

2-year-old's morphine death leaves behind heartbreak and questions

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By Emily E. Smith | The Oregonian/OregonLive

One fall evening in a ranch-style house with a manicured lawn, a little boy ate a big dinner of pork chops and broccoli.

He went to bed between 7:30 and 8 p.m. and fussed once in the night.

It was about 9:30 p.m. when his aunt checked on him. She gave him water from a sippy cup and held him until he dozed off. Then she left the room. Mason, 2, never woke up.

Jesse deVos, the boy's father, knows the facts by heart. He remembers because he's been going over them ever since Mason died.

The toddler was found dead in the Tigard home where he lived with his 8-year-old brother, mother, aunt and grandmother.

The police came that morning and saw the little boy lying lifeless on his back, arms above his head, as if he were asleep. A detective thought he must have died from an unforeseen medical problem.

A routine autopsy found nothing wrong with the child.

Then, nearly a month later, toxicology results showed the presence of opiates in Mason's blood.

The medical examiner found that morphine poisoning killed Mason.

Jesse deVos, 40, wants to know how it happened. How could a lethal amount of morphine get to his son? Or how did Mason get to it?

A medical examiner, a detective, a prosecutor. None of them could tell him.

"Everybody says they don't know," deVos said.

The mystery of Mason's death remains locked, leaving a series of maddening, unsatisfying unknowns. A lag in calling 911. A lax police investigation. A lack of evidence.

The father's pain doesn't lessen with time.

More than a year later, he tears up remembering his boy -- an observant, sweet kid with big brown eyes and round cheeks. His laptop contains a trove of pictures and videos of his son, but he couldn't bring himself to look at them on a recent day.

Loss leaves an empty space that grief fills up with questions. DeVos believes there's an explanation.

But in hundreds of pages of court records and police reports, after a criminal investigation and a custody dispute over Mason's older brother, there's only speculation.

Mason Tate DeVos was born June 10, 2012, in Middlebury, Vermont.

His parents, Jesse DeVos and Kimberley Volk, met a decade earlier in Tigard and had their first child in 2006.

Not long after Mason's first birthday, Volk left DeVos. She returned to Oregon with both children and moved in with her mother.

The move ignited a court battle that raged in the Northeast and in the Northwest. Vermont gave custody to Volk and visitation to DeVos, but he appealed.

He was still waiting on a decision from the Vermont Supreme Court on the day that turned out to be Mason's last.

Volk's mother, Shannon, 66, and sister, Brittany, 42, were home with Mason and his older brother on the evening of Oct. 13, 2014, while Volk was at work.

Brittany Volk cooked dinner. A football game was on TV. The grandmother and aunt tucked Mason into a crib with a blanket, a stuffed frog and two stuffed seahorses.

About an hour and a half later, his aunt heard him awaken. She went into the room, picked him up and rocked him. He started to drift off. He asked for water and she handed him his cup before she left the room, she told police.

No one heard another sound from Mason.

The next morning, Oct. 14, marched on as usual, according to the timeline that unfolds in police reports.

Shannon Volk drove daughter Kimberley Volk, a nurse, to work at 6:45 a.m.

Shannon Volk returned to the house and Brittany Volk left for work at 7:18 a.m.

Alone with the boys, Shannon Volk helped her older grandson get ready for school and walked him to the bus stop at 7:34 a.m.

A few minutes later, the grandmother stepped back inside the house and peeked into Mason's room. He appeared to be on his stomach, still asleep.

She poured herself a cup of coffee and folded some laundry. Mason was sleeping later than usual, but she thought nothing of it. The boy was getting over a cold, she told police.

By 8:45 a.m., Shannon Volk decided it was time to wake Mason. She went into his room and found him still on his stomach, unmoving. She touched her hand to his back. "He was a little warm, but he was cold," she would say later. The crib was wet.

She picked him up and moved him to the living room couch. She started screaming, she told police.

At 9:32 a.m., she called 911. Forty-seven minutes from the time she said she found him dead.

Detective Lloyd Foulkes arrived that morning at the house on Southwest Lansdowne Lane.

Kimberley Volk was there, too, sobbing. She was too distraught, he would later write in his report, to be interviewed then.

Foulkes spoke to Shannon and Brittany Volk. They described Mason's last evening and how the family had assumed he was just sleeping late.

He looked at Mason's body. Except for white foam around the child's nose, he appeared normal. Perfect.

The home was spotless. He noted no signs of a disturbance.

The deputy medical examiner on scene said it looked as if Mason had suffered pulmonary edema, a condition in which the lungs fill with fluid.

Foulkes left the scene believing Mason's death was the result of a naturally occurring medical problem.

