

A discussion with victimized Vanderbilt nurse RaDonda Vaught: An in-depth review of the fatal incident and the ensuing criminal trial

Concluding part

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12 March 2024

It has been nearly two years since former Vanderbilt University Medical Center (VUMC) nurse RaDonda Vaught was convicted for the accidental death of 75-year-old Charlene Murphey on December 27, 2017. She was found guilty on two counts: criminally negligent homicide and impaired adult abuse. The jury chose to find Vaught not guilty of the reckless homicide charge aggressively being pursued by the district attorney.

After the verdict was read, Vaught opened to the press and spoke on her ordeal. "First, we have not forgotten about Ms. Murphey and her family. Not at all. This is about creating a safer environment so that things like this don't happen again." On the issue of Vanderbilt's role in the death, Vaught said, "I think people deserve some answers to those questions, and they didn't get them in the courtroom. The nursing community is angry and frustrated. Nurses have found their voice, and they're rightfully upset about this, as they should be. Where is the accountability? Where? All this says is that you as a nurse are disposable?"

The conviction and then the sentencing in May 2022 made national headline news. Nurses and healthcare workers across the United States and the world rallied to her defense because they understood that the medication error that led to the accidental death of Ms. Murphey was caused by chronic understaffing, inhuman workloads and the subordination of medical care to corporate profits.

At the time, the Socialist Equality Party called on workers to demand Judge Jennifer Smith of the Davidson County Criminal Court suspend her sentence and release her with no jail time. Furthermore, it called on workers to demand the immediate restoration of Vaught's nursing license and her immediate reinstatement at Vanderbilt with full back pay and restitution.

The World Socialist Web Site was only recently able to contact RaDonda Vaught to discuss her case and the events surrounding the criminal prosecution. She granted us permission to document our discussion. The following interview was edited for clarity and length.

The interview continues, discussing the aftermath of the death of Charlene Murphey, with the launching of a criminal investigation into RaDonda Vaught. Part one of the interview is available [here](#).

Benjamin Mateus: How could you have followed hospital medication policies if the whole system was broken? It seems VUMC leadership was being reactionary and reckless.

RaDonda Vaught: They were referring more specifically to their medication administration policy, which is sort of built around the five rights of medication administration: right patient, right drug, right time, right dose and right route. As a nurse, it falls on me to verify that I have the correct drug. And had I paid close attention, I would have realized that

I did not.

BM: But then why do we even discuss the system issues behind medication errors if we blame the nurse each time? The five rights are predicated on having an environment within which a nurse can conduct his or her work properly and then ensuring multiple mechanisms are in place to prevent such errors. It seems from what you have described so far, there were barely any functioning safeguards.

RV: Yes, there were multiple things that could have stopped this along the way had the systems been functioning properly and had the right equipment been in place. There were multiple breakdowns in communication that if they hadn't occurred, then the need for even having that drug be given in such a hurry would have prevented all of this. Honestly, we don't even have enough time for me to go into the number of things that I have discovered over the four and a half years since Murphey's death, the board of nursing hearings, the investigations and then going through the criminal trial listening to people's depositions and testimonies and digging through the mountain of discovery that was presented along the way.

But ultimately that was their decision. They informed that my termination letter would be sent to the Board of Nursing for failure to follow the expectation of my license but that it was written in a very benign way. I thought those were interesting choice of words. The letter only said a serious safety event occurred but didn't explain what happened or that a patient died.

I think it was written in this "benign" language purposefully. VUMC didn't file any reports with Center for Medicare and Medicaid Services (CMS) or draw up a corrective action plan, which is a requirement by law. There are certain members of the facility who have responsibility to work within the guidelines set by CMS so that they stay in proper standing to receive their reimbursement.

I don't know if this has changed since, but at that time it was not required that you reported a death or a sentinel event. What was required is that you have 45 days after such an event to create a corrective action plan. These are based on the initial investigation, on the *root cause analysis (RCA)* and then a discussion of the factual details outlining the changes that need to be implemented to ensure it doesn't happen again. The process allows the hospital to be very transparent with the information, share it with CMS and learn from it. The hospital isn't punished, nor do they lose funding status. But someone there made the decision to not report the event. And it was my belief that the reason my termination letter was written in a benign way, without any specifics, was so that they could avoid reporting it or be implicated in it.

They also informed me that I would not be eligible for rehire at any of

Vanderbilt's institutions. They said I could continue practicing as a nurse until I heard from the Board of Nursing.

BM: VUMC documented that Ms. Murphey died of natural causes.

RV: Initially.

