

Daubert hearing regarding Shaken Baby Syndrome

Lewis D. Nicholls, Circuit Judge

Abstract

Circuit Judge, Lewis D. Nicholls, renders a response to Commonwealth of Kentucky Greenup Circuit Court Case No. 04-CR-205, Commonwealth of Kentucky Plaintiff vs. Order and Opinion re: Daubert Hearing (Christopher A. Davis, Defendant) concerning the issue of Shaken Baby Syndrome (SBS). Dr. Ronald H. Uscinski testified and opined that based upon the research conducted and reported so far, impact is necessary to generate adequate force to cause the injuries previously mentioned. Dr. Uscinski also pointed out that the impact curve created by Ommaya was only a projection of at what threshold the scientists believed humans would sustain injuries—it failed to take into account the different structure of human babies as compared to adult monkeys, and what impact this difference would make. Betty S. Spivack, M.D. also testified as a forensic pediatrician with the Office of the Chief Medical Examiner located in Louisville, Kentucky. She indicated that physicians will diagnosis SBS when they observe a subdural hematoma bilateral (both sides of the brain) coupled with a retinal hemorrhage observed in both eyes. However, this diagnosis is based on inconclusive research conducted in the scientific research community.

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Keywords: Shaken Baby Syndrome (SBS), subdural hematoma, retinal hemorrhaging, whiplash injuries