

Children's Healthcare Is a Legal Duty, Inc.

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

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E-mail: childinc@netins.net
Written by Rita Swan

Equal rights for children under the law



Dennis Lindberg

Boy dies after refusing blood

On November 28, 2007, Dennis Lindberg died at Children's Hospital in Seattle after he and his guardian refused transfusions for him on the basis of their Jehovah's Witness faith. Dennis was in eighth grade and had turned 14 in September.

Dennis went to live with his aunt, Dianna Mincin, in Mt. Vernon, Washington, about four years ago because his parents in Idaho were then addicted to methamphetamines and not providing him stability. (They no longer use drugs.) This informal arrangement worked well; the two families were friendly and visited each other. Mincin had brought Dennis and her daughters to visit his parents in September, 2007.

In 2006 Mincin told her brother that she needed to have legal guardianship of Dennis in order to take him with the family to Canada. Lindberg signed a

paper giving her temporary custody, but thought he could reverse it when he wanted to.

Later Mincin petitioned the court for permanent "non-parental custody." The boy's parents, Dennis A. Lindberg and Rachel Wherry, were notified to appear in Skagit Valley Superior Court to contest the petition, but they did not have the money to travel there, and the paternal grandmother, Olga Lindberg, supported the petition. The grandmother later said she knew nothing about Jehovah's Witness beliefs when she sided with her daughter. The court granted the petition in January, 2007.

A few weeks later the boy was baptized into the Jehovah's Witness faith, his grandmother said. A Witness elder said he spent up to 60 hours a month distributing Witness literature door-to-door.

Mincin had threatened to give him back to the state before he was baptized, a close friend said.

On November 8, Dennis was diagnosed with acute lymphocytic leukemia. Doctors at Children's recommended a three-year program of chemotherapy and reportedly warned that many blood transfusions would also be necessary for about eight months to prevent fatal side effects from the chemotherapy.

Dennis and his aunt declared that as Jehovah's Witnesses they could not accept transfusions but wanted the best medical treatment available without blood.

Two chemotherapy treatments were given. As predicted, Dennis developed severe anemia and an enlarged heart.

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In Florida Olga Lindberg was frantic. On the phone she tried to talk her grandson into accepting transfusions. Early in their conversations he promised her he would accept blood because he did not want to die.

Grandmother's contact with boy cut off

In a later conversation, though, he told her, "Oma, Jehovah's gonna take care of me. I'm gonna have eternal life." She told him she wanted him to have life in the here and now. The phone was abruptly slammed down and she was never able to speak to her daughter or grandson again. She called their cell phone many times, but always got recorded messages.

She also called the hospital a number of times and asked to speak to her grandson, but was told that his guardian prohibited it and that grandparents have no legal right of access to their grandchildren over objections of parents or guardians.

Father told he could not visit son

Mincin did allow her brother to talk to his son, but told him not to discuss the transfusion issue. She warned that because of the boy's heart condition, agitating him could be fatal.

Mr. Lindberg has hepatitis C. He says his sister told him not to come to visit his son because his hepatitis could cause the boy's death. The dad got an appointment with an oncologist at the Veterans Administration, who told him his medical condition would not be a risk to his son's health. By then, however, two more weeks had passed.

After 13 days: "cover all bases"

Not until November 21 did a Children's Hospital social worker, Fred Wilkinson, report the boy's case to Washington's Child Protection Services (CPS). The CPS intake summary says that the hospital administrator "asked SW to make a CPS referral to cover all bases and to cover the aunt." In fact, the hospital had already told Mincin and Dennis on November 20 that they considered Dennis a "mature minor" and would allow him to refuse transfusions.

The intake summary states, "The family is said to be open and wonderful to work with. Referent [the hospital social worker] stated child asked to speak with Dr alone, questioning treatment options and raising other questions. Referent states child has had a strong voice in entire process and appears completely on board with decision made.

"Referent stated that if child completes treatment, long term survival is better than 5 years out. Without treatment child will die within the next couple of weeks if not sooner. Referent stated survivability with treatment is 75%, otherwise it would be hospice care until child passed away."

CPS tagged the case as high risk and did a face-to-face interview with Dennis that same day.

CPS won't seek court order because hospital doesn't support it

The next day CPS Supervisor James Kairoff wrote to his staff that "all family and the child" were refusing transfusions and that CPS would not seek a court order for them, but must rather let the hospital decide whether to petition the court. "We chose not to inject CPS into the process as no benefit since we lack authority to authorize medical procedures in the face of parental objections. If hospital needs our involvement, they can call."

Hospital attys. and 6 oncologists say 14-year-olds should be allowed to refuse lifesaving treatment

The stalemate between CPS and Children's Hospital continued until Monday, November 26. On that day CPS asked the boy's lead physician, Douglas Hawkins, for an update. "Dr. Hawkins," CPS wrote in their records for the day, "stated that the child is hypoxic and he is losing his ability to make decisions. He said that with multiple blood transfusions and medical treatment right now, the child's chance of survival could be up to 70% that he live a full life. He said that the last conversation he had with the child, the child did not want the transfusion and was persistent and clear about his wishes. . . . Dr. Hawkins said that he consulted with five other senior oncologists who unanimously agreed that they felt that the child is fourteen and should be able to deny treatment if that is his wishes and did not believe in coercing treatment for the child."

