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Metro

“Jury finds HRS at fault in case of abused boy”

by Trevor Jensen

A boy left severely brain damaged because of repeated abuse by his mother was awarded \$14.5 million on Wednesday by a jury that found the state agency charged with protecting children negligent.

Joseph Bellamy, now 8, has been in a wheelchair, unable to talk or walk, since November 1985, when he was 4 months old. His mother was convicted the following year of child abuse for throwing him against a wall and shaking him so severely the infant's brain was permanently damaged.

After a three-week-long trial and approximately six hours of deliberation, a circuit court jury found that the state Department of Health and Rehabilitation services failed to protect Joseph from his mother's abuse.

The agency received at least eight complaints from tipsters that Joseph was being abused. An investigator visited the home in October 1985 but reported the infant was not visibly bruised. Joseph was allowed to stay with his parents, both of whom were mentally ill.

Wednesday's settlement is one of the largest ever against the state, said veteran civil attorney Sheldon Schlesinger.

“Hopefully, this is the kind of a case that will change the system,” Schlesinger said.

The bulk of the settlement, \$12.8 million, was earmarked for Joseph's future medical care. The rest was for past medical care, loss of future earning capacity and pain and suffering.

But before the money goes into a trust account for Joseph, the award must be approved by the state Legislature and signed by the governor.

In addition, Bartley Miller, the attorney who represented the state Department of Health and Rehabilitative Services in the case, said he planned to appeal the verdict.

Joseph has been in HRS care since he was hospitalized in November 1985. The state has spent more than \$200,000 caring for the boy, who is in a Broward County long-term treatment hospital, Miller said.

Schlesinger said the money would allow Joseph to get better care than the state normally provides – improved physical therapy, electric wheelchairs and computerized education.

“This jury wanted to ensure this child would be taken care of for the rest of his life and (not) to have to rely on the vagaries of government funding,” Schlesinger said.

State HRS files show more than 27 notations about Joseph before his final hospitalization. Schlesinger said. Three social workers were involved, but communication mix-ups kept them from keeping tabs on the boy.

Joseph’s mother, Coreen Bellamy, was found guilty of child abuse in 1986 and sentenced to three years in prison. The boy’s father, Michael Bellamy, was also found guilty of abuse and sentenced to probation.

Miller said Coreen Bellamy, not HRS, deserved blame for what happened to Joseph.

“His mother caused all his injuries, HRS never shook the kid, the mother did,” Miller said.

Miller said the case highlights the state’s dilemma when confronted with child abuse allegations – take the child away and risk a lawsuit, or leave the child with the parents and risk being wrong.

“HRS is in a very difficult position,” Miller said. “It’s a very difficult, find line.”

Floyd Johnson, head of HRS in Broward County, said he did not want to comment on the case.