

AUGUST 2016

SETTLEMENT - KING COUNTY

TARA ROSENBURGH v. STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES (DSHS)

Number: 15-2-02877-4SEA

Settlement Date: 3/25/16

**Plff Atty:** David P. Moody & Ian M. Bauer of Hagens Berman Sobol Shapiro (Seattle)

**Def. Atty:** Deborah Severson, Celeste Stokes & Earl Sutherland, Office of the Attorney General (Tumwater)

**Def. Med.:** Renee Bibeault MD (Psychiatrist/damages expert) Kirkland

**Def. Exp.:** Sally Stuart Ph.D. MSW (Social Worker/damages); William Partin CPA (Economist/damages), both Bellevue

**Judge:** Hon. Jean Rietschel

**STATE & DSHS NEGLIGENCE (FAILURE TO MONITOR)**

**EMOTIONAL DISTRESS; SEXUAL ABUSE**

Plff, female age 39. Plff Tara Rosenburgh is severely developmentally delayed and has been a client of the Department of Social and Health Services (DSHS) for 20 years. She has been repeatedly assessed by DSHS as needing extensive supervision, protection from abuse and exploitation, and assistance with activities of daily living. In August 2010, Tara's boyfriend, Marschall, applied with DSHS to be her state-paid caregiver. DSHS granted Marschall a contract to care for Tara without conducting a statutorily-mandated assessment of his character, competence and suitability to be a caregiver for a developmentally delayed adult. DSHS also failed to check Marschall's references - his own parents - who testified that he was categorically unfit to serve as Tara's caregiver. DSHS also failed to check its own records regarding Marschall, which reflected DSHS' determination that he was "significantly disabled" and "unable to independently analyze and/or solve problems, weigh alternatives and/or make decisions" as a result of his own "cognitive impairments." DSHS received numerous warnings about the caregiving situation which suggested that Marschall was abusing, neglecting and/or exploiting Tara, including precipitous weight loss and an incident involving sexually explicit photographs of Tara taken by Marschall. Adult Protective Services (APS) received five formal referrals during the 16 months that Marschall served as Tara's caregiver. DSHS failed to adequately investigate any of these referrals and warnings, and

**AUGUST 2016**

ROSENBURGH v. DSHS - SETTLEMENT - KING COUNTY - CONT'D

**Facts Cont'd:** allowed Marschall to continue receiving state funds to care for Tara. While DSHS failed to monitor or oversee Tara's care as required by statute, Tara was being severely abused, neglected and exploited. Instead of providing Tara with the care she required, Marschall coerced Tara into prostitution. Not content with the taxpayer dollars he received from DSHS, Marschall sold Tara to strangers off the internet, including men who defecated and urinated on Tara for their sexual gratification. Marschall forced Tara to perform oral sex on him while he viewed pornographic images of young children. Marschall withheld food from Tara and coerced her into not taking her seizure medication, so that she would lose weight and look like a "little girl." When Tara questioned Marschall's motives, Marschall promised Tara that he loved her and that they would adopt a little girl - whom he could rape. Marschall took sexually explicit photographs of Tara and forced her to eat waffles covered with his ejaculate. He stole Tara's identity and forged pay stubs to obtain credit cards and payday loans in her name. In January 2012, Tara reported the abuse to her mother and brother, who promptly made reports to DSHS and law enforcement and obtained protection orders on her behalf. Subsequent investigation corroborated Tara's accounts of the abuse, as well as a significant collection of child pornography on Marschall's computer. Marschall was criminally prosecuted and pled guilty to felony charges of second degree assault (with intent to commit the crime of promoting prostitution), identity theft, and forgery. DSHS made findings that Marschall had sexually abused, mentally abused, exploited, and financially exploited Tara, and terminated his contract.

**Injuries:** Emotional distress; sexual and mental abuse.

**Settlement:** The parties attended an unsuccessful, unproductive mediation with Teresa Wakeen. Plff terminated the services of Ms. Wakeen, and the case was resolved through direct negotiations.

**Result:** PLAINTIFF SETTLEMENT for \$2,400,000. (DSHS sued Tara's brother, Brent Rosenburgh, as a third party defendant, claiming that he violated the terms of his contract with DSHS as her caregiver. Notably, DSHS chose not to pursue any claims against Marschall, the man who inflicted the abuse on Tara. The lawsuit against Brent settled for nuisance value following the settlement of Tara's claims against DSHS.)