

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

JOHN DOE #1 et al.

Plaintiffs,

v.

DONALD H. RUMSFELD et al.,

Defendants.

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Civil Action No.: 1:03CV00707 (EGS)

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Declaration of Virginia SHEMELEY

1. My name is Virginia SHEMELEY. I am the mother of now-deceased Navy seaman Kristin Eleanor SHEMELEY. Kristin enlisted in the U.S. Navy when she was 25 years old. She left for recruit training at the Great Lakes Naval Training Base in January 1998, with high hopes and great expectations. Upon completion of boot camp, she transferred to ‘A’ School (Yeoman) in Meridian, MS. After completing this school she was deployed to the USS Blue Ridge, the Seventh Fleet Command Ship, at Yokosuka, Japan. Kristin worked on the Admiral’s staff aboard the USS Blue Ridge and loved the Navy.

2. In early May 1999, Kristin sent us an e-mail asking if we knew anything about anthrax vaccine. She told us that an Admiral Jay Johnson, the then-Chief of Naval Operations, had come aboard the ship and told them they were to take the anthrax shot. According to Kristin, he related to the crew how he had taken the shots and he was fine. My daughter subsequently accepted her four anthrax immunizations without question, just like the good sailor she was.

Shot Number	Date	Lot number
First	May 17, 1999	Lot FAV 043
Second	June 1, 1999	Lot FAV 043
Third	June 14 1999	Lot FAV 043
Fourth	Nov 30 1999	Lot FAV 044

3. Kristin said her right hand started twitching in August 1999, after the third shot. After the fourth shot her right arm experienced weakness in December 1999. She was seen by a physical therapist in Japan and they said she needed to see a neurologist, which she did. The neurologist did an Electromyography (EMG) but she was not given the results.¹

4. By the end of April 2000 her right arm was useless. She was sent back to the United States and was first admitted to Walter Reed Army Medical Center (WRAMC) on June 5, 2000. Major Charles Kelly M.D. did an EMG at WRAMC (which was extremely painful I might add) and at the conclusion of the test he took us directly into his office and point blank said Kristin had ALS and 2-5 years to live.² He said they didn't have much experience with ALS and invited her to see Dr. Terry Heiman-Patterson, a

¹ Electromyography (EMG) measures muscle response or electrical activity in response to a nerve's stimulation of the muscle. The test is used to help detect neuromuscular abnormalities. It is a very painful test. During the test, one or more small needles (also called electrodes) are inserted through the skin into the muscle.

² Amyotrophic lateral sclerosis (ALS), often referred to as "Lou Gehrig's disease," is a progressive neurodegenerative disease that affects nerve cells in the brain and the spinal cord.

neurologist who specializes in ALS in Philadelphia at Hahnemann University Hospital.³ Dr. Heiman-Patterson came to the conclusion that Kristin had ALS. A process of elimination is made to arrive at a diagnosis of ALS, we were told. Doctors figure out what it isn't, and then what is left is ALS.

5. Kristin was readmitted to WRAMC in August of 2000, where she remained hospitalized for the next 14 months until her death. By this date, she had also lost strength in her right leg, and her back was growing weak. The Army doctors treated her with intravenous immunoglobulin (IVIg) with the hope of kick-starting her immune system. She did get some strength back, but it was short-lived.

6. Kristin was a 'Command Interest' case at WRAMC. Each day a report was given to the commander of WRAMC, Major General Harold Timboe, and to Col. (now General) Michael Dunn, Walter Reed Health System commander. We saw Major General Timboe occasionally and Col. Dunn almost daily. At the time I was gratified by the attention Kristin received at WRAMC and I am still grateful. However, I now understand that this was likely related to the very high level of Congressional and media interest in anthrax vaccine during 2000: there were highly-publicized anthrax vaccine hearings by the Senate Armed Services Committee in April and July, before the House Armed Services Committee in July, and two hearings before the House Committee on Government Reform in October. Media reports of each of these hearings exposed significant problems with the anthrax vaccine and its manufacturer, and raised questions about the Defense Department's treatment of servicemembers who had adverse reactions.