BM: Who made them change it?

RV: The Tennessee Bureau of Investigation (TBI) had them change it since I gave them a verbal admission of giving her the wrong drug. And they also obtained the incident report I filed at the time. Ultimately, what they needed was a legitimate reason based on facts that could be proven that she had been given Vecuronium. That was a discussion held between the Davidson County chief medical examiner, Dr. Fang Lee, and the TBI agent, Ramona Smith, which was a recorded interview and part of TBI's investigation. The cause of death was changed sometime in 2020.

BM: I'm left with the impression that there was a coverup on the part of VUMC. They didn't want to admit there had been this event. And had they investigated it properly, they would have identified—as CMS later did—that things were not right. But the rapidity with which they swept it under the rug also tells me they are acclimated to the culture of coverup. Getting rid of you and paying off the family with hush money was their modus operandi. Is this an accurate assessment?

RV: I think that is an accurate assessment. Let me give some highlights of how they got there.

Nine months before I heard from the Board of Nursing, it was August of 2018, I had a two-hour recorded interview with the Tennessee (TN) Department of Health (DOH), Office of Investigations. I told them everything that I knew. And they said they weren't concerned because I had no intention to hurt this person and that it was an isolated event. Their words, "We have more dangerous fish to fry," and "It will be a while before you hear from us," and "You are going to be at the bottom of the stack."

On October 25, 2018, I received a certified letter from the DOH's Office of Investigation's Attorney General thanking me for my participation in the interview and that no action would be taken against my license, and no record of it would appear on my licensure file. What I didn't know then was that an anonymous tip had been filed on October 3, 2018, prompting an unannounced investigation by CMS of VUMC which was already underway when I was told by the DOH that they had considered the matter resolved.

Understand that the DOH can investigate any facility's license as much as that of a nurse or a physician. Anyone that holds a professional license in healthcare falls under their investigative authority.

The whistleblower complaint filed on October 3 that prompted the CMS investigation came as an internal complaint from someone in the DOH. Meaning, in the process of reviewing my role in this incident, someone must have felt there were concerns with VUMC that were not being addressed in the DOH. The information in the complaint came directly from my interview. It must have been someone with access to these files or involved in the discussions. There was no way the things that were said at my interview at the DOH could have been obtained from anyone outside the DOH.

The major findings of CMS's surprise inspection at VUMC had found that Ms. Murphey's death was not reported properly to the Social Security Administration (SSA). No RCA had been conducted, no corrective action plans had been drafted or changes implemented. And they were cited for deficient process that endangered patients' lives. They were also admonished for not properly reporting the death to the Medical Examiner. They should have been told that a medication error caused her death. That would have led to a completely different type of investigation into her death like an autopsy, toxicology, etc. Those things hadn't been disclosed. The family cremated her as it was her wish.

And because the CMS report wasn't filed by VUMC, that is where we moved into criminal law. That triggers a CMS investigation. It's a federal

program, it's federal money, but it is implemented on a state level. And anytime there is an investigation regarding concern around implementation of Medicare and Medicaid services, that responsibility falls to each state's Bureau of Investigation, which is a criminal division of the law and not an administrative issue, which deals with our licenses, and not a civil case where the family would pursue a punitive case against me. The criminal investigation was opened, and the individuals responsible for interviewing me were with the Medicare and Medicaid fraud unit of the Tennessee Bureau of Investigations [TBI].

BM: Then why didn't they bring charges against Vanderbilt? Why you?

RV: The simplest answer is I made myself an easy target. I was very transparent and honest in my discussions with every investigator, whether they were from the DOH or TBI. And when the investigator at the TBI interview read me my Miranda rights, I should have known that that was indicative of something that I didn't understand. Unfortunately, when you're talking with someone whose job is to investigate a crime, they mean what they say when they tell you that everything you say can and will be used against you.

BM: Hypothetically then, had Vanderbilt disclosed the medication error and conducted the RCA and informed IRS, SSA and CMS, there wouldn't have been a crime?

RV: Yes.

BM: You told them everything, but Vanderbilt covered it up, which made it a crime, and they got caught and decided to pin it on you?

RV: I believe that was the easiest thing in terms of public relations damage control for Vanderbilt. Their reputation was at stake.

Vanderbilt is an enormous facility and has deep roots in our area. It's the largest private employer in the state of Tennessee. You won't find a person who hasn't worked there or doesn't know someone who's worked there or hasn't been a patient there or isn't connected with them in some way.