Wilkinson spoke with CPS that day and again described the child as "very mature." He told CPS that "the Hospital attorneys are on board [with letting the boy die] and . . . they believe that they would lose the battle in court if they tried to legally force this child to take blood."

Also in the November 26 entry a CPS worker "suggested. . . we find out if the aunt has legal cus-

today” and proposed they have a psychological evaluation done of the child.

The entry also states that his parents are “reportedly homeless and moving from place to place. Mincin “reported that the paternal grandmother has notified the parents and that the parents have agreed to be supportive of [the child’s decision to refuse transfusions].”

Both the parents and grandmother deny that they ever agreed to let Dennis refuse transfusions.

CHILD helps connect parents and CPS

The grandmother first contacted CHILD on November 26. We advised her to contact CPS in Washington. She relayed this advice to her son. He went to the Salvation Army and told them he wanted desperately to get help for his son. The Salvation Army called CPS and put the father on the line with them. He told them firmly that he and the boy’s mother wanted their son to have transfusions and did not believe their son was able to make an independent decision on the matter.

After learning that the biological parents wanted the boy to have transfusions and that there was still a good chance of saving his life, CPS decided to go to court and petition for an order authorizing transfusions, even though the hospital was not willing to petition the court.

CPS offered to pay for the parents to fly to Seattle so they could testify in court. Within an hour they were on a plane.

Parents testify in favor of transfusions

On November 27 a shelter care hearing was held before a commissioner. CPS petitioned for transfusions to be ordered. Lindberg and Wherry testified that they wanted their son to be transfused. The commissioner set the case for hearing before Skagit County Superior Court Judge John Meyer that afternoon.

The parents were ready to testify again at the afternoon hearing, but CPS told them it was more important for them to be with their son, who was now comatose. The court granted them unlimited and unsupervised visitation with Dennis.

Jehovah’s Witnesses were in the boy’s hospital room. The father told CHILD he asked them to leave, but they would not, so he called for hospital staff, who ordered them to leave.

At the afternoon court hearing Dr. Hawkins testified that there was a 70% chance of saving the child’s life even at this late hour but he and the other physicians at Children’s supported the boy’s refusal of transfusions. Incredibly, Hawkins also said he had let other Witness children stop treatment and had later regretted it.

Boy would consider transfusions as last resort

Dennis’ former grade school teacher, Teresa Vaughn, testified that, in her view, Dennis was not mature enough to make a decision to die. She felt he had an excessive desire to please others that influenced his decision.

She told about asking Dennis over the phone if he would be willing to have a blood transfusion. He said he would consider it after the doctors had tried everything else first.

His aunt testified by phone that she and Dennis wanted all possible medical treatment except transfusions. She quoted him as saying, “I want to do everything I can to save my life,” but she also said he would “fight with all of his might” to refuse a transfusion.

Mincin testified that the boy had been “informed that he would be forgiven” for having a transfusion though her family internet postings do not mention that.

Two people attending the hearing told CHILD the aunt complained that she had a business conference to go to and expressed resentment at the burden of caring for a sick child and of testifying.

With Dr. Hawkins testifying that Dennis might not last the night, Judge Meyer said he wanted to “sleep on it” before ruling.

Judge: boy can give himself “death sentence”

On November 28 he issued his ruling that Dennis was a mature minor who had made an independent choice to die and had the right to do so. He also said this was not a decision he would make for his own children.

By the time Meyer heard the case, Dennis was unconscious. Meyer did not see or speak with him.

“I don’t think Dennis is trying to commit suicide,” the judge said, but, seemingly contradicting himself, he also said that the boy “knows very



Mom sings "Amazing Grace" at her son's funeral
Taken by Scott Terrell of the *Skagit Valley Herald*

well by stating the position he is, he's basically giving himself a death sentence."

"I don't believe Dennis' decision is the result of any coercion. He is mature and understands the consequences of his decision," Meyer continued. "This isn't something Dennis just came upon, and he believes with the transfusion he would be unclean and unworthy."

People who were in the courtroom told CHILD that the judge cited no statutes or court decisions as precedents for his ruling.

The boy's schoolmates and their parents cried in disbelief and his mother ran from the courtroom in tears.

Dennis died later that evening.

Witnesses prevent dad from attending funeral

The Jehovah's Witnesses would not tell his father where the boy's body had been taken nor allow him to attend the funeral. Lindberg eventually got the hospital to tell him the funeral home that had the body, but when Lindberg called, the funeral home staff refused to confirm or deny that the body was there.

Dennis' parents and grandmother held their own memorial service attended by hundreds of people.

