

Temple Hospital To Pay Family \$45M After Teen Chokes on Mashed Potatoes

Published Aug 07, 2024 at 1:35 PM EDT

By **Jenna Sundel**
Reporter (Live News)

Temple University Hospital has been ordered to pay nearly \$45 million to a Philadelphia teenager who requires 24-hour care after he choked on mashed potatoes.

Philadelphia catastrophic injury law firm, The Duffy Firm, won a \$44,894,877 verdict on behalf of 19-year-old Dylan Hernandez. The firm argued that the Philadelphia hospital was negligent in caring for Hernandez after he suffered a gunshot wound to the neck in 2020.

Hernandez, who was 15 years old at the time, was initially taken to Episcopal Hospital and intubated. He was moved to Temple University Hospital after he was stabilized.

He was diagnosed with an injury to his left vertebral artery, a broken jaw and a fracture of his spine.



Dylan Hernandez was 15 years old when he was shot in the neck in 2020. Two hospitalizations resulted in him requiring 24-hour care.

A speech therapist at the hospital gave Hernandez a barium swallow test, which showed he had moderate pharyngeal dysphagia. The impairment increases the potential for choking while eating or drinking.

Hernandez ability to consumer liquids and purees were tested, but he was never tested on his ability to eat solids or thick liquids. His swallowing strategies were also not evaluated.

It was recommended that Hernandez's attempts to eat were observed by a medical professional, but that never happened. He was discharged with instructions written by a third-year resident. The instructions did not include the speech therapist's recommendations.

Hernandez choked on mashed potatoes less than 48 hours after he was discharged.

He was rushed back to the hospital, where he suffered cardiac arrest, which resulted in respiratory failure and neurological injury.

Attorneys Tom Duffy and Sean Dougherty originally asked the hospital to pay \$32 million. The defense offered \$500,000.

In a pre-trial document, a nurse estimated that it could cost the Hernandez family \$18 million for Dylan Hernandez to live at home with supportive services or \$19 million to move him to a residential living program until the age of 76. An economic expert estimated Dylan Hernandez's personal and medical care can range in cost from \$28 million to nearly \$190 million.

"Defense counsel Joe Tucker and Rebecca Waddell are certainly formidable adversaries, backed by two very large law firms. They threw everything they could at us," Duffy said. "But in the end, for Sean and I, this is about Dylan Hernandez, who will be well taken care of for the rest of his life as a result of the jury's decision."

The settlement will ultimately equal around \$52 million due to delay damages.

"This is all very overwhelming," mother Jasmine Hernandez said in a statement to *Newsweek*. "I'm happy to a point, because my son got his justice, but what happened to him is sad, too. But because of the verdict and what the jury said, Dylan will have a lot of help that we really need."

The General Counsel of Temple Health John Ryan said the hospital "respectfully disagrees" with the verdict in a statement sent to *Newsweek*. The hospital plans to ask the court to vacate the verdict.

"Our trauma team provided excellent, life-saving care to this victim of gunshot violence on two separate occasions and our clinicians followed the highest standards of life-saving care and appropriate discharge protocols," Ryan said. "Our team provided the patient and his mother clear and appropriate care instructions upon discharge, to support a safe and effective healing process. We contend that he disregarded the care team's instructions on foods that could be safely eaten in his condition."

Ryan said the decision to not follow the hospital's instructions is what led to Dylan Hernandez's injury.

"We are deeply concerned that verdicts of this nature jeopardize the availability of quality medical care for Philadelphians, further jeopardizing the health of those most in need," Ryan said. "Under the strain of such excessive verdicts that are based on emotion and sympathy and not medical facts and science, it becomes increasingly challenging for hospitals in Philadelphia to continue providing essential healthcare services to our community."

What Happened to Dylan Hernandez?

Jasmine Hernandez said the trial was "very hard."

"It was hard, listening to the story all over again about how he got shot. The lies they were coming up with, trying to make it look like it was our fault, when I would never do anything to hurt my son. But I'm happy for all that Tom [Duffy] did and I'm happy we didn't settle when they wanted to," Jasmine Hernandez said.

The shooting happened after a fight broke out at a birthday party Dylan Hernandez was attending. Dylan Hernandez went outside to help his girlfriend when he "got caught in the middle of it," Jasmine Hernandez said.

The shooter was arrested but never charged because Dylan Hernandez was in the hospital and unable to testify.

Jasmine Hernandez said her son attended Camelot School in Philadelphia prior to the shooting. He played baseball and basketball, but basketball was the "true sport he loved."

"He kept saying he was going to take it all the way to the [NBA](#) and be a professional basketball player," Jasmine Hernandez said.

He also dreamed of starting a business in the food industry.

"My dad is a chef, and he was always teaching Dylan something, so Dylan kept saying he was going to open up a food business so my dad could always cook for him," Jasmine Hernandez said.

He now attends a program called BrainSTEPS at Bensalem High School, a program for students with brain injuries. He graduated from the school, but he will continue attending the program until he is 21.

"He is really resilient. But this was a big, big change for him," Jasmine Hernandez said. "He was real independent. Now, he needs help with everything. Things like showering and dressing, but also eating. Because of inadvertent movements, he can't even feed himself. He can't walk on his own. He can't buy that motorcycle he always wanted to buy. He can't play basketball."

She said the injuries her son sustained have also affected his social life.

"Of the friends who stayed with him, it's not the same," Jasmine Hernandez said. "I mean, he can't go to the movies without a chaperone. He took his sister to his prom because he said, 'Who will want to go out with me?' There are a lot of ups and downs."

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