The family told the detective that Mason's parents didn't get along. They asked Foulkes to contact Jesse deVos and notify him of his son's death.

A Vermont state trooper took the call from Oregon. He found deVos at home, alone in his rural rental house in Cornwall, Vermont. It was about 9 p.m. there.

The trooper went to the door and told deVos that his son had died. DeVos dropped to the floor in tears. The trooper asked if he had anyone who could come stay with him. DeVos called his dad, also in Vermont but more than an hour away.

"Mason is dead. Mason is dead," he screamed into the phone.

He called the Tigard detective next. It wasn't clear what caused Mason's death, Foulkes told him. He found no signs of foul play. The home was orderly. It was one of the nicest homes he had seen in recent memory.

The next day, deVos boarded a plane and landed in Portland and learned that a lengthy autopsy still left investigators without a clue as to how Mason had died.

Over the next few weeks, the estranged parents saw little of each other. They buried Mason. The Vermont Supreme Court turned down deVos' appeal, but a lower court granted him additional visits with Mason's older brother. The parents' relationship remained strained.

DeVos at one point put his thoughts in an email to Kimberley Volk. They needed to mend fences, he wrote, for their older son. They owed it to Mason.

Each one of them alone understood what the other was going through, he wrote. They still didn't know Mason's cause of death.

"The idea of not having an answer is my worst nightmare as I'm sure it is yours," he wrote.

Nearly a month after Mason's death, the answer came, at least in part.

Lab tests showed a lethal amount of morphine in Mason's blood, the medical examiner said, but he couldn't tell when or how much of the drug the boy ingested.

The investigation surged forward with new energy. Foulkes called Kimberley Volk and her mother down to the police station. The women were led into separate rooms.

According to his report, the detective informed Kimberley Volk first. He told her Mason's blood tested positive for morphine.

"My mom's on morphine," she said. "She's been taking it for years."

Kimberley Volk's hands shook. She began to cry.

The family's medications were stored in a kitchen drawer next to the cookies, she told police. She never saw Mason reach for the drawer.

"This is absolutely a shock to me," she said. "And it's gonna destroy my mom."

One cop stayed with Kimberley Volk, while Foulkes and another detective broke the news to Shannon Volk.

"Oh my god," she said when he told her.

She said she took morphine three times daily for osteoarthritis. Her prescribed pills were 30 mg and 15 mg, and she took a total of 105 mg each day. Investigators later determined that a single 30-mg pill would have been strong enough to kill Mason.

Mason was never out of her sight on his last evening, she said.

No, she told them, there was no way he could have gotten into the drawer and into the pills. And there was no chance Mason could have picked up a dropped pill.

Her pill bottles, she said, were kept out of Mason's reach, enclosed in bottles with child-safety caps.

Had she ever, the detectives asked, given Mason her medication to help him sleep?

"Oh my god, no! No, no, never! Absolutely not!" she said.

With Shannon Volk's permission, police drove her home and looked at her medications and the kitchen drawer, 30 inches from the floor.

Foulkes noted that the pill bottles weren't topped with child-resistant caps but regular ones - contrary to what Shannon Volk had said. She later explained that she had a hard time with the child-safety feature because of her arthritis.

Police collected samples of Shannon Volk's pills, some red, some blue. They combed the kitchen, noting its appearance: granite countertops, wood-type flooring, a small red rug near the fridge.

Investigators knew that in between finding Mason and calling the police, Shannon Volk had called her husband, from whom she was separated, and then Kimberley Volk.

Foulkes had met weeks earlier with Randy Volk, who also lived in Tigard, and looked at his phone, which showed two calls with Shannon: one that ended at 9:05 a.m. and another that began at 9:09 a.m.

Randy Volk told the detective that they'd spoken once about who was going to take care of Mason that day. She called him back, he said, screaming about Mason, "He's dead, he's blue."

Randy Volk said he told her to hang up and dial 911. "OK, you need to get over here!" Shannon Volk replied.

Foulkes didn't note how long the calls with Randy Volk lasted. Shannon Volk's call to 911 came in about 20 minutes after the husband and wife's second phone call began.

Though she told police she found Mason about 8:45 a.m., the phone calls suggest it could have been later. The exact timeline remains unclear.

As the investigation progressed, the other family members let police look at their phones. They found nothing of "evidentiary value," Foulkes wrote in his reports.

The police reports were forwarded to the Washington County District Attorney's Office.

Senior Deputy District Attorney Kevin Barton closed his review of the case and declined to move forward because there wasn't enough information. The investigation didn't show evidence of a crime, he said.

"Was that because it doesn't exist or because investigators couldn't find it?" Barton said. "I don't know the answer to that."

