

Judge: State failed to get girl out of abusive home before she was murdered

9-year-old girl was beaten to death by adopted brother

By Ryan Craig

Todd County Standard

A circuit judge has admonished the Cabinet for Health and Family Services for not protecting 9-year-old Amy Dye, revealing social workers and possibly other officials ignored repeated signs of abuse.

Her adopted brother, Garrett, admitted last month to beating Amy to death with a hydraulic jack handle on Feb. 4, but according to court documents, as tragic as her death might have been, her life was filled with abuse — both physical and mental — and is a deplorable picture of what happens when those who are assigned to protect a child fail.

In a ruling Monday, Franklin County Circuit Court Judge Phillip J. Shepherd awarded the Todd County Standard access to public records in the state's possession relating to Amy Dye. Shepherd, writing in a court order, said the cabinet must follow an attorney general's opinion, which said the cabinet violated the Open Record laws of Kentucky and that the Standard was entitled access to the records.

Shepherd said in his opinion that the social services' dealings with Amy Dye are a tragic example of the "potentially deadly consequences of a child welfare system that has completely insulated itself from meaningful public scrutiny."

"In this case, an innocent ... girl was brutally beaten to death after enduring months of physical and emotional abuse in a home approved by the (state) for her adoption," Shepherd said.

Shepherd said that Amy was put in the Dye home despite there being a "substantiated" incident of child abuse prior to her placement.

The judge also blasted the state for allowing Amy to stay in the home after "repeated reports of suspected abuse and neglect later made by school officials."

- Questionable adoption

According to the factual findings of Shepherd's court order, Amy Dye was removed from her biological home in another state "due to severe neglect and sexual abuse." Amy was adopted by Kim Dye and was put into her home.

The problem with the placement, the judge said, was that the state allowed the adoption despite a previous incident of recorded abuse and other relatives who had indicated a desire to adopt Amy.

Some information that wasn't previously disclosed in any other court documents were the dynamics of the Dye family when Amy was adopted.

At the time of the adoption, Kim Dye was a single parent to two boys. The oldest brother — identified in the court records as Brother #1 — was 10 years older than Amy. The other brother, Garrett, was eight years older than Amy.

Kim Dye and the boys' father, Chris Dye, had divorced in 2004 and even though the two remain divorced, the cabinet in its records would say that both were Amy's parents, which Shepherd points out was incorrect.

The records also point out that in 2003, prior to the divorce, the state had substantiated that Chris had abused one of the boys by giving him "thirty licks" resulting in bruising. Social workers determined there was no need to open a case because there was a "limited risk of harm."

The records show Chris Dye was not living in the home at the time of Amy's adoption and the adoption files showed very little inquiry or records checking of Chris, nor did the state consider possible impact from previous abuse or the fact that "he played, at minimum, a disciplinary role in the household."

"Had the Cabinet investigated, they would have discovered that Chris' disciplinary techniques had resulted in a substantiated incident of abuse in the past," Shepherd said.

At some point, Chris Dye moved back into the home "and took a parenting role toward all three children." And, the cabinet even acknowledged in some files that Chris was living in the home again.

Shepherd's opinion said "at no point do the files indicate that Cabinet personnel investigated who the adult male was that was living in the home who had not been present at the time of the adoption."

- Abuse and neglect

According to records obtained from the cabinet, Judge Shepherd said state social workers received no less than eight reports of abuse and/or neglect toward Amy.

On March 23, 2007, the cabinet received "a report that Brother #1 threw Amy across the bed and kicked her, leaving bruises on her hips in about 5-inch circles."

Shepherd said the cabinet's response was that "this referral does not meet criteria for investigation as this involves a sibling altercation ... No worker has been assigned to investigate."

On March 30, 2007, a report was made that Amy told the school nurse that Brother#1 was hitting her. Amy also said she "fell off the bed with her legs closed and when she hit the ground they were open and a piece of wood 'went up inside her.'"

A "Cabinet worker" called to discuss the allegations with Kim, who said Amy "bruises easily and plays rough with

her brothers.” Kim also asked the worker to call her first since Amy’s history meant she would “freak out at social workers.”

The cabinet determined the matter was “child against child” and took no action.

On May 2, 2007, the Cabinet was contacted by a school nurse because Amy had thumb prints on her face and her skin was broken and peeled off.

