

November 24, 1989

Judge Orders U.S. to Pay \$5.98 Million to Rabies Survivor

By HAROLD FABER, SPECIAL TO THE NEW YORK TIMES

LEAD: Twelve years ago Jerome Andrulonis, a bacteriologist, contracted rabies while conducting a federally supervised experiment in a state laboratory on inoculating wild animals against the disease.

Twelve years ago Jerome Andrulonis, a bacteriologist, contracted rabies while conducting a federally supervised experiment in a state laboratory on inoculating wild animals against the disease.

Somehow he survived, becoming one of only three people in modern times known to live after contracting rabies. But he suffered severe and permanent brain damage and today is emotionally and behaviorally unstable, requiring adult supervision at all times and drugs to control his behavior. Mr. Andrulonis and his wife, Joanna, sued the Federal Government in 1979, charging negligence in supervising the experiment. The Government, in turn, sued New York State, saying it also was responsible for what had happened in the laboratory of the State Department of Health. Finding of Negligence

Last month, after a non-jury trial, a Federal judge awarded the Andrulonises \$5.98 million after finding that a Federal official had been negligent in not warning about the hazards of the experiment.

The judge, Howard G. Munson of Federal District Court in Syracuse, also ruled that the Government could recover \$3.7 million of the award from New York State, which he found was also negligent.

In addition, Judge Munson said in his opinion that he would consider imposing sanctions against agents of the Federal Government and the Department of Justice for what he called "a number of disturbing events" during the trial.

"Most disturbing to the Court," Judge Munson said, "is the deposition testimony of a number of Government agents." The agents, he said, "consistently gave vague, unresponsive or misleading answers to simple, straightforward questions."

But Mr. Andrulonis, who is 46 years old, knows nothing of the award. "I tried to tell him, but he doesn't have much concept of what is going on," said Mrs. Andrulonis. "I wish he could have gotten some satisfaction from it." Afflicted Despite Vaccination

The Andrulonis case is one of the most unusual in the annals of medicine, according to the court record, because he is not only one of the few survivors of rabies, but also believed to be the only person ever to contract the disease after being inoculated against it.

At the Federal Centers for Disease Control in Atlanta, a spokeswoman, Gayle Lloyd, said its records showed only two other instances of a person surviving a rabies infection: a man in Ohio in the early 1970's and a woman in Argentina in the late 70's.

Rabies, a virus that attacks the brain and the central nervous system, is transmitted to humans by the bites of infected animals. Death is caused by convulsions, exhaustion and paralysis.

Exposure to the virus through rabid cats and dogs has been largely eliminated in the United States by a program of vaccination of domestic animals. But the virus remains among wild animals, particularly bats, raccoons, foxes and skunks.

Charles Trimarchi, a rabies expert with the State Health Department, said that it had recorded 52 cases of rabies so far this year, all in bats in northern New York State. Last year 40 cases -38 in bats and one in a fox and a cow -were reported.

But, he added, rabid animals are spreading toward metropolitan New York City, south from northern New York and east from Pennsylvania. Last week, for example, several rabid raccoons were discovered in New Jersey, apparently after having crossed the Delaware River.

The Andrulonis case, which began March 29, 1977, in a Health Department laboratory in Albany, stemmed from an effort by state and Federal scientists to develop a method for the mass immunization of wildlife against rabies.
Worked With Live Virus

On that day Mr. Andrulonis was trying to coat sugar tablets with a solution containing a live rabies virus. The idea was that the tablets could be used as bait for wild animals, and the virus, attenuated by the manufacturing process, would create antibodies in the animals that ate them.

Mr. Andrulonis knew the dangers of rabies. He had written in his dissertation for a master's degree: "Even today, the mere mention of this affliction is sufficient to strike terror into the hearts of the general public, for facts and folklore have blended to obscure any true understanding of this deadly malady."

Because of his imminent exposure to the rabies virus in the laboratory, he had been immunized against the disease with a commercial vaccine and received periodic booster shots.

Thus prepared, he worked under the direct supervision of Dr. John G. Debbie, a research scientist employed by the State Health Department, and Dr. George M. Baer, chief of the viral zoonosis branch and rabies laboratory of the Centers for Disease Control, an arm of the Federal Department of Health and Human Services.

In preparation for the virus-coating experiment, Dr. Debbie asked Dr. Baer to prepare a solution of highly concentrated rabies virus. It was this virus that was used in the experiment.

In the laboratory, Mr. Andrulonis worked with an apparatus that used a stream of air to suspend the tablets while a solution of the powerful rabies virus was sprayed onto them.

But the apparatus was not airtight, according to the evidence in the trial. When the solution was sprayed inside the apparatus, some of the virus escaped into the laboratory, and Mr. Andrulonis inhaled it.

His rabies inoculations did not work. The rabies virus made direct contact with his olfactory nerve, traveling the short distance from the nose to the brain without ever coming into significant contact with the antibodies in his blood. In a Coma in Hospital

Three weeks later Mr. Andrulonis was hospitalized with symptoms of rabies and went into a coma. He regained consciousness, but his central nervous system was permanently damaged.

The lawsuit, handled for the Adrulonises by James D. Featherstonhaugh of the Albany law firm of Roemer & Featherstonhaugh, contended that Mr. Adrulonis's superiors had been negligent.

Judge Munson, in his decision, agreed, saying that Dr. Baer had "breached his duty" in failing to warn either Dr. Debbie or Mr. Andrulonis of the hazards associated with the virus strain he applied for the experiment. The judge also said Dr. Baer had "negligently failed to exercise proper control" by not intervening to stop the experiment when the machinery demonstrated a leak.

The judge found negligence on the part of the State Department of Health, too. He said that Mr. Andrulonis's exposure to the virus would have been avoided "if Dr. Debbie had conducted that experiment in a manner consistent with what was considered reasonably safe laboratory practice in March 1977." #3 Other Claims Settled During the trial Mr. and Mrs. Andrulonis settled three other claims against nongovernmental defendants out of court: a manufacturer of the vaccine and two equipment makers. He received \$225,000, and Mrs. Andrulonis \$1,075,000.

According to court records, Mr. Andrulonis "continues to take a regimen of drugs designed to control his behavior and calm his agitation, and he will require such drugs for the rest of his life."

He lacks the cognitive ability to initiate most activities, including caring for himself, the judge said. With help, he can get dressed and move around, though.

But at 46, Mr. Andrulonis has the vocabulary of a 3-to-4-year-old and is unable to express ideas or communicate desires or discomforts to others, Judge Munson said in determining the damages and money required for help during the rest of his life.