



Wednesday, December 17, 2008 - Page updated at 12:00 AM

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DSHS settles case of boy's death; lawyer asks how state lost track

By Maureen O'Hagan
Seattle Times staff reporter

This is a story that's been told countless times on these pages. Sadly, it needs to be told again. It's about the death of a boy who spent most of his life in foster care.



Robley Carr, 15 when he died in 2006, suffered abuse in foster care years earlier.

Robley Carr Jr., according to his lawyer, was a victim of the state Department of Social and Health Services' (DSHS) mistakes. He was a victim not once, but twice. In 2003, state and federal authorities paid \$5 million to settle claims that Robley and three siblings were horribly abused in foster care.

Now, the state has agreed to pay an additional \$320,000 to settle a claim that it failed to protect Robley even after that. He died at age 15.

"How did they lose track of him again?" asks Tim Tesh, the Seattle lawyer who filed both legal claims. "It's a hard question to answer."

The state said only this:

"All I can tell you is that DSHS regrets the unfortunate death of this young man," said agency spokesman Steve Williams. "We believe the \$320,000 award is a fair and just settlement."

One might say that Robley began life well short of the starting gate.

His parents were troubled. According to an official review of Robley's 2006 death, Child Protective Services (CPS) in Alaska investigated abuse and neglect complaints involving the family in the early 1990s. The children were removed from the home, but Robley's mother later fled with them to Washington state, after she "left a treatment program against medical advice," the review said.

It didn't take long for CPS here to get involved. Robley had some 15 or 20 placements by the time he was 9, according to the recent legal claim. His two sisters and one brother had similar experiences, bouncing from home to home.

Robley, whose parents are Native American, was recognized by the Nooksack and the Hoonah tribes. That put his case under jurisdiction of tribal authorities and DSHS — or, as his lawsuit alleged, neither.

The children were repeatedly beaten in one foster home on the Nooksack reservation, according to the lawsuit Tesh filed. Even when the state heard the children were being abused, it didn't investigate, the suit

said. The youngest almost died from a ruptured bowel and suffered a broken shoulder, Tesh said in a 2003 interview. The foster mother's teenage son beat him, sometimes jumping on the younger child's stomach. Then he beat the child again when he vomited blood or cried. Another sibling, Tesh said, was admitted to a psychiatric hospital.

Neither DSHS nor tribal authorities admitted wrongdoing, but they agreed in 2003 to settle for \$5 million.

The money was placed in a trust for the children's future.

"Abandoned" by state

Robley was placed in 2001 with new foster parents, Steve Horton and his wife, Carole, in rural Stevens County. Initially Robley seemed to do well.

In March 2002, the Hortons were granted guardianship, something generally seen as positive in the child-welfare world because it gives the child a sense of permanence. The state still has responsibility to make sure the child is safe.

Tesh said the state did not fulfill that responsibility.

"He was, in effect, abandoned by the State and left in a remote cabin in the woods with Steve Horton, a ... distraught man with severe medical and behavioral problems and an addiction to dangerous controlled substances," the legal claim states.

In April 2002, Robley's counselor complained to CPS that Steve Horton was "spacey" and having financial difficulties. The state later learned he took up to 32 pain pills a day, including methadone, according to the claim. Officials also learned he left the pills unlocked.

Carole, who eventually left her husband, later told DSHS that Steve often was "drunk" on pills and passed out at the breakfast table.

In December 2003, someone called CPS to say Horton's foster children were treated like "slaves." She also said their electricity was going to be shut off because Horton had illegally tapped into his neighbors' power.

In October 2004, another complaint: Horton had no money for food or electricity. This would become a running theme.

"Robley was wearing women's jeans, his shoes did not fit and were very old and Mr. Horton was behind on paying for Robley's school lunches," a social worker found, according to the legal claim. At the time, Robley told the social worker he wanted to leave, to be with his siblings. The home itself was so isolated that Robley barely saw other people. Even Steve often wasn't home.

And yet Robley stayed.

In 2006, the school principal called CPS. Things were so bad the school bought him a pair of shoes. They regularly gave him school supplies.

Horton's financial struggles were well-documented. And yet, Robley's share of the \$5 million settlement sat in the trust fund. Horton didn't ask to tap into it. Even if he had, it's unclear the appointed trustee would have signed checks to pay for food, Tesh said. Trusts normally pay for things like college; they're not designed to pay for basics.

Death in filthy home

The untouched money, Tesh said, makes it "all the more of a tragedy."

On December 8, 2006, Robley said yet again he did not want to live with Horton.

Two days later he was dead.

Robley passed away quietly, in his sleep, after taking Horton's methadone pills.

A friend later told detectives Robley was trying to get high. The pills were always right there, on the kitchen table or in Horton's drawer, the boy said.

When detectives arrived, they found a home with little furniture. Dog feces littered the floors.

Robley's room was a mess, too. The detectives noted he had six dresser drawers, but only two had something in them.

Horton was not charged criminally. "He was asleep at the wheel," Tesh said.

Where the money goes

The state settled this claim last week without going to court. Most of the negotiations focused on what would happen to the money.

Robley's parents, who never lost their parental rights, were legally entitled to it. His mother declined the money because she's on public benefits, and receiving a lump sum might disqualify her, Tesh said.

His father, Robley Carr Sr., said he never gave up trying to get his children back. He completed extensive drug and alcohol treatment and had been clean for some time, the legal claim states.

Most of the settlement money will go to him. However, it will be held in trust and used only for expenses related to his ongoing battle to get his children back.

Maureen O'Hagan: 206-464-2562 or mohagan@seattletimes.com

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