

## Dr. Waney Squier Thinks More Than 50% Of People Convicted Of SBS Could Be Innocent

Neuropathologist Dr. Waney Squier is the most experienced paediatric neuropathologist in England. A member of the staff of the John Radcliffe Hospital in Oxford, she has researched the brains of babies for 30 years and is an internationally recognized expert in brain development about which she has written more than 100 medical papers.

The concept of Shaken Baby Syndrome (SBS) was introduced in 1946 by pediatric radiologist Dr. John Caffey. SBS is identified by a set of three signs — swelling of the brain, bleeding between the skull and the brain, and bleeding in the retina — found in a deceased baby with little or no external evidence of head trauma, or in a live baby exhibiting a variety of unusual behaviors or symptoms such as lethargy, vomiting, seizures, altered breathing, and dilated pupils. The validity of SBS is almost universally accepted by experts in the U.S. and England.

Dr. Squier accepted the validity of SBS and testified during a number of trials as a prosecution witness that the existence of the triad of signs supported that the baby had been injured or died as a result of abusive treatment. Lorraine Harris' trial in 2000 for manslaughter in the death of her four-month-old baby son Patrick was one of the trials during which Dr. Squier testified the triad of SBS signs were present. Harris was convicted and sentenced to three years in prison.

After Harris' conviction Dr. Squier learned that the research of British neuropathologist Dr. Jennian Geddes resulted in the discovery that injuries associated with the SBS triad can occur naturally, including that bleeding is triggered in some babies from a lack of oxygen. Dr. Geddes suggested that there should be physical evidence that a baby suffered physical trauma before determining that abuse (SBS) occurred.

During a recent interview Dr. Squier said that when she reviewed Dr. Geddes' research, "A light went on in my head. I became concerned that the whole basis for shaking was poor."

Dr. Squier came to the same conclusion as Dr. Geddes after conducting her own investigation. One consequence was she prepared a report for Harris that explained why her trial testimony had been erroneous, includ-



Neuropathologist  
Dr. Waney Squier  
(Les Wilson)

July 21, 2005.

The police in England didn't take Dr. Squier's re-evaluation of SBS sitting down — because with her standing in the medical community it could have a cascade effect on other neuropathologists. With convictions in the 250 or more SBS cases prosecuted in England annually dependent on testimony about the presence of the triad of SBS signs — the police began a campaign to destroy Dr. Squier's credibility as a witness. First, the Metropolitan Police (London PD) filed a complaint with the Human Tissue Authority raising concern about her handling of post-mortem tissue. Then in June 2010 a complaint based on the same issue was filed with the General Medical Council by the National Policing Improvement Agency and Scotland Yard.

The complaints are pending, but the police campaign to professionally discredit Dr. Squier has placed a cloud over her credibility and impacted demand for her as an expert witness in cases of alleged baby abuse. In recent years she has only testified in about 5 cases a year, whereas before she was testifying in upwards of 30 cases per year.

The police war on experts who challenge the establishment view that the triad of signs establishes SBS may extend to the U.S. During a September, 2010 conference on shaken babies in Atlanta, Georgia one of the speakers was Detective Inspector Colin Welsh, lead investigator at Scotland Yard's child abuse investigation division. DI Welsh told the audience that expert opinions contrary to the prosecution's theory of SBS should be excluded on the basis they could confuse the jury and the judge, and that to discredit a defense expert, they should be investigated to discover "everything — qualifications, employment history, testimony, research papers presented by these experts, go to their bodies to see if we can turn up anything." D.I. Welsh's comments were documented by one of the conference attendees, Seattle, Washington lawyer Heather Kirkwood, who has executed an affidavit of what he said. Kirkwood said after the conference:

ing that the absence of any physical injury supported that Harris' baby died from natural causes. Based on the new evidence in Dr. Squier's report that the jury had not had available, England's Court of Appeals quashed Harris' conviction on

"Now that we know we got it wrong, we need to get it right. Instead, many prominent advocates of shaken baby theory have resorted to attacking researchers such as Dr. Squier, who is one of the world's leading experts on the infant brain. Families and children deserve better. To get it right, we need open, honest debate, not cover-ups or attacks on those identifying the problems and seeking solutions."