³ In hindsight, I suspect the Army had a diagnosis from the doctor in Japan, but put Kristin through another EMG for confirmation. The reason I suspect that they already had a diagnosis is that Major Kelly already had the information on the doctor in Philadelphia ready and waiting in his office at the time of the EMG.

7. Reflecting the “Command Interest” in Kristin’s case, there were two ceremonies to honor her, each held in the conference room of WRAMC. Admirals and generals were present. Admiral Walter Doran⁴ presented her with an “End of Tour” award, probably in November 2000. I have pictures of that. The second ceremony was held around early January 2001. General Randall West⁵ (USMC) was there, along with Congressman Bill Young, his wife, Beverly, Congressional staffers, Rear Admiral (Dr.) Kathleen Martin⁶ (of Bethesda Naval Hospital), Admiral Walter Doran and a host of people I can’t remember their names. I have pictures of the various people that were taken at the event.

8. I remember someone telling Kristin that Marine Major General Randall West would be at the ceremony and that he was involved with the Anthrax program. After the ceremony, she asked to be taken back to her room and she also asked for General West to come to her room. Kristin told General West that she hoped he could stop the Anthrax program because she didn’t want what happened to her to happen to others. She told me he said, “He would see what he could do.” At the time I didn’t really understand who General West was; I now know that he was “Special Advisor to the Deputy Secretary of

⁴ Although I did not realize it at the time, Admiral Doran was the assistant to the Chairman of the Joint Chiefs of Staff at that time.

<http://www.chinfo.navy.mil/navpalib/people/flags/biographies/doranwf.html>

⁵ General West’s official biography states:

In 1992, General West was assigned as a legislative fellow, assisting the office of Representative C. W. Bill Young of Florida and the House Appropriations Committee....In his [next to] last assignment, he was the Senior Advisor for the Deputy Secretary of Defense for Chemical and Biological Protection from July 1999 to February 2001. See:

<http://www.usmc.mil/genbios2.nsf/0/d186f09773850c7d852568090049b332?OpenDocument&Click=>

⁶ <http://www.chinfo.navy.mil/navpalib/people/flags/biographies/martinkl.html>

Defense for Anthrax and Biological Defense.”⁷ For those who may question the relationship between Kristin’s ALS and anthrax vaccine, I think General West’s repeated visits to her hospital room in the midst of an on-going public controversy are quite telling.

9. Congressman Bill Young, his wife, Beverly, and their sons first visited Kristin on Christmas Day 2000.⁸ They brought gifts. They were visiting and giving gifts to Navy and Marine personnel who were patients at WRAMC. Beverly has a heart for service people and generously tries to provide help where they may have fallen through the cracks. Kristin told Congressman Young and Mrs. Young that anthrax vaccine had caused her illness and Beverly immediately said, “No, Anthrax did not do this!” This surprised both of us. How could she make such a statement only knowing Kristin a few minutes? More importantly, why would she say such a thing? Mrs. Young asked Kristin, either on that day or the next, if she would give the Young’s permission to see if they could help find out what was wrong with her. Of course, Kristin said, “Yes!”

10. On a follow up visit Mrs. Young brought a Dr. Steve Strauss along. He was an infectious disease doctor who told us that he had “pulled anthrax vaccine lots” [data] and that there were no problems, except in one case, where there was redness at the site of injection. I didn’t believe this, nor did Kristin.

⁷ Major General West’s title seemed to change frequently. This title is what he used during testimony on anthrax vaccine before the Senate Armed Services Committee on July 12, 2000.

⁸ Congressman Young and his wife are known for their support of military families. That said, their involvement in Kristin’s case was continuous and extensive; it was also surprising since he represents a Congressional district in Florida, and our family is from Pennsylvania. At the time we were simply grateful for their attention.

