

**FREE WAIVER**

1 Jonee Fonseca  
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**FILED**  
Superior Court of California  
County of Los Angeles

**AUG 18 2016**

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By Sherry R. Carter Executive Officer/Clerk  
By N. DiGiambattista Deputy

6 **IN THE SUPERIOR COURT OF CALIFORNIA**  
7 **IN AND FOR THE COUNTY OF LOS ANGELES**  
8 **UNLIMITED CIVIL JURISDICTION**

11 Israel Stinson, a minor, by Jonee Fonseca his  
12 mother.

13 Petitioner,

14 v.

15 Children's Hospital Los Angeles.

16 Respondent.

Case No.

**BS 164887**

**VERIFIED EX PARTE PETITION FOR  
TEMPORARY RESTRAINING  
ORDER/INJUNCTION: REQUEST FOR  
ORDER OF INDEPENDENT  
NEUROLOGICAL EXAM; REQUEST FOR  
ORDER TO MAINTAIN LEVEL OF  
MEDICAL CARE;**

*D 8/6*

24 I, Jonee Fonseca, am the mother of Israel Stinson, who on August 7 was admitted to  
25 Children's Hospital of Los Angeles ("Children's") for treatment and care pending transfer to  
26 home care. Israel suffered an asthma attack while at UC Davis Children's Hospital in  
27 Sacramento that resulted in a temporary lack of oxygen to Israel's brain. Israel was placed on a  
28 ventilator and has needed ventilator support since the injury.

1 Because Israel is a Medi-Cal patient with Kaiser Permanente, Israel was transferred to  
2 Kaiser Permanente Medical Center in Roseville ("Kaiser") for treatment on April 12, 2016. Dr.  
3 Michael Myette, a pediatric intensivist at Kaiser, did not treat Israel, but instead performed a  
4 brain death exam. On April 13, I was told Israel would be removed from his ventilator. I  
5 obtained a court order keeping Israel alive while I sought a physician who could perform an  
6 independent examination. I found several physicians willing to examine Israel, but Kaiser  
7 refused to allow the independent exam.  
8

9 After doing much research on caring for patients with serious brain injuries, I decided  
10 that I wished for Israel to be cared for at home. However, in order for Israel to be transferred to  
11 home care, he required a breathing tube and feeding tube ("g-tube"). Kaiser refused to perform  
12 these procedures. Dr. Myette said that Israel's digestive system was "dead" and that trying to  
13 feed him would be "catastrophic." Dr. Myette also said the only reason Israel was alive is  
14 because he was continually adjusting Israel's blood pressure through medication. These  
15 statements were later proved to be inaccurate.  
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18 I began looking for another hospital that would accept Israel as a patient in order to  
19 provide the procedures needed for Israel to be cared for at home.

20 Dr. Juan Zaldana, a pediatric specialist at Sanatorio Nuestra Señora del Pilar ("del Pilar")  
21 in Guatemala City, Guatemala, agreed to admit Israel and provide the breathing tube and g-tube.  
22 On May 21, 2016, Israel was transported to Guatemala City and was admitted to del Pilar.  
23

24 Because Kaiser refused to feed my son, Israel had not received any nutrition in almost six  
25 weeks. He was on dextrose (sugar water) for hydration.

26 Shortly after Israel was transferred to del Pilar, Dr. Zaldana performed a tracheotomy and  
27 gastrostomy to provide Israel with a breathing tube and feeding tube. Israel responded very well  
28

1 to the procedures and to receiving nutrition. Within one week, he was off of the blood pressure  
2 medication and was able to regulate his blood pressure on his own. He was also able to regulate  
3 his body temperature on his own. Israel also increased his movements in response to my voice  
4 and touch. He is able to move his upper body and his arms and legs. He recently started to  
5 squeeze his hands and make a fist.  
6

7 Dr. Zaldana, and Dr. Francisco Montiel, a pediatric neurologist at del Pilar, performed  
8 numerous exams on Israel, including two EEGs. Both doctors concluded that Israel's condition  
9 was inconsistent with the criteria for brain death (see attached). They determined that Israel is in  
10 a "persistent vegetative state." This was confirmed by Dr. Rubén Posadas, a neurologist at del  
11 Pilar (see attached).  
12

13 We remained in Guatemala with Israel for approximately 2 1/2 months. During that time  
14 we made arrangements for Israel's return to the U.S.

