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Angela Carder: A Case Study on Maternal and Fetal Rights

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Introduction

Pregnancy is a time full of anticipation and excitement for most expectant mothers. Most would not expect to battle their fetus legally for rights concerning medical treatments, but this was exactly what Angela Carder did. Unfortunately, if mothers become seriously ill during their pregnancy, the treatments that will be best for their health and comfort might not be beneficial, and in some cases may even be directly harmful to their developing fetus. This conundrum is illustrated by the case of Angela Carder who developed terminal cancer during her pregnancy. Her decision to forego a caesarean section in favor of comfort medications and hospice care was contested legally by the hospital where she was a patient. In an effort to grant equal rights to her fetus, Carder's own rights were wrongly ignored. Although the care and fate of the fetus is an important ethical consideration, it is one that can only be made by the pregnant mother. Health care providers are reminded that they must respect the medical decisions made by all patients, pregnant or not.

Background

Angela Carder had a history of bone cancer dating back to age 13. She had endured years of radiation, chemotherapy, and even the amputation of her left leg. At age 27, after being in remission for three years, she became pregnant. In June 1987, during the 25th week of her pregnancy a tumor was found in her lung, and she was admitted to George Washington University Hospital in Washington D.C. Her condition quickly deteriorated and death was determined to be imminent.

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Upon admission to the hospital, Carder knew her condition was terminal and decided to endure treatments that could prolong her life to 28 weeks at which point she would consent to a caesarean section. She chose this timeframe because her doctors advised it would provide the best chance of survival for her fetus.[1] It quickly became clear, however, that Carder would not be able to reach this point, so she decided to forego the surgery and instead receive larger doses of pain medication and other treatments to remain comfortable until her death.[2] She recognized that her fetus had likely been deprived of oxygen due to her weakened condition, and she considered the added disadvantages of an extremely premature birth at 26 weeks, deciding the risks to her own health and comfort were not worth the small chance of producing a viable child.[3] Carder's doctor's supported her choice. They felt the surgery would likely be fatal for Carder and at 26 weeks would provide little chance of survival for her fetus.[4]

The hospital immediately questioned its legal responsibility to the fetus. A District of Columbia judge came to the hospital to hold a hearing. Carder's lawyer argued that her decision should be respected because she clearly held decision-making capacity.[5] The lawyer for the fetus contested that all attention and effort should be focused on saving the fetus as no intervention would change the final outcome for Carder.[6] Carder's wishes were explicitly clear, so the purpose of the trial was solely to determine the legal rights of the fetus. The judge ultimately decided in favor of the fetus, ordering an immediate caesarean section be performed.[3]

Although Carder's doctors refused to perform the caesarean section another doctor was called in. The baby died within two hours of delivery. Carder was conscious to learn of her child's death, but quickly slipped into a coma and died less than 48 hours later.

In 1990 the case of Angela Carder was brought before The District of Columbia Court of Appeals by her parents. They hoped the verdict would affect the treatment of future pregnant patients. The court ruled that, "Carder had the right to make medical decisions for herself and for her unborn child."[7] The appeals judge described the trial judge's decision as a violation of Carder's right to informed consent and bodily integrity. The judge further clarified that a woman's rights remain intact even after her fetus becomes viable.

Fetal Rights

This case highlights the issue of fetal rights and how they fit with the rights of the mother. One school of thought calls for a fetus to be granted the same legal rights as any other person. In this situation a doctor would recognize that he is not treating a pregnant woman but rather a woman and a second individual patient, the fetus.[1] Another popular view on fetal rights was created in 1973 by the Supreme Court case of *Roe v. Wade* which established a timeframe of fetal viability, defined as the earliest point at which a fetus can survive without dependence on the mother.[8] In humans this generally occurs in the 24th week of gestation, thus Carder's fetus was viable and perhaps deserving of some rights. At the other extreme, many people feel a fetus has no rights. This idea stems from a focus on patient autonomy, the right of a patient to decide what medical intervention, if any, he or she wishes to undergo. From this point of view a woman is the only patient with full rights, as fetal rights would wrongly compromise a woman's autonomy.

