

Judge rules family can't refuse chemo for boy

May 15 2009, By PATRICK CONDON , Associated Press Writer



This photo taken on May 8, 2009 shows Daniel Hauser, 13, in New Ulm, Minn. His family, who wants to treat his cancer with natural medicine is waiting to see if a judge will let him refuse chemotherapy for religious reasons. Daniel Hauser has a 90 percent chance of surviving his Hodgkin's lymphoma with chemotherapy, , according to his cancer doctor. (AP Photo/The Star Tribune, Kyndell Harkness)

(AP) -- A Minnesota judge ruled Friday that a 13-year-old cancer patient must be evaluated by a doctor to determine if the boy would benefit from restarting chemotherapy over his parents' objections.

In a 58-page ruling, Brown County District Judge John Rodenberg found that Daniel Hauser has been "medically neglected" by his parents, Colleen and Anthony Hauser, and was in need of child protection services.

While he allowed Daniel to stay with his parents, the judge gave the Hausers until Tuesday to get an updated chest X-ray for their son and select an oncologist.

If the evaluation shows the cancer had advanced to a point where chemotherapy and radiation would no longer help, the judge said, he would not order the boy to undergo treatment.

The judge wrote that Daniel has only a "rudimentary understanding at best of the risks and benefits of chemotherapy. ... he does not believe he is ill currently. The fact is that he is very ill currently."

Daniel's court-appointed attorney, Philip Elbert, called the decision unfortunate.

"I feel it's a blow to families," he said. "It marginalizes the decisions that parents face every day in regard to their children's medical care. It really affirms the role that big government is better at making our decisions for us."

Elbert said he hadn't spoken to his client yet. The phone line at the Hauser home in Sleepy Eye in southwestern Minnesota had a busy signal Friday. The parents' attorney had no immediate comment but planned to issue a statement.

Daniel was diagnosed with Hodgkin's lymphoma and stopped chemotherapy in February after a single treatment. He and his parents opted instead for "alternative medicines" based on their religious beliefs.

Child protection workers accused Daniel's parents of medical neglect; but in court, his mother insisted the boy wouldn't submit to chemotherapy for religious reasons and she said she wouldn't comply if the court orders it.

Doctors have said Daniel's cancer had up to a 90 percent chance of being cured with chemotherapy and radiation. Without those treatments, doctors said his chances of survival are 5 percent.

Daniel's parents have been supporting what they say is their son's decision to treat the disease with nutritional supplements and other alternative treatments favored by the Nemenhah Band.

The Missouri-based religious group believes in natural healing methods advocated by some American Indians.

After the first chemotherapy treatment, the family said they wanted a second opinion, said Dr. Bruce Bostrom, a pediatric oncologist who recommended Daniel undergo chemotherapy and radiation.

They later informed him that Daniel would not undergo any more chemotherapy. Bostrom said Daniel's tumor shrunk after the first chemotherapy session, but X-rays show it has grown since he stopped the chemotherapy.

"My son is not in any medical danger at this point," Colleen Hauser testified at a court hearing last week. She also testified that Daniel is a medicine man and elder in the Nemenhah Band.

The family's attorney, Calvin Johnson, said Daniel made the decision himself to refuse [chemotherapy](#), but Brown County said he did not have an understanding of what it meant to be a medicine man or an elder.

Court filings also indicated Daniel has a learning disability and can't read.

The Hausers have eight children. Colleen Hauser told the New Ulm Journal newspaper that the family's Catholicism and adherence to the

Nemenhah Band are not in conflict, and that she has used natural remedies to treat illness.

Nemenhah was founded in the 1990s by Philip Cloudpiller Landis, who said Thursday he once served four months in prison in Idaho for fraud related to advocating natural remedies.

Landis said he founded the faith after facing his diagnosis of a cancer similar to Daniel Hauser. He said he treated it with diet choices, visits to a sweat lodge and other natural remedies.

On the Net:

Hauser case final argument briefs:

<http://www.courts.state.mn.us/?pageNewsItemDisplay&item45848>

Nemenhah Band: <http://www.nemenhah.org>

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Citation: Judge rules family can't refuse chemo for boy (2009, May 15) retrieved 18 April 2024 from <https://medicalxpress.com/news/2009-05-family-chemo-boy.html>

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