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Having genital herpes is not a crime – why Northampton Crown Court is wrong

Highways Agency Traffic officer David Golding has been sentenced to 14 months imprisonment after pleading guilty to infecting an ex-partner with genital herpes.

The prosecution in the case pressed charges despite the fact that Crown Prosecution Service (CPS) 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 carefully worded statement was drawn up with the intention of making prosecution for the transmission of HIV a possibility but it was never intended that people who pass on other less serious and more common infections should be dragged into court.

Genital herpes does not meet the criteria

Genital herpes is not serious, is not life threatening and normally has minimal implications for the infected person's health so it fails to meet the CPS criteria. Genital herpes is caused by one of two herpes simplex viruses. It is reliably estimated that 60% of adults in the UK have caught at least one of these viruses by the age of 25. **So not only is it not serious, it can be found in a majority of the population.** Genital infection is estimated to be at a level of around 10% in the UK – this equates to around six million people .

Marian Nicholson, Director of the Herpes Viruses Association said, "It is unfortunate that genital herpes is being dragged in to court like this. It is caused by a very common virus - herpes simplex - that most of us carry without even noticing. We know that many of those who are diagnosed are reluctant to disclose their status but this is because of the unnecessary stigma, not because it is serious – emphatically it is not."

"In the UK around six million people have genital herpes and probably forty million have picked up herpes simplex on the face, which we call a cold sore. We tend not to go to court over cold sores, thank goodness. If we did, there would be thousands of cases every year and the courts would literally have no time to deal with anything else."

Dr John Green, Chief of Psychology Services for the Central and North West London NHS Foundation Trust said, "There are some things in life that you cannot criminalise ... when we get down to genital herpes, it is getting ridiculous".

Dr Colm O'Mahony, Sexual Health Consultant at the Countess of Chester Hospital said, "Being sent to prison for fourteen months for passing on herpes simplex is like being sent down for ten years for a parking offence.

"This is outrageous. 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! "

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NOTES FOR EDITORS:

Genital herpes is big news because it is probably the most stigmatised of all infections. It is also the most misunderstood and what most people think they know is wrong.

The genital herpes simplex virus (HSV) infection is common with 30,126 new cases diagnosed in sexual health clinics the United Kingdom in 2009.¹ A further 45,000, on average, will be diagnosed by GPs each year.²

Get the facts from the Herpes Viruses Association www.herpes.org.uk

- **7 out of 10 people carry the virus**
- **About 80% of those infected do not know**
- **It can be almost impossible to prove who you caught it from**
- **First symptoms sometimes happen months or years after infection**
- **It is seldom serious – it is really a minor infectious skin condition**
- **It was massively hyped 30 years ago when a new drug was invented**
- **Several celebrities have been sued over herpes in the USA**
- **Most cases were settled out of court to avoid publicity – not because they could be proved**
- **If a 'victim' has had more than one sexual partner, it is often impossible to ascertain the source of the infection**

The HVA (hva.org.uk) exists to promote better mental and physical health with regard to the family of herpes viruses. Its aims are:

1. To provide information to the public, to medical professionals and to the media.
2. To encourage the development of new treatments for herpes simplex.
3. To tackle stigma and the unnecessary trauma associated with the condition.

¹ http://www.hpa.org.uk/web/HPAwebFile/HPAweb_C/1215589013729

² Woolley PD, Chandio S. Survey of the management of general herpes in general practice. International Journal of STDs and AIDS 1996;7(3);206-211