

Man's Estate Wins Suit Against Kentucky Hospital

In March of 1999, James Milford Gray was 39 years of age. He was a paraplegic as a result of a shooting at the age of sixteen. On March 9, 1999, Mr. Gray appeared at the emergency room of St. Joseph Hospital in Lexington, Kentucky, complaining of abdominal pain. The emergency room doctor ran several tests, including an x-ray, but did not come to a conclusive diagnosis and Mr. Gray was discharged. He returned to St. Joseph again on the evening of April 8, 1999, complaining of severe abdominal pain and vomiting for the past four days. Again, he was examined by an emergency room doctor but no diagnosis was made. Despite the fact that Mr. Gray described his abdominal pain as a 10 on a 1-10 scale, hospital personnel gave him a very powerful pain medication and discharged him from the hospital. The hospital arranged for an ambulance to transport Mr. Gray from the hospital to his residence where he resided with his niece.

According to Mr. Gray's niece, when the ambulance arrived at the residence, she went to the rear of the ambulance and looked inside. She thought her uncle looked very ill. The niece said that she directed the ambulance personnel to transport Mr. Gray back to the emergency room because he looked sick.

The ambulance personnel returned Mr. Gray to the hospital emergency room. Upon his arrival, hospital personnel determined that Mr. Gray would not be seen by the emergency room doctor, but they did not tell the emergency room doctor that Mr. Gray had returned. Arrangements were made for Mr. Gray to be taken to a hotel across the street from the hospital. He was placed in a wheelchair and wheeled across the street by a hospital security guard and a nurse's assistant.

At approximately 5:00 a.m. on April 9, 1999, a hotel employee called 911 requesting emergency assistance for Mr. Gray. When emergency personnel arrived, they found Mr. Gray lying in bed complaining of severe abdominal pain. They also found vomit the color of coffee grounds all over Mr. Gray's clothing and bed sheets.

Mr. Gray was taken back to the same emergency room with these additional symptoms. He was initially seen

by the same emergency room physician that saw him on the evening of April 8, 1999. Mr. Gray was also seen by a second emergency room doctor, after the first emergency room doctor's shift ended. Shortly after the second emergency room physician came on duty, Mr. Gray was again discharged from the hospital, but remained in the hospital emergency room where

a social worker was called to assist him. According to family members, the social worker made several phone calls to them, telling them that nothing was wrong with Mr. Gray and that if he continued to show up at the hospital, police intervention would be requested. The social worker denied that she told any family members police intervention would be requested.

Mr. Gray was given a taxi voucher and left the emergency room in the early afternoon of April 9, 1999.

Mr. Gray died approximately four hours after leaving the emergency room. The cause of Mr. Gray's death was a ruptured duodenal ulcer.

Darryl L. Lewis of Searcy Denney Scarola Barnhart & Shipley, P.A., originally from Lexington, Kentucky, was contacted by the family of Mr. Gray to represent them in a potential claim against the hospital and the agents and employees of the hospital. Mr. Lewis agreed to represent the family and requested Shirley A. Cunningham, Jr., William Gallion, and Elizabeth Seif, of William Gallion and Associates, Lexington, Kentucky, to act as local counsel. Mr. Lewis filed a lawsuit on behalf of the estate of Mr. Gray and targeted several defendants. Mr. Lewis filed a negligence claim against the emergency room physicians that treated Mr. Gray during his hospital visits, and filed a negligence claim against St. Joseph Hospital for the negligence of its nurses and other personnel who came into contact with Mr. Gray during the visits. In addition, Mr. Lewis also alleged that St. Joseph Hospital violated the federal Emergency Medical Treatment and Active Labor Act (EMTALA) statute, also known as the "anti-dumping statute," because Mr. Gray was discharged despite having an emergency **(Continued on page seven.)**

"Mr. Gray was repeatedly discharged from the hospital despite having an emergency medical condition that was readily apparent."

**\$1.5 Million
Verdict:
ESTATE WINS
PUNITIVE DAMAGES**

The hospital violated the federal Emergency Medical Treatment and Active Labor Act (EMTALA) statute, also known as the ‘anti-dumping statute.’

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medical condition that was readily apparent during Mr. Gray’s visits to St. Joseph.

The case first came to trial in Lexington, Kentucky in October 2005. After two weeks, a mistrial was declared. Following that mistrial, Mr. Lewis was able to reach a confidential settlement with all defendants except St. Joseph Hospital. Thus, by the time the second trial started on November 7, 2005, the emergency room physicians were no longer parties to the action.

St. Joseph Hospital defended the negligence case, arguing that Mr. Gray was properly treated and evaluated. The hospital argued that at every instance when he was discharged, his condition was stable and improving. It also flatly denied “dumping” Mr. Gray in violation of EMTALA.

The case was submitted to the jury on November 23, 2005. The jury decided that St. Joseph Hospital was negligent, and that it had violated the EMTALA. In addition, the jury decided that the hospital “acted with reckless disregard for the life and safety” of James Milford Gray. The jury awarded \$1.5 million in punitive damages to Mr. Gray’s estate. ■