Sources include the *Skagit Valley Herald*, November 29, 2007; Washington State Child Protection Services documents provided to Mr. Lindberg; and conversations with Mr. Lindberg.

Friends misled and prevented from helping

Dennis had many friends who were very concerned about him throughout his hospitalization. At first, though, they were reassured by Dennis' statement to his former teacher and others that he trusted his doctors and would consider a blood transfusion after they had tried all non-blood alternatives.

Furthermore, Dennis was in a well-regarded children's hospital, and they assumed that the hospital would go to court and get an order for a transfusion if it were medically necessary. Accordingly, they did not talk about the issue with him, but limited their efforts to giving him moral support and good cheer.

On Saturday evening November 24th his former teacher Teresa Vaughn and her husband visited him. They were alarmed at his condition. Teresa asked why he was refusing transfusions. He replied that many people wanted him to have them, "but more people think I should follow my faith."

She asked him to choose life. He said he was choosing everlasting life.

The Vaughns had only five minutes with Dennis before the Witnesses asked them to leave.

Webpage taken down when classmates post

Teresa called Dennis' classmate Morgan Curry from the freeway. She said Dennis was dying because more Witnesses were urging him to refuse transfusions than non-Witnesses urging him to accept them.

Morgan immediately called or e-mailed all her friends and asked them to post messages to Dennis on the caringbridge.com webpage where his aunt and other Witnesses posted their reports about him.

The young people e-mailed for two or three hours, but soon got messages that the webpage on Dennis had been removed.

On Sunday Morgan called Dennis' guardian, Dianna Mincin, and left messages on her cell phone asking to speak to him. No-one returned her call.

On Monday, November 26, an adult friend drove Morgan to the hospital. Morgan brought a 50-page scrapbook of school memorabilia and well wishes from classmates that she had made for him.

His aunt would not let her enter Dennis' room. She accused Morgan of being a "false friend" sent by Satan.

Mincin told Morgan she couldn't take a chance of her talking him into accepting a transfusion. The girl offered not to mention the subject with Dennis, but Mincin still refused to let her see her friend.

Meanwhile in a parallel universe

In November 14-year-old Jehovah's Witness Dennis Lindberg died of leukemia twenty days after diagnosis in Children's Hospital Seattle (see previous article). At the website www.caringbridge.org, his aunt and legal guardian, Dianna Mincin; her daughters; and fellow Witnesses posted reports about the family's ordeal, which give a vivid picture of how Jehovah's Witnesses deal with a conflict over transfusions.

Non-stop religious indoctrination

The posts showed, for example, that the boy had Witnesses in his room around the clock, that the sect provided lawyers and elders to promote "bloodless treatment" and "mature minor" status for him, that Mincin gave Witness literature to health care providers, and that they listened to a Witness broadcast in his hospital room and wondered what the sick boy in the other bed thought of it.

Witnesses claim to be teaching doctors how to treat leukemia

The Witnesses posted upbeat online reports on Dennis November 9 through 13. They said, "Jehovah is using Dennis in a mighty way." Dennis was giving the hospital staff "a huge witness," they said.

"Dennis is helping Children's Hospital learn how to approach the treatment of leukemia without the use of blood," they continued. "[His] doctors are so committed to respect his religious stand that they are stretching themselves tremendously to learn everything they can about bloodless management. On Thursday, we introduced them to the use of erythropoietin (EPO) to stimulate red blood cell production. On Friday, we challenged them to consider the use of IV iron instead of oral iron because it is more readily absorbed by the body and therefore more bioavailable. . . . They are open to all of our suggestions on how to increase Dennis' blood count levels without transfusing blood. We could not have prayed for anything more."

Doctors agreed to "bloodless treatment plan," amazed at aunt's medical knowledge

Indeed, the doctors were bending over backwards to be willing to try anything the family suggested. The journal on caringbridge.com says that Children's Hospital "accepted" their "bloodless treatment plan" on November 9.

The Jehovah's Witnesses have Hospital Liaison Committees to monitor hospitalizations of Witnesses throughout the country and propose alternatives to blood transfusions. After the aunt suggested one to a doctor, she wrote, "Dr. Park was amazed that I keep coming up with this stuff that she has never heard of even though she is one of the best doctors in her field – thank you, Jehovah, for providing the HLC brothers!"

Among the alternatives the Witnesses used were meditation, guided imagery, massage, biofeedback, and naturopathy. "Yesterday," his cousin reported, "we installed 6 red blood cells (red heart-shaped balloons) in his room hanging from his bed, for him to visualize healthy blood production" and "mentally will his body into battle" against the leukemia with the help of an "angry garlic head" drawn by a friend.

According to the aunt's blog the hospital told the family they would give Dennis a transfusion on November 20.

So, the aunt wrote, on Monday, November 19, she "spent hours talking with the HLC brothers, King County Superior Court, Juvenile Court, etc." trying to get Dennis the legal right to refuse transfusions.

An HLC lawyer wrote to the hospital's risk management office on her behalf.

