



HVA blogs about the only criminal case in the UK

Court sentences Northampton man

Highways Agency Traffic officer David Golding has been sentenced to 14 months imprisonment after pleading guilty to infecting an ex-partner with genital herpes. This charge has occurred despite the fact that Crown Prosecution Service Guidelines on “Intentional or Reckless Sexual Transmission of Infection”, include the following statement:

“The courts have recognised that person-to-person transmission of a sexual infection that will have serious, perhaps life-threatening, consequences for the infected person's health can amount to grievous bodily harm under the Offences against the Person Act”

“This is outrageous, says Dr Colm O'Mahony, the consultant in sexual health at Chester's hospital. “Will children also now be prosecuted for “giving” their friends chickenpox? For passing on head lice? For passing on a cold sore? Most people who have genital herpes don't know it because even if they do get recurrences, it is such a trivial genital infection that they don't notice it. It has exactly the same medical implications and consequences as an ordinary facial cold sore so in no way can it be construed as serious and it is an extraordinarily ill-informed comment to compare it to HIV. This case sets back the normalisation of this trivial infection by years. I had thought such a farcical scenario could only happen in America – never in Northampton!”

See our full [media release](#) with comments from two other expert doctors.
Marian Nicholson 10-8-11

Update on Northampton case

Update:

1. The case was not really "tried" as the man was "persuaded" to plead guilty. The doctor who gave a so-called report to the Court was not informed about herpes simplex and just spouted the usual stigma-stuff.
2. The doctors in the British Association of Sexual Health and HIV are so shocked that this had happened that they are talking about getting lawyers from the Medical Defence Unit to help get the law sorted out on what the guidelines should be on passing on STIs.
3. THT and other HIV charities are getting involved too - and have put their expert lawyer in touch with the man's family so that he can appeal the sentence if he wishes.
4. We have talked to the man's family and there is a lot of back-story to the relationship which the woman did not disclose to the journalist who wrote her side of the story in a magazine. If the full story had come out in Court, the case would no doubt have been somewhat different!

5. You can all take comfort from the fact that the guidelines for prosecution state: *"The courts have recognised that person-to-person transmission of a sexual infection that will have serious, perhaps life-threatening, consequences for the infected person's health can amount to grievous bodily harm under the Offences against the Person Act"* and if any lawyer bothers to defend his client, all the expert witnesses will repeat that HERPES SIMPLEX IS NOT GRIEVOUS... etc.

6. Our patron Dr Phil Hammond has a brilliant article about this in Private Eye - go and buy it now "Olympic Rehearsal" on the cover - his article is on page 10. Or read it on this [PDF](#).
Marian Nicholson 17-8-11

More on the Northampton case (read the two posts below too)

Today's '[Comment is free](#)' article in the Guardian covers the wider issue of criminalising the passing on of diseases in a clear and comprehensive way. Matthew Weait has done a great job. Read it!

On Monday, we are meeting with doctors, health professionals and representatives from other health charities who have members could be criminalised in this way to discuss how we take this forward. Keep reading to see what we are planning.
Marian Nicholson 19-8-11

What is happening this week

The Crown Prosecution Service (CPS) has guidelines on when to prosecute for transmitting an STI. I was involved at the time of the last public consultation. (8 years ago?) On Monday, Nigel and I met representatives of Terence Higgins Trust, the National Aids Trust and the Hepatitis C Trust who are as concerned about the case as we are. I learnt that a prosecution lawyer is meant to consult the CPS 'head office' before bringing any case for transmitting STIs. In this case, that guideline was not followed. The CPS only heard about this case when we phoned them.

The charities are also really concerned that if people start to be routinely prosecuted for passing on STIs, then people will cease getting diagnosed; because people will think that if you don't know you have it you cannot be blamed for passing it on. This is of huge concern since there are many conditions that must be treated to avoid serious consequence: chlamydia is a major cause of infertility, gonorrhoea and HIV can kill, and certain warts are the cause of cervical cancer. It is essential that people continue to get screened for these conditions that often don't cause symptoms (until it is too late!)

Our targets now are:

- to get the CPS to insist that prosecutors contact them before starting to prosecute a case;
- to see if the Department of Health will join the charities in lobbying for the CPS to follow their own guidelines, because they need people to continue to be screened for STIs;
- to write a briefing paper for people with herpes simplex to link to this website;
- to write a briefing paper for police and lawyers on herpes simplex, its prevalence and how hard it is to prove from whom it came.

