

Media release

12 February, 2020

High Court rejects bid to overturn decision in favour of a toddler left with a severe disability by children's hospital

A Perth family's long legal battle for justice for their severely injured daughter has at last reached a conclusion, with the High Court rejecting the defendant's latest attempt to delay justice.

Western Australia's Child and Adolescent Health Service appealed to the High Court to overturn the unanimous decision of WA's Court of Appeal which upheld an earlier finding that Princess Margaret Hospital's treatment of an injured toddler with scald burns was negligent and led to the child developing cerebral palsy.

The claim brought against the children's hospital by medical negligence law firm, Maurice Blackburn Lawyers alleges the failure to treat 18 month old Sunday Mabior with antibiotics when she first showed signs of sepsis led to her brain injury in 2005.

Maurice Blackburn Senior Associate, Ian Murray said today's High Court decision is a vindication of the family's dogged nearly 12 fight for justice for their now teenage daughter.

"The Child & Adolescent Health Service now needs to accept that it let Sunday down.

"Sunday's injuries should have been non-life threatening, however a failure to recognise that she had developed an infection treatable with antibiotics caused her to have two cardiac arrests and suffer from a brain injury," Mr Murray said.

"It is no exaggeration to say this failure very nearly cost Sunday her life.

"Her parents' concerns about her treatment have now been vindicated by the Western Australia's District Court, the Court of Appeal and the High Court," Mr Murray said.

"It is now more than 14 years since Sunday was left permanently disabled and close to two years since the District Court first found Princess Margaret Hospital's treatment of Sunday was negligent," Mr Murray said.

"This constant fight for justice has understandably exerted its own toll on the Mabior family and we are all relieved that there are no longer any avenues for the Child and Adolescent Health Service to avoid liability for Sunday's injuries."

Mr and Mrs Mabior welcomed the end of their long fight on behalf of their daughter.

"It is important for Sunday that she understands why she will have to live for the rest of her life with this disability.

“We will never forget watching Sunday’s life-supporting machine being switched off and her coming back to life.

“We hope important life-saving lessons have been learnt and that no child or family will ever have to go through what happened to Sunday.”

Sunday was a recently arrived Sudanese refugee when she was admitted to Princess Margaret Hospital in 2005 with scald burns sustained after falling into a bath.

Her condition deteriorated at Princess Margaret Hospital over the following 48 hours, with clinical signs consistent with infection until she eventually collapsed and was subsequently diagnosed with sepsis and treated with antibiotics.

Sunday went on to suffer two cardiac arrests and the lack of oxygen caused her to suffer a permanent brain injury and develop cerebral palsy.

The District Court of Western Australia found in February 2018 that the hospital had negligently failed to prescribe antibiotics, that sepsis was present before Sunday collapsed, and that she would have avoided a brain injury had there been an earlier antibiotic treatment.

Media inquiries: Rebecca Nash at Maurice Blackburn Lawyers on 0438 497 539