

Meharry, lab sued over autopsy test error

Mother was charged in disabled daughter's death

By **BILL POOVEY**
Associated Press

CHATTANOOGA — An errant blood test in an autopsy report wrongly sent Margaret Mignano to jail on charges of killing her severely disabled daughter with a deliberate overdose of prescription medicine.

Instead of getting a second blood test, a Franklin County investigator charged Mignano with first-degree murder, based on the test that showed an overdose of Phenobarbital had killed Ashley Mignano, 15, on July 4, 2004.

The investigator, Danny Warren, also said that the mother's status as a newcomer to Tennessee from New Jersey made her a risk to flee. A judge set a \$500,000 bail.

Mignano stayed in jail for a week while she and her husband, Mike, grieved Ashley's death.

The autopsy blood test turned out to be a mistake.

One year later, with the potential death penalty case dismissed, Mignano and her husband are suing Meharry Medical College in Nashville; its ToxMed Reference Laboratory that did the test; the lab director, Dr. Alfred Nyanda; and the assistant director, Dr. Anil Kumar, who signed the lab test.

The suit contends that they were negligent in reporting a toxic level

of Phenobarbital in Ashley's blood. It seeks \$750,000 in damages, saying the mother suffered mental and physical pain, "experienced public shame and humiliation ... was vilified in print and on radio and television."

Mignano's attorney, Robert Peters, said no court dates were immediately set on the lawsuit filed last week in Nashville.

"I am very angry at these people for ruining my life," Margaret Mignano said. "They ruined my life based on results of one blood test."

Mignano said investigators should have requested another test because the autopsy report came from Dr. Charles Harlan, a former medical examiner who at the time was fighting state efforts to revoke his medical license.

Harlan, who lost his license this year in unrelated complaints, hired out the blood test to the lab but signed the autopsy report. He later contacted other labs for more tests that led to discovery of the mistake.

"Being it came from him, they should have requested one more test to back up what they had or to disprove it before they went out and arrested me," Mignano said. "They need to do further testing before they ruin somebody's life

What happened

The mistake: The 2004 toxicology report by ToxMed Reference Laboratory showed a fatal level of Phenobarbital in the body of severely disabled Ashley Mignano, 15. A subsequent test by the lab showed the dosage wasn't fatal.

The lawsuit: A year later, Margaret Mignano and her husband, Mike, sued Meharry Medical College in Nashville, its ToxMed Reference Laboratory and the lab's top two officials.

The plaintiff: "They ruined my life based on results of one blood test," Margaret Mignano said.

The defendant: "ToxMed has operated at Meharry for five years and has provided a professional level of accuracy in conducting thousands of clinical tests," Meharry spokeswoman Jill Scoggins said in a statement.

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completely."

A grand jury indicted Mignano in November. Days later, District Attorney General Mike Taylor received the corrected blood test results and dismissed the case.

"They haven't ever apologized," Peters said.

A spokeswoman for Meharry, Jill Scoggins, issued a statement that said the private medical college was "fully investigating this matter. ToxMed has operated at Meharry for five years and has provided a professional level of accuracy in conducting thousands of clinical tests."

Taylor dismissed the case days after Nyanda sent a letter saying that unlike ToxMed's first test that showed a toxic level of Phenobarbital in the teenager's blood, a new test by ToxMed agreed with two other laboratories that had reported a much lower level of the sedative. The medicine had been prescribed to control her seizures. Cause of death was changed to "restrictive pulmonary disease, secondary to cerebral palsy."

The teenager, who used a ventilator and feeding tube and was taking 15 different medications, died at a hospital where she was rushed after her heart stopped. The arrest warrant accused Mignano of crushing pills and putting them in Ashley's feeding tube at their home in Estill Springs, about 50 miles northwest of Chattanooga.

Taylor said he has had cases where different labs disagreed on medical findings.

"This is my first experience where the lab just did a 180-degree turnaround, and apparently because of some methodology they used in the testing," he said. ■