave, was admitted but with poor prognosis and she died of septicaemia caused by C-diff infection on 23rd December 2005.

Evidence at the inquest was that none of the nursing staff at the Caludon Centre had heard of C-diff and that when given the name of the condition, had to download information about it from the hospital computer. The coroner called an expert in C-diff, Professor Wilcox, who had been instructed by one of the hospital trusts involved. The family had, for various reasons, not invited the coroner to call other expert evidence. Professor Wilcox was of the opinion that the C-diff infection was hospital acquired and had based his opinions as to when on the nursing observations of diarrhoea. He expressed the opinion that starting treatment from 14th December had not made a difference to the outcome and maintained this view even when pressed about possibly earlier dates of infection. Professor Wilcox did however state that this was the matter upon which he was least confident.

The jury unanimously returned the verdict of death by natural causes in circumstances of neglect. Furthermore, the coroner said he will use his powers under rule 43 of the Coroners' Rules to report a number of matters concerning the quality of care received by Mrs Dalton in hospital and would write to the hospitals involved and also the Secretary of State for Health about his concerns.

one team to contact

The clinical negligence team at Nelsons has a national profile and is one of the few firms franchised by the Legal Services Commission (LSC) for clinical negligence claims. We can advise from any of our three offices on birth injury claims, mis-diagnosis, complication during surgery or cases where wrong or faulty medication has been given.

We are also on the LSC's Multi Party Action Panel and have members of the Association of Personal Injury Lawyers (APIL), and the Solicitors Regulation Authority Personal Injury and Clinical Negligence Accreditation schemes. We also have members of special interest groups such as the Child Brain Injury Trust, Headway and Spinal Injuries Association.

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