

COACHES DELAY EMERGENCY TREATMENT  
FOR PLAYER SUFFERING HEAT STRESS

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In addition to proper instruction, supervision, equipment, and matching of participants to the activity, recreation supervisors in general and sports coaches in particular owe participants a legal duty to provide reasonable post-injury treatment. As illustrated by the *Mogabgab* decision described herein, this duty requires the supervisor or coach to promptly summon competent medical attention, particularly when a potentially life threatening condition should be apparent under the circumstances. A non-exclusive list of such situations would certainly include head, neck, or spinal injuries. In addition, situations like that described in *Mogabgab*, where an overheated participant becomes semi-comatose following repeated vomiting, certainly dictate that professional medical assistance be summoned without delay.

Under such circumstances, any attempted first aid procedures should simply stabilize the situation while awaiting the arrival of emergency medical personnel. Accordingly, any attempted first aid procedures should not be in lieu of promptly summoning competent medical attention. As in *Mogabgab*, time loss attributable to misguided or uninformed first aid procedures could establish the legal cause for negligence liability where such delay either exacerbates the injury or results in death. While not the most recent decision on point, *Mogabgab* has been cited repeatedly by courts and Sports Law commentators as precedent for the post-injury legal duty of care owed by coaches to participants.

Cafeteria Style First Aid

In the case of *Mogabgab v. Orleans Parish School Board*, 239 So.2d 456 (La.App. 4th Cir. 1970), plaintiffs Joy and William Mogabgab brought this action against defendant Orleans School Board following the death of their son, Robert, during a football workout at Benjamin Franklin Senior High School. Additional defendants included Robert E. O'Neil, head coach at Benjamin Franklin Senior High School and Sam A. Mondello, assistant coach. The facts of the case were as follows:

Robert Mogabgab was on the football squad of Benjamin Franklin Senior High School, and on August 16, 1966, he was engaged in training exercises, the second day of practice for that school year. The coaches, Robert E. O'Neil and Sam A. Mondello, were supervising the practice, which began at 3:45 o'clock p. m. at Audubon Park in New Orleans. At approximately 5:20 o'clock p.m., while participating in an exercise known as "wind sprints", Robert displayed fatigue and fell down, after which he was assisted to the school bus by two of his teammates. He was nauseous and vomited prior to entering the bus and while enroute to Benjamin Franklin Senior High School.

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Robert Wissner, a teammate, testified that young Mogabgab appeared to collapse when climbing the steps of the bus and that he had to be carried onto the bus. Wayne Webb, a former student and football player at Benjamin Franklin, testified that Robert fell during the wind sprints and, within a minute or two, two boys carried him to the bus, with his feet on the ground, but that he was put into the bus, and the boys had difficulty getting him up the steps of the bus. Wayne Webb further testified that while seated on the front seat of the bus Robert seemed to "lose himself". He estimated that the bus arrived at the school about 5:40 o'clock p.m., that Robert was helped into the school building, where he was placed on the cafeteria floor on a blanket, and the other players began undressing him. He described Robert's appearance as pale, tired and exhausted. He did not observe Robert talking at any time. He further testified that Robert was later placed in the shower, was taken out about 5:50 o'clock p.m., placed on a blanket, with a blanket over him, and he was given an ammonia capsule by Coach Mondello. By this time, he was very clammy, pale, his breathing was heavy, and he was concerned about Robert's condition. Robert's arms were massaged and an unsuccessful attempt was made to give him salt water.

Wayne Webb further stated that Coach O'Neil was in the office most of the time while Robert was receiving the aforescribed treatment, that a first aid book was brought into the cafeteria, and that both of the coaches discussed what was wrong and what should be done.

