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Unprecedented lawsuit on behalf of a New Jersey family to hold the State of North Carolina liable for mistakes made by their Medical Examiner.

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Young Family Lawyer, Michael Maggiano cross examining Chief Medical Examiner, John Butts M.D.

HILLSBOROUGH Former North Carolina Chief Medical Examiner Dr. John Butts testified Tuesday that he was embarrassed when his office shipped the wrong corpse to a grieving New Jersey family, but insisted officials properly handled the case.

Butts, who oversaw death investigations statewide for 23 years, testified during a North Carolina Industrial Commission hearing on the 2008 death of Lorraine Young.

Young's family is suing the state, seeking damages for mental and emotional distress. The family says egregious errors by a Guilford County medical examiner have left them wondering whether they buried the right person, nearly five years after Young's closed-casket funeral.

The case is believed to be one of the first attempts to hold the state liable for the findings of a medical examiner.

Testimony so far has raised questions about the state's death investigation system.

Medical examiners are supposed to determine the cause of suspicious and violent deaths. Their work is used to help solve crimes, spot public health threats and determine life insurance payoffs.

But after Young and two friends died in an auto wreck near Greensboro, Guilford medical examiner Ronald Key did not independently verify her identity. Instead, he shipped another woman's body to a New Jersey funeral home. Key has said he relied on incorrect information from law enforcement.

The mistake set off a desperate search for Young's body that ended just before a Greensboro funeral home – unaware it had her body – was scheduled to cremate the remains.

In a 2011 deposition for the lawsuit, Key acknowledged making mistakes.

"I've learned from this particular case," Key said. "It has not happened and hopefully will not happen again."

But Butts testified Tuesday that he does not believe Key violated agency policy, since North Carolina medical examiners are under no obligation to independently identify dead bodies. Instead, they often depend on information from law enforcement agencies, who have more employees to do the work.

Butts called the body swap involving Young "regrettable," but he said Key did nothing wrong.

In jurisdictions with top death investigation systems, experts say medical examiners take primary responsibility for identifying bodies. Accurately identifying remains is one of a medical examiner's most important duties, they say.

N.C. Highway Patrol Trooper Steven Hurley, who misidentified Young at the crash scene, testified last year that he has no training in "scientifically identifying" bodies. He said the information he gathered from the crash was meant to aid the police investigation.

When asked whether he believed his identification of the victims would be passed on to the medical examiner, Hurley replied, "Absolutely not."

"It has never been our duty to identify a deceased person for the medical examiner," he said.

Returning home from Mexico

Three friends, Young, 40, of Baltimore; and Gina Johnson, 33, and Jessica Gorby, 33, both of Media, Pa., had traveled to Cancun, Mexico, for a vacation to celebrate Young's birthday.

Their return flight brought them to Charlotte-Douglas International Airport, where they picked up a rented minivan.

About 11 p.m. on Sept. 15, 2008, with Gorby driving, the minivan careened off Interstate 85 near Greensboro.

All three died at the scene. Trooper Hurley responded to the crash and attempted to identify the bodies. Firefighters or paramedics gave him three passports. He placed them next to the faces of Young, Johnson and Gorby to ID them.

"I thought I used extreme caution because I got within inches from their faces," Hurley testified in December.

On Tuesday, Butts testified that an investigation he conducted into the body swap found that Key believed that nametags assigned to the crash victims were correct.

Authorities then sent Johnson's body to the Cliffside Park, N.J., funeral home in a transport box tagged with Lorraine Young's name.

They shipped Lorraine Young's body to Forbis & Dick funeral home in Greensboro, where she was to be cremated. They believed the body to be Gina Johnson's.

Butts, who retired in 2010, said an interview with Key and a review of records showed that agency policies were not violated.

"I did not believe he significantly deviated" from agency rules, Butts said.

'This horror show'

But Butts' office published a 2009 newsletter – about one year after Lorraine Young's death – that said medical examiners have a responsibility to determine the identity of bodies when there is doubt about who died.

"We should remain alert to the possibility of identification (mistakes), particularly in multiple fatality incidents," the newsletter stated.

Key did not order an autopsy or other tests to determine the crash victims' identities, even though fire disfigured Lorraine Young's face and upper body.

State guidelines that govern how death investigations are conducted state that medical examiners should order an autopsy when dead bodies are badly burned. State guidelines recommend that the deaths of travelers, vacationers or "other strangers from afar should be carefully evaluated before a decision NOT to autopsy is made."

An attorney for the Young family questioned how Key confused the bodies if he conducted a thorough investigation. Lorraine Young was 6 feet tall. Johnson was 5 feet tall.

"This horror show of mistake after mistake took place," attorney Michael Maggiano said. Butts acknowledged that "in retrospect, an error was made" when the bodies were shipped to the wrong sites.

However, he said Key was justified when he decided not to order an autopsy.

North Carolina law grants broad protections to public officials who make mistakes in the line of duty. The N.C. attorney general's office has said the law shields the government from liability because medical examiners work for the public and have no duty to individual families.

Butts' testimony will resume Wednesday.

Staff writer Gavin Off contributed to this report
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