"I prayed and prayed," wrote Mincin, that his letter would persuade the hospital administration to recognize his right to refuse transfusions "because I was getting nowhere in the courts."

"Victory!"—child "an autonomous agent"

The next day her prayers were answered; her entry for November 20 begins, "Victory!"

Dr. Hawkins told them, she continued, that "the administration agreed to recognize Dennis as a mature minor with the competency to understand the risks and benefits associated with his treatment options and that he was considered by Children's Hospital to be an 'autonomous agent' able to make medical decisions in his own behalf. As such, they

presented him/us with two options: continue treatment and receive a transfusion OR discontinue treatment and be placed in Hospice care. They said that we could remain in the hospital or go home and that if his blood counts go up they could resume chemo treatment. They left us to think about it.

“I immediately started to cry. I felt like a ton of bricks were lifted from my shoulders. Dennis was so happy and at peace. He said that he now felt completely respected. After discussing things, Dennis decided that he wanted to be placed in hospice care in the hospital. . . .

“Allie, the doctor that called me the first week we were here to ask me a lot of questions and that I placed literature with, came out of the room crying. I hugged her and brushed away her tears. She said, ‘I just love that kid!’ I said, ‘I know you don’t understand. . .’ She said, ‘I’m beginning to. I respect him so much!’ Dr. Hawkins gave me a hug and seemed to feel more at ease with the decision. It is just amazing how Dennis has won the respect of this establishment. Jehovah is working a mighty witness through this ‘little man.’

Alternative treatments continue in hospice

“Normally under hospice, you would only receive comfort care. But, the hospital has agreed to continue the EPO and iron infusions. We will also be continuing with other alternative therapies such as naturopathy, homeopathy, and acupuncture.”

Shortly after diagnosis Dennis told a former teacher that he would consider a transfusion after the doctors had tried everything else first. But the Witnesses deprived him of that opportunity by claiming that he was still getting therapeutic treatment.

“Dennis was glowing the rest of the afternoon,” the aunt continued. “It is a bitter-sweet victory, but Dennis is so positive that he will conquer this thing, that I can’t help but believe him. . . .

“Dennis is very tired from all the good news. PLEASE, if you are wanting to visit, call ahead of time. Dennis needs all the rest he can get!”



Dennis at 8 years old

That same day Dennis called a Witness lawyer and left this voice mail message: “You can take your lawyer hat off now cause, uh, I’ve, uh, had victory. I’m gonna go into Hospice. The doc. . . and I’m gonna stay here at the hospital and, um, the doctors. . . . I’m not gonna have to have blood transfusions at all now; it’s all taken care of. No more blood, no nothing.”

The message was used in court as evidence that Dennis himself wanted to refuse transfusions and had made his own decision to do so.

Witnesses around world encouraged boy

The caringbridge webpage exploded with supportive messages from Jehovah’s Witnesses around the world. Everyone in the Witnesses’ “international brotherhood” was standing “shoulder to shoulder” with him in his battle for “integrity,” they said.

Mighty witness to doctors and nurses

They exulted in his “victory” and his witness to the doctors and nurses, who now “can never say they never knew about Jehovah!”

The sect asks every member to be “a faithful and discreet slave” to Jehovah; the writers rejoiced that Dennis had lived up to that ideal. “You have given Jehovah the biggest smile,” one said. Several thanked Dennis for strengthening their own faith.

Boy a martyr for other kids to follow

One writer used Dennis’ “victory” as a lesson for other young people: “All you young ones out there, how is your relationship with our heavenly

Father? Is it strong and firm?” He asked them to meditate on Dennis’ example “so that we can take our stand before Jehovah solid in the faith while we await our sure hope for the future.”

Some writers seemed to assure the boy that his cancer would get healed, but others seemed to tell him that he was dying as a martyr for their cause. A Gale Hickok wrote that his fidelity would be rewarded with “everlasting life” in “God’s promised Paradise. . . . Those without faith do not understand, because they are focused on the present life only, which you and I know is only temporary.”

Many biblical and contemporary Christians have chosen death over “ransom” of their imperfect lives in an imperfect world, Hickok wrote. We should not choose death “needlessly,” he continued, but should be willing to give our lives “for integrity to our faith for God’s arrangement.”

Only one person posted her hope that Dennis would accept transfusions. Lauren Freitas, who was not a Jehovah’s Witness, wrote, “Death is easy, Dennis. . . life is hard. I pray that you find the courage to choose life, and accept what treatment is available to you, so that you may continue the hard work of living and positively impact many, many more lives through your amazing example.”

Satan’s “greatest test”

On November 22 Dennis’ aunt and cousins reported facing Satan’s “greatest test.” To their non-Witness critics, they wrote, “We compassionately understand your confusion and, perhaps even your anger at the decision that Dennis and his family have made. We understand that this is an amazing, bright young man who has before him 70, maybe 80, years to contribute to this world. While we empathize with your strong feelings, we ask that you attempt to respect Dennis’ fight for what he and his family believe so strongly in. . . .