I think it is important to recognize that arguments for equal fetal rights are, in this case, flawed, because the result was not equal fetal rights, but rather for rights superior to those of the mother. When Angela Carder's fetus was granted equal rights, those rights outweighed her right to refuse medical treatment. In extending this concept beyond pregnancy, it is clear that no law or penalty forces parents to donate organs to their dying children, as this would be considered a violation of bodily integrity and informed consent. I feel that Carder's decision to forego a caesarean section should have been respected. A fetus cannot be granted any rights that would limit the rights of the mother.

Maternal Rights and Decision Making Power

Pregnant women, just like all other patients, must retain indisputable decision making power in most situations concerning self health care. The Committee on Bioethics for the American Academy of Pediatrics outlines three conditions that must all be present for a physi-

cian to intervene on behalf of the fetus. It maintains that the fetus must face serious harm without intervention, the intervention must be proven to be effective, and the risk to the pregnant woman must be minute.[1] These conditions were not met in the case of Angela Carder. While the fetus did face serious harm without intervention, it also faced serious harm with intervention as it was not fully developed. The caesarean section was not guaranteed to produce a live child let alone a healthy child. Finally, the risk to Carder was significant and compromised both her comfort as well as her life. Health care providers must be careful not to let personal opinions influence their actions. A woman's decisions need to be respected unless these three criteria apply. If a provider's personal views impair their ability to care for the patient, another provider who is willing to provide the care that the patient desires should be located. Carder's original physicians showed sound ethical behavior in refusing to perform a caesarean section that was against their patient's clearly stated wishes.

It is also important to respect and value the desires of a dying pregnant woman just as it would be for any other patient. Lawyers for the fetus argued that the operation would not change the certain death Carder faced. In addition to disregarding Carder's clearly stated wishes, this is contradictory to the entire U.S. legal system as murder is defined as independent of the victim's anticipated lifespan. It would be equally wrong and punishable by law to kill someone with one hour left to live as killing someone with 50 years remaining. Carder's death certificate listed, among other factors, the caesarean section as a cause of death.[4] The lawyers for the fetus may have had good intentions of saving a life, but they were wrong to attempt to do so at the cost of another.

With Right Comes Responsibility

While granting priority to the mother's rights may settle the legal issue, it does not resolve these difficult moral dilemmas. The law only states who has the right to make these ethical decisions, but it is unable to outline a specific course of treatment that would be ethically sound in all situations. It recognizes that every case and person will be different, so it places the decision making power and responsibility on the mother's shoulders. I think this is a reasonable solution, because good moral decision making would call for consideration of the fetus in a woman's deliberation.

In analysis of Carder's decision-making strategy it appears that she was following, perhaps unknowingly, a teleological approach, in that she weighed the ultimate balance of good over evil.[9] The surgery would have had no benefit for her. Additionally, a caesarean section would not only increase her pain and suffering and deprive her of more powerful pain medications, it would most likely accelerate her death. Risks to the fetus also existed. Birth at 26 weeks would most likely mean the fetus's heart and lungs would not be fully developed.[4] Carder recognized that her lung tumor had probably deprived the fetus of adequate oxygen and her pain medications might also have had negative effects. The only benefit to the surgery would have been a predicted 50 to 60 percent chance of survival for the fetus. Finally, survival meant simply avoiding death; it did not assure a healthy child. I think that Carder fulfilled her ethical responsibility to her fetus in making these difficult decisions. She attempted to live long enough so that a caesarean section would provide the most benefit and least harm to her fetus, when this was no longer possible she reevaluated following a similar method.

Conclusion

Angela Carder's situation, although tragic, brought to light important medical and ethical uncertainties. When expectant mothers become ill during pregnancy, treatments that might be best for their health and comfort could also be harmful to the developing fetus. When this occurs, patients and providers are left questioning what rights a fetus possesses. I think that a fetus cannot be granted any legal rights to medical treatment until it is surviving independently of the mother. Doing so would deny patients such as Angela Carder their rights to bodily integrity and informed consent. Although I do not think that a fetus can hold legal rights; it is extremely important for the mother to consider her fetus when making these difficult decisions. While this removes the ethical burden from health care providers, care must be taken such that personal ethical beliefs do not lead to inappropriate intervention on behalf of a the fetus. The option of referral to another provider is ideal if a patient and provider cannot agree on a plan of care. This case was a very important step in the legal process that both secured and clarified the rights of pregnant women. It also serves as a reminder to both pregnant patients and their health care providers that with this right comes a responsibility to make a sound ethical decision, and that decision can only be the patient's.

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