15 In July, I was told that Children's Hospital of Los Angeles (Children's) consulted with  
16 Dr. Zaldana regarding Israel's condition. After speaking with Dr. Zaldana, Children's agreed to  
17 accept Israel as a transfer patient for treatment.  
18

19 On Saturday, August 6, Israel was transported by air ambulance from Guatemala City to  
20 Children's. He was admitted to Children's the morning of August 7. That same day, Dr. Ashraf  
21 Abou-Zamzam, Israel's attending physician at Children's, told me that Israel's sodium levels  
22 were high.  
23

24 Over the next few days, Israel's face and torso became increasingly red and swollen. I  
25 was shocked by his appearance, as Israel had never had this reaction before. Israel was able to  
26 maintain proper sodium levels, blood pressure, and temperature without medication while at del  
27  
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1 Pilar (see attached). On August 9, I was told that Children's stopped feeding Israel because of his  
2 sodium levels. On August 15, limited feeding was reinstated.

3 On August 16, Children's informed me that it intended to remove Israel's ventilator,  
4 which will almost certainly result in my son's death.  
5  
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### 7 MEMORANDUM OF POINTS AND AUTHORITIES

8 California Health and Safety Code Section 7180 (a) (The Uniform Determination of  
9 Death Act) provides for a legal determination of brain death as follows; "(a) An individual who  
10 has sustained either (1) irreversible cessation of circulatory and respiratory functions, or (2)  
11 irreversible cessation of all functions of the entire brain, including the brain stem, is dead. A  
12 determination of death must be made in accordance with accepted medical standards."  
13

14 Health and Safety Code Section 7181 provides for an "independent" verification of any  
15 such determination stating; "When an individual is pronounced dead by determining that the  
16 individual has sustained an irreversible cessation of all functions of the entire brain, including the  
17 brain stem, there shall be *independent confirmation* by another physician."  
18

19 As established by the Court in *Dority v Superior Court* (1983) 145 Cal.App.3d 273, 278,  
20 this Court has jurisdiction over the issue of whether a person is "brain dead" or not pursuant to  
21 Health and Safety Code Sections 7180 & 7181. Acknowledging the moral and religious  
22 implications of such a diagnosis and conclusion, the *Dority* court determined that it would be  
23 "unwise" to deny courts the authority to make such a determination when circumstances  
24 warranted.  
25

26 Here, Kaiser performed a brain death exam and declared that Israel was brain dead, but  
27 refused to allow for an independent examination. Kaiser also said that as a result of Israel's brain  
28

1 injury, his condition would deteriorate. Dr. Myette said that Israel's digestive system was  
2 "dead." Not only did Israel's condition not deteriorate, but he began improving. After Israel  
3 began receiving nutrition at del Pilar, he no longer required medication to stabilize his blood  
4 pressure, heart rate, or sodium levels. He was also able to regulate his own body temperature  
5 without artificial devices (i.e., "Bare Hugger"). Only Kaiser physicians have examined Israel is  
6 regards to possible brain death.  
7

8 Israel received an independent examination by three physicians—Dr. Juan Zaldana, a  
9 pediatric specialist; Dr. Francisco Montriell, a pediatric neurologist; and Dr. Ruben Posadas, a  
10 neurologist. All three have determined that while Israel has a serious brain injury, he is not brain  
11 dead. Israel's EEGs show brain activity. This is not consistent with brain death.  
12

13 Children's accepted Israel for treatment based on reports by these physicians. The  
14 admitting physician personally talked with Dr. Zaldana about Israel's condition and prognosis.  
15 Israel's condition has significantly worsened since being under the care of Dr. Abou-Zamzam at  
16 Children's. Now Children's wants to remove Israel's ventilator, which will most likely cause  
17 Israel's death by suffocation.  
18

19 I had Israel transferred to Children's, as I believed the medical staff would provide him  
20 with care and treatment, while I made arrangements for Israel to be cared for at home. Instead,  
21 Children's is planning to put Israel to death.  
22

23 My son responds to treatment. He is able to move his upper body, turn his head, and  
24 move his arms and legs in response to my voice and touch. The fact that he responds to my voice  
25 indicates, at the very minimum, brain stem activity. Section 7180, requires the cessation of *all*  
26 functions of the brain, including the brain stem.  
27  
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1 At this time, I do not trust Children's to provide an independent evaluation of Israel.  
2 Because Israel's condition has worsened since being admitted to Children's, the hospital has a  
3 conflict of interest in determining his condition. If Children's can make a finding of brain death,  
4 they no longer have to pay for any of his care, while if he is severely brain damaged, but not  
5 brain dead, they may be legally liable to provide his ongoing care and treatment at Children's or  
6 elsewhere.  
7

