The Child Cases
HOW AMERICA'S RELIGIOUS EXEMPTION LAWS HARM CHILDREN

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Contents

Acknowledgments  ix

Introduction  1

1. Amy Hermanson  21

2. Shauntay Walker, Seth Glaser, and Natalie Rippberger  47

3. Ian Lundman  79

4. Ashley King  99

5. Robyn Twitchell  127

6. Repeal of Religious Exemptions  155

Conclusion: Religious Freedom and the Public Good  184

Notes  197

Index  227
Introduction

During the last two decades of the twentieth century news media across the United States reported the deaths of seven children and the resultant prosecution of their parents, who belonged to the Church of Christ, Scientist. The parents believed their “enlarged understanding of God,” which Christian Science prayer made possible, would heal their children without medical intervention. Charged with violating state child abuse and manslaughter laws for recklessly and willfully withholding medical care from their seriously ill children, the parents claimed their actions were protected generally by the First Amendment’s free exercise clause and specifically by religious exemption provisions written into state child abuse and neglect statutes. Prosecutors, on the other hand, argued that the free exercise clause protected belief but the state could regulate harmful religious behavior. Specifically, the state contended that it had a compelling interest in safeguarding the welfare of children and that religious accommodation statutes amended to child abuse laws did not extend to manslaughter.¹

The 1980s and 1990s were not the first time Christian Science practitioners and parents stood trial for a child’s death. In the early twentieth century, at a time when the church experienced meteoric growth, the historian Rennie B. Schoepflin tells us, loose coalitions of professionals—physicians, child welfare reformers, and lawyers schooled in juvenile justice—coalesced to support state laws to protect children from abuse and neglect. The fledgling American Medical Association was especially eager to expose fraudulent health care, including Christian Science’s spiritual healing. In 1899 the Journal of the American Medical Association branded those who practiced spiritual healing “Molochs to infants and pestilential perils to communities in spreading contagious disease” and urged state prosecutors to bring criminal
TWO DAYS AFTER THE DEATH of their seven-year-old daughter Amy from untreated juvenile diabetes on September 30, 1986, Chris and Bill Hermanson stood before Chris's employees and friends at the Sarasota Fine Arts Academy. Everything is going to be okay, Chris told the group. Later she told a friend, “Amy made a conscious decision to pass on. It was her choice, Amy’s choice.” Bill seemed equally untroubled by self-doubt about Amy’s death when, during his talk to the group, he stressed the positive aspects of the couple’s faith and offered Christian Science literature to anyone who wanted to understand the church's beliefs. The Hermansons also called a family meeting. Mark Morton, Amy’s uncle, was one of the attendees. Bill explained that he and Chris hadn’t deprived their daughter of treatment but had relied on spiritual healing, a nonmedical form of treatment recognized by the state of Florida. Recalling the event three years later, Morton’s anger at Bill’s apparent lack of remorse over his daughter’s death and his emphasis on the couple’s legal defense if the state brought a criminal charge bubbled to the surface. Amy’s father, Morton said, “sat there with an itemized list of all their procedures, saying how they did everything according to the law.” Morton added, “It was all I could do to keep myself from getting up and walking out.” Over the next six years Bill Hermanson’s assertion about the law was contested in the Florida courts, and in newspapers across the country Amy’s name headed the list of children of Christian Science parents whose deaths fueled a nationwide debate about the limits of religious freedom and the need to protect children from abuse and death.¹

Teachers at the Julie Rohr Academy, where Amy Hermanson was a third grader, described her as a “sunny 7-year-old with blond hair and bubbly ways” who loved to sing. But beginning in early September 1986 Nancy
Shauntay Walker, Seth Glaser, and Natalie Rippberger

In 1984 three children raised in Christian Science families in California died from medically untreated bacterial meningitis. Just nineteen days after four-year-old Shauntay Walker became sick and died on March 9, the same disease claimed the life of seventeen-month-old Seth Glaser and, early in December, that of eight-month-old Natalie Rippberger. The state charged each of the Christian Science parents with felony child endangerment and involuntary manslaughter because they failed to provide their children with medical care, choosing instead to rely solely on spiritual healing. For more than a decade the three cases wended their way through the California courts. Prosecutors worked to bring the parents to justice and to protect other children from suffering a similar fate in the name of religious freedom. Despite a decade of unfavorable legal outcomes and negative publicity, the church largely protected the accommodation statutes for which it successfully had lobbied by encouraging expensive, lengthy appellate court battles that blunted the moral impact of the children's deaths at the hand of their religious parents but did not undercut legislative support for spiritual healing.

