An Overview of Ferguson versus the City of Charleston, S.C. and the Issues Surrounding It

By Crystal Barron

In 1989 the Medical University of South Carolina in Charleston implemented a program in which pregnant women were selected and tested for cocaine either while pregnant or at the time of birth. Consent had not been obtained by these women prior to their being tested for drug usage. The drug test results were then turned over to the Charleston police, who used the tests as evidence and immediately arrested the women. The policy was revised shortly after implementation to allow the women the option to avoid jail by immediately entering the only drug treatment program available to them, one that did not meet the needs of pregnant women or parenting women. The women's trust in their doctors was broken, and the doctors themselves were put in a situation in which they were forced to become agents of law enforcement and overturn evidence to police. Ten women decided to file suit in Ferguson versus the City of Charleston regarding the violation of their Fourth Amendment rights. The prosecution argued the use of the “special needs category” which would allow and justify the drug testing of these women. The criteria for the “special needs category” is that the search is not designed to help law enforcement and that those being searched have a lower expectation of privacy.

The patient-health care provider relationship is one comprised of and based on trust. If that trust is violated, such as in the case of Ferguson v. the City of Charleston, negative outcomes will occur. The American Medical Association explains substance abuse and addiction not as being a failure of individual will power, but instead caused by a number of factors such as heredity, the environment, and social influences. The
National Association for Perinatal Addiction Research and Education has previously pointed out that “These are addicts who become pregnant, not pregnant women who decide to use drugs.” Local and national health experts agree that treatment, not punishment, is the best arrangement for these women. In the past, threat-based approaches such as the one in Charleston have deterred women from seeking prenatal care. In protest to the recent court case of Ferguson v. the City of Charleston a great number of health care professionals, physicians, and scholars composed a letter to David Satcher MD, Surgeon General of the United States. This letter stated that the health risks to the fetus need to be treated through prenatal care, counseling, and medical supervision. In order for the women and their unborn children to receive the best possible health care without fear of criminal liability, trust needs to be reinstated in the patient-health care provider relationship. Accordingly, the Supreme Court ruled in favor, 6-3, of the women of Charleston in the violation of their Fourth Amendment rights.

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