



## **DA ACCEPTS MEDICAL EVIDENCE, DROPS CHARGES OF MURDER and ABUSE**

***Chico couple will not face trial for the death of their young son.***

**SANTA CLARA, Calif.**, Aug. 23, 2018— In the latest case of advanced medical evidence exonerating people who have been wrongly accused, a Chico couple, Peter and Edelyn Yhip, have had their case dismissed by the Butte County District Attorney's Office for lack of sufficient evidence.

The case involves allegations of "shaken baby syndrome" and "abusive head trauma", which are medical diagnoses that have resulted in thousands of parents and caretakers losing custody of their children, with many sent to prison with life sentences. In the Yhip's case, who were charged in 2012 after the death of their young son, the first review of the diagnosis of shaken baby syndrome by an independent government agency found the evidence insufficient.

"This case is one of many tragic cases around the country where flawed medical evidence has led to criminal charges against parents or caregivers when a child dies", said Northern California Innocence Project (NCIP) Executive Director Linda Starr. "With the dismissal of this case, the Yhips now join the growing group of those where courts and District Attorneys' offices have recognized the flawed medical evidence, overturned convictions, and dismissed charges."

### **Background**

In 2012, the Chico couple was charged with abuses that lead to the death of their young son. Since being released on bail, the couple has fought to win back custody of their other two children and worked with defense attorneys Aaron Meyer (Peter Yhip), Victor Haltom (Edelyn Yhip), pro bono attorney Heather Kirkwood, and NCIP attorney Paige Kaneb to prove their innocence.

In 2010, the Yhips adopted one-year-old twin boys, Ben and Jon, from Taiwan, where Ben had chronic health concerns that included recurring infections and at least six multi-day hospitalizations in his first year of life. When Ben's medical issues continued in the U.S., the Yhips repeatedly sought medical help for Ben. In November 2011, Ben was hospitalized and diagnosed with failure to thrive and put on a feeding tube. At that time, bone scans showed various abnormalities.

In April 2012, when Ben was almost 3 years old, he stopped breathing at home. Mrs. Yhip made a frantic 9-1-1 call and paramedics arrived and intubated an unresponsive Ben. At the hospital, bone scans showed unchanged abnormalities suggesting a genetic condition and the neurosurgeon opined Ben had suffered a stroke that caused his collapse. Ben was put on life support and eventually declared brain dead. Arrangements were made for organ donation.

Despite all of the evidence that Ben was a sick child who had tragically died and the lack of skull fracture, soft tissue swelling, or any major bruising, the autopsy reported the cause of death as *blunt force trauma* based on intracranial findings commonly attributed to the unreliable medical diagnosis of "shaken baby syndrome" or "abusive head trauma." The report also suggested the bone abnormalities were fractures, indicative of abuse.

Because of this, Dr. and Mrs. Yhip were charged with murder and arrested. Both were released on bail. Their other two children were taken away.

In 2012-2013, the dependency court held a hearing on whether the Yhips should have custody of their other children. Defense experts reported that bone abnormalities were consistent with a medical condition, and that Ben had an infection that caused him to have a stroke and collapse. Ultimately, the court found that there was substantial evidence showing Ben had died from illness, that the Yhips had always sought appropriate care for their child, and that there was no evidence of any criminal behavior. The Yhips' children returned home.

Between 2013 and 2016, motions were made to the Superior Court, the Court of Appeal, and the California Supreme Court, arguing the criminal case should be dismissed in light of the dependency court's order and findings that Ben had died from illness. All motions were denied and the case scheduled for trial.

In 2017, the DA consulted with another medical expert who issued a report in January 2018 that she saw evidence of an infection running throughout Ben's nervous system and thromboses (clots) in various places in the body, suggesting underlying medical conditions that caused his death.

By July 2018, the defense team gathered more expert reports on the question of infection vs. trauma, articles showing that a stroke can lead to findings traditionally resulting in a diagnosis of shaken baby syndrome, and details on metabolic bone disease.

NCIP attorney Paige Kaneb said, "It was really rewarding to meet with the district attorney and have them tell us where they still had concerns, and then gather the evidence to address those concerns. It is especially heartening to know the DA was interested in that evidence and in finding out the truth of what happened to Ben."

After reviewing this additional information, the DA decided to drop all charges.

Now, the family can grieve the child and brother they lost six years ago.

"We never thought we'd be in this situation," said Mrs. Yhip. There are others like us, struggling to clear their names, not knowing what will happen to them or their kids. We've been blessed with so many people who want to help - lawyers, friends, people we don't even know. We are looking forward to moving on from this tragedy."

#### **About the Northern California Innocence Project (NCIP)**

NCIP is a non-profit clinical program of Santa Clara University School of Law whose mission is to promote a fair, effective, and compassionate criminal justice system and protect the rights of the innocent. Since its inception in 2001, NCIP has processed over ten thousand requests for inmate assistance, investigated hundreds of cases, pursued litigation or collaborative resolution in dozens, and obtained the freedom of 23 wrongfully convicted individuals. Learn more at [www.ncip.org](http://www.ncip.org).

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