“We appreciate your struggle because we have spent the past two weeks in endless conversations with very kind, earnest, dedicated professionals whose soul purpose in life is to save people’s lives. However, these extremely intelligent people have come to know Dennis as many of you know him and they have come to respect him and his faith even though it contradicts what they firmly believe. . . . He has always been a person of integrity, never taking the easy road, but has been willing to endure

whatever ridicule might come from living by his convictions.

Integrity requires fidelity to biblical principles

“While some may not understand the biblical principles regarding the sanctity of blood,” the aunt continued. “I would ask that you reflect on the fine moral character of this young man and trust that his conviction on this aspect of Christian faith is no less important than any other conviction he has made known to all that know him. YOU have admired him and respected him for being such a person of integrity. Please realize that the same responsible, fine person you have known is only maintaining his strongheld convictions even in this most trying situation. Can we not respect this even if we don’t understand it? He would want this. As was posted, his first comments after the doctors left his room on Tuesday were, ‘Now I really feel respected.’ He has made a decision based on his faith in Jesus’ promised resurrection of faithful ones who adhere to ALL of God’s requirements, not just those that are convenient, and easy to follow.”

Soon afterwards the journal about Dennis was removed from the webpage.

Law and the courts

Two legal questions emerge from the Dennis Lindberg case (see previous articles). First, did parties follow Washington state law? And second, does U.S. case law support Judge John Meyer’s ruling that the 14-year-old boy had the right to refuse life-saving medical treatment?

Nurses outraged

Hours before Lindberg died in Children’s Hospital of Seattle, two of the hospital nurses posted their outrage at their hospital’s handling of the case to the local newspaper webpage. One wrote:

I am an oncology nurse at Children’s, and have had this boy as my patient. I am AP-PALLED that Children’s is allowing this child to die—they are literally just waiting for it to happen. While a 14-year-old may be able to make certain health decisions in this state (such as seeking psychiatric care, sexual health care, etc.) this decision is FAR more serious than those two.

Children are not able to make these decisions, no matter how “mature” they appear to be—he’s in the eighth grade! . . . I’m ashamed to work for a hospital that won’t defend its patients.

Another blogger pointed out that normally when transfusions are needed, the hospital’s own attorneys petition the court for temporary custody. In the Lindberg case only an attorney for Child Protection Services (CPS) petitioned for an order authorizing transfusions, and hospital physicians in fact testified that they supported the boy’s refusal of transfusions while also saying, on November 27, the day before he died, that they still had a 70% chance of saving the boy’s life with transfusions.

Compliance with reporting law questioned

Yet another blogger wrote that Children’s Hospital has an internal policy for mandated reporters requiring them to report abuse and neglect to a hospital social worker rather than to the Washington Department of Social and Health Services (SHS of which CPS is a part). The social worker and hospital administrators will then decide whether or not the case should be reported to SHS.

However, Revised Code of Washington 26.44.030 requires physicians and nurses to “make a report, or cause a report to be made” to “the proper law enforcement agency or to [SHS]” when they have “reasonable cause to believe” that a child “has suffered abuse or neglect.”

Mandated reporters do not meet their legal obligation by reporting to a social worker (unless they caused the social worker to report immediately).

Washington’s age of majority: 18 years

Furthermore, Washington has no statute allowing adolescents to refuse lifesaving medical care. RCW 26.28.015 stipulates that the “age of majority” is eighteen years. At that age all persons have the right “to make decisions in regard to their own body and the body of their lawful issue.”

Two Canadian cases

Canadian cases in which courts allowed Jehovah’s Witness minors to refuse medical treatment have been widely cited. In 1993 the Supreme Court of Newfoundland ruled 15-year-old Adrian Yeatts a “mature minor” and rejected Child Welfare’s petition for court-ordered transfusions. The boy had acute B cell lymphocytic leukemia with an extreme-

ly poor prognosis. *In re Adrian Yeatts*, 111Nfld. & P.E.I.R. 91 (Nfld. Unified Fam. Ct. 1993).

Bethany Hughes of Alberta had acute myeloid leukemia. She and her parents were Jehovah’s Witnesses. They opposed transfusions on religious grounds. A court ordered transfusions for her. *Alberta (Director of Child Welfare) v. H.(B.)*, 6 Alberta L.R.4th 34 (Alberta 2002) But after 80 chemotherapy treatments and 38 transfusions, the leukemia was still not under control. Doctors then allowed her to discontinue transfusions. She died in 2002 at age 16.

Girl almost 18 and with poor prognosis allowed to refuse transfusions

Two U.S. court cases often cited for recognition of the mature minor doctrine are those of Jehovah’s Witnesses Ernestine Gregory and Alexis Demos.

Gregory had acute non-lymphatic leukemia. Doctors testified that the recommended chemotherapy with transfusions achieved remission for 80% of patients, but the likelihood of five-year survival was only 20 to 25%.

