

Kentucky Trial Court Review

The Most Current and Complete Summary of Kentucky Jury Verdicts

April 2010

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14 K.T.C.R. 4

Comprehensive Statewide Jury Verdict Coverage

Civil Jury Verdicts

Complete and timely coverage of civil jury verdicts including circuit, division, presiding judge, parties, case number, attorneys and results.

Medical Negligence - A drunken Ob-Gyn (serum BAC - .27) encountered shoulder dystocia during a delivery – the infant boy sustained a broken arm in the delivery, his mother also suffering from an admittedly botched episiotomy repair – the mother and her child blamed not just the drunken doctor but also the hospital regarding its policies for identifying impaired doctors

Heinrich v. Duma et al, 06-2827

Plaintiff: George J. Hoffman, III, *Hoffman Admire & Newcomb*, Franklin, IN, Peter C. King, *Cline King & King*, Columbus, IN, and Austin Mehr, *Mehr Law Offices*, Lexington

Defense: Clayton L. Robinson, Benny C. Epling, II & Charles Aaron, *Robinson & Epling*, Lexington for Duma

David V. Kramer and Ellen M. Houston, *Dressman Benzinger LaVelle*, Covington for St. Elizabeth Medical Center

Verdict: \$2,535,600 for plaintiffs assessed 80% to Duma and 20% to hospital – of this verdict, \$700,000 represented punitive damages assessed to Duma only

Circuit: **Kenton**, J. Bartlett, 3-26-10

Michelle Heinrich was admitted to St. Elizabeth Medical Center on the evening of 10-22-05 for the delivery of her child. The on-call Ob-Gyn for her obstetrical group was Dr. Gregory Duma – just a year earlier, Duma gained national attention when he removed a 66 pound ovarian tumor from a woman.

On the morning in question at 6:48 a.m., Duma ruptured Heinrich's membranes to facilitate childbirth. He then drove his car to a nearby park and began drinking. At this time, Duma had been drinking nearly a fifth of vodka a day. [Although for 30 days before this, he claimed to have been sober – apparently he fell off the wagon that day and drank throughout the day.]

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By the evening, Heinrich's baby was ready to be delivered. The delivery was complicated by shoulder dystocia. Duma manipulated the infant (Cameron) and the boy was delivered. However Cameron suffered a fractured humerus in the process.

Duma then began to perform an episiotomy. This too was difficult (the delivery was rough) and Heinrich had sustained a fourth-degree laceration to her perineum. The delivery and episiotomy complete, Duma was apparently dozing on a stool in the delivery room. His hands were in his

face.

This caused consternation to Heinrich's mother, Bev Kohlmeier. She ran from the room declaring that he smelled alcohol and that Duma was drunk. The evidence indicated that she made quite a scene.

The hospital brought in a doctor who handles impaired physicians – Duma submitted to a blood alcohol test. His serum BAC was measured at .27 – that translates to .22 on the more commonly used whole blood scale. [It was drunk on any scale.]

A day later, the hospital required him

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