California was among the many states that changed its child neglect laws in the mid-1970s to conform to HEW's newly established criteria. Enacted in 1872, California's initial effort to protect children stipulated that a parent of a minor child who willfully failed "to furnish necessary food, clothing, shelter, or medical attendance" was guilty of a misdemeanor. An amendment passed in 1925 added, "or other remedial care," a phrase widely understood to signal approval of healing prayer. Those four words were clarified in 1976, when, in
AFTER THIRTEEN YEARS of marriage, Douglass and Kathleen Stuart Lundman divorced in 1984, citing irreconcilable differences about spiritual healing, among other issues. They both had been raised in the Christian Science Church, but during the course of their marriage Doug began to question the validity of spiritual healing and left the church in 1981. The court awarded Kathy custody of the couple's two young children, six-year-old Ian and eight-year-old Whitney, and she agreed to maintain for the benefit of the children medical and dental insurance as provided by her present or future employer. Doug did not ask Kathy for any additional stipulation about medical care.¹

Less than two years after getting divorced, Kathy, thirty-six years old, married William McKown, a fifty-five-year-old retired former vice president of General Mills who shared her Christian Science faith, including her belief in the efficacy of spiritual healing. Kathy, Ian, and Whitney moved into McKown's home on Lake Sarah in Independence, Minnesota, a small town twenty-three miles west of Minneapolis. Three years later, in the spring of 1989, eleven-year-old Ian died from untreated diabetes, an event setting in motion seven years of criminal proceedings and civil litigation to determine if Kathy and Bill McKown and the Christian Science Church should be held responsible for the boy's death. In the interlude between the end of the criminal proceeding and the beginning of Doug's civil suit against his former wife and the church, the McKowns and Whitney moved to Hawaii, where Bill owned a bed and breakfast inn.²

In 1985, the year after his divorce from Kathy, Doug completed a degree in architecture at the University of Minnesota, where he taught for one year before taking a position as an assistant professor in the College of Architecture
John and Catherine King's neighbors in the affluent neighborhood of Paradise Valley, Arizona, described the King's daughter, eleven-year-old Ashley, as a friendly, bright girl who talked confidently with adults and loved to help her mother care for a stable of quarter horses the family owned. During the academic year 1986–87 Ashley did well in math, language arts, and reading at Cherokee Elementary School. The summer before she started attending middle school she won a State Certificate of Achievement for reading twenty-five books. But Ashley earned average grades in social studies and science and health. Her parents, members of the Christian Science Church, did not want her to participate in health education.¹

John King grew up in California in a middle-class home where Christian Science played a prominent but sometimes divisive role. John's parents, Ebenezer and Helen, divorced in 1942 when he was seven years old, and his mother and grandmother moved the family from Michigan to southern California. Five years later Helen married Thomas King, whom John and his older brother, William, considered their father. The boys attended Palos Verdes High School, where John excelled as an athlete and won election as student body president. He graduated from the University of Southern California in 1957 and served two years as a lieutenant in the U.S. Navy. After being honorably discharged he pursued a career in real estate, which in 1973 took him to Menlo Park, California, where he became vice president of L. B. Nelson Corporation, a property management firm. There, John met the twenty-four-year-old Beverly Jean Guth in a Christian Science reading room in the Bay Area where she worked. The couple married six months later, in April 1975. Beverly, who changed her name in 1980 to Catherine Justine, had grown up in Belmont, California, the younger of two girls. There was a religious divide
The manslaughter trial of the Christian Scientists David and Ginger Twitchell for the death of their two-and-a-half-year-old son Robyn took place in 1990 in the shadow of the Christian Science Mother Church in Boston. It capped a decade in which the tragic deaths of Christian Scientists’ children and shocking abuse of children roiled the nation, especially Massachusetts. The Twitchells’ trial was thus fought at a fever pitch and gave rise to a popular struggle over the meaning of the state’s religious exemption provision, the degree of constitutional protection granted a religious practice, and the right of families to be left alone. Three years after a jury found the Twitchells guilty of involuntary manslaughter, a reform coalition convinced the Massachusetts legislature to repeal the state’s religious exemption statute.

