

CASE REPORT

Medical Malpractice

Ectopic pregnancy ruptured despite ER visits

Case Type: Failure to Diagnose, Medical Malpractice - OB-GYN, Medical Malpractice - Failure to Detect, Wrongful Death - Survival Damages

Case: Vivian Walker and Alex Strange v. William N. Hawkins and Memorial Hermann Baptist Beaumont Hospital, No. A-167868

Venue: Jefferson County District Court, 60th, TX

Judge: Gary Sanderson

Date: 12-14-2005

PLAINTIFF(S)

Attorney:

- Gregg Anderson; Terry Bryant LLP; Houston, TX, for Vivian Walker
- Clay Dugas; Clay Dugas & Associates; Beaumont, TX, for Alex Strange

Expert:

- Joseph DesRosiers M.D.; OB-GYN -- See also Gynecology; Austin, TX called by: Gregg Anderson
- Ira Mickelson M.D.; OB-GYN -- See also Gynecology; Detroit, MI called by: Clay Dugas

DEFENDANT(S)

Attorney:

- Dion Ramos; The Ramos Law Firm; Houston, TX, for William N. Hawkins
- James R. OldJr.; Germer Gertz LLP; Beaumont, TX, for Memorial Hermann Baptist Beaumont Hospital
- Jerry W. FancherJr.; Germer Gertz LLP; Beaumont, TX, for Memorial Hermann Baptist Beaumont Hospital

Expert:

- Christopher Dowdy M.D.; OB-GYN -- See also Gynecology; Beaumont, TX called by: Dion Ramos

INSURERS:

- The Medical Protective Co. for Hawkins

FACTS:

On Friday, Jan. 25, 2002, plaintiffs' decedent Shiketa Walker, 26, a paranoid schizophrenic, presented to Baptist Beaumont Hospital. She was pregnant and had a two-week history of vaginal bleeding. Her vital signs were normal and she had no complaints of pain. No fetal heart tones were detected. A nurse testified that she contacted Dr. William N. Hawkins who was on call for Walker's OB-GYN. The nurse testified that Hawkins ordered an ultrasound, and that Hawkins did not think Walker was pregnant. The ultrasound showed an empty uterus, and Walker was discharged, with instructions to see her regular OB-GYN the following Monday. The nurse testified that the discharge and instructions were in accordance with Hawkins' orders.

On Sunday, Walker presented to the emergency room of another hospital and was treated by ER doctor Stephen Kastl for severe abdominal pain. A urine test revealed pregnancy. At the ER she had a large bowel movement, after which she said that the pain was greatly decreased, and Kastl discharged her, with instructions to see her OB-GYN the next day.

On Monday, Walker was found dead in her apartment, having bled to death from a ruptured ectopic pregnancy. A 1.5-inch fetus in the right fallopian tube had caused the tube to rupture.

Walkers' parents sued Hawkins and Kastl, for their negligence, and Memorial Hermann Baptist Beaumont Hospital, for its negligence and that of the nurse.

The plaintiffs alleged that Hawkins should have come to the hospital to give Walker a pelvic exam. Also, the only ultrasound did not show the fallopian tubes, and the plaintiffs alleged that Hawkins should therefore have ordered a second one, to rule out ectopic pregnancy.

Against Kastl, the plaintiffs alleged failure to perform an ultrasound or otherwise investigate the possibility of ectopic pregnancy.

Also, everyone agreed that, if the nurse failed to contact Hawkins or another doctor, then she was negligent. The nurse however, maintained that she did make the contact.

Walker's father also alleged that the nurse and hospital were negligent for discharging Walker.

Hawkins denied that the nurse contacted him or that he spoke to anyone regarding Walker. He said that, if called, he would have come to the hospital. He and the hospital further argued that Kastl had the last chance to save Walker.

Hawkins and the hospital also contended that, even if Hawkins had come to the hospital, the outcome would have been the same, because the diagnosis probably would have been miscarriage, not ectopic pregnancy.

Kastl denied the allegations against him. He said that he reasonably concluded that the pain, having decreased after the bowel movement, was not pregnancy-related.

INJURY:

Walker died. She was not working.

Walker and her parents lived in Beaumont. Her father was in his mid-50s, and her mother was 49. The two never married, and Walker was raised by her mother. Her father lived with them for a year when Walker was a baby, and for a few months later on. The parents claimed past and future lost companionship and society and mental anguish. The mother also claimed funeral and burial expenses. Her attorney suggested \$8 million total in damages for the mother.

The suit was filed before the effective date of Texas' caps on noneconomic damages in medical malpractice cases.

VERDICT INFORMATION:

Kastl was no longer a defendant by the time of trial. Plaintiff counsel declined to say whether he settled out of the case or was voluntarily dismissed.

The jury did not find that the hospital's negligence, if any, caused Walker's death, but it found that Hawkins' and Kastl's did, in the following percentages: Kastl 60% and Hawkins 40%.

The jury found damages of \$1,705,000 for the mother and \$7,000 for the father. They recovered 40% from Hawkins, \$684,800 total, after reduction for comparative fault.

Alex Strange

\$3,500 Wrongful Death: Past Loss Of Society Companionship

\$3,500 Wrongful Death: Past Mental Angiush

Vivian Walker

\$5,000 Wrongful Death: Funeral Burial Expense

\$500,000 Wrongful Death: Past Loss Of Society Companionship

\$500,000 Wrongful Death: Future Loss Of Society Companionship

\$500,000 Wrongful Death: Past Mental Angiush

\$200,000 Wrongful Death: Future Mental Angiush