

\$8 Million Jury Verdict For Profoundly Retarded Woman Raped In Group Home

A Ft. Pierce jury awarded \$8 million on March 28 to the father and legal guardian of a mentally handicapped woman who was raped and impregnated eight years ago while in the care of a state licensed group home.

Jane Doe, a 29-year-old profoundly retarded woman, is nonverbal, mostly incontinent, and has the mental capacity of a two-year-old. In January 1992, she was raped and found to be almost five months pregnant. Her family removed her from the now defunct Schenck Group Home in Ft. Pierce and moved her to Tallahassee to live with them.

Jane was born in 1971, appearing to be normal in every way. However, as she aged, she failed to reach normal developmental milestones. By the time she was 10-years-old, state authorities and health care providers advised the family to place her in a group home where better and more intensive services would be available.



Jane Doe and her father in West Palm Beach in 1998.

Jane was removed from her first state licensed group home four years later when it was discovered that she had been physically abused. In 1985, she was transferred to the Schenck Group Home by the State of Florida Department of Health & Rehabilitative Services. ***continued on page two***

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In late 1991, school officials reported concerns of abuse and neglect to HRS case workers and to the group home. No one acted, however, until the school's principal wrote a letter to HRS officials.

Though Jane was diagnosed as being 14-weeks pregnant, she received no follow-up prenatal care for almost two months, until her parents were finally contacted by HRS officials in late January 1992. When her family arrived to see her the next day, Jane was sick with pneumonia and she had to be hospitalized and rehydrated. Her parents were soon awarded legal custody of her and she returned with them to Tallahassee where she now lives.

During the early months home, Jane displayed bouts of anger, frustration and showed signs consistent with post traumatic stress disorder. With the help of a behavioral psychologist and a loving environment, Jane soon improved. However, leaving state custody caused an immediate decrease in services which were once available to Jane. As a result, Jane only receives assistance from a part time aide who tends only to her most basic needs. Jane receives virtually no therapies, nor does she have a day program or recreational program to attend.

A multi-count complaint was filed alleging negligence on the part of the Department and the group home, as well as violations of Jane's rights as a developmentally disabled person under section 393.13(3) and (5), Florida Statutes, known as the "Bill of Rights for the Developmentally Disabled." The case was tried for six days before a jury of four women and two men. Shortly before trial, the state admitted fault, but continued to defend causation and the damages.

At a charge conference, the trial judge required the plaintiffs to elect between two theories of liability--simple negligence or the bill of rights. Because of the potential legal importance of the case, the Doe's elected to proceed under the bill of rights theory.

The jury returned a verdict of \$8 million, \$5 million of which was for economic damages for habilitative care and \$3 million for the mental pain and suffering Jane endured.

Post trial motions for new trial and remittitur were denied, and the appeal deadline has recently expired. A claims bill will be filed before the 2001 legislature.

Lance Block and Harry Shevin were the attorneys who tried this case. ■