

The Father's Wrath: A Parental Loss of Consortium Claim

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Guerry Glover was just nine years old when Eddie Fischer began sexually molesting him in 1975. The first incident occurred in the Glover's home. Fischer was a frequent houseguest because he taught at the same school that the Glover children attended, Porter-Gaud School. Fischer continued to molest Guerry for many years—at school, at Fischer's home, and elsewhere. This article focuses on one of the many civil lawsuits that arose from sexual crimes committed by Eddie Fischer when he taught at Porter-Gaud and at other schools where he was hired on recommendations from Porter-Gaud.

The School

Porter-Gaud School was formed in 1964 upon the merger of three private schools in Charleston, South Carolina. It is situated on seventy-one prime acres on the harbor across from the city. It is widely considered to be one of the most prestigious private schools in the country. It has grades one through twelve, divided into a Lower (elementary) School, Middle School, and Upper (high) School. It used to be affiliated with the Episcopal Church, but since the 1970s the association has gradually waned. Currently, the school is considered to be independent, although it maintains a close relationship with the church.

The Administrators

The headmaster of Porter-Gaud School from 1964 until 1988 was Berkeley Grimball. The assistant headmaster and principal of the Upper School was James Bishop Alexander. Alexander was a bachelor and had a reputation in the Porter-Gaud community for taking

in wayward boys and giving them shelter and direction in their lives. He even formally adopted at least one Porter-Gaud student. Alexander was close to the Glover family. In fact, he was a groomsman at the wedding of Guerry's older brother.

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The Perpetrator

Edward Mein Fischer was hired as a teacher at Porter-Gaud School in 1972. During his first year, he invited a thirteen-year-old seventh grader to meet him outside of school. While he did not elaborate on what they would do, Fischer told the boy, "You will come in a boy and go out a man." He also told the boy not to masturbate and not to tell his parents where he was going. The boy understood the invitation to refer to a sexual experience. He did not go. Instead, he told his older brother, who told their parents, who sent the older brother to confirm the teacher's appearance at the rendezvous site. Fischer was there. The next day the parents went to the school and spoke with Headmaster Grimball. Years later, Grimball testified during a deposition that he was only told by the father that Fischer "was getting too intimate with my son." Grimball claimed that he put Eddie Fischer on probation in response to the complaint, but there is

no documentation of any such sanction. Every member of the faculty and administration who later testified denied knowledge of the probation. Grimball claimed that only he and Alexander knew about it.

Over the next ten years, Porter-Gaud gave Eddie Fischer annual contracts, with a raise each year, and more access to the school's children. Astonishingly, he was made disciplinarian of the school in 1975, only two years after the allegation of misconduct. In this position, Fischer had the authority to deal with discipline problems at the school.

Eddie Fischer admitted during a deposition that he molested approximately thirty male students during his ten years at Porter-Gaud. He referred to it as "a minor epidemic" in his career as a pedophile which spanned more than forty years in Charleston. He has admitted to a total of forty-two victims, although it is known there are more.

In the spring of 1982, in an effort to escape Fischer, Guerry flagrantly acted out so that he was expelled from Porter-Gaud. His family moved him to another private school called College Prep.

At about the same time, one of Fischer's student victims told his parents that Fischer had sexually assaulted him on a trip during school hours. The parents went to see James Bishop Alexander. Alexander told the parents that he would inform the Board of Trustees that Eddie Fischer would be terminated, that the school would see that Eddie Fischer got help, and that steps would be taken to protect other children. Alexander asked the parents to let the school handle the matter. Hearing this, the parents decided not to contact law enforcement authorities

because they were afraid of what effect that might have on their son.

Instead of doing the things that he promised, Alexander and Grimball permitted Fischer to resign quietly. Grimball wrote a cordial letter to Fischer accepting his resignation, thanking him for his service at Porter-Gaud, and offering to assist Fischer in the future.