Gregory was only a few months away from her eighteenth birthday when the Illinois Supreme Court ruled that she did not have to undergo transfusions. Oddly, the Court suggested that if the parent wanted her to receive the transfusions, then she would have to have them. So it is an open question whether the Court gave a right to “mature minors.” *In re E.G.*, 549 N.E.2d 322 (Illinois 1989).

Minor’s maturity one factor to be considered

Demos (identified as “Rena” in court) was 17 years old when she lacerated her spleen in a snowboarding accident. Berkshire Medical Center in Massachusetts filed a complaint for declaratory relief seeking authority to administer a transfusion if it became necessary in treating her injury.

Based on the teen’s best interests and the State’s interest in the preservation of life and protection of the welfare of a minor, the judge entered an order allowing her doctors to transfuse her in the event her condition became life-threatening, making a transfusion medically necessary.

None was necessary, and Demos was discharged from the hospital in good health.

The family, however, appealed, arguing that the judge should have considered the teen’s maturity in determining her best interests, and a Massachusetts

appellate court agreed. *In re Rena*, 705 N.E.2d 1155 (Mass. 1999).

How to determine best interests of child

“The best interests of a child,” the court wrote, “are determined by applying the same criteria applicable in substituted judgment cases, namely (1) the patient’s expressed preferences, if any; (2) the patient’s religious convictions, if any; (3) the impact on the patient’s family; (4) the probability of adverse side effects from the treatment; (5) the prognosis without treatment; and (6) the present and future incompetency of the patient in making that decision.”

The court said it was “appropriate for a judge to consider the maturity of the child to make an informed choice.”

Judge should get testimony directly from teen

“Although the judge did consider Rena’s wishes and her religious convictions in this matter,” the court continued, “he made no determination as to her maturity to make an informed choice. While recognizing and appreciating the obvious conscientiousness of the judge throughout this proceeding, we think this was error particularly in the circumstances of this case where Rena will soon attain the age of eighteen. In addition, in assessing Rena’s preferences and religious convictions, he should not have relied solely on the representations made by her attorney and her parents but should have heard Rena’s own testimony on these issues where she apparently had the testimonial capacity to answer questions. Only after evaluating this evidence in light of her maturity could the judge properly determine her best interests.”

The Massachusetts court, therefore, did not rule that the 17-year-old had the right to refuse transfusions, but rather that in determining her best interests, her maturity was one of several factors to be considered and, in determining her maturity, the court should have gotten testimony directly from her since she was capable of providing it.

There are hundreds of cases in which American courts have ordered transfusions for Jehovah’s Witness minors and even a few in which they have ordered them for pregnant adults to protect the interests of children.

Seattle hospital got court order for transfusing all Witness children; affirmed by U.S. Sup. Ct.

In the 1960s the King County Hospital in Seattle obtained court orders for temporary custody for all children of Jehovah’s Witnesses who might need transfusions. Washington Witnesses filed suit collectively, but a federal district court upheld it, and the U.S. Supreme Court, without hearing oral arguments, simply affirmed. *Jehovah’s Witnesses of Washington v. King County Hospital*, 390 U.S. 598 (1968).

King County Hospital got a court order for all Witness children, even unborn babies. Across town, however, Children’s Hospital Seattle waited until Dennis Lindberg was in organ failure before even notifying CPS of the situation.

Transfusions ordered for three 17-year-olds

In 1991, 17-year-old Joshua Gallaher was accidentally shot in Denver. He and his parents refused blood transfusions on religious grounds. The hospital petitioned a court to authorize the needed transfusions, and the court gave the hospital that authority.

In 1987 a California appellate court authorized transfusions for leukemia patient Christopher Lavender because of the immediate threat to his life without them. The court agreed that he was a “thoughtful, mature, devout and sincere 17-year-old,” but nevertheless ruled that the State had a duty to protect him. *In the Matter of Christopher L.*, Los Angeles County Department of Children’s Services v. Superior Court 87-86 (Nov. 16, 1987) S002121

In 2005, four months before his 18th birthday, Berkley Ross Conner, Jr. was diagnosed with lymphoblastic leukemia. His treating physician indicated that Conner had a 75 percent chance of long-term survival with chemotherapy and, probably, a blood transfusion in the future.

As Jehovah’s Witnesses, Conner and his father would not agree to transfusions. (The mother was not a Witness but supported her son’s decision.)

His doctor and other concurring doctors at Oregon Health Sciences University petitioned the court for an order authorizing them to transfuse the boy “if necessary, in the future, to prevent death or serious irreversible harm.”

Conner and his parents testified in court that he was an honor student and a high school senior who understood the nature of his disease and the conse-

quences of refusing a transfusion. He had chosen to be baptized as a Witness the previous summer.

The Multnomah County Circuit Court issued an order for transfusions should they be necessary, noting that its own “obligation is to enforce the laws of this state, and the law in this state is that somebody under the age of 18 is a minor and therefore does not have the legal capacity to make this kind of a medical decision.”

The family appealed, but the appeals court refused to overturn the trial court decision. It also declared the appeal moot because Conner was by then 18 years old. *In the Matter of Berkley Ross Conner, Jr.*, 140 P.3d 1167 (Ore. 2006).

