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Number 2, 2005, © by CHILD, Inc.  
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*Equal rights for children under the law*



*Roberto, his Father, and Baby Sister*

## Prosecutor won't file charges in boot camp death

Caldwell County Prosecutor Jason Kanoy in Kingston, Missouri, says he lacks evidence that teenager Roberto Reyes' death in a boot camp was a crime. He admits his investigation was hampered by lack of access to the private facility.

"We can't get in the front door," Kanoy complained.

Reyes, 15, died within two weeks after being sent to Thayer Learning Center by his parents because he had run away from home and was getting poor grades in high school. He had also been suspended in middle school for using vulgar language and stealing a CD player.

An autopsy report identified "complications of rhabdomyolysis" as the cause of death. It says the disease, which is a breakdown of muscle fibers, was probably due to a spider or insect bite. The autopsy also found several abrasions and bruises on Roberto's body.

Two area physicians with expertise in spider-bite care said that, in a combined 51 years of experience, they had never seen a spider bite induce the condition that killed Roberto. The primary cause of rhabdomyolysis is lying motionless or even comatose for a lengthy period, said Dr. Steven Simpson of University of Kansas Hospital. Another cause, though less common, is dehydration and over-exertion, he said.

Although Kanoy said he couldn't get inside Thayer, the Missouri Department of Social Services conducted a four-month investigation into Reyes' death, interviewing employees and former students.

## Vivid accounts of abuse and deadly illness

Some said Roberto was too weak to stand up a week before he died. One said he had to call Roberto's name and wave his hand in Roberto's face to get his attention days before his death.

Former students said Roberto would fall down and then drill sergeants and students would pick him up by all fours or drag him on the ground to get him around the exercise track. The boy was made to wear a 20-pound bag of sand around his neck as punishment for not keeping up with the exercises.

One employee said Roberto defecated on himself and that other Thayer students had done that to get out of exercising. A former student said Roberto was too weak to clean himself up afterwards.

Since April, 2003, at least seven persons have reported more than a dozen allegations of child

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abuse at Thayer to the Caldwell County Sheriff's office. A former student reported being dragged on the ground after being pushed down by a sergeant. Another said she saw a student "taken down" who said "I can't breathe" as her face turned red and purple. She also saw a girl's gums bleed after she was forced to brush her teeth for four hours.

### **Employees fired after reporting medical neglect**

Several Thayer employees who complained about the medical neglect there were fired shortly afterwards. A local physician reported three cases of neglected medical problems for Thayer students.

Former Thayer Director Gail Ledesma said she got into trouble with Thayer owner John Bundy when she got medical care for a student with an infected knee. Another time Bundy prohibited her from taking three girls to the doctor because, Bundy said, the students would try to run away.

In May, 2004, three other Thayer employees reported allegations of abuse and neglect of more than a dozen students to the sheriff's office. They reported that a student's head was bouncing off the concrete when the drill sergeant was "helping" the student do push-ups. A student was tied up and dragged around a sand track behind an all-terrain vehicle, they said, and students were suffering bladder and kidney infections and constipation because they were allowed very limited use of the restrooms.

The sheriff wrote to Kanoy that he had "a reasonable belief [that] the crime of abuse of a child has been committed at Thayer Learning Center."

### **Are pushing, dragging, and making kids sit in tubs of urine child abuse?**

Kanoy, however, said he hasn't filed charges because some allegations don't rise to abuse, some can't be proved, and others are not credible. Some don't name the victims or are secondhand reports.

One report says a girl was forced to sit in a tub of urine for more than two hours. Kanoy said that was disturbing, but he wasn't sure it was abuse.

He does not think pushing and dragging kids is abuse "when you're trying to motivate somebody who's very obstinate, very anti-establishment."

One wonders if Kanoy's doubts are influenced by the experience of the Lewis County prosecutor

who filed charges against Heartland Christian Academy staff for forcing students to work in manure pits on the school's large dairy farm near Newark, Missouri.

Although the manure was waist high and included cows' afterbirth, although the boys were not given wading boots or gloves, and although the punishment was designed to be degrading, jurors acquitted the employees in 2002 after only eighteen minutes of deliberation. Many jurors said they had shoveled manure regularly as kids.

Roberto's parents, Victor and Gracia Reyes of Santa Rosa, California, have filed a wrongful death lawsuit against the Thayer owners. The case is set for trial in July.

