R –v- Benjamin Geen

Dr. Mark Heath MD

1. I am the Assistant Professor of Clinical Anaesthesiology at Columbia University in New York City. Over the past several years, as a result of concerns about the mechanics of lethal injection as practiced in the United States, I have performed many hundreds of hours of research into the techniques that are used during this procedure. He has testified as an expert medical witness in courts in Maryland, Georgia, Tennessee, Kentucky, Virginia, and Louisiana in the following actions: Baker v. Saar, No. WDQ-05-3207 (D. Md.); Reid v. Johnson, No. 3:03cv1039 (E.D. Va.); Abdur'Rahman v. Bredesen, No. 02-2236-III (Davidson County Chancery Ct., Tenn.); State v Michael Wayne Nance, 95-B-2461-4 (Ga. Superior Ct.); Ralph Baze & Thomas Bowling v. Rees, 04-CI-01094 (Franklin County Circuit Ct., Ky.), and before state district court judge Ramona Emanuel in Shreveport, Louisiana in February 2003. I have filed affidavits that have been reviewed by courts in the above states and also in California, Pennsylvania, New York, Alabama, North Carolina, South Carolina, Ohio, Oklahoma, Texas, Missouri, and by the United States Supreme Court.

2. I am an authority on the physical effects of muscle relaxants and their use on patients who are awake at the time they are administered.

Muscle Relaxants

3. There are two types of muscle relaxants, depolarising and non-depolarising. This case refers only to the use of non-depolarising muscle relaxants. This type of muscle relaxant paralyses all voluntary muscles, but does not affect sensation, consciousness, cognition, or the ability to feel pain and suffocation. Its effect is to render the muscles unable to contract but it does not affect the brain or the nerves. It is used in surgery to ensure that there is no movement and that the patient is securely paralysed so that surgery can be performed without contraction of the muscles. In surgery, a muscle relaxant is not administered until the patient is adequately anesthetised. The aesthetic drugs must first be administered so that the patient is unconscious and does not feel, see, or perceive the procedure. This can be determined by a trained medical professional who provides close and vigilant monitoring of the patient, their vital signs, and various diagnostic indicators of anaesthetic depth. If not anesthetised properly then it is held to a reasonable degree of medical certainty that

the use of a muscle relaxant would mean that the patient would consciously experience paralysis and suffocation.

4. If administered alone, a muscle relaxant would not immediately cause a patient to lose consciousness. It would totally immobilise the patient by paralysing all voluntary muscles and the diaphragm, causing the patient to suffocate to death while experiencing an intense, conscious desire to inhale. Ultimately, consciousness would be lost, but it would not be lost as an immediate and direct result of the muscle relaxant. Rather, the loss of consciousness would be due to suffocation, and would be preceded by the torment and agony caused by suffocation. This period of torturous suffocation would be expected to last at least several minutes and would only be relieved by the onset of suffocation-induced unconsciousness.

5. I have been supplied with the medical notes of the following patients:

   Hilda Wigram

   Walter Coates

   Sheila Gray-Snook

   Anthony Bateman

   Noreen Brooks

David Onley

Timothy Stubbs

Background

6. Mr Geen was a staff nurse who worked in the Emergency Room of the Horton General Hospital. The Prosecution said that he had injected a number of patients with unauthorised lethal drugs causing them a partial or full respiratory arrest. It was the Prosecution's case at trial that seven of these patients were given a muscle relaxant. Fifteen of the patients recovered however, two of the patients, David Onley and Anthony Bateman died.

7. On the 18th April 2006, Mr Geen was convicted of the Murder of David Onley and Anthony Bateman and fifteen counts of Grievous Bodily Harm.

INSTRUCTIONS

8. I am asked to provide an opinion regarding whether the events in the medical records are consistent with the administration of muscle relaxants.

9. I have reviewed the seven medical records and additional documents provided by Franklin's Solicitors regarding the legal case of Mr. Benjamin Geen.

10. I have undertaken to write this report on a *pro bono* basis and have not asked for a fee. My review is

therefore not complete, and I reserve the right to amend my opinions based on a more detailed review.

11. There are also some of the medical terms and abbreviations which are unfamiliar to me because of differences in medical parlance and colloquy between the U.K. and U.S. While I am reasonably confident that I am reading the charts correctly, I reserve the right to alter my opinion in the event that I have inadvertently misinterpreted any essential abbreviations or terms.

OPINION

12. Based on my review of the documents I hold the opinion that it is unlikely that any of the arrest or near-arrest situations in these cases resulted from the administration of muscle relaxants. Each of these cases possesses features that are inconsistent with the administration of muscle relaxants. Further, it is important to understand that muscle relaxants do not directly affect cognition, consciousness, sensation, vision, or the formation of memories. A person who has received a paralyzing dose of muscle relaxant is fully conscious and fully cognizant of their surroundings and situation.

13. Conscious paralysis is subjectively an extraordinarily astounding and horrifying experience, and it is difficult to imagine that any person, absent significant concomitant brain dysfunction, would upon questioning fail to recall and relate that an extremely remarkable and awful event had happened to them.

14. Respiratory insufficiency, respiratory arrest, and cardiac arrest are all events that can and do result from the administration of muscle relaxants. However, there are many far more mundane causes of these events, and in none of the charts I reviewed does it appear to me that the administration of a muscle relaxant is a likely cause.

Dr Mark Heath MD