

ABORTION DOCTOR GUILTY OF MURDER

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Correction Appended

A Queens obstetrician was convicted of second-degree murder yesterday in the death of a woman who went to him for an abortion, making him the first doctor in New York State found guilty of murder stemming from the medical mistreatment of a patient.

Dr. David Benjamin faces 25 years to life in prison in the death of the woman, Guadalupe Negron, 33, who bled to death two years ago in the doctor's storefront clinic in Corona, Queens, after the bungled abortion, which occurred as Dr. Benjamin was appealing the revocation of his license.

In the murder charge, Dr. Benjamin was accused of "showing depraved indifference to human life." He had also been charged with reckless manslaughter and criminally negligent homicide in Mrs. Negron's death. Both charges would have involved lesser terms.

Usually such cases of medical wrongdoing are played out in malpractice civil suits, but the Queens District Attorney, Richard A. Brown, said that Dr. Benjamin's incompetence and disregard for the patient were so reprehensible that he decided to pursue a murder charge.

Testimony showed that Dr. Benjamin, 58, performed a complicated, late-term abortion that he did not have the skills to do, and that he misled emergency workers who arrived at the scene, playing down the severity of the woman's condition.

"This case represents a double tragedy," Mr. Brown said after the verdict was announced. "Firstly, there is the tragedy of Guadalupe Negron's unnecessary death as a result of David Benjamin's gross incompetence and depraved indifference. But equally tragic is the fact that the facility cut corners for monetary gain at the expense of the lives of its patients, who oftentimes were poor and uneducated."

There has been only one other case nationwide of a doctor being convicted of murder in the death of a patient, Mr. Brown said. In 1989 in California, Dr. Milos Klvana was convicted in the deaths of eight infants and a fetus for his actions in trying to deliver babies at home.

As yesterday's verdict was read, there was initially blunt silence in the packed Queens courtroom; that was abruptly broken up by the wailing of Dr. Benjamin's wife, Jacqueline Bonrouhi, and her mother. His defense lawyer, Brad Leventhal, said he planned to appeal the decision.

But the jury, comprising five women and seven men, took only about two hours to decide Dr. Benjamin's fate. Discussing their decision on the steps of State Supreme Court in Jamaica, Queens, afterward, many said they were appalled by the doctor's arrogance when he testified in his own defense, and his denial of the fact that he was not a good doctor despite his actions.

"I felt he should never have taken on this operation," said Violet Roberson, one juror. "He was guilty, but he felt he wasn't. On the past complaints about him as a doctor, he felt he was right at every turn and never tried to correct them. He was arrogant and displayed a 'don't care' attitude."

Another juror, Lanice Jones, who served as the forewoman, said: "It was quite a quick decision. The pictures of his clinic were disgusting. The inside was very unsanitary. He knew she was 19 weeks pregnant. Why did he perform a second-trimester abortion?"

The issue that clinched the jurors' decision, Ms. Jones said, was listening to the tapes of the 911 calls the doctor's wife, an office aide, made for help.

"Throughout the trial, his lawyer said Dr. Benjamin didn't know the woman had died," she said. "But when we listened to the tape, we clearly heard his wife say, 'She's dead! She's dead!' "

Spokesmen and spokeswoman for both sides on the usually divided issue of abortion praised the verdict, calling the doctor's former office a Medicaid mill that preyed on poor immigrant women.

"We want him to get the most serious penalty possible," said Kelli Conlin, executive director of the New York State affiliate of the National Abortion and Reproductive Rights Action League. "No woman should ever have to face an unsafe abortion in this day and age. That being said, it is important to note that abortion is still one of the safest medical procedures."

Michele Allen, a spokeswoman for the National Right to Life Committee, which opposes abortion, said Dr. Benjamin "deserved to be convicted of murder."

"Unfortunately," she said, "women are treated in a substandard manner when they seek what are touted as safe, legal abortions."

During the trial, the prosecution said that during the removal of Mrs. Negron's 19- to 20-week-old fetus at the Metro Women's Clinic on July 9, 1993, Dr. Benjamin caused a three-inch tear in the woman's uterus and vagina, and then left her to bleed to death in the recovery room while he performed an abortion on a second woman.

The doctor testified that he made a mistake calculating the gestation period of the fetus, thinking it was 13 weeks old, an age when an abortion is considered much easier to perform. The doctor said he discovered the mistake after the abortion procedure was under way, but decided to finish the job because he believed it would pose less danger to the patient than sending her to the hospital halfway through the procedure.

But it was revealed during a cross-examination that Dr. Benjamin had performed a sonogram, which allowed him to determine the exact gestation period of the fetus. The main prosecutor, Barry A. Schwartz, the chief assistant district attorney for Queens, maintained throughout the trial that Dr. Benjamin tried to cover up the mistake by telling paramedics who arrived at the scene that Mrs. Negron had suffered only a cardiac arrest.

The incident came at time when the doctor's license was in the process of being revoked. His license was revoked in June 1993 for "gross incompetence and negligence" in five other cases. During an appeal of the revocation, he was allowed to continue practicing, and Mrs. Negron, a Honduran immigrant, died during that time.

Even before that, Dr. Benjamin's license had been suspended for his actions in other cases: in 1986, as he practiced under the name of Elyas Bonrouhi, the state suspended his license for three months based on 38 counts of negligence and incompetence.

Dr. Benjamin also faces a civil suit filed by Mrs. Negron's family.

Photo: Dr. David Benjamin, hands on table, listens yesterday in Queens as he is convicted of second-degree murder in the death of an abortion patient. At right are Brad Leventhal and Mike Doyle, his attorneys. (Pool Photo by Neil Schneider) (pg. B2)

Correction: August 11, 1995, Friday A picture caption on Wednesday about a Queens obstetrician, Dr. David Benjamin, who was convicted of murder in the death of a woman who went to him for an abortion, reversed the identities of his two lawyers in some editions. The men were, from the left, Dr. Benjamin, Mike Doyle and Brad Leventhal.