Discussing the case in his office last fall, Barton said the investigation was competent, but it departed from standards in at least one respect. According to county protocol, prosecutors should be notified of any unexplained child death. But Foulkes didn't tell Barton until the toxicology results came out.

Foulkes declined to be interviewed for this story. He talked about the case, however, when he testified in February during a custody hearing involving Jesse deVos and Kimberley Volk's older son.

Mason's death was a difficult case, he said.

Are you troubled by this case, a lawyer asked him.

"To be perfectly frank, yes, ma'am, I am," he said.

Why is that?

"I don't like unanswered questions."

Particularly concerning to him, he said, was the timeline of events on the morning Mason was found dead. Police never completely established how much time passed or what transpired between the time Shannon Volk discovered Mason's body and called 911.

Her explanation for the delay, he said, was that she started screaming after she carried Mason to the living room, and she didn't know how long she screamed.

That day, Foulkes left the Volk home thinking the child died of natural causes. That Mason died from a morphine overdose stunned the detective.

In retrospect, Foulkes said, he should have asked to look at Kimberley Volk's phone there at the scene. And he should have asked the family about medications in the home and photographed their location.

"Much to my poor judgment, I did not do that at that point," he said, "because we did not have a cause of death."

He didn't serve a search warrant for phone records -- which in theory could give access to even deleted messages and search history -- because he didn't have information to support one, he said.

Further complicating the investigation, police didn't know whether Mason ingested one morphine tablet or more. "The consensus opinion," Foulkes said, "is that is impossible to determine."

Dr. Christopher Young, the deputy state medical examiner who performed the autopsy on Mason, said he's seen cases where young children get into medications and accidentally poison themselves. In other cases, someone may give a child opiates for pain or to make them sleep.

"But in this case," he said, "I don't have a good answer for how he got it."

Poisoning deaths are rare in young children. Statewide data indicate about one each year occurs in Oregon.

Statistics suggest many more children come into contact with toxins and survive. The Oregon Poison Center at OHSU Hospital in 2014 received more than 18,000 reports of exposures involving children age 5 and younger.

Young kids, especially toddlers, consume pills and far more bizarre items every year. Marbles. Beads. Buttons. Batteries. Coins.

Sometimes, an investigation uncovers a clear answer for how a child ingested something, Young said. In Mason's case, it didn't.

"We may never know," Young said. "We probably won't."

But doctors do know the medical effects of morphine. Mason grew sleepy. His blood pressure dropped and his heart rate slowed. And as he slept, his breaths became fewer

and fewer, the number likely decreasing from 20 to 25 per minute to just four or five, each one more shallow than the last.

A deputy medical examiner at the scene suspected pulmonary edema, which can occur with a morphine overdose. It would explain the fluid observed on Mason's face and in his crib. The condition causes blood vessels to leak fluid into the air spaces of the lungs and into the airways, sometimes spilling out.

Drained of oxygen, the boy eventually breathed no more.

Shannon Volk declined to be interviewed for this story.

Kimberley Volk, 47, also declined, speaking instead only through an attorney.

In a statement provided by her lawyer, Kimberley Volk said she misses the way Mason smelled and the feel of his arms around her neck as she held him and the tug of his small hands playing with her hair.

She doesn't question how Mason died, her lawyer said.

Kimberley Volk believes her son swallowed a pill, one that fell to the floor. She's sure because if he'd gotten into a bottle of his grandmother's morphine, she reasons, he wouldn't have been careful enough to take the lid off and put it back on. In her mind, this leaves only one possibility: Somewhere in the house, a pill dropped, and some time later, Mason picked it up.

But no one knows for sure. No one saw the moment that morphine entered Mason's body. No one knows exactly how it happened.

Since Mason's death, Jesse deVos has lived in Oregon and works as an arborist. A Washington County judge gave him custody of Mason's older brother and decided that Mason's death was avoidable and that their grandmother's morphine wasn't safely stored. The judge later granted Kimberley Volk regular overnight visits with the boy.

Jesse deVos doesn't sleep well. He wants Mason's life to have meant something. He talks about how he might try to spark a change in the law -- some kind of change that might have kept his children in his care. He feels as if no one listened to him when he was fighting for custody. He's hired lawyers to look into the possibility of a wrongful death case.

DeVos struggles to describe how losing Mason has changed him. He wanted his boys to grow up as brothers. He built a life for Mason.

"Everything I do is for my kids," he said.

His son's death certificate reads, "Uncertain how morphine entered child's system."

The medical examiner ruled the case undetermined.

For deVos, questions keep coming to mind. Answers still elude him.