All of the rulings discussed above—both those ordering transfusions and those allowing refusal of them—make sense to us, with the huge exception of the ruling on Dennis Lindberg.

Sources include jwdivorces.bravehost.com, a webpage on court cases involving the Witnesses.

Commentary: should teenagers be forced to get medical treatment?

CHILD believes society should do everything in its power to protect the lives of children up to the age of eighteen. We do not believe minors should be given the right to refuse medical treatment that has a high probability of saving their lives.

Jehovah’s Witnesses have pointed out that some states allow teenagers to obtain abortions, contraceptives, and mental health treatment without parental consent. They argue that teenagers should therefore also have the same right as adults to refuse medical treatment.

Parents must provide minors with necessities

In CHILD’s view the analogy is false. The former are laws intended to enhance teenagers’ access to medical care. CHILD submitted an amicus brief to the Pennsylvania Supreme Court contesting this analogy. The Court upheld the conviction of parents who withheld medical care from their 16-year-old diabetic daughter and who argued that the daughter shared their religious beliefs against medicine. *Commonwealth v. Nixon*, 761 A2d 1151 (Penn. 2000)

In the case of 14-year-old Dennis Lindberg (see previous articles), the hospital, Washington Child Protection Services, and the judge all cite his maturity and the strength of his opposition to transfusions as the reasons to allow him to refuse them.

Maturity is not enough

Canadians Ian Mitchell, M.D., and Juliet Guichon, Ph.D., argue, however, that “a teenager’s ability to consent must be assessed by looking for all its constituent parts: competence, information and freedom from coercion.”¹

Teenagers may well be intelligent, able to explain their religious beliefs, and able to comprehend medical information but yet not have adequate reliable information or freedom from coercion, say Mitchell and Guichon.

Sect distributes misleading medical information

They question how Jehovah’s Witness teenagers would have adequate information about their condition, treatment, and the consequences of refusing transfusions when their denomination’s webpage contains misleading excerpts from outdated medical journals, when sect leaders visit patients in hospitals and contradict physicians’ statements, and when the sect regards non-members as subjects of the devil.

Threats of ostracism hinder free decision

Mitchell and Guichon also question how a Jehovah’s Witness youth could be considered to be making a totally voluntary decision when the Witnesses shun and disfellowship members who agree to have transfusions. Recently the sect has said they do not disfellowship those members, but this is a semantic deception, for they also say that such a person has shown by her own actions that she has revoked her membership.²

Shunning is cruel, often preventing all contact between family members forever, as thousands can attest. It has even caused some suicides. It would certainly be a terrifying prospect to Dennis Lindberg, who was extremely dependent on his aunt.

¹ Ian Mitchell and Juliet Guichon, “Medical emergencies in children of orthodox Jehovah’s Witness families,” 11 *Paediatrics and Child Health* (Dec. 2006):655-58.

² Chuck Goodvin, Hospital Liaison Committee for Jehovah’s Witnesses, Personal communication to Dr. Christine Harrison, Hospital for Sick Children, Toronto, Ontario.

Furthermore, the Watchtower Society, a Witness policymaking body, advises, “Avoid independent thinking,” which commonly occurs as “questioning the counsel that is provided by God’s visible organization” [i.e. theirs] and is like Satan’s rebellion against God.³

The ideal given for members to emulate is the “faithful and discreet slave” of Matthew 24:45 as the Witnesses translate it. The model has been used to pressure victims not to report child sexual abuse.

Sect violates patient’s privacy rights

Dissidents charge that the Witnesses’ hospital liaison committees monitor hospital admissions around the country and quickly arrive in a Witness patient’s room whether invited or not.

Dr. Osamu Muramoto accuses the sect of engaging in “systematic violation of medical confidentiality” by instructing members to “squeal” if they learn that a patient has accepted blood—even if the members learn this as health care providers.⁴ Mitchell and Guichon reference some cases in which the attorneys representing Jehovah’s Witness patients also represented the denomination.

Children praised for putting God ahead of life

Witness publications praise children who resist transfusions. The May 22, 1994, issue of their *Awake!* magazine has photos of 23 children on the cover and calls them “Youths Who PUT GOD FIRST.” Inside the magazine the reader learns that they are children who died in obedience to the Watchtower Society’s ban on transfusions.

A 12-year-old Canadian girl is praised for holding off therapy by threatening to “fight and kick the IV pole down and rip out the IV no matter how much it would hurt, and poke holes in the blood.”

Lindberg’s aunt told the court that Dennis too would physically fight “with all his might” any attempt to give him a transfusion.

Parents must coach kids to look independent

We also know that the Jehovah’s Witness hierarchy expects its parents to coach their children

on what to say and how to resist a transfusion. (See CHILD newsletter 2005 #2.)

Jehovah’s Witnesses are isolated in many ways from mainstream society. They are forbidden to celebrate holidays, salute the flag, serve in the military, or hold political office on the rationale that they are actually citizens of another, unearthly kingdom. Higher education, voting, joining secular organizations, and charitable contributions outside of the faith are discouraged.

