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Parents Prevail, Win \$1.5 Million For Son's Death

Jurors Find County, Foster Caretakers at Fault for Scalding

Landmark Case

By Cheryl Romo
Daily Journal Staff Writer

Following a two-week trial, a Los Angeles Superior Court jury voted 9-3 Thursday to award \$1.5 million in damages to the parents of a nearly 3-year-old foster child who was scalded to death in May 1999 while he was a dependent of the Los Angeles Juvenile Court.

The jury in the downtown courtroom of Superior Court Judge Rodney E. Nelson also found the county Department of Children and Family Services and the toddler's county-approved foster caretakers equally responsible for the death of Elijah Jamel Johnson.

The case is widely believed to be the first foster care death case in Los Angeles to have gone from the claims process to a jury trial and verdict.

Most foster children's deaths, largely because of confidentiality laws, go unnoticed, or if legal action is initiated by families, the cases are quietly settled.

'Red Flags Everywhere'

"It was tragic. The system failed," one of the jurors said after Thursday's verdict.

Another juror, Valeria Hairston, said it was clear that the Department of Children and Family Services and the social worker responsible for overseeing the child's care were negligent.

"We have to work harder at making sure that the people caring for children are doing their jobs. There were red flags everywhere," Hairston said.

The two caretakers did not respond to subpoenas and were found to be in default, according to the plaintiffs' counsel, Jack H. Anthony.

Described by his family as a friendly little boy who loved to eat chocolate and drink soda pop, Elijah died two weeks after receiving third-degree burns over 50 percent of his body.

Three-Day Delay

He had been placed in scalding bath water, allegedly by the 23-year-old daughter of his foster mother, who contended it was an accident. Elijah's foster caretakers did not seek medical attention for the child's injuries until three days later.

In the public outcry that followed his death, various members of Elijah's family stated that they had contacted the Department of Children and Family Services repeatedly to report that the toddler was being physically abused in the foster home. Department officials, they said, ignored them.

The foster mother and her 23-year-old daughter were criminally prosecuted. A

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jury found the daughter not guilty of homicide, and another jury found the foster mother guilty of child abuse for not obtaining immediate medical treatment for Elijah. However, the latter conviction was overturned in March by a Superior Court judge. *People v. Hightower*, BA185955 (L.A. Super. Ct. May 13, 1999).

After their claim for damages against the county was rejected, Elijah's parents, Connie Lawrence, 26, and Elliott Johnson, 32, filed a lawsuit alleging that the Department of Children and Family Services was negligent and that the foster care providers caused the death of the couple's only child. *Lawrence v. County of Los Angeles*, BC228801 (L.A. Super. Ct.).

"What we are measuring is the seriousness of the loss of a child's life," Anthony said. "The loss of the life of Elijah Johnson is a very serious loss."

Lawrence will receive economic damages of \$6,000 to pay for Elijah's

funeral and burial expenses, which the county allegedly declined to pay. She also will receive noneconomic damages of \$1.2 million. The baby's father will receive \$300,000 in noneconomic damages only.

After the verdict, Lawrence was silent and appeared weary. She declined comment.

Johnson, voice breaking, testified earlier that he has been devastated by the loss of his only son.

"I think about my son every day, every second. I wake up in the middle of the night praying, wishing I could get him away from those crazy people," he said.

Their attorney said he was pleased with the verdict, if only because it was the amount he'd earlier recommended to the jury. Anthony said his clients were not motivated to bring suit because of money.

"They are most interested in assigning responsibility for the death of their son — and no one was willing to do that," he said. "The conditions of the death would make anyone wince."

County contract attorney John Collins of Collins, Collins, Muir & Traver was the lead defense counsel. Collins said Thursday that the county prohibits him from commenting on litigation.

Principal County Counsel Roger H. Granbo said, "We are disappointed in the verdict, and we are currently discussing our options with trial counsel."

During closing arguments, Collins told the jury that Elijah's parents had failed to be good parents and that, had the child lived, he likely would have been adopted "by some loving, caring family somewhere."

"These two people, Connie Lawrence and Elliott Johnson, are not deserving of any compensation," Collins said. "I ask you to award no damages. I ask you to decide this case with your heads and not your hearts."

Johnson is an inmate at a state penitentiary who is expected to be released in 14 months. He was convicted of assault.

Lawrence is recovering from a substance abuse problem that a psychiatrist, Lester M. Zackler, testified during

the trial was a "reaction to life events that occurred in a very specific time ... after the youngster was taken from her."

Family matriarch Phoebe Betson, 70, is Lawrence's great-aunt who immigrated from Belize 42 years ago. She has accompanied Lawrence to court and said she helped raise her niece after the girl's mother died.

"I am happy for her because she has gone through a lot. Whatever happened in her life, happened. Elijah's death was not her fault," Betson said.

Meanwhile, Anthony, who specializes in handling foster care death and injury cases, said he found it hopeful that a majority of the jury members rejected the county's position.

"One of the jurors said afterward that the jury was turned off by the attorney for the county who said the county had no responsibility," Anthony said. "The verdict said they thought the county does have responsibility for these foster children."