

Medical Report

on

Mr John SMITH (D.O.B. 06/04/42)

Address : Currently detained at HM Prison Greenoak,
London

Age : 52 years

Occupation : inmate at the above prison

Dominant hand : Right

Date of accident : 1 June 1988

Time off work : N/A

GP : Dr R. Perry, 1 Hyde Park, London NW8

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My instructions

I have been asked to prepare an independent medical report by Doctors' Chambers, 5 Curfew Yard, Windsor SL4 1SN with the consent of Mr Smith. Although these instructions may not be within the litigation process at this stage, the report is being written as if it was being presented to the judge. I am aware that my duty as an expert is to the Courts and I have complied with it pursuant to CPR35.10(2). This duty is paramount and overrides any obligation to the person who requests the report or indeed who pays for it. A copy of the letter of instruction is appended to this report.

My Qualifications

I qualified from Middlesex Hospital Medical School, University of London in 1986 obtaining the qualification MBBS. In addition I hold the following qualifications : FRCSEd (general Surgery), FRCSEng (Otorhinolaryngology-Head & Neck Surgery)

My current position

I am a Consultant ENT Surgeon at The Royal Berkshire Hospital, Reading. I also practice from the following private hospitals, Berkshire Independent Hospital and BUPA Dunedin Hospital, Reading.

My experience

After qualifying and after completing my pre-registration house jobs, I have worked as a SHO in Orthopaedics, General surgery, Vascular Surgery and Otolaryngology. I undertook my Specialist Registrar Otolaryngology-Head & Neck Surgery training in Oxford and then was appointed Senior Registrar / Clinical Lecturer to University of Oxford. I undertook specialist training in Facial Plastic Surgery, having been awarded a Fellowship by The European Academy of Facial Plastic Surgery. I was appointed a Consultant Otolaryngologist-Head & Neck Surgeon at The Royal Berkshire Hospital, Reading in August 1997.

Medical Report on Mr John SMITH

Report prepared by Mr. Bippon C. Vinayak, MBBS(Lon), FRCSEd, FRCSEng, Consultant ENT Surgeon

Date of Report : 1 January 1995

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My registration

I hold full registration with the GMC and I am on the Specialist Register as an Otolaryngologist-Head & Neck Surgeon.

My Medico-Legal Experience

I have prepared medico-legal reports since 1987 at the request of both the plaintiff and defendant. I am aware of my duties as an expert. I undertake approximately 8 medico-legal reports per month.

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Report prepared by Mr. Bippon C. Vinayak, MBBS(Lon), FRCSEd, FRCSEng, Consultant ENT Surgeon

Date of Report : 1 January 1995

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1 BASIS OF THE REPORT

This report is prepared from information gathered from the following sources :

1.1 An interview and examination I performed on Mr Smith in the Out Patient Consulting Suite of The Radcliffe Infirmary, Oxford on 1 January 1995 at 3 pm. Mr Smith was accompanied by two prison officers during this consultation. The history presented below was obtained from Mr Smith.

1.2 Mr Smith's medical notes kept at The Radcliffe Infirmary, Oxford

1.3 Mr Smith's audiological records kept at The Radcliffe Infirmary, Oxford.

2 BACKGROUND

2.1 Mr Smith is a 52 year old prisoner at HM Prison Greenoak, London, where he has been an inmate since earlier this year.

2.2 The incident in question relates to a 3 year spell he spent in prison from 1988 to 1991. He has also spent 18 months in prison commencing 1970 and a further two and a half years from 1979 onwards.

3 DESCRIPTION OF INCIDENT

3.1 On the morning of 1st June 1988, whilst a remand prisoner in Oxford, at approximately 7.30 am, Mr Smith had just woken up but was still lying in a single bed in his cell, when he was attacked by another inmate.

3.2 The attack was not expected and Mr Smith had no prior warning and was therefore unprepared and not able to adequately protect himself.

3.3 He was battered on his head by a wooden object in a repeated fashion suffering possibly twenty blows. The injuries were mainly concentrated in the areas surrounding the left ear, left parietal, frontal, temporal and occipital areas.