Dr. Howard W. Wissner, professor of industrial relations at Tulane University, and his wife, parents of Robert Wissner, arrived at the school at approximately 6:40 o'clock p.m., and observed Robert lying on the cafeteria floor. They described Robert as appearing grayish-blue, with his mouth hanging slightly ajar, his lips and the exposed hand and arm were bluish, and he was moaning. Dr. Wissner stated to Coach Mondello that Robert was critical and apparently in shock, and that a physician should be called; that when he offered to call a physician, Coach Mondello told him "no", and explained that Dr. Rinker, a member of the school board, would see that a doctor in the neighborhood would come quickly, if he were called, and that he would take care of it. Dr. Wissner stated that he observed two first aid journals where Coach Mondello was seated. Mrs. Wissner informed her husband that something must be done for Robert, after which Dr. Wissner reiterated his earlier statement, that if the coach did not call a physician, he would. At this point, Coach Mondello again stated that it was his responsibility, and, as Dr. Wissner was leaving the school to call a physician, Coach O'Neil called to him and stated that Robert's father was a physician and that his mother had indicated she would call Dr. Burch.

Mrs. Mogabgab was telephoned at approximately 6:45 o'clock p.m. She then called Dr. John H. Phillips, who arrived at the school at approximately 7:15 o'clock p.m...

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Dr. Phillips stated that when he saw Robert he was lying on the cafeteria floor on a blanket, on his abdomen, in an obviously sick condition; that he was unconscious, cyanotic, cool, clammy, actively sweating, with no pulse in any of his major vessels, no evidence of pressure, pupils were widely dilated, fixed, and not responsive to light, and, at that time, he diagnosed the condition as profound heat exhaustion with shock to an advanced degree, but not necessarily irreversible.

He stated that he immediately had the boy transferred to Southern Baptist Hospital, where they met Dr. Robert Burch, a specialist in internal medicine with a subspecialty in diseases of the kidneys and electrolyte fluid, whom he had called. In the hospital, Robert's condition was diagnosed as heat stroke. Vomitus was removed from Robert's mouth and a tracheotomy performed to provide an airway, saline solution was administered intravenously, and an ice mattress was used to lower his temperature... Dr. Phillips testified that Robert's condition continued to worsen and, at 2:30 o'clock a.m. on August 17, 1966, he expired.

Mogabgab alleged that their son's death resulted from the negligence of the defendants "in failing to perform their duty of providing all necessary and reasonable safeguards to prevent accidents, injuries and sickness of the football players at Benjamin Franklin Senior High School." In addition, Mogabgab alleged that the Board was negligent "in failing to provide for prompt treatment when injuries or sickness occurred during football workouts, which they assert was the cause of Robert's suffering a heat stroke or that it at least contributed thereto." Specifically, Mogabgab contended that the Board "did not follow the recommendations of the American Medical Association for the prevention of heat stroke and heat exhaustion."

In response to Mogabgab's allegations of negligence, the Board maintained that it had acted reasonably under the circumstances. Specifically, the Board stated that "salt tablets and a drinking fountain were available during the workout session, adequate rest periods were provided, and that at the first signs of fatigue, Coach Mondello removed Robert from the workout and sent him to the school bus." In addition, the Board contended that "the first aid administered by the coaches was proper for mild heat exhaustion, which frequently occurs during opening days of football practice."

[T]he boy's skin was cool and damp to the touch at all times... [H]e was not unconscious during the ride from Audubon Park, where the practice was held, to Franklin Senior High School, but he did vomit, and when the bus arrived at the school, at approximately 5:40 o'clock p.m., Robert was assisted into the school, placed on a blanket on the floor, his clothing removed, and immediately he was given a shower with water at room temperature and then covered with a blanket, after which an unsuccessful attempt was made to have him drink salt water... [N]ot until 6:25 o'clock p.m. was it apparent medical assistance was needed, and it was then the coaches telephoned the boy's home to determine his parents preference of a physician.

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Following a trial, Mogabgab's claims were dismissed and judgment was rendered in favor of the Board and the coaches. Mogabgab appealed.

According to the appeals court, the trial court had dismissed Mogabgab's claim for failure to establish that the alleged negligence of the Board was the legal cause of Robert's death. However, under the circumstances of this case, the appeals court found that "it is more likely than not that Robert would have survived with reasonably prompt medical attention." In reaching this conclusion the appeals court relied heavily upon the following testimony by one of the numerous treating hospital physicians, "a leading specialist in internal medicine and problems associated with body heat, who has published numerous articles and books on the subject."