Alexander went even further. Within thirty days of promising the parents that he would ensure that other children were protected, he visited Thomas Farin, the headmaster of College Prep, and made a pitch for the school to hire Eddie Fischer. Alexander did not disclose the circumstances of Fischer's departure from Porter-Gaud.

In a horrific twist of fate, College Prep hired Fischer the same week that the school accepted Guerry Glover. On his first day at College Prep, which should have been a liberating day for Guerry, he saw Fischer. Guerry's nightmare was not over. Instead, Fischer continued to molest Guerry throughout his years at College Prep.

By 1986, Guerry was gone from College Prep and other victims had taken his place. That year, Fischer decided to change jobs. This time, he applied for a position with the public school system in Charleston. On the application, he listed James Bishop Alexander as a reference. The Charleston County School District forwarded a "reference blank" to Alexander. He returned it with only excellent marks and glowing comments about Fischer. Fischer was hired and molested male students at his new school into the 1990s.

Starting in the late 1980s, Guerry returned to Porter-Gaud several times to inform the administration that he had been molested as a student. He sought the school's help in reporting Fischer in order to get him out of teaching and away from children. In 1988, 1994, and 1997, the headmaster turned him away, telling Guerry that what Fischer did to him was his problem.

In 1997, Guerry began seeking legal advice as to what he should do about Fischer. Two lawyers declined to represent him. Not only had a lot of time passed, but bringing a civil suit would mean challenging "the establishment" in



PHOTO: WADE SREES

Guerry and Harold Glover

Charleston, because a large number of the city's professionals either had gone to Porter-Gaud or sent their children to the school.

In May of 1997, Guerry met with Attorney Gregg Meyers, who shared Guerry's concern about Fischer still being in teaching. They wrote a letter to the superintendent of the public school system where Fischer was then teaching. An investigation ensued, and Fischer immediately retired.

They also wrote a letter to Porter-Gaud in an attempt to resolve the potential civil claim without litigation. It later came to light that the school's attorney sent the demand letter to the local prosecutor's office and attempted to have Guerry Glover and Gregg Meyers arrested and prosecuted for extortion.

In October of 1997, Guerry went to the local prosecutor and gave a detailed statement which included the names of other potential victims. After Guerry's story was corroborated, Fischer was arrested. Other victims, having seen Guerry's courage, then began calling the prosecutor to tell their stories.

On April 23, 1999, Fischer pled guilty to sexually molesting twelve boys and entered an *Alford* plea to another charge. At the time of the plea hearing, the victims he admitted molesting ranged in age from

fifteen to fifty-two years of age. The abuse of these victims occurred over a span of years from 1958 to 1997. The judge gave Fischer the maximum sentence on each charge and he must serve at least seventeen years before he is eligible for parole. By then, he will be eighty-eight years old.

The Victims

Most of Fischer's forty-plus victims came from affluent families. At Fischer's guilty plea hearing, many of the victims thanked Guerry for his courage and indicated that if he had not stepped forward, they never would have. As of the date of this publication, fewer than twenty of Fischer's victims had come forward.

The Father

Harold Glover was born and raised on Johns Island, one of the barrier islands near Charleston. Although close in proximity to Porter-Gaud, the farming communities of Johns Island were worlds away from its pretense and prestige. Harold grew tomatoes and cucumbers his entire life. He sent his children to Porter-Gaud so they could have a better life.

When Guerry reported Fischer to the police and prosecutor, he knew the story

would become public. He did not want his father to be surprised. Shortly after Fischer's 1997 arrest, Guerry told his father about what Fischer had done to him. He also told his father what the school's administrators knew about Fischer and what they had done with this knowledge. Harold heard Guerry out and asked him, "You mean they knew and didn't do anything?"