3.4 He sustained lacerations of both his scalp and left side of his forehead resulting in profuse bleeding.

4 IMMEDIATE SYMPTOMS

4.1 Mr Smith was dazed and disorientated and recollects profuse bleeding from his head.

4.2 Although he feels he did not loss consciousness, he did

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experience a severe headache and recollects being extremely disorientated for almost 2 hours. His mind became lucid when he arrived at the Casualty Department of John Radcliffe Hospital, Oxford at about 9 am.

5 EARLY MANAGEMENT

5.1 Immediately after the incident he was taken to the prison hospital where pressure was applied to his head and bleeding from the various lacerations was controlled.

5.2 He was then transferred to the Accident Department of The John Radcliffe Hospital, Oxford. The wounds were cleaned with antiseptic solutions and steristrips applied to the cuts.

5.3 He was subsequently discharged back to the Oxford prison.

6 PROGRESSION OF INJURIES AND SYMPTOMS

6.1 The lacerations in his scalp and the left side of his forehead apparently healed without complications, healing within four to five days. He has been left with a thickened scar across the left side of his forehead but the scalp lacerations are inconspicuous.

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- 6.2 Mr Smith did suffer a severe headache immediately after the incident and continued to suffer frequent headaches for several weeks.
- 6.3 Attacks of rotational vertigo (dizziness) were experienced in the early stages after the incident. These required no specific treatment and resolved spontaneously over the course of a few weeks. He has had no balance disturbance for almost the last 6 years.
- 6.4 Mr Smith told me that he has suffered with tinnitus in his left ear since the incident and as this is an on-going problem and falls within my area of expertise, I will concentrate the remainder of this report to this and allied issues.

7 PAST OTOLOGICAL (EAR) HISTORY

- 7.1 Mr Smith has had problems with his ears particularly the left ear for many years. He was apparently seen by Mr Livingstone on 1st September 1982, in the Oxford ENT Department.
- 7.2 An audiogram (hearing test) was performed at that visit and a copy is appended to this report (appendix 1). He continued to have ear problems and told me that he was seen in 1984 at Barnet Hospital and recommended an operation on his left

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ear.

- 7.3 Prior to the incident, he admits to having a fluctuating hearing problem on the left side and several ear infections requiring treatment with ear sprays / drops.

8 DESCRIPTION OF TINNITUS

- 8.1 Mr Smith described a buzzing tinnitus which had a variable pattern of loudness, duration and frequency (pitch).

- 8.2 On average, he feels he suffers from tinnitus for one to two hours most mornings and often in the late evenings or during the day.

- 8.3 He has noticed an increase in incidence and severity in the evenings when he is reading in a relatively quiet environment, although he has experienced tinnitus in noisy situations.

9 SUFFERING CAUSED BY THE TINNITUS

- 9.1 Apart from the nuisance value of the tinnitus, Mr Smith occasionally has disturbance of sleep, particularly the initiation of sleep approximately two to three times a week as a direct result of the tinnitus.

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9.2 He was not able to quantify or express the loudness of his tinnitus apart from the fact that it is variable. He does have a radio available in his cell but chooses not to listen to this and instead prefers to read before falling asleep.

9.3 He was therefore not able to comment on whether external noise such as from a radio could mask his tinnitus and therefore his sleep disturbance was correctable by this measure.

9.4 He has no sleeping problems after an exhausting day involving a work out in the gym. The tinnitus never wakes him up during the night.

10 EFFECT ON DOMESTIC LIFE / WORK

10.1 N/A

11 PAST MEDICAL HISTORY AND MEDICATION

11.1 He told me that he was in good general health with no history of any serious illness. He is on no regular medication, apart from the Brufen-400 tablets which he has taken almost on a

daily basis since the accident.

12 EXAMINATION

12.1 Mr Smith has no residual bruising or significant tenderness in the area of his head where he was attacked. There is a thick hypertrophic scar over the left side of his forehead and he tells me this is a result of the attack.

12.2 Both his ear canals were normal on otoscopy. The appearance of the right eardrum was essentially normal apart from a shallow retraction pocket in the attic region, the eardrum is mobile. The left eardrum has a flaccid appearance and is grossly retracted towards the medial wall of the middle ear, being draped over the long process of the incus and the head of the stapes. I suspect the incudo-stapedial joint is not in continuity and instead he has a 'type III' hearing mechanism, with the eardrum lying directly over the head of the stapes. The left eardrum was immobile on pneumatic otoscopy. Tuning fork tests showed a Rinne positive response on the right and Rinne negative on the left, the Weber test was lateralised to the left ear. These tests indicate a conductive hearing loss in the left ear. These clinical findings were later confirmed on audiological examination.