Dr. George Burch testified that he examined Robert around 8:00 o'clock p.m., at which time he found him seriously ill and in coma, and, in his opinion, the prognosis was poor. He explained heat exhaustion and heat stroke and stated that when a person is unable to walk his condition is "pretty severe" and medical advice should be sought, so that medical treatment can be instituted before the patient's condition reaches an irreversible state.

Dr. Burch pointed out that every effort should be made immediately to stop accumulation of heat and putting a blanket over a person with heat exhaustion or heat stroke is the wrong thing to do. He further explained that it is extremely important that such a patient be brought to a physician and hospital, since the quicker treatment is begun to reverse the condition caused by heat stress the better the prognosis; therefore, time is of the essence.

When asked if he could state positively that "Robert would not have died if proper medical treatment had been instituted when he first staggered and informed the coach of his illness," Dr. Burch responded as follows:

I couldn't say positively but I think it's an unquestionable fact that the sooner treatment has begun the more likely recovery would take place... I think (if) we found him thirty minutes sooner suffering from heat exhaustion I would say it would be unlikely that he would have died.

The appeals court found Dr. Burch's opinion was supported by the testimony of two other treating physicians at the hospital, viz., prompt medical attention in this instance would have significantly increased the likelihood of survival. As a result, the appeals court held that "the negligence of Coaches O'Neil and Mondello actively denied Robert access to treatment for some two hours after symptoms appeared" and that such negligence constituted the legal cause of Robert's death.

Certainly it is plain that Robert E. O'Neil and Sam A. Mondello were

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negligent in denying the boy medical assistance and in plying an ill-chosen first aid. Moreover, the facts concerning the question of causality are at least reasonably clear. It is the legal significance of these facts that fashions the hub of the case.

The best synthesis of the medical evidence is that heat damage works its wreckage upon the body in a continuum, causing progressive internal changes in the human system much as it causes progressive organic changes in a boiling egg. At some indefinite point in this continuum the process of heat damage becomes irreversible and past that point little can be done. All of this means that if appropriate medical assistance is available early, the chances of survival are good. If it is long delayed, there is little hope. Once symptoms appear each minute that passes without medical attention measurably reduces the chances of survival...

When Robert did see a physician, it was too late and he died. This much Mogabgab proved. It was not proved that he would have certainly lived if brought to a doctor sooner or for what precise period of time the condition remained reversible. We do not think, however, that the law demands such flawless precision. Causality like most other facts in a civil action, may be proved by a preponderance of the relevant evidence... [P]roof by a preponderance of evidence requires only that a litigant satisfy the court or jury by sufficient evidence that the existence of a fact is more probable or likely than its nonexistence.

In reaching this conclusion, the appeals court rejected the Board's contributory negligence defense. Essentially, the Board had argued that the negligence of the parents contributed, and ultimately caused, their son's fatal predicament. Specifically, the Board argued that the parents were at fault because they permitted "their son to play football when they knew, or should have known, he had periodic increases in blood pressure and abnormal heart sounds, and that they assumed the risk." However, as noted by the appeals court, Robert's treating physician had examined him and found his health to be normal.

Dr. Phillips, a specialist in internal medicine and a subspecialist in cardiovascular diseases, was Robert's treating physician. He testified that he first saw Robert on April 16, 1962, and again on May 10, 1966, and on both occasions he found his health to be perfectly normal. Dr. Phillips explained that periodic rises in blood pressure and a heart murmur he detected were normal.

Having found the Board and its coaches liable for negligence, the appeals court then addressed the issue of damages and entered judgment accordingly for Mogabgab:

Robert was 16 years of age at the time of his death. He was very mature, well rounded and intellectually superior. He was active in scouting, enjoyed sports, and, since he was the eldest child, he assisted his parents with the younger children in the family. The parents, of course, would not have traded nor could one have purchased the love and companionship of this exceptional and promising child for any amount of money.

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However, it is the task of this court to arrive at a figure for damages because of the wrong done these parents by the defendants' negligence.

It is our opinion that an award of \$20,000.00 to each parent for the wrongful death of their son is a just amount. Additionally, the father is entitled to an award of \$941.25 for funeral expenses and \$693.50 for medical expenses.