

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2011

PHILADELPHIA, FRIDAY, JUNE 12, 2019

An **ALM** Publication

Pa. Justices Won't Review \$5M Sex Abuse Verdict Against Foster Agency

By P.J. D'Annunzio

Of the Legal staff

The Pennsylvania Supreme Court has declined to hear arguments in a case in which a foster care agency had sought to overturn a more than \$5 million verdict over sex abuse.

On June 10, the justices denied allocatur in *M.N. v. Presbyterian Children's Village*, leaving undisturbed a Pennsylvania Superior Court ruling upholding the verdict.

The Superior Court held that Presbyterian Children's Village Corp. failed to file post-trial motions to preserve the case for appellate review.

"In this case, the trial court entered the verdict against PCV Corporation on October 28, 2016. PCV Corporation failed to file post-trial motions and, thus, PCV waived its challenge to the trial court's order discontinuing the case against PCV Services and PCV Foundation and entering a verdict against PCV Corporation," Superior Court Judge Alice Beck Dubow said in the court's opinion.

Before the matter went to the Superior Court, a Philadelphia judge rejected the defendant's bid to have the verdict overturned due in part to post-verdict research of jurors that revealed two had possibly lied during voir dire.

The verdict stemmed from claims that the agency placed a child in a foster home where she was sexually abused, despite allegedly knowing that the foster home was being investigated for abuse allegations.

Philadelphia Court of Common Pleas Judge Idee Fox denied the agency's post-trial motion, saying the defendant's challenge to the sufficiency of the evidence, jury questions and other court rulings were meritless.

The agency had also noted in its post-trial motion that, after the verdict had been rendered, facts were discovered that should have led two jurors to be disqualified from the case.

Specifically, the motion said one juror had been charged with assault and drug-related charges in separate incidents in the 1990s, but indicated in the jury questionnaire that he had never been arrested. Another juror, the motion said, had been a minor-plaintiff on a case in the 1980s.

In her opinion, Fox noted that the defendant "went outside the record" in making its arguments about the jurors.

"From these sketchy facts, even assuming they are true, defendant wants the court to then assume, contrary to their own testimony under oath that they would be fair as reflected in the voir dire record, that they were prejudiced against the de-

fendant," Fox said. "Simply stated, there is absolutely no evidence to conclude any bias on their part. A granting of a new trial under the circumstances alleged here pertaining to these jurors would be untenable. If so allowed then no verdict would ever be safe from scrutiny."

Kline & Specter attorney Nadeem A. Bezar tried the case with Emily B. Marks for the plaintiff.

Bezar said in an email, "We sought to bring this matter to trial so those people that failed M.N. would be held accountable. In reference to the punitive award, hopefully the result will deter both the defendant and others from similar misconduct in the future. We are gratified that the Supreme Court saw no reason to extend the case and that the litigation is finally over, with nothing remaining but for the defendant to accept responsibility by paying the judgment. At this point our focus is on helping the client continue to recover and move ahead with her life."

Athena O. Pappas of Deasey, Mahoney & Valentini represented the defendants and did not respond to a request seeking comment.