I don't see a criminal investigation being opened against an entity like Vanderbilt involving such a high-profile event where someone died, and they took no action to address the problems there. It would have had significant ramifications for them and the state. People would have said, "They're just going to let them off the hook." But if someone is charged, then it's a backdoor way of excusing them for their failures. It gives them an out while they save face. And I was the obvious easy target.

And if someone is going to be charged with a crime, then all they needed to do was take my words and figure out how to make it a crime. After about three months of silence, they had figured out what crimes they intended to charge me with and called me on February 3, 2019, and told me they had a warrant for my arrest.

BM: How did you feel then? It seems all your fears were materializing.

RV: It was overwhelming and numbing at the same time.

I'm not usually an anxious person. I've never been an anxious person. But the amount of anxiety that was building up inside me was terrifying. I was out of my element. I didn't know what to do. I felt my life was crumbling around me, and I didn't have any control over it.

BM: Did your attorney give you any sense that this would be something that they could take care of, or were they very concerned about the outcomes as well?

RV: He was realistically concerned. He is an experienced trial lawyer and understood the complexity and gravity of the situation. He understood what I was up against and how aggressively the DA was going to prosecute the case. He told me, "When we go into that court room, they are going to do everything in their power to nail you to the wall!" By that point, I went into it with zero expectations.

BM: You had support from your family and friends?

RV: I have had so many people in my life, I feel like that's what kept me going initially. And then that support grew into this massive support from people across the country. That fueled me; that fueled my desire to

fight back. What did I have to lose? That was how I felt. I had nothing to lose. I had lost my job, which meant everything to me. They took my license away in July 2021. What else did I have to lose?

I decided then and there I was going to fight. I wasn't going to settle and admit I was guilty. I wasn't going to be the one to set the precedent that they can bully a nurse into a corner and make her say, "Yes, I am a criminal!" If that's what they wanted to do, they'd have to prove it in front of the entire world. They'd have to get out there and say what they thought. I wasn't going to say it for them. I wasn't going to let them walk all over me, not when the entire world was watching and I was hearing from thousands of nurses telling me, "This could have been me."

If I had made a deal with the prosecutor to accept some deal that ensured I could avoid going to prison, then I would have been setting every nurse out there for failure. I would be agreeing to being criminally responsible, and, as a result, I would be setting that standard for every nurse across the country.

I feel like I've already done enough to disappoint my career field. I damn sure wasn't going to be the one that conceded to their notion that we're a bunch of criminals out here. Because it's not the case.

BM: When did you first realize the issue was greater than you and decided your fight would be the defense of all other nurses that face similar obstacles?

RV: Early on, after my first court date in late February 2019. I started seeing a lot of attention being focused on the case from nurses around the country on social media, in groups where nurses spoke with each other. There was impressive support coming from these groups. They all felt as though this could have happened to them.

Seeing how many felt that way and the concerns they had regarding a precedent that could be set by issuing criminal charges against a nurse for an unintentional error was the main reason I felt it was much bigger than me, and I needed to fight this.

BM: This raises two questions; First, were you surprised by the outpouring of support at your trial? It really touched a nerve among healthcare workers. Do you think the massive support influenced the final verdict? [On March 25, 2022, the jury convicted her of gross neglect of an impaired adult and negligent homicide. She was acquitted of the more serious charge of reckless homicide. Judge Jennifer Smith ruled on the case on May 13, 2022, stating Vaught would not have to spend time in prison, sentencing her instead to three years' probation.]

RV: Yes, I was very surprised. It really came after my conviction. I couldn't believe that hundreds of thousands of people were watching this and paying attention to it. It demonstrated that healthcare can be impacted by one small event causing ripples that grow into a much larger effect. I have impacted healthcare whether I wanted to or not. It has happened. But I don't want it to go down as a negative thing. It was an awful event, but that showed me I can also continue to make ripples in a positive way.

Those people came out. They supported me. I listened to what they were saying, and I tried to look at it objectively. And if this is truly how our healthcare workers feel, then I feel like there's something that I can do here.

As to your second question, I believe that Judge Smith in the sentencing did exactly what I would have expected of her based on every other encounter that I'd had with her in court. At every hearing she was always straightforward and objective. Once the trial started, she understood this case for what it was and not just from the prosecution's narrow presentation.

Obviously, she also saw the amount of letters and emails her office was receiving. However, she didn't look at them, because, again, it's her job to make an objective decision. But her office sent every one of them to me. And I believe that she made a very fair decision considering what the family felt and recognizing the reality that I was never going to do something like this again.

