

Park v. Chessin (1977)

The New York Appellate Court ruled on 11 December 1977 in favor of Steven and Hetty Park and against Herbert Chessin for the wrongful life of the Parks' child. In a wrongful life case, a disabled or sometimes deceased child brings suit against a physician for failing to inform its parents of possible genetic defects, thereby causing harm to the child when born. Park v. Chessin was the first US case to rule that medical personnel could be legally responsible for wrongful life. Further cases such as the 1979 case *Berman v. Allan* and the 1982 case *Turpin v. Sortini* similarly dealt with the legal challenges inherent in wrongful life suits.

Hetty Park gave birth in June 1969 to a child with infantile polycystic kidney disease (PKD), which is highly fatal, and the child lived only five hours. The infantile form of PKD is an autosomal recessive disease, meaning that a child will only have the disease if they receive a copy of the mutated gene from both parents. When both parents have one copy of a mutated gene, as Hetty and Steven did, the probability of having a child with an autosomal recessive disorder like PKD is twenty-five percent.

After losing their first child, the Parks sought medical counseling from Hetty's obstetrician, Dr. Chessin, to assess their risk of having another child with infantile PKD. The Parks contended that Chessin was negligent when he informed them that the chances of having another baby with polycystic kidney disease were extremely slim; they further alleged that Chessin incorrectly informed them that infantile PKD is not a hereditary disease. The Parks alleged that had Chessin given them medically accurate advice, they would have chosen not to have another baby. They further stated that they relied on Chessin's superior knowledge and medical expertise to guide them. As a result, the Parks decided to have another child. In July 1970, Hetty gave birth to a daughter, Lara Park, who also had infantile PKD and died when she was two-and-a-half years old. In April 1972, the Parks sought to recover damages for Lara's wrongful life and for their own medical expenses and emotional distress. The Parks sued on the basis that Chessin failed to warn and inform them of the risks involved in future pregnancy.

In September 1976, a New York trial court denied Chessin's motion to dismiss the case, granting that while the Parks did not have grounds to claim damages for claims of fraud and distress, they did have grounds regarding their claims of wrongful life and that they could recover medical expenses. Chessin appealed the decision, but the Appellate Court ultimately upheld the trial court's decision.

In December 1977, Justice Margett Damiani of the Appellate Court authored the majority opinion for Park, primarily citing the precedent set in *Howard v. Lecher* (1977). In *Howard*, two parents sued their doctor for failing to warn them that they could potentially be carriers of a genetic disorder called Tay-Sachs disease. The New York Court of Appeals ruled that a physician was not responsible for such negligence, because such a ruling would force all physicians to delve deeply into each patient's genealogical history. As ruling in favor of the parents would place a substantial and unnecessary burden on all physicians, the court ruled in favor of the doctor. However, Damiani repeatedly noted in *Park* that the Parks specifically consulted Chessin about the risks of having another child after already having given birth to a child with that disease. Therefore, Chessin's inaccurate advice directly led to the birth and death of another baby with the same disease.

The court ruled that the Parks unquestionably suffered as a result of a wrongful act and that they deserved to claim damages as a result. Damiani's opinion further noted that in *Park*, the physician failed to perform a pre-existing duty, and to rule in favor of the Parks would not impose any future burden on physicians—unlike ruling in favor of the parents in *Howard*. Therefore, the court granted the Parks damages for Chessin's negligence.

Finally, in a break from previous cases, the New York Court of Appeals affirmed the Parks' claims for wrongful life on behalf of their deceased child. Justice Damiani stated that even though numerous precedents rejecting wrongful life allegations had been set, some even by the New York Court of Appeals, new rulings must take into account changes in social norms. Damiani noted that potential parents have a right to choose not to have a child, particularly when it can be reasonably established that the child would be deformed. The court, asserting the right of a child to be born free of anomalies as a fundamental right, therefore ruled that the Lara Park's wrongful life claim was valid.

Unlike other wrongful life cases, Park established that the parents of a disabled or deformed, deceased child can sue for wrongful life that was directly caused by a doctor's negligence. In doing so, it placed the burden of informing the parents of possible genetic defects on the medical professional, and allowed the parents to pursue legal action should the burden not be properly met. Many recognize Park as the first precedent for judicial acceptance of wrongful life.

Sources

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