8 Only one other case of this type is on record in California, namely the case of Jahi  
9 McMath which was heard in Alameda County in December of 2013. That case, one of first  
10 impression, where Nailah Winkfield challenged Children's Hospital Oakland's determination of  
11 brain death after they negligently treated her daughter, Jahi, led to an Order, issued by Hon E.  
12 Grillo, holding that an independent determination is one which is performed by a physician with  
13 no affiliation with the hospital facility (in that case Children's Hospital Oakland) which was  
14 believed to have committed the malpractice which led to the debilitating brain injuries Jahi  
15 suffered. A true and correct copy of Judge Grillo's Order is attached to this Petition. In the  
16 *McMath* case, the Trial Court rejected the Hospital's position that the Court had no jurisdiction  
17 over the determination of whether not Jahi McMath was "brain dead" or not.  
18

19  
20 In *McMath*, Judge Grillo stated that the Section 7180's language regarding "accepted  
21 medical standards" permitted an inquiry into whether the second physician (also affiliated with  
22 Children's Hospital Oakland) was "independent" as that term was defined under Section 7181.  
23 Judge Grillo determined that the petitioner's due process rights would be protected by a focused  
24 proceeding providing limited discovery and the right to the presentation of evidence.  
25

26 The Court determined that, under circumstances which are strikingly similar to those  
27 which present themselves here, the conflict presented was such that the court found that the  
28

1 Petitioner was entitled to have an independent physician, unaffiliated with Children's Hospital  
2 Oakland, perform neurological testing, an EEG and a cerebral blood flow study. Indeed, the  
3 Court Ordered Children's Hospital Oakland to permit the Court's own court appointed expert to  
4 be given temporary privileges and access to the Hospital's facilities, diagnostic equipment, and  
5 technicians necessary to perform an "independent" exam.  
6

7 In a Nevada Supreme Court case with similar facts, the court unanimously questioned  
8 whether the American Association of Neurology guidelines that are used to determine brain  
9 death in both Nevada and California, "adequately measure all functions of the entire brain,  
10 including the brain stem." *In re Guardianship of Hailu*, 131 Nev. Adv. Op. 89. (Nov. 16, 2015).  
11 In that case, Aden Hailu, a young college student, went into cardiac arrest during emergency  
12 surgery for severe stomach pain and subsequently suffered a brain injury. The hospital performed  
13 three EEGs, which showed some brain activity, yet doctors still proceeded to declare her brain  
14 dead pursuant to Nevada's brain death statute, which is identical to California's. Both states use  
15 the same guidelines to determine brain death, namely those developed by the American  
16 Association of Neurology.  
17  
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19 In this case, Children's wants to remove my son from his ventilator, even though three  
20 separate independent examinations have concluded that he is not brain dead and two EEGs show  
21 brain activity.  
22

23 As in *Dority* and *McMath*, the unique circumstances of this case invoke the Court's  
24 jurisdiction and due process considerations require that this Court grant my Petition for a  
25 Temporary Restraining Order and order that Children's Hospital of Los Angeles recognize the  
26 independent examinations performed by Drs. Zaldana, Montriell, and Posadas, or permit Dr. Alan  
27  
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1 Shewmon to conduct another independent examination with the assistance of Children's  
2 diagnostic equipment and technicians necessary to carry out a repeat EEG.

3 In order to provide the requisite physical conditions for a reliable set of tests to be  
4 performed, Israel Stinson should continue to be treated so as to provide his optimum physical  
5 health and in such a manner so as to not interfere with the neurological testing (such as the use of  
6 sedatives or paralytics).  
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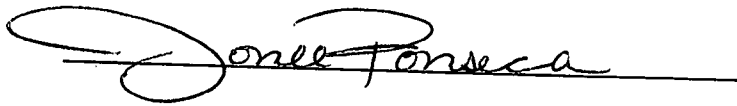
8 WHEREFORE, petitioner prays:

- 9 1) That a Temporary Restraining Order be issued precluding Respondents from performing  
10 any apnea tests on Israel Stinson be issued;  
11
- 12 2) That an Order be issued precluding Respondents from removing Israel Stinson from  
13 respiratory support, or removing or withholding medical treatment;  
14
- 15 3) That an Order be issued that Respondents are to provide Israel Stinson treatment to  
16 maintain his optimum physical health, including nutrition and thyroid hormone as  
17 needed, in such a manner so as to not interfere with the neurological testing (such as the  
18 use of sedatives or paralytics in such a manner and/or at such time that they may interfere  
19 with the accuracy of the results).  
20
- 21 4) That an Order be issued that Petitioner is entitled to an independent neurological  
22 examination, by Dr. Alan Shewmon with the assistance of Childrens diagnostic  
23 equipment and technicians necessary to carry out a repeat EEG.  
24

25 I declare under penalty of perjury under the laws of the State of California that the  
26 foregoing is true and correct. Executed on August 17, 2016, at Los Angeles, California.  
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Jonee Fonseca

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7 **IN THE SUPERIOR COURT OF CALIFORNIA**  
8 **IN AND FOR THE COUNTY OF LOS ANGELES**  
9 **UNLIMITED CIVIL JURISDICTION**  
10

11  
12 Israel Stinson, a minor, by Jonee Fonseca his  
13 mother.

