

THE CASE OF DAVID GLASS.

David Glass, who lives in Portsmouth, was 19 years old on 23rd July 2005 – a major triumph for both him and his family. He owes the fact that he is alive to celebrate his birthday to his family, whose determination to protect his right to life literally saved him from being pushed into death by doctors.



David has hydranencephaly and cerebral palsy. He is partially sighted, epileptic, cannot speak, and has profound learning disabilities. He needs help with feeding, washing and toileting. Even before he was born, doctors were writing him off as having a life “*not worth living*”. When his mother Carol was 31 weeks pregnant, doctors at St. Mary’s Hospital in Portsmouth told her that he was “*not compatible with life*” – an odd term for a baby who was clearly alive at the time the supposed “*diagnosis*” was made.

David’s birth was induced at seven months of pregnancy, and Carol was told that he was “*stillborn.*” He was diagnosed as having anencephaly (a condition incompatible with sustained survival in which the higher brain is absent.) Carol argued with the midwife, trying to persuade her to resuscitate him because she could see that he was trying to breathe, but it was only when he began to cry, 55 minutes after birth, that he was taken to the Special Care Baby Unit and put on a ventilator.

The doctor at the SCBU told Carol that David would not survive if he was taken off the ventilator. Inconsistently, he also told her that David would be deaf and blind and “*just a shell.*”¹ Eventually David was taken off the ventilator, and, after initially having problems breathing, he started to breathe independently, and shortly afterwards he was allowed to go home.

Since then, David has been cared at home by Carol, and the whole family are involved in his care. Carol says:

I don’t find him demanding at all. He is a very happy boy. I made the decision soon after he was born that if he wanted to live, I’d always fight for him and that’s what I try to do. David gives me love and honesty. When he smiles, I know it’s not because he wants a bag of sweets, it’s because he loves me. He represents

¹ *David and Carol Glass v United Kingdom* Applicants response to the Government of the UK’s observations on admissibility and merits. In the European court of Human Rights. App. No. 61827/00

*everything that is good in the world. He doesn't have an evil thought ... He is just a genuine, nice kid.*²

In July 1998 David developed “noisy” breathing, and was taken into St. Mary’s Hospital, Portsmouth, where he developed three types of blood poisoning and candida (a fungal infection.) After 23 days, he was put on a ventilator, but soon removed from it, as doctors said he was dying. They refused to follow Carol’s wish to have him put back on the ventilator. David rallied, and was sent home and readmitted several times, each time becoming more ill.

On October 20th 1998, doctors suggested putting David on diamorphine (the medical name for heroin) “*to alleviate terminal distress*” which Carol refused. She asked for David to be treated “*like any other child.*” David’s hospital notes show that she was told that in “*any other child like David (i.e. handicapped) we would not (give intensive care) but offer morphine and “TLC” (“tender loving care”)*” Carol indicated that she would want David resuscitated if his heart stopped.

The doctors insisted that David be given diamorphine, saying that if Carol took him out of the hospital, she would be arrested and a “*Child Protection Order*” put on David. His hospital notes were marked “*not for resuscitation.*” The notes also list as part of his diagnoses “*demanding family.*” It is clear that this is not a “*diagnosis*” but a value judgment on a family whose only wish was to keep David alive.

It is disputed how much diamorphine David was given. Perhaps conveniently, some of David’s notes went missing, so it cannot be proved how much morphine he was given, or when. However, it is likely that a very large amount was prescribed. What is indisputable is that the hospital indicated that unless the family allowed diamorphine to be given, the police would be instructed to “*remove*” them.

On 20th October 1998 a diamorphine drip was set up with the aim, according to the Senior Administrator of the hospital, of letting David “*die with dignity.*”³ The family watched him turn blue and lapse into a coma. Carol said that if David were really dying, she would like to take him home. A policewoman, who had been called by the hospital told her that if she attempted to remove David from the hospital, she would be arrested.

Carol’s family took matters into their own hands. Diane Wild, David’s aunt unplugged the diamorphine drip helped by Ray Davis, David’s uncle. Other family members desperately tried to resuscitate David, blowing raspberries in his ears, rubbing his legs and lifting him out of bed.

