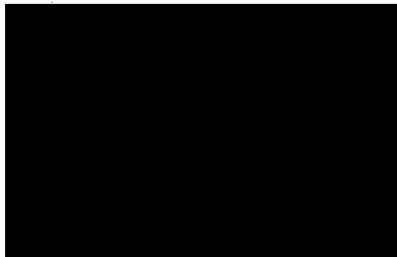


GERALD SIMPSON QC



Department of the Director of Public Prosecutions,



For the attention of Mr. Ivor Morrison

Date: 16th March, 2004

Your ref:

Dear Ivor,

Re: R -v- Atkinson & others

I enclose my opinion.

Give me a ring at your convenience.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Gerald Simpson'.

Gerald Simpson

R v ATKINSON, ATKINSON & HANVEY**OPINION**

1. I consulted with Andrea [REDACTED] (McKee) on Tuesday 2nd March. The purpose of the consultation was for me to have the opportunity to assess the witness and her credibility in the light of the developments which are chronicled in the documentation recently provided to me. The consultation arises out of the failure of Ms [REDACTED] to attend court on 22nd December and the subsequent police investigations, directed by the RM, into the reasons for her non-attendance.
2. Ms. [REDACTED] had attended Craigavon Court on 27th October 2003 for committal proceedings when the proceedings were adjourned for reasons which had nothing to do with her. The case was then fixed for a number of days commencing on 22nd December 2003. Accordingly arrangements were made for her to attend on the 22nd and, as I understand the position, she was first spoken to early in December about the arrangements.
3. During the month of December Ms. [REDACTED] had problems with her son. On the 1st of that month the child was seen by [REDACTED] and again on the 11th. This second examination was a house visit and, although there appeared to be no records of the visit when the matter was first investigated by police, an interview with [REDACTED] confirmed that a visit had indeed been made to the house.
4. On Friday 19th Ms [REDACTED] was contacted by D/C Murphy to confirm the final travel arrangements. She did not mention the problems with the child to D/C Murphy but indicated that the arrangements were suitable. In consultation with her I asked her about this failure to alert police to any potential difficulty which the sickness of the child might cause. She told us that she had thought that she had mentioned it to police and agreed that it was surprising that she did not mention the illness of the child to D/C Murphy.
5. On Sunday 21st December Ms. [REDACTED] contacted police indicating that she would be unable to travel to Northern Ireland on the Monday as the child was ill. D/C Murphy contacted her to be told that the child had mumps and otitis and that there was a fear that due to the child's high temperature he might have a fit. She indicated that she could not attend court on the Tuesday (23rd). When asked if she could she replied "Definitely not".
6. It transpires that she had to attend, on the Tuesday, a previously arranged medical appointment relating to a job for which she was applying. She did not inform police of

this at any time.

7. A particular issue which has arisen is whether or not Ms. Jones attended at an out of hours medical surgery, Pendine Park, on the night of 19th/20th December. She has given a detailed account of what happened that night. As a result of that account a significant police investigation of the relevant matters has been undertaken and Ms. [REDACTED] was consulted with by junior counsel, Ms. Christine Smith, Mr. Ivor Morrison, Assistant Director, and police officers.
8. Despite the police investigation no evidence has been forthcoming to corroborate any aspect of Ms. [REDACTED]'s story about the visit to Pendine Park. There were three doctors on duty for the night in question. Statements have been recorded from all three. They have no recollection of Ms. [REDACTED], her partner or the child being there or being seen there. For completeness the following night was also checked by police and the three (different) doctors on duty that night have no recollection of any such attendance. The receptionist on duty on each night have also been contacted and have no recollection of the attendance.
9. The surgery has a system of forwarding to the attending patient's GP the record of the attendance. No such record has been forwarded to the GP.
10. All relevant telephone records have been checked and there is no record of any relevant call between Ms. [REDACTED] and the surgery - although on her version of events there must have been a call to the surgery and one from the surgery.
11. Again for completeness, police have checked the Pendine Park records for the whole month of December to see if there is any relevant attendance recorded. There is none.
12. Ms. [REDACTED] described the doctor who, she says, saw the child as being a male doctor with grey hair. None of the duty doctors fits that description. When asked about this at the consultation she sought to explain away this matter by saying that it was not she who took the child in to see the doctor, but her partner. She says that she waited in the reception area and may have mistakenly thought that the person who called her partner and the child in was the doctor. This is direct conflict with her version of events when spoken to on 9th January when she told those who consulted with her that she had been present when the doctor examined the child. She specifically stated that the doctor was old with grey hair.
13. On the Monday 22nd she attended the normal GP's surgery, the Strathmore Surgery. For some inexplicable reason, if her version of events is true, she did not tell the doctor that she had been to the Pendine Park surgery over the weekend and, as I have set out above, her GP has never received any notification from Pendine Park that she attended.
14. Unless the whole system of dealing with, and recording visits of, patients at Pendine

Park is fatally flawed: unless all the doctors were mistaken about her attendance; and unless the available telephone records are incomplete then the inevitable conclusion is that Ms. [REDACTED] has concocted the story about taking the child to that surgery. That is the view that I take having consulted with her about the matter. She is able, and quick, to think of apparently plausible explanations for apparent problems when they are pointed out to her (e.g. her present explanation for the non-existence of the old, grey-haired doctor as contrasted with her original version of the visit).

15. I offered her an opportunity to admit that her story was untrue and to give us the true explanation. She maintained that the version she had given was true.
16. There remains the issue about the letter which she received. The provenance of this letter is, as of this date, unknown. There is suspicion that the letter was not sent by persons ill disposed to her, but that she was aware that it was coming and might have been expecting it to arrive during the relevant weekend, thus giving her a reason for not coming. In the event the letter did not arrive until the Monday. However, the matter remains unresolved and I have not taken it into account, one way or the other, in coming to my decision.
17. The original advices in this case were given at a time when none of these issues had arisen. Ms. [REDACTED] had been convicted, on her plea, of an offence of doing an act with intent to pervert the course of justice. In the trial of the above defendants she would be the principal witness as to fact and her evidence would have to be treated as that of an accomplice. Accordingly, her credibility is of central importance.
18. In the circumstances of this case the prosecution will be called upon to explain the adjournment which resulted from her non-attendance on 22nd December. The explanation given by Ms. [REDACTED] is untruthful in my view in the light of the police enquiries. It would be inappropriate to put this version of events forward knowing that, as will inevitably happen if she goes into a witness box, she will give untruthful evidence.
19. The overall effect of her maintenance of the story, for which there is not a shred of corroboration, is to contaminate any evidence that she may give and completely to undermine her general credibility.
20. In those circumstances, I am not in a position to advise that she can be put forward by the prosecution as a witness capable of belief.

Gerald Simpson

15th March, 2004