13.5 However, his overall and actual hearing in the left ear has deteriorated substantially from an average loss of 50 dB (air conduction) in 1982 to an average loss of approximately 80 dB in 1994. The deterioration is almost entirely due to a deterioration in his 'conductive' hearing mechanism.

13.5 **Tympanometry in 1994 (appendix 4)**

This shows a normal trace on the right apart from a mild negative middle ear pressure. the tracing from the left ear is grossly abnormal showing a very high negative middle ear pressure in the left middle ear. This is consistent with the clinical findings and appearance of the left eardrum and middle ear.

13.6 **Tinnitus assessment**

A formal assessment of the characteristics of the tinnitus was performed and is appended to this report (appendix 5). In summary, this shows that Mr Smith's tinnitus has a high frequency of over 12 kHz. The loudness match would indicate that it is of a mild nature of approximately 15 dB or so.

14 SUMMARY, OPINION AND PROGNOSIS

14.1 Mr Smith is a 52 year old gentleman who was assaulted on

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1st June 1988, suffering a head injury resulting in a labyrinthine concussion causing dizziness, which subsequently resolved spontaneously over the ensuing few weeks.

14.2 In my opinion, Mr Smith does suffer from a 'mild' tinnitus and I found him to be cooperative and his responses to the audiological tests were consistent.

14.3 The issue arises of whether his tinnitus is a direct consequence of the injuries he sustained during the incident or whether it predates this assault or indeed whether it has developed subsequent to the accident but the onset is not in any way related to the assault. In my opinion, taking into account all of the circumstances, it is not possible to attribute Mr Smith's tinnitus to the head injury inflicted during this incident.

14.4 On the balance of probabilities, it is likely that the tinnitus is a result of previous damage to Mr Smith's inner ear function, which was documented in 1982.

14.5 Over the twelve year period from 1982 to 1994, there has only been a mild deterioration in the function of the left inner ear which in at least part may be due to the effects of degeneration as part of the normal aging process.

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14.6 Mr Smith's actual hearing in the left ear has certainly deteriorated but this is almost totally due to a progression of his middle ear disease, resulting in degeneration of the ossicular chain, and is not due to the trauma caused by the assault.

14.7 The grossly retracted appearance of the left ear drum would imply that his hearing loss and possibly the increase in his tinnitus is due to progression of the problems he has had with the left ear since at least 1982.

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DECLARATION

I, Mr Bippon C. Vinayak, MBBS(Lon), FRCSEd, FRCSEng, declare that the facts I have stated in this report are true and that the opinions I have expressed are correct.”

(1) I understand that my primary duty in written reports and giving evidence is to the Court, rather than the party who engaged me.

(2) I have endeavoured in my reports and in my opinions to be accurate and to have covered all relevant issues concerning the matters stated which I have been asked to address.

(3) I have endeavoured to include in my report those matters, which I have knowledge of or of which I have been made aware, that might adversely affect the validity of my opinion.

(4) I have indicated the sources of all information I have used.

(5) I have not without forming an independent view included or excluded anything which has been suggested to me by others (in particular my instructing party).

(6) I will notify those instructing me immediately and

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confirm in writing if for any reason my existing report requires any correction or qualification.

(7) I understand that :

(a) my report, subject to any corrections before swearing as to its correctness, will form the evidence to be given under oath or affirmation.

(b) I may be cross-examined on my report by a cross-examiner assisted by an expert.

(c) I am likely to be subject of public adverse criticism by the judge if the Court concludes that I have not taken reasonable care in trying to meet the standards set out above.

(8) I confirm that I have not entered into any arrangement where the amount or payment of my fee is in any way dependent on the outcome of the case.

Yours faithfully

MR BIPPON VINAYAK, MBBS(Lon), FRCS (Ed) FRCS (Eng)
Consultant in Otolaryngology - Head and Neck Surgery

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Report prepared by Mr. Bippon C. Vinayak, MBBS(Lon), FRCSEd, FRCSEng, Consultant ENT Surgeon
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