

Supreme Court Judge Sentences Illegal Practitioner Gloria Lemay to Five Months in Jail

– News Release – August 2, 2002 –

Unlicensed birth attendant Gloria Lemay, who earlier this year was found guilty of criminal contempt of court for repeatedly defying a British Columbia Supreme Court injunction prohibiting her from practicing midwifery, was sentenced to five months in jail on July 24, 2002. Supreme Court Justice Richard Blair also sentenced Lemay to 12 months probation after she serves her sentence, during which time she is prohibited from being present at or participating in any birthing process, or knowingly being in the presence of a pregnant woman.

In 1997, when midwifery was first regulated by College of Midwives under the Health Professions Act, all current practitioners of midwifery, including Lemay, were invited to take the College's registration exams to demonstrate their competence. Lemay chose not to take the exams and has never pursued registration. Shortly before the College registered the first midwives in BC, on January 1, 1998, Lemay told The Vancouver Sun that she intended to continue practicing without a license.

The recent sentence resulted from the College of Midwives being granted the permanent injunction in February 2000, after receiving numerous complaints about Lemay's practice being a danger to the public. Lemay had consented to that injunction.

Lemay continued to practice after the injunction was in place, performing about four births a month and charging \$2,500 per birth. Affidavits from ambulance personnel and emergency room physicians receiving transports from home births conducted by Lemay, as well as evidence from its own investigators, led the College to believe that the public remained at risk.

On January 4, 2002, BC Supreme Court Justice Blair found Lemay guilty of criminal contempt of court for attending ten births over a five-month period in defiance of the court injunction. At sentencing, the judge rejected Lemay's lawyer's request to impose a conditional sentence. The judge said he was not satisfied a conditional sentence would protect the safety of the public. "This is not an isolated breach but a continued series of breaches," the judge said in his oral reasons for judgement.

Late in January of 2002, just weeks after being found guilty, Lemay managed another labour planned to be a home birth, which was later investigated by the police after the parents filed a complaint. This non-progressive labour went on for more than two days. Lemay is alleged to have performed a number of restricted acts during that time, including artificially rupturing the membranes. When meconium was apparent, Lemay is said to have stayed at home with the labouring mother for many more hours.

During sentencing the judge made note of this incident, pointing out that when the fetus became compromised Lemay failed to accompany the mother to Burnaby Hospital and told the mother not to mention Lemay's name to hospital staff. An emergency cesarean was required.

Justice Blair indicated that this incident exacerbated Lemay's problem and was indicative of her character.

Justice Blair also noted Lemay was previously found in contempt of court for refusing to give testimony at an inquest probing the 1994 death of a newborn in her care. The inquest found that the baby died of cardiac arrest as a result of an infection acquired during this birth attended by Lemay.

Lemay was also previously convicted of criminal negligence causing death involving a mismanaged shoulder dystocia at a birth, but was acquitted on appeal after the Supreme Court ruled that a fetus is not legally a person.

In BC Supreme Court on July 24, 2002, Crown prosecutor Roger Cutler urged the judge to impose an eight-month sentence, referring to Lemay as a profit-motivated woman who posed a grave danger to the public. While Lemay's lawyer, Peter Ritchie, took issue with this characterization, the judge found that a jail term was justified.

Registered Midwives continue to offer range of care options including home birth

One strategy frequently used by Gloria Lemay has been to claim that regulated midwives in BC do not offer choices to women. In fact, registered midwives throughout BC support women in making a wide range of informed choices about their care, including the choice of where to give birth. The College of Midwives requires that all registered midwives offer these choices. As well as being available to attend home births, midwives have privileges that allow them to deliver babies in hospital. A registered midwife can continue to provide primary care in hospital for any woman who needs or chooses to move from home to hospital for her birth. About 40 percent of the births registered midwives attend in BC occur at home and 60 percent in the hospital. The College now has 77 registrants who have provided care for more than 2300 women planning home births since January of 1998.

A study published in the Canadian Medical Association Journal in the spring of 2002 looked at planned home births with registered midwives in the first two years of regulated midwifery practice in BC. Maternal and neonatal outcomes were comparable between home and hospital groups, with mortality and morbidity rates well below the provincial average. Outcomes generally matched those reported in other studies of home birth with regulated midwives throughout the world, where home birth is commonly considered a safe component of the maternity care system.

Intervention rates were considerably lower in BC's planned home birth group. The caesarian section rate was only 6.4% in the group planning a home birth with a midwife as compared with the two hospital comparison groups – 11.9% for those attended by midwives in hospital and 18.2% for those attended by physicians. The study supports the continued offering of the choice of home birth with registered midwives in BC as a safe option for low-risk women.

For further information please contact:

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College of Midwives of British Columbia
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No. A992376
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

THE BOARD OF THE COLLEGE OF MIDWIVES OF BRITISH COLUMBIA

PETITIONER

AND:

GLORIA LEMAY

RESPONDENT

ORDER

BEFORE THE HONOURABLE) TUESDAY, THE 2ND DAY OF
)
MR. JUSTICE CURTIS) FEBRUARY, 2000

THE APPLICATION of the Petitioner, coming on for hearing at Vancouver, on the 2nd day of February, 2000, and on hearing Catharine Herb-Kelly and Jessica Berglund, Counsel for the Petitioner, and J.F. Raymond Chouinard, Counsel for the Respondent, AND BY CONSENT:

THIS COURT ORDERS that the Respondent Gloria Lemay is hereby permanently prohibited and enjoined from performing the following services for the purpose of midwifery, as defined in Section 4 of the Midwives Regulation, B.C. 103/95, O.C. 269/95:

- (a) the conducting of internal vaginal examinations of women during pregnancy, labour, delivery and the postpartum period,
- (b) the management of spontaneous normal vaginal deliveries; and
- (c) the performance of episiotomies and amniotomies during labour and repair episiotomies and simple lacerations.

except when:

- (a) practising a profession, discipline or other occupation in accordance with the *Health Professions Act*, R.S.B.C. 1996, c. 183, or another Act; or
- (b) providing or giving first aid or temporary assistance to another person in case of emergency if that aid or assistance is given without gain or reward or hope of gain or reward.

THIS COURT FURTHER ORDERS that the Respondent Gloria Lemay is hereby permanently prohibited and enjoined from recovering any fee or remuneration in any court in respect of the performance of services for the purposes of midwifery as outlined above;

AND THIS COURT FURTHER ORDERS that the Respondent Gloria Lemay is hereby permanently prohibited and enjoined from using the title "Midwife" or any name, title, description or abbreviation in any manner that expresses or implies that she is a registrant or is associated with the College of Midwives of British Columbia.

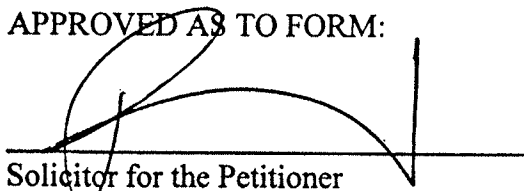
Deputy District Registrar:

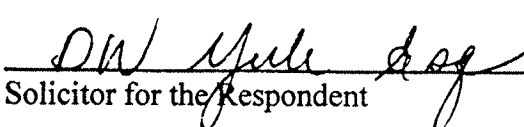
BY THE COURT, Per

Authorized Signing Officer

DISTRICT REGISTRAR

APPROVED AS TO FORM:


Solicitor for the Petitioner


Solicitor for the Respondent

ENTERED

JAN 05 2001

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