

Doctor's Negligence Caused Legal Abortion Death in Wisconsin

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Milwaukee, WI -- A doctor's negligence caused the death of a Wisconsin high school teacher who was poisoned during an abortion at a Milwaukee hospital, a jury found Friday. However, because the estate of Linda Boom was late in filing its lawsuit against Daniel Gilman, who did the abortion, and Sinai Samaritan Medical Center, Gilman was dismissed as a defendant in the suit and is not liable for any of the \$2.3 million the jury felt would fairly compensate Boom's family. And neither is the hospital liable. The jury found Sinai Samaritan was not negligent when, as the suit claimed, chemicals that should have been injected into Boom's womb to abort her unborn child were instead injected into her bloodstream and eventually reached her heart. "That's the way the law works," Randal Arnold, attorney for Sinai Samaritan Medical Center, said Friday evening. "If I'm employed by someone and I'm acting as their agent and injure someone through negligence, that person can sue my employer because I'm acting as agent for my employer," Arnold explained. "Doctor Gilman is an independent physician, not an employee of the hospital," he said. "Therefore, the hospital is not responsible for his conduct." Boom, 35, died Sept. 22, 1995, after having undergone an "amnioinfusion termination of pregnancy." The abortion involves the injection of chemicals into the womb. In the suit against the hospital and the Wisconsin Patients Compensation Fund by Boom's husband, Dennis, attorney Patrick Dunphy of Brookfield contended an ultrasound was not used before injecting the chemicals and they were injected into Boom's bloodstream. During the abortion, Gilman was supervising Karen S. Watson, a fourth-year resident in training at the time and now an obstetrician/gynecologist in Milwaukee. Watson was not named as a defendant; moreover, the jury found specifically that Watson, a Sinai Samaritan employee at the time, was not negligent in her care and treatment of Boom. Watson injected the first chemicals into Boom, who began to suffer pain, Dunphy said during the trial, quoting medical notes. The abortion was then taken over by Gilman, who had performed more than 100 abortions. Gilman had initially been named as a defendant but was dismissed from the lawsuit because the claim was filed too late, according to court records. However, the jury in Milwaukee County Circuit Judge Stanley Miller's courtroom determined that Gilman was negligent with respect to the lack of care and treatment he provided Boom and that his negligence was the cause of her death. The jury said that \$500,000 would "fairly and reasonably" compensate Boom's estate for pain, suffering and disability and \$1.85 million would fairly and reasonably compensate her husband for loss of companionship and "pecuniary loss of value and loss of household services." But it's an amount that cannot be recovered because Gilman had been dismissed as a defendant and the only remaining defendant in the case, Sinai Samaritan, was found not to be negligent, said Marquette University Law School Dean Howard Eisenberg. "The jury is asked if a defendant is negligent and then asked how much would it take to compensate the plaintiff," Eisenberg said Friday evening. "They're unrelated questions, so in this case, it's not a compensable amount even though the plaintiff has still suffered a loss. "The jury does not know the legal consequences of their answers," he said. "The judge applies the answers to the law, which in this case equals no recovery." Dunphy, the attorney for Dennis Boom, could not be reached for comment after the verdict. Arnold, the attorney for Sinai Samaritan, said the hospital and Watson were gratified by the conclusion the jury reached but Boom's death was still a tragedy. "A tragedy like this is not only the nightmare of every patient but the nightmare of every physician," Arnold said. Linda Boom, a mathematics teacher, and Dennis Boom, a science teacher, met at Cedarburg High School in 1983 and married in 1993. In June 1995, the couple learned