



Employees, former BSDC staff testify at neglect trial

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Testimony by employees and former employees of the Beatrice State Developmental Center helped fill in the gaps of the events in late August 2008 that nearly cost Ian Ham his life.

Ham, 28, was one of 47 “medically fragile” patients removed from the center for individuals with developmental disabilities in February 2009, six months after a botched feeding tube operation caused an infection in his abdomen.

Sandra Ham sued Nebraska’s Developmental Disabilities Division in January 2010 on her son’s behalf for failing to provide “reasonable medical care” for Ham, and the physical, psychological and emotional injuries suffered by Ian, as well as her lost wages and travel expenses.

The Hams’ attorney is Bruce Mason, litigation director for Disability Rights Nebraska. The state of Nebraska is represented by Assistant Attorney General Michael Rumbaugh.

Mason called several witnesses who described meetings where Ham’s supervision was discussed as well as his hospitalization on August 27-28.

Cheryl Trimm, a direct care staff member at the time who was the leader of Ian’s interdisciplinary team, described an Aug. 26, 2008 meeting where Ian’s G-tube placement was discussed in addition to the medical support he would need at the 106 Kennedy unit.

“There were concerns voiced at that meeting about him returning so quickly from UNMC,” Trimm told the court. “We felt he needed more time to heal from the G-tube before returning to 106.”

BSDC cannot change its supervision levels without a team meeting, Trimm said, and no supervision change was authorized by Ian’s team on Aug. 26, 2008 because no staff members working at 106 Kennedy were trained or experienced with feeding tubes.

According to Trimm, the results of the team meeting were communicated to former BSDC Medical Director Dr. Alfred Harrington.

Mason focused in on that point.

“So if I understand, the medical director of BSDC was aware that the team who is responsible for (Ian’s) individualized treatment plans did not believe they could adequately meet his needs, is that correct?” Mason asked.

“Correct,” Trimm said.

Harrington unexpectedly left the center in March 2009 after less than a year with BSDC.

Trimm later reaffirmed her concern about Ian's return to BSDC in a typed statement to BSDC investigator Thomas Lister on Oct. 2, 2008.

"I was concerned about Ian returning to BSDC due to his safety because he was only 24-hours post-surgery with his G-tube. There are individuals who live at 106 Kennedy who may have pulled on the G-tube and at the time there was no DT staff in service for G-tube care," Trimm wrote.

Lister told the court he was personally assigned Ian's case by former CEO Ron Stegemann in the days following Ian's surgery.

Stegemann, who worked at BSDC beginning in 1989 and became the chief executive officer in 2007, was removed from his post after a Department of Justice report issued a vote of no confidence in his leadership of the facility.

According to Lister's investigation, a supervision log kept at 106 Kennedy showed Ian supervision requirement as "enhanced" the night he returned from UNMC, requiring staff only to know his whereabouts at all times.

Other supervision recommendations include "one-to-one" or "two-to-one" staff to individual ratios.

The investigation also showed only one employee was staffed at 106 Kennedy during third shift. That employee, identified as Billie Miller, was responsible for 8-10 individuals that night, Lister said, although another staff was called to monitor Ian.

Linda Coon, a veteran developmental technician who has worked her entire career at BSDC on the third shift, was assigned by third shift supervisor Greg Butler to stay with Ian the remainder of the night at approximately 12 a.m. on August 28, after his supervision level was not changed to reflect his medical needs.

But before Coon could get to Ian at 106 Kennedy, Ian had pulled the feeding tube from his body.

Coon and a BSDC security guard drove Ian to Beatrice Community Hospital after an ambulance was delayed, she said.

"He was calm," Coon said of Ian, adding that she never left his side.

At Beatrice Community Hospital, Ian was placed on a gurney where emergency room physician Thomas Fennessy attempted to replace Ian's feeding tube without sedation.

Coon said Ian was in obvious pain, "flinging his hands" until two security guards cuffed him to the gurney. She told the court she held Ian's left arm throughout the procedure in an attempt to calm him.

Staff returned Ian to BSDC's outpatient clinic at approximately 3 a.m., but he was taken back to the hospital later that morning.

Dr. Blake Butler, BCH's general surgeon, said he found Ian in "a life-threatening situation" when he examined him on the morning of August 28.

Butler told the court the feeding tube had been improperly reinserted during the previous night and Ian exhibited obvious pain and discomfort through his nonverbal communication.

“You can tell when a patient is in pain, they don’t have to be verbal,” Butler said.

The surgeon cleared between 500-1,000 cubic centimeters of feeding tube formula -- what Butler called “a large amount” -- from the abdominal cavity which was causing the peritonitis, or infection of the abdominal wall.

During cross-examination, Rumbaugh asked Butler if there could have been other causes to the peritonitis beside the feeding tube that failed to be inserted into Ian’s stomach.

“There was a tube there but it was not in his stomach so I can’t call it a gastronomy tube,” Butler said. “They thought it was in his stomach but it was not. I called it a catheter through the same hole that was not in his stomach.”

Butler later agreed that Ian’s own stomach acid would have eventually caused the peritonitis, but the immediate danger to Ian’s health was the infection developed after the formula had been inserted into his abdominal cavity rather than his stomach.

Ham settled with Beatrice Community Hospital in September 2011 for an undisclosed sum.

The bench trial continues Thursday in Gage County District Court and is expected to conclude Friday.

Corrections: Bruce Mason is the litigation director for Disability Rights Nebraska, not the Center for Public Advocacy. Settlement information between Ian Ham and Sandra Ham and Beatrice Community Hospital has also been added.