Diagnosis of “shaken baby syndrome” still valid, appeal court rules

Clare Dyer legal correspondent, *BMJ*

The role of the three classic signs of “shaken baby syndrome” in diagnosing intentional head injury was endorsed by the Court of Appeal last week in a test case aimed at casting doubt on their validity.

Lawyers for four people convicted of killing or causing grievous bodily harm by shaking babies in their care argued that new research had cast doubt on the link between shaking and the triad of injuries—encephalopathy, subdural haemorrhages, and retinal haemorrhages—traditionally regarded as diagnostic of shaken baby syndrome.

They cited papers by neuropathologist Jennian Geddes and colleagues that hypothesised that the triad could be produced by gentle shaking or even without any trauma at all.

Controversy centred particularly on a paper that looked at almost 50 paediatric cases without head injury (*Neuropathology and Applied Neurobiology* 2003;29:14-22). The other two papers had appeared in 2001 (*Brain* 2001;124:1290-8

and *Brain* 2001;124:1299-306).

The hypothesis put forward in the third paper was that the triad could be caused by severe hypoxia, in turn leading to brain swelling, which, combined with raised intracranial pressure, could cause both subdural and retinal haemorrhages.

Therefore, any incidents of apnoea could produce the triad, it was argued. The first paper has been widely cited by the defence in child abuse cases around the United Kingdom.

Under cross examination, however, Jennian Geddes accepted that she could no longer support the hypothesis that brain swelling was the cause of subdural haemorrhages and retinal haemorrhages.

The judges, Lord Justice Gage, Mr Justice Gross, and Mr Justice McFarlane, held that the mere presence of the triad would not automatically lead to a diagnosis of intentional head injury. However, the triad had not been undermined in the manner envisaged by Dr Geddes and her colleagues, they said.

Lisa Davis, mother of Heidi Davis, leaves court after her former partner, Raymond Rock, has his conviction for murdering Heidi reduced to manslaughter

The judges allowed the appeal of Lorraine Harris and quashed her conviction for killing her baby son. They quashed the conviction of Raymond Rock for murder and substituted a conviction of manslaughter on the basis that he had shaken his girlfriend's baby daughter but had not intended to cause her serious harm.

They quashed the conviction of Michael Faulder for causing his baby son (who made a full recovery) grievous bodily harm, but dismissed an appeal by Alan Cherry against his conviction for the manslaughter of his partner's 22 month old daughter, who he said had fallen off a stool.

Anthony Risdon, a paediatric forensic pathologist at Great Ormond Street Hospital, London, said, “A crucial point in these verdicts is whether the court accepts the existence of shaken baby syndrome, which is supported by an overwhelming majority of practitioners.

“Regardless of the decisions in each legal case, it is absolutely clear from the written judgment that the court does accept that diagnosis. This is an important and positive result for child protection.” □

The judgment is available at www.courtservice.gov.uk.

Unsafe conviction rejected in Roy Meadow expert witness case

Clare Dyer legal correspondent, *BMJ*

The Court of Appeal last week endorsed the paediatrician Roy Meadow as an expert witness, asserting that he “had and still has enormous expertise” as a child abuse expert.

The comment, from three judges, who rejected an appeal by a man jailed for life for murder after Professor Meadow gave evidence at his trial, came just days after the paediatrician was struck off the medical register for giving misleading evidence at the trial of solicitor Sally Clark.

Paul Martin, who was convicted at Nottingham crown court of murdering Patricia Robinson's 7 month old son, argued that his conviction was unsafe because Professor Meadow

had been found guilty of serious professional misconduct and discredited as a witness.

But Lord Justice Kennedy, Mr Justice Crane, and Mr Justice Hedley ruled that the former president of the Royal College of Paediatrics and Child Health had not strayed outside the boundaries of his expertise in giving evidence about the length of time a baby's breathing would have to be cut off to cause death or brain damage.

Professor Meadow was struck off for going beyond his expertise in giving statistical evidence about the chances of two cot deaths in a family like Mrs Clark's, which he wrongly put at one in 73 million. Mrs Clark was

jailed for killing two of her babies and served more than three years in prison before her conviction was quashed in 2003.

Mr Martin claimed that he had put his hand over baby Shane's mouth to stop him crying and had not intended to harm him.

Professor Meadow told the judge and jury at the trial that it would have taken between one and a half and two minutes to kill the baby and that it could not have been unintentional.

At the appeal, the Crown Prosecution Service called Cindy Christian, associate professor of paediatrics at the University of Pennsylvania, who gave evidence by video link supporting Professor Meadow's conclusions.

The appeal court judgment indicates that the predicted flood of successful appeals in cases in which Professor Meadow gave evidence is unlikely to materialise. It shows that as far as the judges are concerned he has not

been discredited generally as an expert witness but only where he ventured beyond his expertise.

Mr Martin was one of 28 people convicted of killing babies in their care whose cases were identified in a review ordered by the attorney general as raising possible concerns over medical evidence in the wake of the Angela Cannings case. Mrs Cannings was convicted of killing two of her babies on disputed medical evidence, including Professor Meadow's, and in the absence of any other evidence.

In Mr Martin's case, the court heard that the baby's mother had seen him grip Shane earlier by both sides of his head and bite his nose, making it bleed. Twenty recent bruises were found on the baby's body, including bruises indicating that a hand had been held firmly over his mouth and chin, and there was an older bruise in the same position on the chin. □