### **If you believe you're exempted, you are**

Missouri allows church-run boarding schools and boot camps to operate with no state oversight. There is no factual evidence that Thayer Learning Center was actually operated by a church, but Missouri law offers the exemption to everyone who "believes" he should have one. It provides that the state "shall not require any foster home, residential care facility, or child placing agency which **believes itself exempt from licensure**. . . to submit any documentation in support of the claimed exemption." Mo. Rev. Stat. 210.516(2) (emphasis added)

After Reyes's death, Thayer posted a new webpage emphasizing the boot camp's purported religious heritage and character.

Taken in large part from Steve Rock's excellent article, "Prosecutor: boot camp won't face charges," *The Kansas City Star*, Oct. 2, 2005. See also the CHILD newsletter, #1, 2005.

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## **Abuse allegations close Florida boot camp**

In June Sister Soldier Military Academy suddenly closed in Ft. Lauderdale, Florida, after several allegations of child abuse. The military school for girls purportedly changes deviant behavior by rigorous exercises, tours of the jail to see the consequences of crime, and anger management counseling. The students are called

cadets. The parents are charged \$2,800 a month for the program.

### **Many reports of beatings**

Parents say their daughters told them they were beaten—including blows to the face—after trying to call home for help. A school instructor reported seeing a girl with swollen lips, sores in her mouth, scars, and a sore foot from a drill instructor dropping a log on her foot.

The school operator, Denise Smith, who insists on being called “Major Smith,” denied hitting any girls and complained that the girls were “disrespectful.” Smith pled no contest to grand theft of a vehicle in the 1990s.

### **No liability for injuries or death**

To enroll their daughter in the academy, parents must sign a waiver giving up their right to sue for damages. “Physical action will be taken against your child, and to whatever extreme the staff feels necessary at that time, to protect anyone in harm’s way. Due to the level of force that may be used, there may be bodily injuries to your child,” the waiver states.

Parents must also agree in writing that they “[understand] participation will subject the child to risk and injuries, and companies will not be liable for medical expenses or other claims for damages or death.”

After Sister Soldier opened in 2001, the county courts sent girls there at public expense as an alternative to jail. Later, however, the state discovered that the school was charging the parents as well as the state for the girls’ fees and stopped sending girls to it.

### **Jesus And Me Youth Connection**

A Warner Brothers channel talk show had a mother and daughter on as guests of a program about out-of-control teenagers and then paid the daughter’s expenses to enroll in Sister Soldier’s program.

Sister Soldier Military Academy’s parent company is JAM Youth Connection; JAM stands for Jesus And Me.

After the abuse reports became public, many expressed surprise that Sister Soldier Military

Academy was not regulated by the state or county. *The Miami Herald* said that was because the state has no regulation of private boarding schools.

Florida law does require all boarding schools to register with the Department of Education as a school and to “follow established school schedules, with holiday breaks and summer recesses” like those of public and private schools. (Fla. Statutes 409.175) Sister Soldier, however, was not even registered with the Department.

### **Religious exemption from licensure**

Florida allows an exemption from state licensure for “residential child-caring facilities” that are operated by religious organizations that do not directly receive state or federal funds. (Fla. Stat. 409.176) The exempted facilities may operate with certification from the Florida Association of Christian Child-Caring Facilities or other accrediting association for religious residential child care. The standards of these associations are lower than those of the state. See the CHILD newsletter #4, 2004.

A Florida administrator told CHILD that a legislator would introduce a bill to regulate private boarding schools, but the legislator’s office denies that.

Taken in part from the *Miami Herald*, June 2 and 3, and the *South Florida Sun-Sentinel*, June 2.

## **Raw-foods parents acquitted in baby’s death**

On November 7, a Miami-Dade jury acquitted parents of manslaughter for the death of their emaciated six-month-old baby.

As Black Hebrew Israelites, Lamoy and Joseph Andressohn of Homestead, Florida, believed that God does not want humans to eat animal products, that medical care should be avoided, and children should be home-schooled. They believed in the raw foods diet, also called the “living foods lifestyle.”

None of the children was immunized. Their daughter Woyah was never seen by a doctor.

Woyah was given fresh foods whipped up in a food processor, including concoctions of avocados, coconut water, pureed almonds, and wheat grass.

She was not breast-fed, presumably because mother's milk is an animal product.

### **Baby looked like African famine victim**

Paramedics found Woyah gulping in death throes on the floor of her home in May, 2003, after her parents called 911. Her arms and legs were rail-thin, and her belly was distended. Her ribs, vertebrae, and veins were clearly visible. Her skin hung loose from severe dehydration and lack of muscular tissue. Scattered around the baby on the floor were orange peelings and bits of food. Her body emitted a grassy odor. A police officer said the baby looked like a famine victim in Africa.