Amy reported she was hurt by Brother #1 again and that her mother said she would spank her if she told anyone about the incident.

A social worker went to the school and took pictures of Amy and reported redness on her face. When asked by the worker about the injuries, Kim Dye said the marks were caused by Amy playing in a gravel pile and “rubbing the gravel against her skin.”

According to Shepherd’s opinion, there were no records that indicate the state took any action.

Also on May 2, the school nurse sent a letter to the cabinet in reference to “six referrals she had already made to the Cabinet based on suspected abuse toward (Amy).” Shepherd said the nurse expressed concern that the injuries were ongoing and asked for a social worker to come to the school and speak to Amy.

“The Court finds it alarming that although the nurse identified by name the Cabinet worker to whom she made the report each time, aside from the letter itself, the Cabinet’s file only contains records of three of these six reports made by the school nurse,” Shepherd said in the opinion.

The Todd County Standard, through sources that wished to remain anonymous for this story, estimates the number of reported abuses are at least double what Shepherd describes as a minimum of eight instances in which a combination of administrators, nurses, teachers and teacher’s aides contacted a regional office about Amy.

The school system is not allowed to contact the local social workers, per state policy.

Shepherd pointed to a March 14, 2007 record not documented in the cabinet’s file, in which a guidance counselor had reported to the state that Amy had bruising “on both thighs” and “Brother #1 had kicked her.” Also not in the cabinet’s file is an April 26, 2007 report where a school nurse noted to the cabinet that Amy had marks on her arms after “Brother #1 (grabbed) her, throwing her down, and shooting her in the arm with a BB gun.” Another such report from April 19, 2007 indicated that Amy told the school nurse her private parts hurt and that it burned when she urinated.

On May 18, 2007, the cabinet said it received a report that Amy said she was hit on her head with a shovel by Brother #1. A social worker called to speak with Kim and Chris Dye — who was back living in the home — and the worker was told the “head injury” was from Amy “hitting her head on a desk at school.” Shepherd said the only thing the cabinet did in this instance was to refer the matter to another agency.

On Sept. 25, 2007, the cabinet was again contacted about Amy saying her brothers hurt her. She had a bruised and swollen eye, she was covered with bites and told officials that the abuse had “been going on for a long time.” Shepherd said in his ruling that the file indicates her parents had told her not to report the abuse and at first she told the social worker that she had fallen.

When Kim Dye was called by social services about the bruises, she “admitted she had told Amy not to tell anyone that Brother #1 did that to her, because (Amy) had done it to herself.” Kim Dye then told the cabinet worker that Amy had tripped over her shoelaces.

When the brothers were interviewed by a cabinet worker, they said Amy “had fallen while running.” Amy also later told the worker that she fell while running and hit her face on the ground.

Shepherd said the cabinet worker came to the conclusion the family was “not in need of services due to Amy admitting that she fell.”

On Nov. 7, 2008, there was a report that Chris had punched Garrett Dye in the face with his fist earlier in the year after Garrett had been caught taking a gun to school. Garrett was interviewed, but he told the social worker he was “hit on accident due to his behaviors” and that “he was afraid to go back home to his father.” Because there were “no current marks” on Garrett, the cabinet decided not to open a case.

Shepherd said Garrett had been committed to the Department of Juvenile Justice for taking a gun to school and that he had substance abuse problems.

“Notwithstanding all of this information, the Cabinet discounted or ignored the repeated reports of abuse of (Amy) that came from credible sources, including her school nurse,” Shepherd said in his ruling. “No action was ever taken by the Cabinet to protect her, although the Cabinet knew that she was in a home with an adult against whom it had substantiated a finding of child abuse, and an adoptive brother with substance abuse problems who was caught taking a gun to school.”

- Murder and aftermath

Shepherd, in his ruling, recounts some details from the night Amy was murdered. According to various court records, including Garrett Dye’s criminal file also obtained by the Standard, Amy and Garrett Dye were shoveling gravel in sub-freezing temperatures on the night of her murder. She was being punished for stealing pudding and juice from a friend’s lunchbox at school.

Garrett later admitted to beating Amy in the head with a hydraulic jack handle and pled guilty to murder, tampering with physical evidence and resisting arrest on Oct. 21, 2011.