Their actions caused a confrontation with Dr. Joanne Walker and Dr. Mark Ashton. The doctors refused to stop the diamorphine, saying there was nothing more that could be done and that “*nature should be allowed to take its course.*” A fight

² “Why must my son be left to die” by Angela Levin. *Daily Mail*. 3 August 2000

³ “They shouldn’t be jailed for saying my child’s life” by Macer Hall *Sunday Telegraph* 16 July 2000

broke out between Ray, Diane and Julie Hodgson, another aunt, and two doctors, Dr. Joanne Walker and Dr. Mark Ashton were, allegedly, attacked as the family tried to save David's life.

Later that night, the hospital said they did not want to treat David any more. Carol says the staff appeared not even to remember David's name as they told her, "*You can take Richard home*" - even though they had no antidote to the diamorphine and David still needed oxygen.

David's own GP, Dr. Richard Hughes, came to the family home to give him an antidote, and that night ten family members stayed awake around his bedside. Carol says, "*It took about 8 weeks before we felt confident he wouldn't die at any moment.*"

David's uncle and two aunts, Ray, Julie and Diane were later charged with causing actual bodily harm to Dr. Walker and Dr Ashton, and violent disorder. On 14th July 2000 Judge Roger Shawcross passed jail sentences on them all. Diane was jailed for 12 months and Julie & Ray for nine months.

In sentencing them, the Judge said

*(The jury) did not regard you as heroes. Most people would regard what you did as quite outrageous. You showed no regard for those doctors... I accept that your absences will be detrimental to (David's) care, but it's your fault that David has suffered and yours alone.*⁴

He failed to note that had it not been for their actions David would have died. In effect, Ray, Julie and Diane were punished for saving David's life.

During the trial Dr. Mark Ashton, one of the paediatricians who claimed to have been assaulted by the three family members had claimed that due to "*permanent ligament damage to his right knee*" sustained at their hands, he was no longer able to ride his bicycle or take part in sports. Yet on the "*Children's Ward*" BBC TV programme, Dr. Ashton was shown riding his bicycle down Portsdown Hill in Portsmouth. Clearly his injuries were not as severe as he claimed in Court.⁵

In an interview with the Hampshire Police, Dr. Joanne Walker acknowledged that:

*...using morphine in severe respiratory failure may shorten life, but we knew that David's death was inevitable be it then or in months or years and there fore acting in his best interests and looking after him at the time was paramount.*⁶

⁴ ECHR *David & Carol Glass v UK* Ibid.

⁵ Phone conversation with Carol Glass 14 July 2003

⁶ ECHR *David & Carol Glass v UK*. Annex G. Extracts from Dr. Walker's statement to the police dated 14 October 1999

She noted that she and Dr. Ashton “*felt...this really was the end for David, we really wanted his death to be peaceful and dignified.*”⁷ What she did not acknowledge was that she and Dr. Ashton were wrong. David was *not* dying, though had the family not acted her “*feeling*” that he was dying would have become a self-fulfilling prophesy.

The Court of Appeal eventually reduced Ray, Julie and Diane’s prison sentences by half. However, in doing so the Judge made it clear that the shortening of the sentences was solely in consideration of David’s needs, since Carol needed their help for his day to day care. He insisted that there was no implication that the original judgment was wrong or excessive.

A doctor who has treated David and who preferred not to be named said of the fateful decision to put him on diamorphine

*He was recovering and getting back to normal. I am astonished that diamorphine was used in a case like this, with a child. I sometimes think that there is almost a different set of rules for the very disabled. Among some members of my profession there is almost a presumption that the right to live doesn’t apply to that group of patients.*⁸

Dr. Philip Howard spoke for many when he said, “*While one cannot condone violence against doctors, neither should society or the courts allow violence against patients.*”⁹

He noted the crux of the whole case – that the only “*crime*” committed by David’s family had been “*to defend the defenceless.*”

It is only because of their actions that David celebrated his 19th birthday on 23rd July 2005.

⁷ ECHR Ibid.

⁸ *The Sunday Telegraph* 16 July 2000 Ibid

⁹ “We must defend the defenceless” by Dr. Philip Howard. *The Sunday Telegraph*. 23 July 2000