Woyah never learned to lift her head. In the weeks before her death, she had trouble keeping her eyes open and they often rolled back into her head. Her brother Yahshawah testified that her eyes were closed most of the time and he didn't think she could see. At her death she was 22 inches long and weighed just under 7 pounds, scarcely more than she weighed at birth. Indeed, a paramedic testified that he thought she had just been born.

The Broward County medical examiner testified that malnutrition weakened her to the extent of auto-cannibalism, in which the body feeds on muscles and vital organs to sustain life.

### **Grass enemas for toxic and disobedient kids**

Testimony by her brothers and her aunt indicated that the boys were frequently hungry on their raw foods diet, but were afraid to say so.

The brothers told investigators they had been hit with belts and given wheat-grass enemas as punishment for eating cooked food. They said Woyah was given an enema shortly before her death because she was "toxic."

### **DCF investigator sees no neglect**

The Florida Department of Children and Families (DCF) received three reports that the five Andressohn children were neglected. In early March, a caller reported that the children looked "very hungry" and thin.

Six days later a DCF investigator visited the Andressohn home and asked what the baby was

being fed. Lamoy held up a bottle of wheat grass juice.

Nevertheless, the DCF closed the case with a determination that there were "no indications of neglect."

In May, the police called the DCF and reported that the children were not receiving "adequate food." They are "very thin, and their stomachs look bloated," the report said.

The next day a DCF investigator came to the home and saw the four older children, but Woyah was away with her father. The investigator told the mother to take her children to a doctor.

Two days later Woyah died.

The DCF investigator on the Andressohn case and her supervisor were later fired.

Woyah's four siblings were taken into custody by the DCF after her death and remain in foster care. A doctor whose team examined them testified that they were dangerously malnourished and had signs of developing rickets.

Rickets, which is caused by Vitamin D deficiency, is almost never seen in Florida because sunlight contains Vitamin D.

### **Dangers of raw food diets for babies**

Experts say young children need a greater percentage of fat and protein in their diets than adults and that infants should be breast-fed or given infant formula for the first year. A six-month-old child does not have the intestinal ability to digest raw foods, a nutritionist said.

Believers in the raw foods diet claim that heating food above 118 degrees will kill enzymes that the body needs to digest foods properly. The American Dietetic Association says, however, that the human body creates the enzymes needed to digest food properly and therefore no harm is done by killing enzymes when food is cooked.

The Andressohns told investigators they wanted to keep their children from becoming obese as Joseph had been before he went on the raw foods diet. There was testimony, however, that Joseph sometimes ate meat, breaking the rules he and his wife made for the children.

The Andressohns did not testify at trial, and their attorney, Ellis Rubin, did not raise a religious

defense. Instead, he presented experts who said Woyah did not have a thymus gland and therefore probably had DiGeorge Syndrome, a rare chromosomal disorder that paralyzed the immune system and caused her to die of a fungal infection and esophageal reflux. Rubin said Woyah would have died regardless of her diet.

Assistant State's Attorney Herbert Walker countered with experts who said Woyah did have a thymus gland, but it was severely shrunken by malnutrition. They also said the baby's spleen contained T-cells and that a person born without a thymus cannot produce T-cells. Both the emergency room doctor and the paramedic testified that she had not vomited.

Walker had to prove that the Andressohns had committed manslaughter, which Florida Statutes 782.07 defines as "the killing of a human being by the act, procurement, or culpable negligence of another, without lawful justification."

### **Instructions on culpable negligence**

The judge gave the jury these instructions on culpable negligence:

"Each of us has a duty to act reasonably toward others. If there is a violation of that duty without any conscious intention to harm, that violation is negligence.

But culpable negligence is more than a failure to use ordinary care toward others. In order for negligence to be culpable, it must be gross and flagrant.

Culpable negligence is a course of conduct showing reckless disregard of human life or of the safety of persons exposed to its dangerous effects. . . . The negligent act or omission must have been committed with an utter disregard for the safety of others. Culpable negligence is consciously doing an act or following a course of conduct that the defendants must have known or reasonably should have known was likely to cause great bodily injury."

### **Acquitted in daughter's death, but convicted of neglecting surviving children**

According to a source, the jury expressed its confusion about culpable negligence and asked for a statutory definition of it. Instead, the judge merely sent back the same instructions.

After only 90 minutes of deliberation, the jury returned a verdict acquitting the parents of manslaughter for the death of Woyah, but convicting them of "neglect with no great bodily harm," for the malnourishment of their four surviving children.