Shepherd pointed out in his ruling that following Amy’s death police discovered her dresser drawers full of clothes outside on a trailer and covered with a tarp. (The judge notes that photos of the dresser drawers that

were “strewn about on a trailer” are contained in the cabinet’s files as well.)

The investigation revealed that Amy “defecated on herself at home for the year prior to her murder and would put her soiled underwear back in her dresser drawers.” Kim Dye eventually put the drawers outside and made Amy walk outside to go get clean clothes whenever she defecated on herself, according to court documents.

Shepherd’s opinion said that one source reported to the cabinet that Kimberly told Amy “that if she was going to act like a dog, she would be treated like one” and put her toys and clothes in a shed and left her outside with only a jacket on. Garrett Dye eventually let her back inside, and according to Shepherd, Kim “scolded him for doing so.” Shepherd points out that Kim Dye denies that such an incident occurred.

According to the records, school employees reported no bowel problems for Amy when she was at school.

The cabinet’s investigation also revealed that Chris Dye had once punished Amy by leaving her in a hotel parking lot in Clarksville, Tenn. A source told the cabinet that Kim and Chris had left Amy in the parking lot with her suitcase and told her they did not want her anymore.

Chris admitted on record to doing it and said he eventually took her back home and told her no one wanted her. Chris told social workers that he believed it was a good way “to teach Amy a lesson.” Kim Dye denied being present, the records show.

While Brother #1 was identified by Shepherd as the primary perpetrator in the reports (and not Garrett Dye), the cabinet were aware the parents were “not ignorant of the abuse that was occurring.” The cabinet’s records indicate that Kim Dye told Amy not to tell anyone about the origin of her bruises and threatened her with spankings if she did tell. Also, Shepherd called Kim Dye’s explanations to the cabinet “dubious.”

“The Cabinet, upon receiving these reports, had a legal duty to notify law enforcement authorities and to conduct an investigation,” Shepherd said.

Shepherd did point out that at least one of the reports of physical abuse was faxed on Nov. 29, 2007 to the Todd County Attorney, Commonwealth’s Attorney and “appropriate law enforcement” but that same form that was sent also indicated “law enforcement assistance was not requested as no safety concerns were reported or observed through the current referral and/or any past referrals.”

Shepherd said the cabinet strained the definition of “abused or neglected child” beyond reason by “claiming it has no duty to investigate a series of serious reports of sibling-on-sibling abuse.

“Allowing the Cabinet to essentially ignore cases in which a parent condones one sibling repeatedly inflicting bodily harm on another sibling — particularly one that is 10 years younger — cannot possibly be what the legislature intended,” Shepherd said.

Shepherd went on to say that the records given to the court “establish in brutal detail that (Amy) Dye’s death

was a direct result of child abuse or neglect and that was why he allowed disclosure of the records.

"The fact is (Amy) Dye was placed in the home of the people who abused her, one of whom ultimately murdered her, only with the approval by the Cabinet," Shepherd said. "But for the actions of the Cabinet, (she) would never have been in this home in the first place."

Shepherd called the state's response to reports of abuse "cavalier" since it claimed that it had no jurisdiction to stop the beatings since they came from a sibling and not a parent. The judge said the law is clear that the parent does not need to "personally administer the fatal blow in order to be held responsible for abuse and neglect ... if the parent places the child in danger and neglects to protect the child from on-going physical or emotional abuse by a sibling or anyone else."

Shepherd said it was stunning to believe that the cabinet will refuse to protect a child from repeated acts of physical violence by a sibling when the parent knows and tolerates it.

The Cabinet for Family and Health Services has told the media that it is in the process of reviewing the case.

Officials are still unsure if there will ultimately be any charges against the parents, Brother #1 or case workers for social services because of the information revealed when the cabinet's files were made public.

Commonwealth's Attorney Gail Guiling told the Standard Tuesday she had reviewed the files, but no charges had been filed.

"I'm waiting on law enforcement to present any results of their further investigation to me," she said.

Garrett Dye is currently awaiting sentencing on Nov. 23 in Todd County Circuit Court. He could be sentenced to 50 years in prison with a possibility of parole after 20 years. Garrett Dye's attorney said they will appeal to the Kentucky Supreme Court a judge's decision to allow a confession Garrett gave the Kentucky State Police that he killed his sister.