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The Legal Theories

Shortly after the first case was filed on behalf of one of Fischer's victims, Attorney Meyers, who had agreed to represent Guerry, met with Harold Glover. Meyers was struck by Harold's quiet rage at what Porter-Gaud had done to his son. Harold was determined that something be done about it. He could not get past Alexander's betrayal of a family he had personally known. It was a deep and unforgivable offense to do nothing while any child was being sexually abused, and unimaginable to do nothing for a child you personally knew.

Part of Harold's outrage was caused by a press release issued by the school upon Fischer's arrest in which the school denied that it ever knew anything about Fischer's crimes or any boys being molested. The statement was false, and the headmaster who succeeded Grimball in 1988 later admitted in court that the school knew it was false when it was issued. Harold wanted the truth to be known. Meyers began to think about the case from a parent's perspective.

For all four of his children, of whom Guerry was the youngest, Harold Glover had struggled to pay a substantial amount of money for tuition to this

elite school. Parents who entrust their children to a school have a right to expect those children will be kept safe while at school. Implicitly or explicitly, a school promises to protect its students. Certainly, no school says that it will not protect a child. If it did, parents would not send children to the school. (Interestingly, Porter-Gaud eventually argued in a memorandum

of law that no legal duty exists to provide a safe environment for children at school.)

Meyers's first thought was that it was a breach of contract to permit a

student to be abused, and a breach of warranty. However, there was something more fundamentally wrong with the school's betrayal than mere breach of contract. This was not about getting tuition refunded.

Meyers concluded that Harold should be able to invoke the common law's recognition of a parent's right to claim the loss of consortium for injury to a child, a right the U.S. Supreme Court traced back to 1653. See *U.S. v. Standard Oil of California*, 332 U.S. 301, 312 (1947) ("parent's right to indemnity for loss of a child's services, including his action for a daughter's seduction."). In the *Standard Oil* case, the United States attempted, but failed to create a common law claim for loss of services of a soldier hit by an oil truck. However, language including the *dicta* quoted above seemed to open the door for such a claim by a parent. Although the South Carolina case of *Taylor v. Medenica*, 479 S.E.2d 35 (S.C. 1996), prohibited a claim by a child for consortium of parents, the reverse proposition, the parent claiming for the child, was within the common law.

Nothing prohibited such a claim by Harold for the years in which the complications of his son's life, and the terrible secret Guerry bore, created a gulf between father and son. An annotation

at 173 A.L.R. 755 refers to a consortium claim arising from "injury to plaintiff's spouse, child, or employee." And *dicta* in an earlier South Carolina case, *Berry v. Myrick*, 194 S.E.2d 240 (S.C. 1973), seemed to support the notion that the common law permitted a father to claim loss of consortium for a child, even while denying the same right to a wife. Attorney Meyers teamed with Attorney David Flowers and the two prepared a loss of consortium case on Harold's behalf. No one, on either side, knew at the time that Harold's complaint would alter the Porter-Gaud litigation, and the community of Charleston, forever.

The Litigation

The first civil case against Porter-Gaud School over its handling of Eddie Fischer was filed in January of 1998. The suit was brought on behalf of a student from James Island High School, the public school where Fischer was hired after Alexander's written 1986 recommendation. The student had come forward as part of the criminal process initiated by Guerry. He testified that he came forward because if it were just Guerry's word against Fischer's, no one would believe Guerry.

In February of 1998, Harold Glover filed a lawsuit against Porter-Gaud. It was essentially a loss of consortium claim for the harm done to Harold's relationship with his son. The suit also included claims for breach of warranty, breach of fiduciary duty, negligence, and gross negligence. Initially, the case was filed as a class action on behalf of the parents of all Porter-Gaud victims. The class was certified, but only two Porter Gaud parents (including Harold Glover) signed on to participate, so the class was later decertified.

There were twenty-nine known Porter-Gaud students victimized by Fischer, but only two parents made claims on behalf of their children. They were Harold Glover and a Chilean immigrant whose son was molested. Eventually, one other parent brought a claim.

