Reports of abuse on Eain Brooks went on for 2 years before he was killed

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Erie County’s child protective services workers dismissed several reports from family and professionals that Eain Clayton Brooks was being beaten, burned and abused for nearly two years before the 5-year-old boy was killed by the boyfriend of Eain’s mother, according to a civil lawsuit that the child’s grandmother has filed against the county.

And the reports of abuse came not just from family members but from workers at Gateway-Longview, where the boy attended an early-childhood education program to help prepare him for elementary school.

The litany of complaints included Gateway-Longview staff on four occasions trying to tell protective workers that Eain had been struck with a belt, suffered burns and scalding, had black eyes and did not have proper guardianship, the lawsuit claims. In each case, the complaint was dismissed, the suit alleges.

A county investigation into Eain’s death resulted in the firing of two caseworkers, suspension of two supervisors and the reassignment of the administrator overseeing Child Protective Services.

The grandmother’s lawsuit accuses the county of conducting slipshod investigations into child abuse complaints over a 23-month period leading up to Eain’s death on Sept. 17, 2013, two days after Matthew W. Kuzdzal sodomized the boy and slammed his head with such force into a bathtub at their West Side apartment that it fractured the boy’s skull, causing the fatal injuries.

Seeking an unspecified amount in damages, Hamburg attorney Daniel J. Chiachia has filed the lawsuit on behalf Robin Hart, Eain’s maternal grandmother and the administrator of her grandson’s estate. The 27-year-old Kuzdzal, who was sentenced last October to 50 years in prison for the sexual attack and killing Eain, is also being sued.

The county denied the allegations, calling for dismissal of the lawsuit and threatening to sue Hart if she wins a financial award from anyone else. The county also suggests the state Office of Children & Family
Services and Gateway-Longview may be potential defendants.

Eain’s case and the slayings of two other Buffalo children – 10-year-old Abdifatah “Abdi” Mohamud and eight-year-old Jacob Noe whose families had also been under review by county child protective caseworkers – brought intense scrutiny on CPS by county officials and the state to make the system more accountable. In June, the Erie County Legislature approved the hiring of 37 new caseworkers.

There were also requests for the resignation of Erie County Social Services Commissioner Carol Dankert-Maurer by two members of the legislature and Hart. Dankert-Maurer later decided not to seek another five-year term, though she remains on the job overseeing her department and mental health while searches for new commissioners for both departments continue.

In the lawsuit, Chiacchia stated that, starting in November 2011, Hart, family members and others filed reports with the state’s Central Register of Child Abuse that the boy was being harmed.

Erie County Child Protective Services determined the complaints could not be substantiated, according to the attorney and Hart.

In a copy of the lawsuit obtained by The Buffalo News, CPS investigated the following allegations:

- Dec. 6, 2011, inadequate guardianship for hitting Eain for unknown reasons and picking him up by his neck, causing pain to the boy’s head. That and a previous complaint from Nov. 14, 2011, were consolidated and found to be unsubstantiated on Jan. 5, 2012.


- May 24, 2012, Gateway-Longview attempted to file a complaint claiming Eain had been struck with a belt and smelled of marijuana. The complaint was rejected because there were no signs of “excessive force.”

- Feb. 7, 2013, Gateway-Longview filed a complaint that Eain had suffered burns and scalding and did not have proper guardianship. “Specifically, [Eain] had a large burn on his face.”

Two additional complaints were filed, one on March 2, 2013, and another the next day, alleging the boy had burns, scalding, lacerations, welts and bruises. Three days later, Gateway-Longview again reported the boy appeared to be the victim of lacerations, bruises and welts, including two black eyes.

CPS consolidated all these complaints into a single case and were found to be “unsubstantiated” on March 13, 2013.

- July 26, 2013, Gateway-Longview filed a report Eain suffered lacerations, bruises, welts and lacked proper guardianship. And again Eain appeared to have a black eye.

Nora Brooks, the boy’s mother and Kudzal’s live-in girlfriend, claimed Eain had suffered the black eye from another student. The staff at Gateway-Longview responded stating the injury did not occur at school or on the bus ride home.

- Aug. 12, 2013, two additional complaints were filed. The first claimed that Eain had suffered “swelling, dislocation, sprains, lack of supervision, parents’ drug and alcohol use and inadequate guardianship.” The second complaint stated the boy had been physically abused.

These reports and the July 26 report were handled as a single investigation and on Aug. 20, 2013 – less than a month before Eain was killed – deemed “unsubstantiated.”

“...County of Erie breached its duty to Eain Clayton Brooks in that its servants, employees and/or staff were wrongful, negligent, grossly negligent and/or careless in repeatedly failing to adequately investigate reports that Eain Clayton Brooks was ... in need of protection,” the lawsuit states.

The suit further alleges the county failed to employ adequate staff, properly train them and monitor their work, which created “a dangerous situation and increased risk of harm to suspected abuse victims.”

And while a State Supreme Court judge has not yet been assigned to the case, the Erie County Attorney’s Office has sent a response to Chiacchia claiming Hart should not be permitted to recover damages because “the incident/accident was the result entirely of plaintiff Robin Hart’s culpable conduct ... ”
The county also described Kudzhal as culpable, citing his criminal conviction for killing Eain.

If Hart succeeds in obtaining damages from a “collateral source,” Assistant County Attorney Jeremy C. Toth said the county will sue her for a portion of the award.

Toth, in calling for the suit to be dismissed, alleged that there are others who could be named in the lawsuit, including the state’s Office of Children & Family Services, Gateway-Longview and Brooks.

Chiacchia said his investigation could not find fault with Gateway-Longview.

“I find no basis in fact that Gateway-Longview did anything that caused or contributed to the death of Eain Brooks,” Chiacchia said Wednesday. “As far as the state is concerned, our complaint alleges several specific instances where the county failed to respond appropriately to significant complaints of abuse. Those failures are detailed in the child fatality report prepared by the state Office of Children and Family Services.”

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