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## Judge Rejects Bid to Overturn \$5M Sex Abuse Verdict

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*Of the Legal staff*

A Philadelphia judge has upheld a more than \$5 million verdict over sex abuse against a foster care agency, rejecting a 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 defendant in the case, Presbyterian Children's Village, had been hit with the verdict in October that included \$5 million in compensatory damages, plus \$350,000 in punitive damages. 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 rejected the agency's post-trial motion Monday, 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 defendant," 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. Francis J. Deasey and Athena O. Pappas of Deasey, Ma-

honey & Valentini represented the defendants.

Kline & Specter attorney **Charles "Chip" Becker**, who handled the post-trial motions along with **Andra Laidacker**, said, "We appreciate the judge's decision, and believe she was exactly right in her analysis."

Deasey did not return a call for comment.

According to court papers, the plaintiff, B.N., who was born in May 2005, was placed in the custody of the state Department of Human Services in August 2012 following a family dispute. She was temporarily placed at the home of Deborah and Walter Scott from Nov. 9 through 12, 2012, and subsequently she was placed in the home of Anganell Murray.

Court papers said B.N. then began exhibiting strange sexualized behavior, and in December 2012, she was examined by Dr. Jutta Vogt, a therapist. Court papers said Murray told Vogt that Walter Scott had sexually abused B.N. Murray also told a case manager supervisor about the alleged abuse, but the supervisor told Murray to disregard B.N.'s statements, court documents said.

According to the court papers, another child came forward claim-

ing that Scott had abused her. The state opened an investigation into the Scott home, and the home was closed on Feb. 19, 2013, pending the outcome of the investigation. However, the following day, according to the memo, B.N. was placed back at the Scott home, where she stayed until Feb. 25, 2013.

Court papers said the day after B.N. left the Scotts' home she again reported the abuse, but this time Murray filed a report with the state's child abuse hotline, and an investigation was conducted. The allegations were substantiated, and Scott eventually pleaded guilty to sexually assaulting B.N. as well as two other victims.

The plaintiff alleged that Presbyterian Children's Village violated mandatory reporting laws and the standard of care for foster care agencies, and should not have placed B.N. back in the home in February 2012 after it was aware of the allegations against Scott. The defendant failed to heed numerous red flags, including the failure of the Scotts to report prior welfare fraud convictions, the plaintiffs contended.

Presbyterian Children's Village's, however, contended that B.N. was having emotional problems prior to her placement with the Scotts, and she was only placed with the Scotts after her initial foster parents felt her behavior was "out of control."