14 Petitioner,

15 v.

16  
17 Children's Hospital Los Angeles  
18 Dr. Ashraf Abou-Zamzam

19 Respondent.  
20  
21

Case No.

DECLARATION OF JONEE FONSECA IN  
SUPPORT OF EX-PARTE PETITION FOR  
TEMPORARY RESTRAINING ORDER/  
INJUNCTION: REQUEST FOR ORDER OF  
INDEPENDENT NEUROLOGICAL EXAM;  
REQUEST FOR ORDER TO MAINTAIN  
LEVEL OF MEDICAL CARE ; REQUEST  
FOR ORDER TO FACILITATE TRANSFER  
TO ANOTHER FACILITY OR TO HOME  
CARE

22  
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24  
25 I, Jonee Fonseca, declare that I am the mother of petitioner Israel Stinson.

- 26  
27 1. On April 2, 2016, my son Israel Stinson suffered an asthma attack while being treated at  
28 UC Davis Children's Hospital in Sacramento, CA. It took several minutes for a doctor to

1 respond to my calls for help and by that time, Israel had stopped breathing. Doctors were  
2 able to resuscitate him, but he suffered a brain injury due to lack of oxygen.

3  
4 2. Israel is insured through Medi-Cal with Kaiser Permanente so he was transferred to  
5 Kaiser Permanente Medical Center ("Kaiser") in Roseville, CA for treatment.

6 3. Within 24 hours of his arrival at Kaiser, the admitting physician, Dr. Michael Myette,  
7 performed a brain death exam. I was told my son would be removed from life support on  
8 April 14.

9  
10 4. I then sought an independent evaluation of Israel's condition and obtained a court order to  
11 keep my son on the ventilator until another doctor could be found.

12  
13 5. Although I found several doctors who were willing to provide an independent  
14 examination, Kaiser refused to allow them to examine Israel.

15 6. My intention was—and is—to have Israel cared for at home. In order for Israel to be  
16 cared for at home, Israel needed a breathing tube and feeding tube ("g-tube").

17  
18 7. I asked Kaiser to perform the procedures, but Doctor Myette said that Israel's digestive  
19 system was not functional and that trying to feed him would be "catastrophic." He also  
20 said that Israel would not survive the tracheotomy procedure to provide him with a  
21 breathing tube.

22  
23 8. During the nearly six weeks that Israel was at Kaiser, the hospital refused to provide him  
24 with any nutrition. He was only on a dextrose solution for hydration.

25  
26 9. Kaiser also refused to do the two procedures necessary for Israel to be transferred to  
27 home care.

- 1 10. Dr. Myette told me the only reason Israel was alive was because he was making continual  
2 adjustments to his blood pressure medication, primarily vasopressin.  
3
- 4 11. Dr. Juan Zaldana, a pediatric specialist at Sanatorio Nuestra Señora del Pilar ("del Pilar")  
5 in Guatemala City, Guatemala, agreed to admit Israel and provide the breathing tube and  
6 g-tube.  
7
- 8 12. On May 21, Israel was transported by air ambulance (AirCARE One) to Guatemala City  
9 and admitted to del Pilar.
- 10 13. It took about five days for Israel to become stable enough to have the procedures. Both  
11 the tracheotomy and the gastrostomy were performed on the same day.  
12
- 13 14. Israel responded very well to finally receiving nutrition. Within one week, he was off of  
14 all of the vasopressors and was able to regulate his blood pressure on his own. He was  
15 also able to regulate his body temperature on his own. Israel also increased his  
16 movements in response to my voice and touch. He is able to move his upper body and his  
17 arms and legs. He recently started to squeeze his hands and make a fist.  
18
- 19 15. Dr. Zaldana, and Dr. Francisco Montiel, a pediatric neurologist at del Pilar, performed  
20 numerous exams on Israel, including two EEGs. Both doctors concluded that Israel's  
21 condition was inconsistent with the criteria for brain death (see emails, attached). They  
22 determined that Israel is in a "persistent vegetative state." This was confirmed by Dr.  
23 Rubén Posadas, a neurologist at del Pilar (see email, attached).  
24
- 25 16. We remained in Guatemala with Israel for approximately 2 1/2 months. During that time  
26 we made arrangements for Israel's return to the U.S.  
27  
28