The cases were consolidated for

discovery and the first round of depositions was scheduled to begin on May 4, 1998. On April 30, 1998, James Bishop Alexander decided to avoid being deposed by driving to a small town in North Carolina, parking his car on a dirt road, and shooting himself to death. His suicide note stated that he killed himself to minimize the attention to himself from the litigation. Ironically, the suicide brought more attention and became a significant factor in the litigation.

When the depositions were finally taken later in the Summer of 1998—they had been postponed after Alexander's suicide—Berkeley Grimball unwittingly became the star witness for the plaintiffs. When asked why he permitted Fischer to resign in 1982 rather than terminate him, Grimball answered that he "didn't want to ruin the guy's career." He also testified:

Q. Do you have children, Mr. Grimball?

A. Uh-huh.

Q. As a parent, would you want to know if a teacher at one of your children's schools had been accused of sexual misconduct?

A. Not particularly, no.

Q. What about if it was a parent—what about if it was a teacher that taught a class that one of your children attended? Is that some information you would want to know?

A. Not unless it would—not unless it involved my own children.

Q. Is it information that would be important to you to ascertain whether it might involve your children?

A. I don't think so.

The parents' cases were never taken seriously by the defendants, who were confident that the court would dismiss the sons' cases based upon the statute of limitations.

Grimball's lack of concern caused the jury to gasp audibly when this testimony was read from his deposition.

Fischer was originally a defendant in the cases, but he was dropped from every case after he pled guilty to the criminal charges. It was important for the cases to focus on the conduct of the school and its officials, not on Fischer's conduct.

The parents' cases were never taken seriously by the defendants, who were confident that the court would dismiss the sons' cases based upon the statute of limitations. The defendants could then throw four or five figures at the parents to make them go away. The defendants also thought that the parents' claims would be dismissed because all of the victims were now emancipated adults.

The court denied all of the defendants' motions for summary judgment on the statute of limitations issue. The plaintiffs had argued that the defendants fraudulently concealed what they knew about Fischer, and that therefore, they should not benefit from the lapse of time. The judge ruled that material issues of fact existed on the fraudulent concealment argument, and that such issues should be decided by a jury.

Berkeley Grimball died of natural causes prior to the first trial. The first case, which was brought by one of Fischer's direct victims, settled on the third day of trial.

Harold's case was set to go next. He was seriously ill and the prognosis was not good for him surviving to hear the outcome if his case was delayed. The case, combined with another parent's suit, was initially tried in October of 2000. After three days of trial, the

judge declared a mistrial. The mistrial involved some evidence that the defendants argued was not relevant and the judge agreed that the evidence had not been sufficiently tied together. The mistrial was initially a source of disappointment, but it quickly became a cause for relief. The case had not tried well, in part because conflicting court obligations, to which the trial court was unyielding, had forced plaintiff's counsel to rearrange case and trial roles in a disadvantageous manner.

Initially, the judge indicated that he was going to schedule the retrial in November. This would have been the ultimate prejudice for Harold Glover to be denied his day in court before he died. Eventually, the judge severed Harold's case from the other parent's case and ordered the retrial of Harold's to begin the following week. This enabled plaintiff's counsel to get the case back into order with the originally intended trial roles. Two jurors on the mistrial panel called. They were upset at the evidence about the school's conduct, and they were frustrated not to have the chance to rule for Harold Glover.

The Trial

Prior to the retrial, counsel talked with Harold about the possibility of settling. Harold was so frail he could hardly stand. Harold stated his settlement position in unequivocal terms: "Tell them that I'll pay them \$100 to hear from the jury."

In stark contrast to the first presentation of the case, the rearranged presentation went beautifully. No scheduling problems, no unexpected twists or

**A total verdict of
\$105 million for the
tomato farmer from
Johns Island**

surprises, and no wrong decisions. To avoid any complication, plaintiff's counsel rested without offering the evidence which had caused the mistrial the week before, even though the relevancy of the evidence had been demonstrated to the court's satisfaction in a pre-trial proceeding. The defendants actually moved for a mistrial on the grounds that the same evidence which had caused the mistrial the previous week was not introduced this time around.

