

Case Law

Werth vs. Taylor

475 N.W.2d 426, 427 (Mich. Ct. App. 1991)

Cindy Werth was expecting twins. Because she was a Jehovah's Witness and had a firm belief in the religion's teaching "that it is a sin to receive blood transfusions", Cindy signed a "Refusal to Permit Blood Transfusions" form as part of her hospital preregistration.

After delivery, Cindy had complications and was experiencing uterine bleeding. She was advised to undergo a dilatation and curettage and agreed. Again, she discussed her refusal to allow a blood transfusion with her obstetrician/gynecologist (OB/Gyn). After being placed under anesthesia and despite the specialist's efforts during surgery, Cindy continued to bleed and was experiencing, among other things, premature ventricular activity and a significant decrease in blood pressure. The anesthesiologist (Dr. Michael Taylor) determined that Cindy needed a blood transfusion to sustain her life. Cindy's OB/Gyn expressed Cindy's refusal of blood transfusions, but the anesthesiologist proceeded anyway stating that it was medically necessary.

The Werth's filed a malpractice suit, alleging that Dr. Taylor committed battery by performing the transfusion without Cindy's consent. Dr. Taylor moved for a summary disposition "because Cindy's refusal was not conscious, competent, contemporaneous and fully informed."

The trial court found that Cindy's refusals of a transfusion were made when she contemplated "merely routine elective surgery" and not life-threatening circumstances, and that, "it could not be said that she made the decision to refuse a blood transfusion while in a competent state and while fully aware that death would result from such refusal." The record apparently reflected "the unexpected development of a medical emergency requiring blood transfusion to prevent death or serious compromise of the patient's well-being." The trial court therefore granted summary disposition in favor of Dr. Taylor.