

**K.G. v. S.B. (2020) DJDAR 2346**

*The Court found that a father providing financial support to his adult son was not liable for the death of the son's girlfriend due to an overdose of drugs supplied by the son.*

**FACTS/PROCEDURE**

S.B. (Father) knew that his son, C.B., had been addicted to drugs for several years and had paid for C.B.'s stints in rehab. C.B. was unemployed and was "dependent" on his Father for financial support. C.B.'s father provided consistent financial support in the form of paying for C.B.'s housing and living expenses, a car, and spending money. Father knew C.B. was in a long-term relationship with A.C. and knew or should have known of their drug use together. Father also knew or should have known that the money he gave his son was used to purchase drugs. The day of A.C.'s death, C.B. and A.C. drove to a bank to withdraw money from an account provided by the Father. When C.B.'s bank card was declined, they waited in the parking lot in C.B.s car. They proceeded to use drugs that were purchased with money given to C.B. by his Father. A.C. died of a drug overdose.

A.C.'s minor child filed a complaint against C.B. and Father for wrongful death. Father filed a demurrer contending the complaint failed to state a cause of action against him for negligence because he had no legal duty to A.C. with respect to her drug use. Plaintiff opposed to the demurrer, arguing that Father owed a duty to A.C. because C.B. was dependent on Father, even though he was an adult, and Father failed to take reasonable steps to prevent foreseeable harm. Plaintiff argued that Father should have stopped financially supporting C.B., stopped C.B. from using Father's car, or stop C.B. from giving A.C. drugs. The trial court granted Father's demurrer without leave to amend. The court held that they are unwilling to expand the special relationship between father and adult son, finding that being financially dependent is not the same as being dependent.

**HOLDING/DISCUSSION**

**The Fourth Appellate Court affirmed the trial court's judgment of dismissal without leave to amend.** The Court noted that a duty to control or warn is based on the defendant's relationship to the person whose conduct needs to be controlled or the foreseeable victim of the conduct. Specifically, a duty to control arises if the defendant has a special relationship with the foreseeably dangerous person that necessitates an ability to control their conduct i.e. parents and dependents or minor children. If the defendant does not have the ability to control a person's conduct, then no duty arises, rendering a civil claim futile for failure to control the conduct of another. Father did financially support C.B., however, the facts do not show that Father had the ability to control C.B.'s conduct: C.B. did not live with Father, C.B. made his own choices on how to spend the money provided by Father, and C.B. did not stop using drugs after Father paid for drug treatments at rehab and detox facilities. Plaintiff argued that it was foreseeable that the money Father provided would be used to pay for drugs. However, the Court found that even if Father had financially cut off his son, the lack of Father's resources would not have prevented C.B. or A.C. from obtaining and using drugs. Further, public policy does not support imparting liability onto a parent for providing financial support to an adult child. Thus, the Court sustained the demurrer without leave to amend.