After Dr. Squier learned about the comments made at the Atlanta conference she said in an interview with the BBC:

"And it appears to me that there has been an attempt to remove from the courts all of those people who are willing to challenge the mainstream hypothesis, even if those opinions are sincerely held and are based on a lot of day-to-day experience and are based on a thorough grounding in the current evidence available in the scientific literature."

The 63-year-old Dr. Squier hasn't wilted under the pressure, instead she has become even more vocal in expressing her opinion that the long held view of identifying SBS is wrong and has resulted in the prosecution and conviction of large numbers of innocent adults wrongly accused of abusing a baby who actually died from natural causes. During an April 2011 interview with the London *Daily Mail* Dr. Squier said:

"I now believe that half or even more of those who have been brought to trial in the past for SBS have been wrongly convicted. It is a frightening thought.

...  
I am determined not to be silenced and if I can't speak out in court, I shall do it in scientific papers. It cannot be fair to gag one body of opinion. The whole thing is a nightmare, not least because instead of researching vital things about babies, I have to spend time trying to clear my name.

The experience has made me feel like a whistleblower — on the one hand challenging all those who prefer the comfort of old mainstream opinion, and on the other struggling for my professional life."

Dr. Squier knows first-hand the tragic impact that erroneous expert testimony can have on the life of an innocent person. Although she was instrumental in the overturning of Lorraine Harris' conviction that her testimony had helped secure, she recognizes "it was a hollow victory because her life had been completely devastated." Har-

**SBS cont. on page 9**

# SC Supreme Court Acquits Roger Bostick's Of Murder After 10 Years Imprisonment

Roger Bostick was convicted in 2001 of murdering 69-year-old Sarah Polite in her Pineland, South Carolina home in March 1999. The prosecution also alleged the 46-year-old Bostick set her house on fire with gasoline after the murder, but he wasn't convicted of arson.

Prosecutors alleged his motive was robbery. Polite was the treasurer and secretary of her church and she typically brought money home from the church on Sunday, which she deposited at the church's bank on Monday. She was murdered on a Sunday after church.

Bostick was targeted by police when two days after the murder several items belonging to Polite were found in a burn pile at the home of his mother, who lived near Polite.

Bostick cooperated with the police, providing a DNA sample, and clothing and shoes they asked to inspect. Even though none of Bostick's DNA or fingerprints was linked to the crime, none of the church's money was found in his possession, and he didn't make an incriminating statement, he was charged in March 1999 with Polite's murder.

After the prosecution presented its case during his trial in September 2001, the judge denied Bostick's motion for a directed verdict

## SBS cont. from page 8

ris wasn't allowed to go to her son Patrick's funeral; a baby she gave birth to as she was starting her sentence was taken away for adoption; and while she was in prison her partner left her and both of her parents died. In addition Harris was denied compensation under England's wrongful conviction compensation scheme.

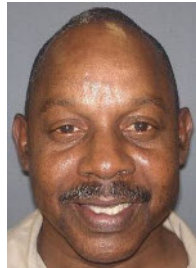
### Sources:

*R. v. Lorraine Harris, Raymond Rock, Alan Cherry and Michael Faulder* [2005] EWCA Crim 1980  
Baby death case mum loses compensation fight, *Yorkshire Post*, July 16, 2008

At least half of all parents tried over shaken baby syndrome have been wrongly convicted, expert warns, *Daily Mail* (London), May 1, 2011

Met accused of 'campaign' against shaken baby witnesses, BBC News, February 8, 2011

"The Whiplash Shaken Infant Syndrome: Manual Shaking by the Extremities With Whiplash-Induced Intracranial and Intraocular Bleedings, Linked With Residual Permanent Brain Damage and Mental Retardation," *Pediatrics*, Vol. 54 No. 4 October 1974, pp. 396-403



Roger Bostick

of not guilty based on the lack of evidence he had any involvement in Polite's murder.