The only damages evidence presented was Guerry's testimony about how his relationship with his father had been affected and Harold's deposition testimony that "they broke our hearts and we'll go to the grave with it." No therapy records. No medical bills. No expert witnesses. The assumption was that all of the parents on the jury would understand the intangible injury without dressing it up. A clinical presentation of damages in this type of case detracts from, and potentially minimizes, the real nature of this kind of injury.

In South Carolina, damages which can be recovered from a charitable organization are limited by statute. However, there is no limit to damages recoverable from an employee of that organization if it is proven by clear and convincing evidence that the employee acted in a grossly negligent manner. Due to the charitable organization immunity issues, the judge decided to trifurcate the jury's deliberations. It took one and a half days to present the plaintiff's case in the liability and actual damages phases. The defense called no witnesses and put on no defense.

In closing argument, the defense tried to belittle Harold's damages, arguing that he did not have any broken bones or scars. Plaintiff's counsel did not suggest a specific dollar amount to the jury for actual damages, but did ask the jury to provide a "cold, hard calculated number that reflected the proper value of the bond between the parent and the child."

The Verdict

Initially, the judge submitted only two questions to the jury:

Did Berkeley Grimball act in a willful, reckless, or grossly negligent manner?


Did James Bishop Alexander act in a willful, reckless, or grossly negligent manner?

The jury took only ten minutes to reach a unanimous decision of "yes" to both.

The judge then had the jury deliberate on liability and actual damages issues. In one hour and ten minutes, they returned with a verdict of fifteen million dollars for Harold Glover. The following morning, plaintiff's counsel presented one and a half hours of additional evidence on punitive damages against the two estates (punitives against the school were barred by statute), including testimony from a former student of Porter Military Academy (a predecessor of Porter-Gaud School) who testified that James Bishop Alexander sexually molested him when he was a child. Alexander's motivation to help Fischer and the reason for his suicide now seemed clear to the jury. The defense called Berkeley Grimball's widow and introduced a photo of Grimball and a photo of the extended Grimball family. The defense's whole argument in the punitive phase was that Berkeley was a good guy and that since both of the individuals were already dead, punishing them was meaningless. Plaintiff's counsel countered that it was

important for the jury to send a message to school administrators everywhere that they had better do everything possible to protect children.

The jury deliberated for two hours and returned with punitive damages in the amount of forty-five million dollars against the estate of Berkeley Grimball and forty-five million dollars against the estate of James Bishop Alexander. A total verdict of \$105 million for the tomato farmer from Johns Island who wanted to hear what the jury thought about the conduct of the school and its administrators. It was the largest verdict in the history of Charleston County, by a factor of five. When he heard about the verdict that evening, Harold's immediate response was "well, I hope that helps the others."

Ten days later, plaintiff's counsel settled Harold's case and the claims of ten others that were pending at that time. On November 30, 2000, Harold Glover passed away. However, his quiet, yet determined wrath is still resonating in Charleston and across the country. 



According to Lawyers Weekly USA, the verdict in Harold Glover's case was one of the ten largest verdicts in the country in 2000. Gregg Meyers, Esq., is a sole practitioner in Charleston, SC, litigating primarily cases involving sexual misconduct, crime victims, and fraud against governmental bodies. He can be contacted at 39 Broad Street, Suite 300, Charleston SC 29401, 843-720-8714, attygm@aol.com. David Flowers, Esq., is a sole practitioner in Greenville, South Carolina. His practice consists primarily of sexual misconduct cases. He can be contacted at P.O. Box 10842, Greenville, SC 29603, 864-232-0900, cdflowers5@aol.com. Meyers and Flowers, who are both National Crime Victim Bar Association members, have been collaborating together on cases since 1998.