I don't think that the district attorney's office thought that I would ever receive judicial diversion. [Known as a golden ticket (judicial diversion – TN CODE ANN. 40-35-313), it is a program offered to "eligible" first-time offenders that can avoid serving time and expunge their criminal record after a probationary period.] Typically, it is asked for beforehand when negotiating an out-of-court settlement. It isn't something granted after being found guilty at a jury trial.

The whole case is placed in this judicial holding box, in a no man's land. It goes back to the judge after the probationary period is completed, and if they feel the requirements of the probation have been fulfilled, then it's "diverted" away. The conviction is never filed, and the person can then return to being a productive citizen in good standing. They go back and function in their lives. They can pass background checks.

For me, the charges will go away, though the case wasn't diverted. But the "abuse of an impaired adult" is filed in an abuse registry separate from the charges written under criminal law. Even though I'd pass a background check, I would remain on this registry.

BM: It's been almost two years since your criminal trial began in Nashville which was seen by many as a case that undermined the practice of *just culture*. Professor Bruce Lambert, a medical safety expert at Northwestern University whom we interviewed, wrote at the time, "*I am saddened and disappointed to report that they convicted RaDonna Vaught of a lesser charge of criminally negligent homicide. Exactly what the sentence will be is unclear yet. As you can tell, I think this is an unjust verdict, and I think it will significantly worsen the existing nursing shortage if every nurse now believes that they could potentially go to jail for medication errors.*"

First, how has the case impacted you? And on the broader issue in healthcare, what does your case signify for other nurses?

RV: I feel like I can't be as judgmental anymore about people and their everyday lives. I try to see people for whatever good they have to offer. I know what it's like to be in that position where you are judged based on a two-minute news clip or a 500-word article in the paper. What it taught me is that there is a lot to see below the surface in people, in situations, and in systems ... in our healthcare system.

It made me a more anxious person. I was never an anxious before this. I've dealt with a lot of anxiety and depression. On the outside I look fine, appear fine, but on the inside, I was an absolute mess. I learned that it's okay to ask for help from people and accept that help. And I learned that there is far more kindness and goodness in the world than I think most people believe that there is. And it was a beautifully humbling experience to be on the receiving end of that. The show of kindness and forgiveness I received from her family is something indescribable. It's a profound part of my life to have been on the receiving end of that much grace and kindness.

I think in terms of our healthcare system and just culture, we really must dig deep if we want to find solutions or even a better path. While we do a lot of good, there are numerous opportunities for us to make mistakes. I think we need to start treating those as opportunities as learning experiences and take responsibility across all members of our healthcare teams, whatever your profession is to step up and do the right thing. We owe it to our patients.

We need to look deeper because things aren't working. But I don't know if I have the solution.

BM: Given the for-profit nature of healthcare, these problems will assuredly get worse. It is up to workers to fight for that perspective. We must prioritize the life and well-being of our patients, and that means providing workers with the resources they need to do their work effectively and safely. I think that's where I would look for the solutions. Your experiences are invaluable.

RV: Thank you. I do understand what you mean. That makes sense the way you put it.

BM: How did the pandemic impact you? Much of your legal battles took place during the height of it. The whole response to the pandemic has been an assault on and insult to the healthcare workers who endured the waves upon waves of casualties without PPEs or N95s to protect themselves, endangering their own health and those of their families. All of this as recent history is being erased from our collective memory. Meanwhile, the nursing shortage is growing worse. Cuts in healthcare are accelerating. The staff at community hospitals are being let go because they aren't profitable.

I know your story is a small part of this whole, but I think everything that transpired with you is exemplary of the broader problems in healthcare.

RV: You're exactly right.

And I believe that COVID made an enormous impact on the amount of people that were paying attention when my case finally went to trial. The courts were in moratorium for years. The charges came in early 2019. It took several months of going through discussion board hearings to determine whether my case was going to trial or not, and that didn't happen until the fall of 2019. We were set to go to trial in 2020, but the pandemic came and put a halt on it.

I think that healthcare members, like frontline staff who are present during the pandemic, had grave misgivings. They saw the risks. I'm sure that there were more corners cut and far more things that happened in a way that did not conform to the normal system and processes because of so many things—lack of staff, lack of equipment and lack of oversight.

We were just trying to feel our way in the dark. We had no idea what we were dealing with. We weren't prepared for it and had no system in place to deal with it. We were creating them as we went and under very limited circumstances. We couldn't work within our broad system anymore because we didn't have access to all those things. I'm sure nurses and doctors had to do many things they wouldn't normally have done prior to COVID. But they had no other choices. They had difficult decisions to make at that moment. The amount of risk they had to take during that period we will never know or fully understand.