Bostick's third-party culprit defense was that Rudy Polite, the victim's adult son, was her likely murderer. Rudy wasn't seriously investigated even though a witness testified she saw him entering his mother's house shortly before the fire was reported, and that when her body was carried out of the house and placed on the ground, he "looked at his mother, he started to smoke a cigarette and "didn't express any emotion or feeling.""

Another witness testified that a few hours before the fire she heard Rudy and his mother arguing and she was so angry that she threw her keys at Rudy.

Testifying in his own defense Bostick told, "the jury he drank at a cookout before the fire and returned to his mother's house to take a nap before the fire engine sirens woke him up."

Bostick made a motion for a directed verdict of not guilty after he finished presenting his evidence, which the judge denied.

The jury convicted Bostick and he was sentenced to 30 years in prison. Bostick told his daughter in the courtroom, "Don't worry, I'll get an appeal, don't worry."

However, Bostick's lawyer did not file a notice of appeal or advise him about filing an appeal. With his direct appeal right waived, in March 2002 Bostick filed a *pro se* petition for post-conviction relief (PCR) that claimed his lawyer was ineffective for failing to either file an appeal or advise him about his appeal rights. After the judge denied his petition in August 2004 and the South Carolina Supreme Court denied *certiorari* in January 2007, Bostick filed a federal *habeas corpus* petition on the ground his lawyer was ineffective for not consulting with him about appealing his conviction. The federal District Court judge summarily denied Bostick's petition as procedurally defaulted. The Fourth Circuit Court of Appeals issued a certificate of appealability.

The appeals court ruled on December 17, 2009 that Bostick's petition wasn't procedurally defaulted, and it further ruled "we find that the performance of Bostick's trial counsel was constitutionally deficient because counsel did not consult with Bostick about an appeal following his conviction. ... We remand this case to the district court

with instructions that it issue the writ of *habeas corpus* and that it order Bostick released from prison unless the state grants him a direct appeal within a reasonable time." (*Roger Bostick v. FNU Stevenson*, No. 08-6331 (4th Cir, 12-17-2009))

The State agreed to allow Bostick a direct appeal. It had taken Bostick seven years of effort against the State of Carolina's intense opposition to even have a chance to have his conviction overturned.

On April 11, 2011 the South Carolina Supreme Court unanimously reversed Bostick's conviction and ordered the circuit court to issue a directed verdict of not guilty, which bars his retrial. (*State v Bostick*, No 26961 (SC Supreme Court, 4-11-2011)) The Court's opinion stated:

"Analyzing the evidence presented by the State in the light most favorable to it, we believe the State's evidence here raised only a suspicion of guilt by Bostick. No direct evidence linked Bostick to the crime scene or the items found in the burn pile. Moreover, there was no testimony tending to establish that Bostick had control over the burn pile. ... In addition, the weapon used to beat Polite in the head was never introduced into evidence. Finally, no evidence was introduced concerning Bostick's knowledge that Polite may have had money in the briefcase or if indeed any money was in the briefcase on that particular Sunday. The evidence presented by the State raised, at most, a mere suspicion that Bostick committed this crime. Under settled principles, the trial court should grant a directed verdict motion when the evidence presented merely raises a suspicion of guilt. Therefore, we find the circuit court erred in failing to direct a verdict in favor of Bostick.

South Carolina's Attorney General has 15 days to file a motion for reconsideration. If it doesn't contest the ruling Bostick, now 58, could be released within days after expiration of the deadline.

The failure of Bostick's lawyer to file a notice of appeal in 2001 compounded the tragicness of his situation of being convicted of a murder without any evidence he committed the crime, because his conviction would have been reversed years ago, and he would have been released after a year or two of wrongful imprisonment and not ten.

### Source:

*State v Bostick*, No 26961 (SC Supreme Court, 4-11-2011)  
*Roger Bostick v. FNU Stevenson*, No. 08-6331 (4th Cir, 12-17-2009)