### **Juror thought intent to harm must be proved**

One juror told the press that the jury felt the Andressohns did not consciously try to harm their baby with the raw foods diet.

As in other Florida cases of neglect, either the judge or the jury decided that a deliberate intention to harm must be proved.

In 2000 a Tampa jury acquitted parents whose toddler, Harrison Johnson, died after being stung 432 times by wasps. The parents belonged to a sect opposed to doctors and waited for more than seven hours after the attack to call 911.

### **Tampa judge: intent to harm must be proved**

The judge instructed the jury that "negligent omissions" are not "culpable negligence" because "they are committed without the requisite specific intent to cause great bodily harm."

The prosecutor said the judge forced an acquittal because no-one could prove the parents deliberately pushed Harrison into a wasp nest.

### **Different instructions on culpable negligence**

In the Andressohn case, the judge gave very different instructions on culpable negligence. It seems clear, to CHILD anyway, that the state was required to prove that the parents deliberately, intentionally followed a course of conduct which a reasonable person would have known was "likely to cause great bodily injury."

The unnamed juror, however, reported that the jury thought culpable negligence required proof that the parents intended to cause the harm resulting from their conduct.

### **CHILD: state needs new law on culpable negligence**

CHILD believes the Florida legislature should enact a statutory definition of culpable negligence clarifying the requisite *mens rea* or state of mind. Needless to say, CHILD also believes that the legislature should repeal the religious exemption to child

neglect at Florida Statutes 39.01(30)(f) stating that a parent “who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child, may not be considered abusive or neglectful for that reason alone.”

The same statute even allows courts to order “treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious denomination” in lieu of medical care for any Florida child.

Taken in part from *The Miami Herald*, Oct. 19 and 20 and Nov. 5 and 8, 2005; *St. Petersburg Times*, July 27, 2003; and *Court TV* trial coverage.

## Jehovah’s Witnesses must coach kids to make mature decisions

The December, 2005, issue of *Kingdom Ministry*, a publication reportedly distributed only to Jehovah’s Witness families, includes an article entitled “Could your child make a mature decision?”

The mature decision the church is concerned about is refusing blood transfusions. The article cites an Illinois Supreme Court case, *In re E.G.*, 549 N.E.2d 322 (1989), which ruled that E.G. could refuse transfusions because of clear and convincing evidence that she was “mature enough to appreciate the consequences of her actions [and] to exercise the judgment of an adult.” E.G. was almost 18 years old.

What the article does not mention is that the girl had leukemia and her prospects for survival even with optimal medical treatment were rated at 20 to 25%. It also does not mention that several courts have held that a minor does not have a right to refuse medical treatment when necessary to prevent serious harm. See, for example, *Commonwealth v. Cottam*, 616 A.2d 988 (Pa. 1992), and *Commonwealth v. Nixon*, 761 A.2d 1151 (Pa. 2000).

The *Kingdom Ministry* authors declare to parents, “You have the responsibility to teach your children God’s view of blood.” It asks parents to “prepare” their children for challenges to “their

integrity,” so they will “courageously defend their firm decision” against blood even if doctors believe that their life is in jeopardy and parents are not present.

The authors recommend family study of Witness-produced DVDs and print material that have quotes and data drawn from medical literature to bolster the Witnesses’ view that “bloodless medicine and surgery” are safe and effective.

The article asks parents to conduct practice sessions with their children so they can explain their beliefs and “make a mature decision that has Jehovah’s blessing.”

Attorney Kerry Louderback-Wood argues in “Jehovah’s Witnesses, Blood Transfusions, and the Tort of Misrepresentation,” that the Witness material misrepresents secular facts, including the medical community’s assessment of blood-borne disease risks, of alternatives to blood, and of the risks of foregoing a transfusion. Her article appears in the Autumn 2005 (v. 47) issue of *Journal of Church and State*. A hematologist consulted by CHILD had similar complaints about the Witness literature’s use of data and quotes from physicians.

## About CHILD Inc.

Children’s Healthcare Is a Legal Duty is a national membership organization and a tax-exempt charity. CHILD works to protect children from abuse and neglect that is rationalized as a religious practice or cultural tradition. CHILD is a member of the National Child Abuse Coalition.

Membership in CHILD is by application. Dues are \$35 a year for an individual or a family. Dues-paying members receive the newsletter. Full-time students may join for \$15 a year. An application form may be obtained from the CHILD web page at [www.childrenshealthcare.org](http://www.childrenshealthcare.org).