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Michigan judge awards \$5M to couple after botched delivery by midwife

By Louise Knott Ahern



Sara Snyder with her son Magnus at Sparrow Hospital. / Family photo

Three years after their baby died following a botched breech delivery at an Okemos birthing center, a DeWitt couple has been awarded \$5 million in a lawsuit against the midwife in charge of their son's birth.

Ingham County Circuit Judge Clinton Canady has ordered former nurse midwife Clarice Winkler to pay Sara and Jarad Snyder damages for the death of their son, Magnus, in 2011.

However, it's unlikely the Snyders will collect any money because Winkler did not carry malpractice insurance, said the couple's attorney, Brian McKeen.

He called the judge's ruling a hollow victory because it was a default judgment, meaning Winkler failed to respond to the allegations in the lawsuit so the couple did not get a chance to confront her in court.

But McKeen said they still feel a sense of justice because the size of the judge's order is a recognition of the severity of the negligence that resulted in Magnus' death.

"They're never going to see \$5 million," McKeen said. "They probably won't see \$5. But I think the court's number sent a message that this was a profound loss. These midwives had no business trying to deliver a breech baby at a so-called birth center that didn't have the facilities for a c-section. It was reckless and irresponsible."

Winkler declined comment for this story when contacted by phone.

Winkler has also been found negligent by the state's Nursing Board following an investigation by the state Attorney General's office into her actions during Magnus' birth. She has surrendered her license to practice, according to the state's Department of Licensing and Regulatory Affairs.

The Snyders originally sued Greenhouse Birth Center and three of the Greenhouse midwives who were present during Magnus' birth -- Winkler, nurse midwife Shelie Ross and a third midwife, Audra Post, who holds a non-nurse credential called certified professional midwife.

The midwives all filed for bankruptcy after the suit was filed. Sara Snyder said she and her husband could not afford to fight all three in bankruptcy court and decided not to pursue Ross and Post.

Post declined comment when reached by phone. Ross could not be reached.

Greenhouse closed its doors a few months after the Snyders filed suit and following a Lansing State Journal investigation that revealed the deaths of three other newborns there.

The Snyders knew Winkler did not have malpractice insurance but felt she needed to be held accountable as the person who was in charge of Magnus' delivery, Sara Snyder said.

They also decided to focus solely on Winkler after learning that she had been disciplined by the state once before for an out-of-hospital birth that went wrong. Her license was suspended in 1995 after the Nursing Board found her negligent in the homebirth of a baby that weighed only four pounds.

"Greenhouse drew a certain population like us who wouldn't necessarily have chosen homebirth," Sara Snyder said this week. "They told us so many things so we could supposedly be fully informed, but we weren't fully informed. They presented this illusion of safety, but it was just an illusion."

Canady's ruling brings an end to a lawsuit that sparked heated debate when it was filed and continues to have far-reaching implications.

Though only 2 percent of babies in Michigan were born outside of a hospital in 2012, that's twice as many as in 2011, according to numbers from the Michigan Department of Community Health.

Locally, the Greenhouse Birth Center had become the social center of the out-of-hospital birth movement. Its supporters were shocked by the lawsuit and rallied in support of the midwives there.

At the same time, midwives in Michigan were lobbying for legislation that would have granted state recognition and licensing of certified professional midwives, or CPMs, because they represent the vast majority of out-of-hospital midwives.

CPMs were then and continue to be unrecognized and unregulated by the state. They're controversial because some question whether the credential requires stringent-enough training to handle emergencies should they arise. CPMs must attend an accredited midwifery program and pass a national exam to achieve certification, but they do not need to have a college degree.

The Snyders' story prompted one state lawmaker, Sen. Gretchen Whitmer, D-East Lansing, to introduce a bill that would have only allowed state licensing of midwives who had an advanced degree along with their midwifery training. Whitmer's bill also would have required all midwives to carry medical malpractice insurance.

Whitmer's legislation expired without action at the end of 2012 and has not been reintroduced.

A bill that would grant state licensing of CPMs is currently languishing in committee without any sign of movement.

Though the fervor has quieted, both sides of the issue have continued their fight in the two years since the Snyders filed their lawsuit.

The Snyders formed an organization called Safer Midwifery for Michigan. Through their website, www.safermidwiferymi.org, they advocate for stronger educational requirements for midwives, tougher state regulation of out-of-hospital births and birthing centers, and to provide resources for families who are considering one.

"I would encourage moms to carefully investigate the multi-faceted issues facing out-of-hospital birth in the state of Michigan," Sara Snyder said. "They need to ask the hard questions about licensing, insurance, education and risking-out protocols, and why they matter. They need to know that out-of-hospital birth is a completely unregulated practice in our state."

At the same time, midwife advocates continue to push for CPM licensing. They say it would provide a level of accountability that is currently nonexistent in Michigan and ensure that women who want to give birth at home or in a birth center have safe options.

"There are always going to be a small percentage of families, which for religious reasons, cultural reasons or personal and financial reasons, choose to give birth outside of a hospital," said Katherine Prown of the Big Push for Midwives campaign, which lobbies for licensure bills across the country. "We need to make sure they have midwives who are appropriately trained and have a range of skills to safely deliver outside of a hospital."

Sara Snyder said it's still difficult three years later to talk about how her son died.

She said she hired Greenhouse because she was seeking more personal care than she'd had with her previous birth in a hospital. She wasn't interested in giving birth at home, so Greenhouse seemed the perfect compromise -- the chance for a natural birth in a home-like setting under the care of midwives.

When she was 32 weeks pregnant, a Greenhouse midwife told Sara that Magnus was breech — which was confirmed by an ultrasound five weeks later, according to the lawsuit.

Sara said she trusted Winkler when the midwife told her it was safe to attempt a vaginal delivery of a breech baby outside of a hospital.

Sara went into labor on April 8, 2011. After nearly six hours of pushing, Magnus was born up to the chest, but his head was stuck.

For seven minutes, according to the lawsuit, Winkler attempted to pull Magnus from Sara's body. He was eventually freed but was born blue and lifeless.

Greenhouse called paramedics four minutes later when their efforts to revive him failed.

Magnus spent 13 days in Sparrow Hospital's neonatal intensive care unit before passing away from severe brain damage and organ failure.

The only time he opened his eyes, Sara said, was the moment before he died.