- 1 17. In July, I was told that Children's Hospital of Los Angeles (Children's) consulted with Dr.  
2 Zaldana regarding Israel's condition. After speaking with Dr. Zaldana, Children's agreed  
3 to accept Israel as a transfer patient.  
4
- 5 18. On Saturday, August 6, Israel was transported by air ambulance from Guatemala City to  
6 Children's.  
7
- 8 19. On Sunday, August 7, Dr. Ashraf Abou-Zamzam, Israel's attending physician at  
9 Children's told me that Israel's sodium levels were high. Israel's face and torso were red  
10 and swollen. This had never occurred at del Pilar.  
11
- 12 20. On August 9, I was told that Children's stopped feeding Israel because of his sodium  
13 levels. On August 15, limited feeding was reinstated.  
14
- 15 21. I have requested that Israel be examined by an independent physician. Dr. Alan  
16 Shewmon, a neurologist with UCLA Medical Center, is willing to examine Israel (see  
17 attached). Dr. Shewmon is a highly qualified and respected neurologist who serves as  
18 Professor Emeritus of Neurology and Pediatrics at UCLA's David Geffen School of  
19 Medicine. Children's refused to allow Dr. Shewmon temporary admitting privileges for  
20 the purpose of examining Israel.  
21
- 22 22. I have also been informed that Totally Kids, a long-term care facility for children with  
23 severe brain injuries, is expecting to have a bed open for Israel early next month. If Israel  
24 cannot be transferred to home care, I would like him to go to a facility that specializes in  
25 children with special needs.  
26
- 27 23. On August 16, I was told that Children's is planning to remove Israel from ventilator  
28 support tomorrow, August 18.

1 24. I am hereby asking that Children's Hospital of Los Angeles be prevented from removing  
2 my son, Israel Stinson, from the ventilator.

3  
4 25. If Children's removes Israel from the ventilator and he stops breathing, they will have  
5 ended his life as well as their responsibility to provide care for the harm their negligence  
6 caused. For this reason I hereby request that an independent examination be performed,  
7 including the use of an EEG.

8  
9 26. I also request that Children's be prevented from performing an "apnea test" on Israel  
10 during which he would be removed from the ventilator.

11 27. I also request that Children's be ordered to continue to provide such care and treatment  
12 to Israel that is necessary to maintain his physical health and promote any opportunity for  
13 healing and recovery of his brain and body, including nutrition and thyroid hormone as  
14 needed.

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16  
17 28. I also request that Children's Hospital of Los Angeles be ordered to facilitate Israel's  
18 transfer to either a long-term care facility or home care as soon as possible.

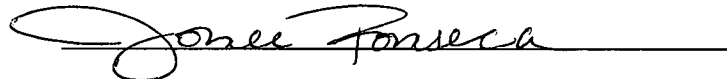
19  
20  
21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed on August 17, 2016, in Los Angeles, California.

23  
24  
25  
26 \_\_\_\_\_  
27 Jonee Fonseca  
28

1 26. I also request that Children's be ordered to continue to provide such care and treatment  
2 to Israel that is necessary to maintain his physical health and promote any opportunity for  
3 healing and recovery of his brain and body, including nutrition and thyroid hormone as  
4 needed.

5 27. I also request that Children's Hospital of Los Angeles be ordered to facilitate Israel's  
6 transfer to either a long-term, subacute care facility or home care as soon as possible.  
7

8  
9 I declare under penalty of perjury under the laws of the State of California that the  
10 foregoing is true and correct. Executed on August 17, 2016, in Los Angeles, California.  
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15 Jonee Fonseca  
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Paul A. Byrne, M.D.  
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Oregon, Ohio 43616  
(419) 698-8844  
e-mail:pbyrne@toast.net

