

Kenneth Hanvey the principal prosecution witness, Andrea McKee, is unable to attend because her son is ill. The case was adjourned until 2 January 2004 for production of medical evidence and re-listed for 8 March 2004 providing the evidence was satisfactory.

18. When the case was adjourned on 22 December 2003 it was done so on the basis of the information Andrea McKee had given to DC Murphy about her son being ill and her not being able to leave him to travel. It had been reported that the child had an ear infection, mumps, swollen testes and was at risk of fitting. I have been shown two witness statements by Dr [REDACTED], a GP at Strathmore medical practice in Wrexham, dated 24 December 2003 [page 34042] and 30 December 2003 [page 59853]. In my view, whilst these statements indicate that the child was indeed unwell with an ear infection and the possibility of mumps, they do not support the degree of illness claimed by Ms McKee. Specifically, the first statement [page 34042] records that the doctor saw the child on the day Ms McKee was to attend court (22<sup>nd</sup> December). Whilst the doctor confirmed an ear infection in both ears there is no mention of the other serious complications put forward by Ms McKee.
19. Given that what Ms McKee had reported was an ear infection, mumps, swollen testes and the risk of fitting, and this had been passed on to the court, neither the court nor the defence in my view could have been satisfied with the adequacy of these statements. It was inevitable that the prosecution was required to seek further evidence to support the account she had given for her reason not to attend. By making the claim she did, the issue became not whether her child was ill but whether she had been truthful in her explanation for her failure to attend court.
20. The issue for the prosecution is whether it can put to the court an honest explanation for its main witness having failed to attend to give evidence. The prosecution needed a medical certificate or other evidence to support the account it had forwarded to the court on 22 December, based on what Ms McKee had said, which was that the child had mumps, swollen testes and a risk of going into a fit.