Dennis was not allowed to have friends come to his home or go to theirs. He told his close friend Morgan that his aunt and cousins must not see them together. Even Morgan’s parents were not allowed to talk to him. They would wait until he was alone and then “get a hug and talk for a few moments, constantly looking over our shoulder.”

He complained to Morgan about the isolation imposed by his aunt. He told Morgan that his aunt was threatening to give custody of him back to the state. After he was baptized as a Witness at age 13, Morgan heard nothing more from him about such threats.

Religious fervor gave him security

Dennis Lindberg had been traumatized by poverty, transience, irregular schooling, and his parents’ drug use. With his aunt and cousins he had stability and friends. His academic skills were brought up to grade level by a teacher’s generous tutoring. It is hardly surprising that he embraced his aunt’s religious faith in this new environment.

Like anyone, he was surely terrified and bewildered to be diagnosed with cancer. His dependence on the Witnesses surrounding him was very predictable. Their ferocious focus on getting “a victory” over blood transfusions was, to be sure, religious faith, but it was also a means of social control and of denying the seriousness of the disease.

Undoubtedly he could explain the fundamental doctrines of the Jehovah’s Witnesses and his belief in them at age 14 just as well as many adults can explain their religious beliefs after decades of church membership.

Like Mitchell and Guichon, however, we feel that the child’s maturity is not the only factor to consider.

³ “Exposing the devil’s subtle designs,” *The Watchtower* (Jan. 15, 1983):22.

⁴ Osamu Muramoto. “Medical confidentiality and the protection of Jehovah’s Witnesses’ autonomous refusal of blood.” 26 *Journal of Medical Ethics* 2000:381-386.

Could boy make free decision?

The Children's Hospital staff could have looked at the posts on the caringbridge.com webpage and seen the enormous social pressures on Dennis Lindberg. They knew that the Witnesses were in the boy's room day and night. They could see that non-Witness visitors were quickly asked to leave or prohibited from seeing him at all. They knew that the aunt had prohibited Dennis' grandmother from talking to him.

Yes, the aunt had a legal right to prevent his grandmother and anyone else from talking to him, but her actions should have raised doubts at Children's Hospital about his ability to make his own decisions.

Just because the boy could tell a doctor without Witnesses being present that he opposed transfusions hardly proves he had made an independent decision.

Jehovah's Witnesses have a First Amendment right to shun and disfellowship. They have the right to isolate their children from many social relationships and activities and tell them that non-Witnesses are agents of the devil. They have the right to "avoid independent thinking."

The state, however, has the right, when the child's life is at stake, to evaluate the pressures upon the child created by such a demanding and restrictive religious culture and to question the "voluntariness" of the child's decision to die.

Case should have been promptly reported

Children's Hospital knew on November 8 that Dennis and his guardian were Jehovah's Witnesses who would refuse transfusions. They knew that transfusions were necessary to treat acute lymphocytic leukemia. Someone at Children's should have reported the case to Child Protection Services within 48 hours as required by law.

Instead, hospital staff told Dennis and his aunt on November 20 that their attorneys had concluded that the boy had a legal right to refuse transfusions and the next day filed an abuse and neglect report with CPS to "cover all bases and to cover the aunt."

In our view the primary "base" on the hospital's wish list was its liability. Its administration brought CPS in at the eleventh hour to provide a fig leaf.

Scores of transfusions needed

An apologist for Children's Hospital pointed out that Dennis needed not just one blood transfusion, but scores of them over an eight-month period.

The prospect of repeatedly restraining a teenager and forcing procedures upon him is offensive to any compassionate health care provider. Nevertheless, the burdens upon the providers should not be factored into a decision about a child's life.

Jehovah's Witnesses and teenagers can be very stubborn, but we wonder how hard the hospital social workers and providers tried to reach a better outcome for their patient. If they just asked the same rote questions every day to "cover their bases," they were likely to get the same answers.

We have seen religious objectors change their minds and accept medical treatment when care providers take the time to see into the fears behind the patient's obstinance and approach them from different angles.

Law should protect teens from fatal choices

In 2005 the U.S. Supreme Court outlawed capital punishment of persons for crimes committed as juveniles. *Roper v. Simmons*, 543 U.S. 551 (2005) Society recognizes that teenagers are still developing their decision-making capacities.

We also protect teenagers from making bad decisions that could ruin their lives. We do not allow adolescents to smoke, drink alcohol, or play the lottery. We should not allow them to give themselves death sentences.

Dennis Lindberg had turned 14 only two months before he was diagnosed with leukemia. He was only in eighth grade. He had been associated with the Jehovah's Witnesses for only four years. And he had a 75% probability of at least five-year survival with transfusions. Teenagers can change their minds about a lot of things in five years.

There is a point at which parents and children should have the right to refuse medical treatment for a child, but it's not when the choice is between 75% and 0%.