The experience of the pandemic had a significant impact in how people saw my case when it did finally go to trial; that was why they were paying so much attention, and that was why it resonated so much with them. They were thinking, "That could have been me. I could have been the one without any help, nowhere to go, no one to turn to and have made that mistake."

It's probable they have made mistakes. Maybe not that exact same one, but they are questioning if they did everything they could have. Second guessing themselves. And working through the pandemic every day meant dealing with these uncertainties constantly: "I wish I could have done this. I could have done this. I should have done this. This should have been the way that this should have gone."

But they had no other choice. They've seen those very real situations play out where that reality I faced could have been them. And they're probably just wondering, "At what point is this going to come back to bite me? I am literally trying to do all that I can and with what I have at my disposal. That could have been me!"

I think that's why it resonated so much.

Also, the fact that we only had social media to rely on to communicate with each other took a life of its own by opening that discussion for people.

BM: You were denied having your nursing license reinstated. I don't think the decision was a surprise, but could you speak to why you are pursuing it?

RV: I'll give you a quick timeline on that.

I was very upset when the Board of Nursing took my license in July 2021. I told my attorney they could have it, and I didn't ever want it back. I knew I was facing criminal charges.

However, he did file an appeal, but it sat in the court until the criminal trial was done. The issue was caught up in administrative back and forth that held the appeal. Eventually, it went to the next level of administrative law, which is within the chancery court. It took the court about seven months to issue a decision after we went before them and made the argument. But they ruled against me, and we have since appealed that to the Tennessee Court of Appeals.

Initially, I didn't want to do this, but it had already been filed. But the more I started looking at this from an objective point of view, it really didn't sit well with me that there was no transparency within the Board of Nursing. To this day I have yet to see the files on their first investigation. I have no idea what they concluded. I'm not allowed access to my own recorded interview. It remains protected under the law because they chose to take no action, and therefore no one is allowed access to them.

In their second investigation, ultimately what was written in the notice of charges—the administrative charges that were filed against my license—they said they had new evidence. I have come to understand that administrative law, criminal law and civil law are very different legal entities.

Administrative law is like the Wild, Wild West and not well understood by most people. There's no due process in administrative law. The burden of proof is very low, and there is no such thing as a double jeopardy situation.

BM: In all these months and years you've been dealing with this case and its consequences, has the nurse's union, the National Nurses United, been helpful or supportive in any way? Helped reinstate your license?

RV: No. There have been a lot of organizations that made statements after I was found guilty. They were very general statements saying they don't agree with the criminal prosecution of nurses and healthcare workers for unintentional errors.

In terms of my license, I have no intention of ever getting that back. All I want is for the general public, not only people in healthcare, but the public to understand these very complicated processes that are in place. It was a smokescreen what happened with the Board of Nursing and the Department of Health. They looked bad when I got charged criminally because they hadn't done anything. Now they had to do everything they could to save their reputation. And they did.

BM: Actually, it sounds like their initial investigation was correct. They didn't find any fault with you. There was a medication error with a tragic consequence. The systems issue was considerable. But you took responsibility for it and documented it. You were an upstanding nurse doing a very difficult job. There was no indication this was willful nor were you a threat to repeating this error.

Only after the criminal charges, probably under a lot of pressure, they had to go back and fix their errors.

RV: That's correct. We must ask them, "Who are you protecting? The public or Vanderbilt and the state?" It's all politics.

Recognize that all these organizations involved are located right there in Davidson County, in downtown Nashville; the TBI, the Department of Health's Metro Complex, Vanderbilt and, of course, the District Attorney. All of them are within 10 square miles of each other.

BM: Have there been any serious repercussions for Vanderbilt?

RV: Not that I know. Vanderbilt has a very good public relations team. They have their own police officers patrolling their campus. They operate as their own little community. They have tremendous resources. But I don't know what goes on there.

BM: I haven't seen anything come of that CMS report.

RV: The facility filed their actual amended plan to the CMS report after some number of days. It was over 300 pages. I've not seen any new documentation from them.

BM: We have been following your story very carefully from the

beginning. I think people who read your account will find it eye-opening and troubling at the same time. The case has universal relevance to other healthcare workers who find themselves, on the one hand, wanting to care and treat people and, on the other hand, dealing with a healthcare system that is driven by financial considerations and are ready to scapegoat them for their own failures.

Clearly what you have gone through is a harrowing experience. I know no one wants the outcome you had, but the way you have had to face these is mean and inhumane to you and an affront to healthcare workers who face numerous challenges every day.

RV: I appreciate you saying that.



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