August 18, 2016

1. I have personal knowledge of all the facts contained herein and if called to testify as a witness I would and could competently testify thereto.
2. I am a physician licensed in Missouri, Nebraska and Ohio. I am Board Certified in Pediatrics and Neonatal-Perinatal Medicine. I have published articles on "brain death" and related topics in the medical literature, law literature and the lay press for more than thirty years. I have been qualified as an expert in matters related to central nervous system dysfunction in Michigan, Ohio, New Jersey, New York, Montana, Nebraska, Missouri, South Carolina, Virginia and the United States District Court for the Eastern District of Virginia.
3. I have reviewed the medical records of Israel Stinson, a 2-year-old boy, when he was a patient in Kaiser Permanente, Roseville Hospital. I visited Israel Stinson several times. On April 22 when I visited him, he was in the arms of his mother. A ventilator was in place.
4. I have continued to be in touch with Israel's parents. I have reviewed the videos that have been sent to me. Israel does move in these videos. If Israel were a cadaver, this is not possible, Thus Israel is alive.
5. The Guidelines of the AAN that the hospital claims to have been following were not fulfilled. The Guidelines require that "Patients must lack all evidence of responsiveness." Israel is responsive.
6. Israel was transferred to Guatemala on May 18, 2016 for treatment. There he received nutrition, tracheostomy and gastrostomy. His condition improved so he no requires vasopressors. He was continued on thyroid medication while in Guatemala.
7. Three doctors in Guatemala (an intensivist and 2 neurologist) stated that Israel is alive and does not fulfill criteria for death. I have been in touch with these doctors.
8. Israel was transferred back to USA to Children's Hospital Los Angeles (CHLA) on August 8, 2016.
9. Israel receives treatment for diabetes insipidus.
9. On April 4, Cranial Doppler showed "Near total absence of blood flow into the bilateral cerebral hemispheres." "Near total absence" is not evidence of no blood flow.
10. An apnea test was done on Israel 3 times. Every time he was made acidotic and hypercapneic (increase in carbon dioxide). These tests could not have helped Israel. Further, the third time was after Israel's parents requested that such testing not be done again.
11. Endocrine abnormalities including hypothyroidism preclude any reliable evaluation of functioning of the brain. Thyroid blood studies were done on April 18. Results showed that Israel has

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hypothyroidism. Thyroid was started on thyroid medication on April 18. He continues on thyroid medication.

12. The results of test of thyroid function of Israel Stinson are:

4/17/16 TSH: 0.07 (normal 0.7-5)

4/17/16: T4: 0.4 (Normal .8-1.7)

Israel's brain (hypothalamus) produces thyroid stimulating hormone (TSH), but not enough for normal thyroid function, thus he needs thyroid medication.

14. T4 was low and brain edema turned into brain myxedema. When thyroid is given, brain circulation can increase and resume normal levels, thereby restoring normal neurological and hypothalamic function.

15. With proper medical treatment Israel is likely to continue to live, and may find limited to full recovery of brain function, and may possibly regain consciousness.

16. Israel has a beating heart without support by a pacemaker or medications. Israel has circulation and respiration and many interdependent functioning organs including liver, kidneys and pancreas. Israel healed after his surgeries in Guatemala. Israel Stinson is a living person who is on a ventilator, passes urine, digests food and has bowel movements. These do not occur in a cadaver after true death. These are indications that Israel is alive.

17. The criteria for "brain death" are multiple and there is no consensus as to which set of criteria to use (Neurology 2008). The criteria supposedly demonstrate alleged brain damage from which the patient cannot recover. However, there are many patients who have recovered after a declaration of "brain death." (See below.)

18. The latest scientific reports indicate that patients deemed to be "brain dead" are actually neurologically recoverable. I recognize that such treatments are not commonly done. Further it is recognized that the public and the Court must be wondering why doctors don't all agree that "brain death" is true death. Israel, like many others, continues to live. Many persons are on thyroid hormone because they would die without it.

19. The questions presented here refer to (1) the unreliability of methods that have been used to identify death and (2) the fact that no therapeutic methods that would enable brain recovery have been used so far.

20. Israel Stinson's brain is probably supplied by a partially reduced level of blood flow, insufficient to allow full functioning of his brain, such as control of respiratory muscles and production of a hormone controlled by the brain itself. This is called thyroid stimulating hormone, TSH, which then stimulates the thyroid gland to produce its own hormones. With insufficient amount TSH Israel has hypothyroidism.

21. On the other hand, partially reduced blood flow to his brain, despite being sufficient to maintain vitality of the brain, is too low to be detected through imaging tests currently used for that purpose. Employing these methods currently used for the declaration of "brain death" confounds NO EVIDENCE of circulation to his brain with actual ABSENCE of circulation to his brain.

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22. Israel had electrical activity on 2 EEG's while in Guatemala.