Children’s advocates in Massachusetts eventually succeeded, despite the wealth and power of the Christian Science Church. In addition to the full panoply of legal and political arguments, children’s advocates emphasized a simple core idea that resonated with legislators and the public: the death of a child by religious exemption was intolerable. Those who championed greater protection of children embraced the democratic process, whereas many people, in the face of a public relations campaign portraying Christian Scientists as “your neighbors” and loving parents, perceived the church as hierarchical, secretive, coldly ideological, and more concerned with defending itself than with saving a child’s life.

Massachusetts was one of eleven states that attached a religious exemption to its child abuse statute prior to the passage in 1974 of the federal Child Abuse Prevention and Treatment Act (CAPTA). The exemption followed
Repeal of Religious Exemptions

Except in Massachusetts, the public debate that followed the unnecessary deaths of children whose Christian Science parents had denied them medical care did not lead to repeal of the confusing religious accommodation statutes on which prosecutors and defendants alike had depended. In the wake of lengthy, contentious legal proceedings in Arizona, Florida, Minnesota, and California, there were calls for repeal of exemption laws, but despite encouragement from some state courts, powerful editorials, efforts by CHILD and the American Academy of Pediatrics, legislators could not be moved to repeal the law or extend greater protection to children. However, South Dakota, Hawaii, and Maryland, states not directly affected by the “child cases” that roiled the nation in the 1990s, joined Massachusetts in successfully repealing statutes exempting from prosecution parents who treated a seriously ill child by spiritual means alone.¹

Legislators contacted by the Phoenix Gazette while Ashley King lay dying saw no reason to repeal the state’s provision exempting Christian Scientists from child abuse or neglect charges. In their opinion the religious exemption statute “hadn’t been abused.” Several Florida legislators who had voted for a religious exemption publicly stated after Amy Hermanson’s death that they had no idea the exemption would endanger children. As late as 1998, six years after the Florida Supreme Court overturned the Hermansons’ conviction on the grounds that the state’s religious proviso “created a trap that the legislature should address,” not a single legislator had stepped up to sponsor a repeal bill. “You would think when the Supreme Court says your work product is defective,” said Karen Gievers, a lawyer and children’s advocate in Florida, “you would go back and fix it, but most of our legislators feel like they have better things to do than protect children.” In fact, according to Stephanie
Conclusion: Religious Freedom and the Public Good

The state-by-state battle to repeal religious exemption laws waged by children’s advocates continued into the twenty-first century, more than one hundred years after the first reported American case of a child dying because its religious parents withheld medical care and years after the “child cases” captured public attention. It was a struggle made more difficult by the erroneous assumption that the practices of religious groups necessarily coincided with the public good; by the claim of conservative legal scholars to have discovered historic roots for constitutionally mandated religious exemptions from laws that were neutral in their general application but were said to infringe on religious conduct; and by congressional passage in 1993 of the Religious Freedom Restoration Act (RFRA). The aim of RFRA was to override the U.S. Supreme Court’s ruling in Employment Division v. Smith (1990), which held that an individual’s religious beliefs did not excuse him or her from complying with a generally applicable, neutral law. The struggle did not end when the court swatted down RFRA in 1997. Congress reenacted a federal-law-only version of RFRA, more than a dozen states enacted laws similar to the RFRA, and all but a handful of states kept their existing religious exemption statutes on the books, demonstrating that a small, well-financed, cohesive religious group could successfully pursue its agenda despite the court’s ruling.¹

The unnecessary death in 2001 of a thirteen-year-old Colorado girl whose parents belonged to a church that believed illnesses and injuries should be treated exclusively with prayer rather than medical care highlighted once again the problem of defining the relationship between the state and religious groups that argue they have a constitutional right to be excused from