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Texas Seizes Cancer Patient From Parents

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CORPUS CHRISTI, Tex., June 9 (AP) - Child welfare officials have seized a 12-year-old cancer patient from her parents because they were keeping her from radiation treatment that doctors say she needs.

The parents, Michele and Edward Wernecke, believe that the doctors have not been forthright about treatment for their daughter, Katie, particularly concerning the side effects of radiation, said the Werneckes' lawyer, David Horne.

Last weekend, the state assumed custody of Katie, who has Hodgkin's disease and has undergone a round of chemotherapy. Her mother was arrested on charges of interfering with child custody but was released Monday on \$50,000 bond.

At a hearing on Wednesday, the Werneckes asked a juvenile court judge to bar the doctors, at M. D. Anderson Cancer Center in Houston, from providing radiation therapy for Katie until a hearing next week to determine whether she will stay in state custody. The judge, Carl Lewis, said he would rule on the request on Friday.

Hodgkins (NHL) Returns to Girl Whose Parents Fought State

NYTimes June 11, 2005 By RALPH BLUMENTHAL

CORPUS CHRISTI, Tex., June 10 - A bitter standoff between the parents of a 12-year-old and Texas social workers and doctors over radiation treatment ended on Friday on a somber note with a medical report that the girl's Hodgkin's disease, which had seemed in remission, had reappeared.

The parents, Michele and Edward Wernecke, lost custody of their daughter Katie a week ago, after opposing radiation therapy as unnecessary. When the new test results were announced at a hearing in juvenile court, the parents quickly complied and agreed through their lawyers to let doctors set the course of treatment, which could resume in days.

"The Werneckes are devastated," said Daniel F. Horne, a lawyer for the couple. Mr. Horne said they were too distraught to comment.

Mrs. Wernecke went with a doctor to tell Katie the news before a family gathering under state supervision to celebrate her birthday. She will turn 13 on Saturday.

The agreement on treatment appeared to douse another hot spot in the field of patients' rights. Coming on the heels of the polarizing right-to-die case of Terri Schiavo, Katie's case

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raised the provocative question of when parents lose their rights to control a child's medical treatment. Under Texas law, parents may withhold medical treatment from a terminally ill child, but not in lesser situations.

"If the benefits of treatment are clear and clear harm can result from withholding care, ethically the state has the right to step in," Dr. Robert Klitzman, co-director of the Center for Bioethics at Columbia University, said.

Allowing a disease to inflict harm, Dr. Klitzman said, "is a form of child abuse."

Last week, Mrs. Wernecke absconded with Katie to forestall the radiation treatments that the parents - and Katie herself, in a family video - said risked doing her more harm than good, because her cancer was in remission. The flight set off an Amber Alert, and the mother and daughter were found on Saturday by county lawmen at a relative's farm. Mrs. Wernecke was arrested, charged with endangering a minor and jailed for 48 hours before being released on \$50,000 bail. Katie was put in foster care, and the family's three other children, ages 2, 5 and 14, were placed in a children's home.

This morning, Katie's siblings were returned to the parents under a judge's order, and the charges against Mrs. Wernecke were dropped. For now, though, Katie is to remain in the custody of Texas Children's Protective Services.

"Given the opportunity to abscond with the child, they took it," said Judge Carl E. Lewis, who handles juvenile cases for Nueces County. But Judge Lewis agreed to allow the family ample visiting rights, and the lawyer for the children's agency, Thomas N. Stuckey, said Katie would be returned to the family as soon as possible.

According to a letter given to the Werneckes' lawyers, the State Department of Family and Protective Services acted in part on a complaint on May 26 by one of Katie's physicians, Dr. Nejemie Alter, who is part of the pediatric oncology-hematology department of Driscoll Children's Hospital here. Dr. Alter stated that he had been treating the girl since the disease was diagnosed in January. "We have had ongoing compliance issues with this family which led to a prior C.P.S. referral for medical neglect on 4/7/05 when they refused to consent to a red blood cell transfusion," Dr. Alter wrote in his complaint.

Despite three opinions that Katie needs radiation to follow her chemotherapy, Dr. Alter wrote, "The parents are still refusing to continue the recommended treatment."

Hodgkin's disease is a form of lymphoma, a cancer that affects certain white blood cells and part of the immune system. There are 850 to 900 cases a year in children and adolescents in the United States, according to the National Cancer Institute.

Treatment involves chemotherapy or radiation, or both, depending on the type of Hodgkin's and how advanced it is. Hodgkin's is among the most curable cancers. With treatment, 91



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percent of children live at least five years. Even when the disease has spread, more than 60 percent of the patients are alive after 15 years.

In interviews on Friday morning at the family's ranch in Agua Dulce, about 20 miles west of here, the parents waited for the return of their sons and talked about their anguish over Katie's illness and their court battle. Mrs. Wernecke said that the family had resisted a transfusion only because the hospital balked at banking their blood or Katie's and that they ultimately dropped their objections.

As for the radiation, Mr. Wernecke, who has a doctorate in agriculture from Texas A&M, said: "You have a 12-year-old kid who hasn't developed yet. She's going to receive a charge to her heart, lungs. She could also develop breast cancer. She won't grow anymore."

He said the family wanted only to consult with other doctors on alternative therapies but were having trouble obtaining referrals from the Corpus Christi hospital.

Katie also did not want the radiation, Mrs. Wernecke said.

"She talked about having kids," Mrs. Wernecke said. "That's the first time she talked about having kids."

The mother said that the family did not oppose medical procedures on religious grounds. She added that they followed the Church of Christ and attended a nearby Baptist church but that she was angry with the pastor for not coming to their support.

Mr. Horne, the Werneckes' lawyer, said that "it's become obvious" that the state overreached in taking away the other children and arresting Mrs. Wernecke for acting on what the lawyer called her best instincts in protecting her child.

The other children were taken away on the grounds of dangerous conditions in the house. The family called that a pretext. They said a social worker mistook a watermelon seed for rat excrement.

The children, Jonathan, 14; Josh, 5; and James, 2, were tearful when they arrived on Friday morning after up to a week in the Ark, a children's home outside Corpus Christi.

"They didn't put me in jail," Josh said as he clutched some new toys.

Jonathan rushed to feed his goats. But his brothers were saddened to find that a boxful of their pet frogs had died from neglect.

The court session on Friday was called to review Katie's latest medical results from tests at the M. D. Anderson cancer hospital in Houston before a full-scale hearing next Wednesday on the custody issue.



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The stage seemed set for a lawyers' duel. But with the Werneckes flanked by Mr. Horne and a co-counsel, Luis Corona, the courtroom fell into a grim hush when Mr. Stuckey, representing the state, announced that a doctor's report he had just received showed that Katie "was positive and has active cancer cells."

The one-page laboratory summary, by Dr. Dillon C. Chen of Radiology and Imaging of the State of Texas in Corpus Christi, said a PET scan "demonstrates new and abnormal disease" compared with a similar scan on April 27.

The Werneckes and their lawyers seemed stunned. Then Mr. Horne rose to say: "The parents will be using whatever means necessary to treat their daughter for this. That includes chemo or anything else."

Mr. Stuckey, who said the state had not withheld the report, but had itself just received it, said, "There should be immediate chemo or radiotherapy - tomorrow."