However, writing these papers, or any articles/letters to the media, are being hampered by the astronomical increase in phone calls that the helpline is getting. From the moment the Daily Mail got hold of the story last week, we have been getting three times higher number of calls. Fortunately, our helpline volunteers are being generous with their time! There was a great letter in the Metro - the writer who knew what she is talking about and was prepared to go public.

Keep checking back here for links to more stories/letters in the newspapers: two have been recently sent off for publication.

Marian Nicholson 24-8-2011

What does the Northampton case mean for the future?

You will probably want to know what this case will mean. We have not changed our advice and you can read the details as to why: read the [Briefing](#).

We are grateful for the very nice comments we have received about our website - particular from our new readers. And we are sorry to have had some emails from people with really bad symptoms - especially if they have not been offered appropriate treatment - who therefore find it impossible to accept that most people carry this virus without being aware of it. You can comment in an [email](#) if you wish.

Marian Nicholson 26-8-2011

Nigel on Five Live re the Northampton case

On August 31st, I was asked to appear on the Victoria Derbyshire programme on Radio 5 Live to talk about the David Golding case. His ex-girlfriend Cara Scott was also on the programme with her new partner, the father of her new baby.

Fortunately we were not on at the same time - I spoke over the phone about half an hour after she was on. I was able to make most of the points I wanted to get across and did this by using the old politician's trick of not necessarily answering the question but saying what I wanted to say anyway. You can listen to it on iplayer until September 6th.

Nigel Scott (no relation!) 1-9-2011

STOP PRESS - He's out - bail granted 28th September

I got a phone call from David's dad as they were driving to the prison to collect him: the Crown Prosecution Service (CPS) is looking again at the evidence and - highly unusually - he has been granted bail in the meantime. This could be because they expect that the sentence will be overturned.

The CPS has asked an expert virologist to examine the medical evidence. This is a doctor who knows about herpes simplex and can point out the weakness in what the Judge was told during the trial in August.

If/When the sentence is quashed, David will no longer have a criminal record.

You can read more in the [Northampton Chronicle and Echo, 29-9-11](#).

Marian Nicholson 29-9-2011

What we have been doing re the Northampton case

In the last few weeks we have been to meetings with other charities as well as a meeting with CPS officials and the Department of Health. Everyone is well aware of the controversy surrounding the case and reading between the lines, I'd say it appears that the CPS probably wishes that this case had never happened.

There has also been a meeting organised by the Department of Health and including the CPS, specialist sexual health doctors and other organisations. This indicates to me that there is a genuine desire to make sure that procedures and guidelines are in force and are adhered to so that future cases do not 'slip through the net' as this one did. It happened without the approval of the CPS Head Office and their expert on STIs. We also argued that in future, medical experts in cases of this type, should be drawn from a panel of specialist sexual health doctors who have been vetted and approved by BASSH for this task. Medical reports presented to the court should not include hearsay or unsubstantiated allegations.

We have the feeling that we are pushing at an open door here, so we fervently hope that this will have been the first and last UK genital herpes transmission conviction. If the conviction is ultimately quashed, it will be as if it had never happened and David will have his criminal conviction removed from the record.

Amen to that.

Nigel Scott (no relation!) 4-11-2011

Result of the case review on David Golding

Today, Nigel and I were both at the Royal Courts of Justice to hear what that three judges of the Court of Appeal had to say. David was found to have been correctly sentenced to 14 months back in 2011 - but since he'd been on bail so very long, they decided that this was considered to have been 'spent' so he does not have to back to prison. Read our [media release](#). Also you can see more of the background to the story [here](#), and in the five blogs above it.

On 18th December last year, we had listened for several hours as Professor George Kinghorn explained herpes simplex to the court, and answered questions about what David might have been told about herpes simplex. We were glad when Prof. Kinghorn commented along the lines of: "Quite likely, he was told nothing about asymptomatic shedding."

On 18th March, the Court spent a whole day to question Cara Scott (the victim), David Golding and his first solicitor in depth. We were glad to note that when the prosecution or the defence barristers had not asked something that the judges felt was important, they either prompted the barrister to ask it - or just asked the question themselves.

There are many points in the judge's decision which both David and the HVA would like to query or even contradict. We will be talking to David's barrister about 'what happens now' - perhaps it goes to the Supreme Court? We will let you know.

Marian Nicholson, 8-5-2014