

Shaken Baby Syndrome: actual innocence petition

Kent R. Holcomb

Kent Holcomb, #91014
Medical Legal Advocate
A.S.P.C. Tucson
Unit Manzanita 2B9L
P.O. Box 24401
Tucson, AZ 85734

Abstract

In this hypothetical case the state's entire prosecution rested on the Rule 702, R. Evid. Medical Testimony that the head injury was caused by SBS (Shaken Baby Syndrome), a biomechanical hypothesis for explaining head injuries. Although this alleged event was not witnessed by anyone, the state posited this hypothesis as the only explanation for the injuries. The rule 702 experts also testified that the head injury could not be caused by a minor fall, also known as the biomechanical LMF (lethal minor fall) theory.

The history of medicine is replete with examples of practices that, during their times, were generally accepted by a consensus of medical opinion, only to be later rejected as useless, potentially harmful, or sometimes even lethal, such as the practice of bloodletting, blistering, or purging of the bowels with mercury-containing calomel of earlier times, or more recently with practices of lobotomies or electric shock treatments. The same processes are continuing today, with more recent practices provided in the medical literature.

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