

The Mississippi Jury Verdict Reporter

The Most Current and Complete Summary of Mississippi Jury Verdicts

April 2025

Statewide Jury Verdict Coverage

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Civil Jury Verdicts

Timely coverage of civil jury verdicts in Mississippi including court, division, presiding judge, parties, case number, attorneys and results. Notable results from the southern region, including Memphis and New Orleans, are also covered.

Medical Malpractice - An eight-girl with significant physical and mental disabilities (she was deaf, non-communicative and tracheotomy tube dependent) had a dental procedure to remove teeth performed under general anesthesia – it was alleged the girl suffered a 19-minute hypoxic event (which led to a fatal brain injury) after that surgery was blamed on her anesthesiologist for failing to maintain her airway

Martinez v. Masterson, 22-100

Plaintiff: William M. Vines, *Simmons Dallas*, Ridgeland

Defense: David W. Upchurch and John Mark McIntosh, *Upchurch & Upchurch*, Tupelo

Verdict: Defense verdict on liability

Court: **Lee**

Judge: John R. White

Date: 4-4-25

Mary Martinez, age 8, had profound mental and physical disabilities. She had a cleft palate, developmental delay, was deaf and non-communicative, as well as being dependent on both a tracheotomy and gastronomy tube. A plan was made to perform a dental surgery on 4-19-21 at North Mississippi Medical Center.

The girl's dentist, Dr. Trice Summers, was to extract several mobile (wobbly) teeth. The plan was to perform the procedure under general anesthesia. The anesthesia would be provided and monitored by Dr. Chester Masterson, Anesthesiologist of Tupelo Anesthesia Group. Martinez had all

the proper clearance for the surgery including from her pulmonary team.

The dental part of the surgery was uneventful. As it ended Masterson replaced an endotracheal tube and replaced it with a new one. When he did this, gastric contents came up. Thereafter Masterson tried to reinsert the tube without success. He ultimately called in a general surgeon for assistance, Dr. David Gilliland, who was able to replace the endotracheal tube and reestablish the girl's airway. However there had been a 19 minute period when the airway was compromised and during which the girl's oxygen level plummeted to three percent.

That evening as Martinez did not improve, she was airlifted to a hospital in Nashville where she could receive a higher level of care. Testing in the next two days (4-21 and 4-22) revealed a lack of brain function. Support was withdrawn and the girl passed away.

The Martinez estate (representing her mother) sued Masterson and alleged a variety of errors led to her death. The plaintiff's expert, Dr. Alan Kaye, Anesthesia, New Orleans, LA, was critical beginning with the pre-operative period in clearing Martinez (with so many disabilities including being non-communicative) for going forward with the surgery under general anesthesia as opposed to either moderate or general anesthesia.

Kaye was also critical of Masterson's post-operative plan. The plaintiff's theory asserted the girl had a tracheal-esophageal fistula and thus