11. Also, on accompanying Mrs. Young on this visit was a gentleman from NIH. I don't remember his name but I have his picture. He had something to do with the budget at NIH. I assumed he knew the Congressman since he is chairman of the House Appropriations Committee. I honestly don't know why he came along. Either Mrs. Young or the NIH official may have played a role in arranging setting up a subsequent meeting for me with Dr. Lo from the Armed Forces Institute of Pathology, located on the grounds of WRAMC.⁹

12. I had a meeting with Dr. Lo and at my request Kristin's blood was supposedly tested for *Mycoplasma fermentans incognitos*, which they later said was negative. However, *Mycoplasma fermentans incognitos* is associated with ALS-like symptoms and fatal neurological disease. I appreciated Dr. Lo seeing me, and cannot say whether his tests were reported accurately. But my view then and now is that there is undisclosed research being conducted at the Walter Reed complex, to include the Armed Forces Institute of Pathology. There was a reason that Kristin, a Navy sailor, was at an Army

⁹ Dr. Shyh Lo was affiliated with the Armed Forces Institute of Pathology in Washington D.C. Dr. Lo has been credited with discovering the new pathogenic form of Mycoplasmas, and he currently holds several patents on methods for special handling of the organism for study and development. In one of his patents (in 1991), Dr. Lo listed the following diseases that are associated with Mycoplasma: HIV infection, AIDS, Aids Related Complex (ARC), Chronic Fatigue Syndrome, Wegener's Disease, Sarcoidosis, Respiratory Distress Syndrome, Kibuchi's Disease, Alzheimer's Disease, and Lupus. See:

Lo, Shyh-Ching, Patent # 5215914: Adherent and Invasive Mycoplasma, Patent # 5534413: Adherent and Invasive Mycoplasma, Patent # 5242820: Pathogenic Mycoplasma, Patent #5532134: Mycoplasma Diagnostic Assay, IBM Patent Server Database

and

Lo, Shyh-Ching, "Pathogenic Mycoplasma", US Patent No. 5,242,820, issued September 7, 1993. Dr Lo is listed as the Inventor" and the American Registry of Pathology, Washington, DC, is listed as the "Assignee."

hospital when she could easily have been at Bethesda Naval Hospital if the only reason for hospitalizing her had simply been to treat an irreversible, fatal illness.

13. Congressman and Mrs. Young also arranged for two neurologists to visit Kristin and see if they had any insight into her illness and how to make her better. The doctors were Dr. David Cornblath¹⁰ from Johns Hopkins and Dr. De Lakis¹¹ from the National Institutes of Health.

14. In December 2000, Kristin's breathing deteriorated because the muscles used for inspiration and expiration were becoming weak. A tracheostomy was suggested but rejected by Kristin. As she grew weaker, Kristin accepted the inevitable: she needed a tracheostomy if she was to be able to carry on. On January 16, 2001 the surgery was performed. Congressman Bill and Beverly Young and I walked to the operating room with her and they remained with me until she was out of surgery. Their compassion and caring were amazing and Kristin loved them. Major General Randall West came by the morning of the surgery and prayed with Kristin. Dr. Fred Foote (USN) from the neurology department at Bethesda Naval Medical Center was also an attending physician to Kristin at the time of the tracheostomy.

15. Subsequently, Kristin spent many weeks in the Medical Intensive Care Unit (MICU) and then a new ward was opened in March 2001, called the Intermediate Medical Care Unit (IMCU). It was for patients who were not sick enough for critical care but not well enough for the ward. Kristin did get excellent care, and was the first patient in the IMCU. Army Colonel Thomas Fitzpatrick was her medical doctor during this time.

¹⁰ <http://www.neuro.jhmi.edu/profiles/cornblath.html>

¹¹ I am uncertain about the spelling of Dr. De Lakis' name.

16. During 2001 many admirals and generals were brought through to meet Kristin, but I didn't write down most of their names. However, I do recall a few. On March 19, 2001 the Surgeon General of the Army visited. On October 4, 2001 Kristin had visits from Rear Admiral (Dr.) Kathleen Martin, Major General Randall West, Navy Dr. Fred Foote, Congressman Young's wife, Beverly. October 10, 2001 Chief of Naval Operations Admiral Vern Clark¹² visited. There were subsequent visits from Mrs. Young, her cousin Jane, Harry Glenn (a Congressional staffer) and the same gentleman from NIH whose name and connection I do not know. They all knew the end was coming, and Kristin ultimately died on October 22, 2001.

