

Other Document Form

Number

1480

Title EMAIL DSOTT WILLIAMS WITH BASIS OF EPS NFA DECISION
(Include source and any document number if relevant)

Receivers instructions urgent action Yes / No _____

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Further actions no(s) _____

When satisfied all action raised Office Manager to endorse other Document Master Number Form.

Receiver	
Code A	
O/M	SIO
Indexer	

Code A

From: Williams, David
Sent: 17 December 2006 14:24
To: Grocott, David
Cc:

Code A

Subject: FW: OP ROCHESTER. CPS NFA letters.

Dear all..

The attached forms the basis of the CPS NFA decisions in this case..
 You will be briefed by Dave GROCOTT during Monday 18th December.. Re method release of the information etc.. Which is embargoed until Tuesday 19th December..

Thanks..DW.

From: Williams, David
Sent: 17 December 2006 14:19
To: Watts, Steve
Cc: Grocott, David
Subject: OP ROCHESTER. CPS NFA letters.

File Note.

Letter drafted by reviewing lawyer Paul CLOSE..15.12.2006. in respect of the ten 3b Cases.
 In summary..

His role to determine whether crime committed.
 Lengthy investigation has read all the evidence.
 Numerous discussions with police and counsel.
 Had considered and sets out the elements of gross negligence manslaughter.
 Had to consider whether criminality or badness.
 Errors alone no matter how catastrophic do not themselves amount to gross negligence.
 Having regard to overall expert evidence cannot prove Doctors were negligent to criminal standard.
 Medical evidence obtained by police very detailed and complex but does not prove drugs contributed substantially towards death.
 Even if causation could be proved not sufficient evidence to prove that conduct so bad as to be a crime.
 No realistic prospect of conviction.

All letters identical other than drug references.

All letters accompanied by separate CPS advice (sent in confidence)
 Advice sets out the circumstances, Dr BARTON'S prepared responses and commentary by key expert witnesses.
 Advice then discussed the legal framework for the decision

Including:-

1. Adomako test(duty of care)
2. Objective test re breach of duty.
3. The 'Bolam Test' not negligent if acting in accordance with accepted practice at the time.
4. Must show a breach as cause of death.
5. Negligence involves an objective assessment of an objectively recognisable risk.

6. R V Prentice.. The following could lead to finding of gross negligence:-

Indifference to risk

foresight of risk coupled with reckless intention

appreciation of risk coupled with intention to avoid it to a high degree of negligence

inattention or failure to avert serious risk of death going beyond mere inadvertence

All NFA decisions framed around the aforementioned principles.

DW.