Supreme Court To Hear Military Wrongful Death

A woman whose husband died after undergoing a botched surgical procedure was expected to take her medical malpractice/wrongful death case to the Supreme Court. However, the lawsuit was by no means a simple one, based on reports provided by ABC7 News I-Team.

Dean Witt, the plaintiff's late husband, was a staff sergeant at Travis Air Force Base. Witt reported to David Grant USAF Medical Center (DGMC) upon experiencing stomach pains and subsequently contacted his wife, Alexis Witt.

"He gave me a call and said, 'I'm at the hospital. They found out what's wrong. It's appendicitis. I'm going into surgery. I'll give you a call when I get out,'" Alexis recalled.

After the appendectomy, a hospital employee contacted Alexis, contending her husband was in recovery and that the surgery had gone as planned.

That, however, was not the case.

Within approximately 12 hours of receiving the first phone call from the military hospital, Alexis received another. This time, a secretary from the medical center called her requesting she fax over papers to have Dean Witt medically retired from the Air Force.

"She realized that I didn't know what was going on and she says, 'I don't know if anybody told you, but your husband's not expected to live through the rest of the night," noted Alexis.

According to information provided, Dean was on his way out of the operating room when he stopped breathing. Hospital staff then tried to revive him by using a children's respirator.

When Dean did not respond to the respirator, a nurse anesthetist apparently attempted to intubate him. The nurse anesthetist then mistakenly fed the tube into his esophagus.

Oxygen was consequently pumped into Dean's stomach as opposed to his lungs, leaving him deprived of air for seven to 10 minutes.

As a result, Dean Witt suffered serious brain damage. Alexis made the fateful decision to take him off life support.

Nonetheless, the military hospital Dean died at remains legally protected by a Supreme Court decree known as the Feres Doctrine.

According to veteran's rights advocate Barb Cragnotti, "They know, because of the Feres Doctrine, there's no accountability for what they do."

Alexis Witt took her wrongful death case to the 9th Circuit Federal Court in San Francisco to contest the Feres Doctrine. Yet a three-judge panel decided to drop the suit, maintaining, "We are bound by precedent of the Supreme Court."

Alexis Witt and her attorneys plan to file for a rehearing. If the rehearing fails, they are highly determined to take the case to the Supreme Court.

Witt noted, "It's tragic because even a common criminal in a federal prison is allowed to sue for medical malpractice, but someone in our military is not… Bringing up a case to the federal level, to the Supreme Court level, is putting on record that our family is not OK with how the military healthcare system is ran and it needs to be changed."

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