17. Kristin and I appreciated all of their concern. However, I did not understand at the time either the position of many of those who expressed empathy, or their relationship with each other. In retrospect, not all of these visits were likely made simply out of kindness. First, I later learned that in late 2002 Major General West, after retiring, became a paid consultant to BioPort, the anthrax vaccine manufacturer.^{13, 14, 15} Second, I

¹² <http://www.chinfo.navy.mil/navpalib/cno/clarkbio.html>

¹³ Katherine Hutt Scott, "BioPort urges civilian anthrax program, Company study recommends new vaccinations", Lansing State Journal, Oct 18, 2002.
http://www.lsj.com/news/local/021018_bioport_1b.html

¹⁴ BioPort Corporation Release: "Expert Panel Calls For Protecting At-Risk Civilians From Anthrax Threat Raises Concerns About Bioengineered Strains Resistant To Antibiotics", Oct 11, 2002.
http://www.biospace.com/news_story.cfm?StoryID=10310820&full=1

¹⁵ Army Surgeon General Ronald Blanck also served as a paid "expert" for BioPort after he retired in mid-2000. General Blanck had defended the anthrax vaccine on CBS "60 Minutes" in February 2000, and before Congress, and had led the Army's efforts to find an alternative anthrax vaccine manufacturer during the 1990-1991 preparations for the Gulf War. This once-secret program was called Project Badger. It was described in the following book: Judith Miller, et.al., "*Germs*", (Simon & Schuster, 2001), pages 107-108, 116, 132.

did not understand at the time the long relationship between Congressman Young and General West. Third, I did not know that Congressman Young has a bone-marrow research facility named for him at Walter Reed Army Medical Center, that it was involved with biological defense research, and that this involvement occurred at the same time anthrax vaccine was first used during the 1991 Gulf War.¹⁶ Looking back, it seems that most of these officials knew that the anthrax vaccine had caused Kristin's illness and death and that they might have been held accountable for undisclosed research connected to her death. So, notwithstanding their kindness, they appear to have done everything possible to keep Kristin and me out of the media in the midst of the anthrax vaccine controversy. If so, their efforts worked.

18. I later learned that the FDA-approved package insert¹⁷ for BioPort anthrax vaccine was revised in January 2002, three months after Kristin's death. This revised package insert lists six deaths as being associated with the vaccine, but Kristin's is not one of them. The military would not admit the anthrax vaccine caused Kristin's illness, even though I specifically raised this issue with Col (Dr.) Michael Dunn, USA. I do not know if they ever filed a Vaccine Adverse Event Reporting System (VAERS) report on her. Therefore, on February 2, 2001 I submitted information about Kristin's illness to

¹⁶ "...The National Marrow Donor Program was established in 1986 with the Navy as lead contracting agent. In 1990, the C. W. Bill Young Marrow Donor Recruitment and Research Program became a permanent part of the NMRI scientific regimen. In 1990-91, NMRI scientists became involved in biological defense research. In 1995, USA Combat Developer selected biological defense rapid assays developed by NMRI as its technology of choice. The institute's biological defense scientists helped UNSCOM inspectors determine evidence for Iraqi weaponization of biological threat agents."
http://www.dcmilitary.com/baseguides/army/walter_reed/wramc_otherunits.html

¹⁷ <http://www.fda.gov/cber/label/biopava0131022LB.pdf>

nurse April Baggett at the CDC VAERS office (800-822-7967 ext. 2085). I also submitted another VAERS report after Kristin died, although I do not recall the exact date. I was never contacted by the CDC, FDA, or the manufacturer in an attempt to follow-up and independently investigate Kristin's death.

19. I hope the court does whatever it takes to insure that the Defense Department does not use the anthrax vaccine again. If it is to be used, servicemembers should be told all of the information about the risks of the vaccine. Until the Army acknowledges the connection between Kristin's death and discloses the nature of anthrax vaccine research occurring at Walter Reed Army Medical Center and elsewhere, no servicemember can be considered informed about the risks of taking it. My daughter Kristin courageously sought to keep other servicemembers from being made ill or dying from the anthrax vaccine. I respectfully ask that the court consider her desires.

Pursuant to 28 U.S.C. 1746, I declare under penalty that the foregoing is true and correct. Executed this 27th day of February, 2005.

/s/

Virginia SHEMELEY
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