23. In 2013, Jahi McMath was in hospital in Oakland, CA. When I visited her in the hospital in Oakland, Jahi was in a condition similar to Israel. A death certificate was issued on Jahi on December 12, 2013. Jahi was transferred to New Jersey where tracheostomy and gastrostomy were done and thyroid medication was given. Multiple neurologists recently evaluated Jahi and found that she no longer fulfills any criteria for "brain death. Since Jahi has been in New Jersey, she has had her 14<sup>th</sup> and 15<sup>th</sup> birthdays. The doctors in Oakland declared Jahi dead and issued a death certificate. Jahi's mother said no to taking Jahi's organs and no to turning off her ventilator. Israel's parents are saying no to taking Israel's organs and to taking away his life support. Just like Jahi's mother!

24. Israel Stinson needs continued treatment with ventilator, thyroid medication and proper nutrition. These can be done in a long term care facility or his home.

---

Paul A. Byrne, M.D., FAAP

References to some of those who have recovered after a declaration of "brain death":

Hospital staff began discussing the prospect of harvesting her organs for donation when she squeezed her mother's hand. **Kopf was mistakenly declared dead in hospital but squeezed her mother's hand in 'breathtaking miracle.'**

<https://www.dropbox.com/s/dtti4hkx89ikyg/Uber%20Shooting%20Victim%20Abigail%20Kopf%20Goin%20From%20Victim%20to%20Survivor%20%20NBC%20Nightly%20News.mp4?dl=0>

Zack Dunlap from Oklahoma. Doctors said he was dead, and a transplant team was ready to take his organs — until a young man came back to life

<http://www.msnbc.msn.com/id/23768436/>; <http://www.lifesitenews.com/ldn/2008/mar/08032709.html>

Rae Kupferschmidt: <http://www.lifesitenews.com/ldn/2008/feb/08021508.html>, February 2008.

Frenchman began breathing on own as docs prepared to harvest his organs  
[www.msnbc.msn.com/id/25081786](http://www.msnbc.msn.com/id/25081786)

Australian woman survives "brain death" <http://www.lifesitenews.com/news/brain-dead-woman-recover-after-husband-refuses-to-withdraw-life-support> UTM

[source=LifeSiteNews.com+Daily+Newsletter&utm\\_campaign=231fd2c2c9-LifeSiteNews.com+US+Headlines05+12+2011&utm\\_medium=email](http://www.lifesitenews.com/news/brain-dead-woman-recover-after-husband-refuses-to-withdraw-life-support)

Val Thomas from West Virginia

WOMAN WAKES AFTER HEART STOPPED, RIGOR MORTIS SET IN

<http://www.foxnews.com/story/0,2933,357463,00.html>

<http://www.lifesitenews.com/ldn/2008/may/08052709.html>, May 2008.

An unconscious man almost dissected alive:

<http://www.lifesitenews.com/ldn/2008/jun/08061308.html>, June 2008

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Gloria Cruz: <http://www.lifesitenews.com/news/brain-dead-woman-recovers-after-husband-refuses-to-withdraw-life-support/>, May 2011

Madeleine Gauron: <http://www.lifesitenews.com/news/brain-dead-quebec-woman-wakes-up-after-family-refuses-organ-donation>, July 2011

References that "brain death" is not true death include:

Joffe, A. Brain Death is Not Death: A Critique of the Concept, Criterion, and Tests of Brain Death. *Reviews in the Neurosciences*, 20, 187-198 (2009), and Rix, 1990; McCullagh, 1993; Evans, 1994; Jones, 1995; Watanabe, 1997; Cranford, 1998; Potts et al., 2000; Taylor, 1997; Reuter, 2001; Lock, 2002; Byrne and Weaver, 2004; Zamperetti et al., 2004; de Mattei, 2006; Joffe, 2007; Truog, 2007; Karakatsanis, 2008; Verheijde et al., 2009. Even the President's Council on Bioethics (2008), in its white paper, has rejected "brain death" as true death.

09/02/2016

## NEUROLOGICAL EVALUATION

I evaluated patient: Israel Stinson

1. Ischemic hypoxic encephalopathy, the motive is to determine if there are signs of irreversal cerebral lesions.

- I evaluated the depth of the eye: atrophy of the bilateral optic nerve.
- Slight venous pulsation, without hemorrhage
- Negative oculovestibular test
- Negative maneuvers of the doll of the wrist
- Pupils: two millimeters on the left, one millimeter on the right

There are primitive reflexes of defense and rejection, of position in both superior and inferior, members, there are osteotendinoses reflexes present.

He maintains cardiac frequency and arterial pressure without pharmaceutical assistance. The head has temperature, it feels warm.

### CONCLUSION

1. Deep coma state
2. Persistent vegetative state, due to serious brain lesion
3. Does not belong to the encephalic criteria of brain death ( warm head temperature, keeps blood pressure and cardiac frequency without medication).

