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\$2M Settlement Over Teen's Choking Death Could be a Model for Florida Schools

"The changes that were implemented, I think, will resonate throughout Florida," said attorney Salesia V. Smith-Gordon.

By Raychel Lean | April 08, 2021



Sia Baker-Barnes, partner with Searcy Denney Scarola Barnhart & Shipley, left, and Salesia Smith-Gordon, of the Law Offices of Salesia V. Smith-Gordon, right. Courtesy photos

The family of an autistic teenager who died after choking on food at a high school cafeteria has secured a \$2 million settlement agreement that will change the way Palm Beach County schools operate — and could encourage other districts to do the same.

It's a result that might demonstrate the difference an open-minded and creative approach could make in litigation, as plaintiffs attorneys Sia Baker-Barnes and Salesia V. Smith-Gordon employed a strategy that let them negotiate outside of state sovereign immunity damages caps.

The case centered on 19-year-old Kedar Williams, who attended William T. Dwyer High School's special education program. Unable to speak, Williams communicated through actions and required one-on-one care.

After a choking scare in 2015, Williams was diagnosed with a swallowing disorder that put him at risk of aspirating — when liquid and food particles get into the lungs. That meant Williams needed constant monitoring while eating and had to have his food cut into small pieces.

Baker-Barnes represents Williams' mother, Megan Williams, while Smith-Gordon represents his father, Jeffrey Williams. The couple are divorced but both looked after their son.

Though Dwyer High was always aware of Williams' needs, that incident prompted them to reiterate how important constant supervision was for his safety.

But on the first day of school in August 2019, the parents claim they weren't informed that no one could supervise Williams. By day two, the school assigned a paraprofessional to him and another child, both of whom needed one-on-one help.

The cafeteria served chicken nuggets that day, but surveillance footage revealed no one cut them up for Williams, according to the attorneys. The boy's caretaker appeared more focused on the other student and never saw Williams get up, wander around and come back.

"No one cut his food up, no one was monitoring him, and he starts choking on the video," Baker-Barnes said. "No one even notices that he's choking because they're not supervising him. And eventually, he passes out. You can see him fall to the floor. And once he falls to the floor, I think the sound of him hitting the floor gets everyone's attention."

After Williams died in hospital, Baker-Barnes and Smith-Gordon filed a wrongful death lawsuit in state court and in the Southern District of Florida. The federal suit fell under Section 1983, an old federal statute that allows people to sue the government for civil rights violations.

It's not commonly used by students, but that didn't stop the plaintiffs' team, looking to negotiate beyond a \$300,000 state damages cap.

"As lawyers, we have to try to think outside the box sometimes and not foreclose opportunities, perhaps, because this is not a typical case. Because, quite honestly, that's what we heard," Baker-Barnes said.

Though the school didn't intentionally cause Williams' death, the plaintiffs' team argued it was preventable and claimed evidence showed Dwyer High repeatedly neglected students with special needs.

The suit pointed to years of communications from Williams' parents, discussing his education plan and explaining why it was necessary. The attorneys also heard from past paraprofessionals at the school, who highlighted similar issues with other special needs students.

'Ease the burden'

Jon Erik Bell represents the school district, which agreed to settle after the case was removed to federal court. He deferred comment to director of communications Claudia Shea, who expressed sadness over what happened.

"While no amount of money will ever take away the pain caused by this tragedy, the School District of Palm Beach County hopes that the settlement reached with the Williams family will help to ease the burden of this tremendous loss," Shea said.

The agreement established the Kedar Elijah Williams Exceptional Student Education Training Program, which will require all local schools to provide one-on-one help for students who need it. If no one is available, schools must inform parents immediately so they can decide next steps.

The training will include excerpts from the surveillance footage, and the hope is that other school district will take note.

"The changes that were implemented, I think, will resonate throughout Florida, I hope, for other districts to emulate so that it won't be just Palm Beach County that will learn from this negative experience," Smith-Gordon said. "We cannot let his life go to waste and be in vain, and I think we've succeeded in that."

The case, in Baker-Barnes' view, was also an opportunity to advocate for clients they felt they could uniquely relate to as Black mothers.

"I think that our unique experiences, both as lawyers but also as people, allowed us to approach this case in a way that perhaps was a little bit different," Baker-Barnes said. "Obviously, we are constrained by what the law allows us to do in terms of monetary recovery, but you can, in your role as a lawyer and a counselor, make a difference."

'Kedar was a part of life'

Kedar was a happy child who loved being around family — and especially loved sitting on the steps outside his grandmother's house, where he'd even fall asleep sometimes.

"They surrounded Kedar with love and, in return, he just really brightened their lives," Baker-Barnes said. "Because he didn't view life the way we do. He just wanted to enjoy it. And he didn't live life with, I think, some of the pressures that we tend to have with our children. He wanted to be happy and she [Megan] wanted to make him happy."

The attorney said both parents made it their mission to ensure Kedar never felt he was "less than" anybody else, so he'd regularly attend summer camps, swimming lessons, field trips and cultural events.

Kedar's father, a high school career counseling coach, often brought him to college tours.

"He felt that assimilating Kedar with everybody else was not only helpful to Kedar but also helpful to those other children, so that they could learn about people who were different to them. They could learn from each other," Smith-Gordon said. "Kedar was a part of life. He was not a child that was stuck away and hidden."

The training program will take effect this fall.

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