The prognosis is reserved, he will be a patient dependent on mechanical ventilation.

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Dr. Rubén Posadas  
Neurologist  
Col 3842

EVALUACION POR NEUROLOGIA

\*Evalué paciente conocido por

1. Encefalopatía hipóxico isquémica, el motivo es determinar si existen signos de lesión cerebral irreversible.

\*Efectué fondo de ojo: atrofia del nervio óptico bilateral

\*Pulsación venosa leve, sin hemorragia

\*Pruebas oculovestibulares negativas

\*manobras ojos de muñeca negativa

\*pupilas: dos milímetros izquierdos, derechos un milímetro

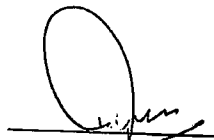
Hay reflejos primitivos de defensa y rechazo, de posición en ambos miembros superiores e inferiores, reflejos osteotendinosos presentes.

Mantiene frecuencia cardíaca y presión arterial sin ayuda de medicamentos. La cabeza tiene temperatura, se palpa tibia

CONCLUSION:

1. Estado coma profundo
2. Estado vegetativo persistente por lesión cerebral grave
3. No cumple con criterios encefálicos de muerte cerebral (cabeza tibia, mantiene presión y frecuencia cardíaca sin fármacos)

El pronóstico es reservado, será un paciente dependiente de ventilación mecánica.



Dr. Rubén Posadas

Neurólogo

Col. 3842

970272060

**Subject:** Re: Israel  
**From:** Alexandra Snyder (asnyder@lldf.org)  
**To:** ashewmon@socal.rr.com;  
**Cc:** joneefonseca@yahoo.com;  
**Date:** Wednesday, August 17, 2016 1:40 PM

Thank you!

Alexandra Snyder  
Executive Director  
Life Legal Defense Foundation  
O: 707.224.6675  
C: 202.717.7371

On Aug 17, 2016, at 1:40 PM, D. Alan Shewmon, MD <ashewmon@socal.rr.com> wrote:

Dear Ms. Snyder,

As I told Ms. Fonseca, I would be willing to examine Israel Stinson if the hospital were to grant temporary privileges for me to do so.

Best regards,  
D. Alan Shewmon, MD

08/17/2016

**Subject:** Re: Israel  
**From:** Alexandra Snyder (asnyder@lldf.org)  
**To:** pbyrne@bex.net;  
**Cc:** joneefonseca@yahoo.com;  
**Date:** Wednesday, August 17, 2016 1:27 PM

Thank you! I'm hoping to have the documents finished in the next hour as Jonee needs to file them today.

On Aug 17, 2016, at 12:56 PM, Paul A Byrne MD <pbyrne@bex.net> wrote:

No. I will ask

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**From:** Alexandra Snyder [mailto:asnyder@lldf.org]  
**Sent:** Wednesday, August 17, 2016 3:51 PM  
**To:** Paul Byrne, MD <pbyrne@bex.net>  
**Cc:** Jonee Fonseca <joneefonseca@yahoo.com>  
**Subject:** Re: Israel

Do you happen to have a CV from Dr. Zalanda and/or Dr. Montiel?

On Aug 17, 2016, at 11:37 AM, Paul A Byrne MD <pbyrne@bex.net> wrote:

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**From:** Juan Zaldana [mailto:zaljua@yahoo.com.mx]  
**Sent:** Monday, June 13, 2016 12:11 PM  
**To:** Paul A. Byrne MD <pbyrne@bex.net>  
**Subject:** Rv: Israel

The Neurologist wrote it.

El Lunes, 13 de junio, 2016 9:01:42, Francisco Montiel <fmontielguate@gmail.com> escribió:

To whom it may concern:

9182770760

I, Francisco Montiel, paediatric neurologist, have had the opportunity to evaluate Israel who was transferred from an intensive care unit in the USA with a medical history already known.

Upon evaluation Israel shows no spontaneous respiratory effort, oculocephalic, oculovestibular and ciliospinal reflexes are absent, he shows no reaction to vocal stimuli, however upon physical stimuli he does show movement of his 4 limbs, more right than left movement, this movement appears to be spinal in nature.

He has had 2 EEG tests both of which show slow waves of very low amplitude, neither of them being isoelectric.

Given the findings and history, the clinical picture appears to be one of persistent vegetative state.

Francisco Montiel  
Medical license 6932

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<image001.jpg> Virus-free. [www.avast.com](http://www.avast.com)

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 Virus-free. [www.avast.com](http://www.avast.com)

09/07/2015