



ROBERT SMITH Q.C.

1971 – Called to the Bar

1986 – Q.C.

1989-1992 – Member of the Criminal Injuries Compensation Board

1982-2008 – Recorder and Deputy High Court Judge (Queen’s Bench Division and Chancery Division)

Master of the Bench of the Inner Temple

A common law practitioner specialising in criminal litigation and with particular interests in the following fields:-

Fields of Practice:

Crime

- Medico-legal cases
- Scientific issues, including DNA, toxicology, blood pattern distribution
- Psychiatric issues, including insanity, diminished responsibility, fitness to plead, etc.
- “Shaken baby” cases
- Medical manslaughter
- Corporate manslaughter
- Serious fraud/international fraud
- Health and safety
- Human rights issues

Regulatory Law

- Health and Safety including Factories, Railways and Mining
- Environmental/pollution
- Agriculture
- Organo-phosphate/chemical poisoning
- Disciplinary tribunal work [Defence only] including the General Medical Council, Office for the Supervision of Solicitors, General Council of the Bar, Police disciplinary procedures.
- Extradition
- Abuse of Process

Civil

- Actions involving Police Authorities and the Criminal Justice System
- Misfeasance in Public Office
- False Arrest and Imprisonment
- Malicious Prosecution
- Contempt
- Equestrian Issues

Areas of Practice

A balanced practice involving, in criminal cases, both defence and prosecution work (principally homicide, commercial fraud and specialist issues such as corporate manslaughter, medical manslaughter and health and safety).

Experienced in the prosecution and defence of corporate manslaughter cases. Prosecuted one of the first successful convictions for corporate manslaughter in *R v Jackson Transport (Ossett) Ltd*. Responsible for the prosecution of manslaughter and Health and Safety charges arising out of the West Coast main railway line fatalities at Tebay in Cumbria. Experienced in advising HSE, the CPS/DPP and defence solicitors in cases involving corporate manslaughter / HSWA charges and corporate liability.

Regularly engaged in the defence of major public companies and organisations in respect of allegations of serious health and safety breaches.

Experienced in environmental health issues including organo-phosphate poisoning, Gulf War syndrome, agro-chemicals, industrial chemicals, pollution, deafness and toxicological issues arising therefrom.

Extensive personal injury experience in cases involving construction site accidents, accidents in industry, industrial deafness, exposure to chrome and harmful chemicals. Acted for the victims of the Bradford City Football Club disaster in successful proceedings by way of group actions against the club and the local authority.

Instructions include a large proportion of professional clients such as medical practitioners, accountants, police officers and public companies. Has a particular interest in medico-legal matters and scientific evidence.

Particular experience in the defence of alleged “shaken baby” cases. Presented a number of seminars on the topic and the medico legal implications.

Principal Health and Safety Cases

Health and Safety Executive – North Yorkshire County Council – Leeds Crown Court – June 2010 – Wilkie J

Successful defence of North Yorkshire County Council on serious health & safety charges arising out of a fatality involving a school pupil drowned in a cave system in

Nidderdale due to rapidly rising water. The case involved extensive technical issues concerning hydrology and cave systems.

R v Jackson Transport (Ossett) Ltd.

First prosecution and conviction for corporate manslaughter [with linked HSWA charges against the company and the Chairman and Managing Director]. Defendant company a firm of road tanker hauliers which failed to take proper action to protect the workforce from splashback of dangerous chemicals.

R v X Plc

Corporate manslaughter prosecution / HSWA charges. Deceased crushed in a press in factory premises near Elland in West Yorkshire.

R v N Plc [FTSE 100 company]

Death of employee using escape equipment from manriser forklift: HSWA charges. Conducted the company's position at inquest and conducted Crown Court proceedings on behalf of the company.

R v N Plc [FTSE 100 company]

Death of senior engineer engaged on maintenance on high rise garment picking system in warehouse premises. Prosecution stopped at conclusion of the prosecution case on the ground that the prosecution were unable to establish a breach of the duty qualified by Section 40 HSWA [junior counsel Paul Greaney Q.C.]

R v B

Defence of chairman of a major public company (FTSE 250) for alleged personal contraventions of an Improvement Notice. HSE defeated on submissions made on the accused's behalf that Sections 36 and 37 HSWA were inapplicable since (i) causation was required to be proved (ii) in the absence of an ability to lift the corporate veil the acts or omissions of the accused were only within the scope of his authority as chairman of the holding company and the default lay with its subsidiary company.

R v Connolly and Kennett (Tebay – West Coast Main Line Fatalities)

Major prosecution for CPS/HSE manslaughter / HSWA charges arising out of multiple fatalities on the West Coast Main Railway Line at Tebay in Cumbria. Conviction of Principal in small business and his foreman. Case involved the deliberate disconnection of the braking system on flat rail bogies in order to permit them to be coupled to road/rail vehicles. The bogies ran away just south of Shap Fell and hit the work force working on the line at Tebay causing multiple fatalities. Convictions upheld by the Court of Appeal.

Shoreham Docks

Advised the DPP and HSE on complex potential prosecution arising out of a mercantile shipping fatality in Shoreham Harbour.

R v Elders/Factory Cover

Gross negligence manslaughter / HSWA prosecution – fall from height through fragile roof at the premises of ICI.

Selection of Major Homicide and other Criminal Cases

R v Zoorah Gulam Shah

Prosecution for the murder of her husband by arsenic poisoning. Complex evidence dealing with toxicology from samples and arsenic residue in the deceased's hair.

R v Anthony Vickers

Represented the Prosecution in review of 12 year old case in the Court of Appeal Criminal Division. Fresh medical evidence relating to the murder of the Appellant's wife by the use of drugs designed to destroy bone marrow – evidence rejected and conviction upheld.

R v Thomas Shanks

Prosecution for the murder of a nurse at Pinderfields Hospital Wakefield utilising a semi-automatic firearm. Defence running diminished responsibility/Gulf War Syndrome. Defence rejected by the Jury.

R v Bieber

Prosecution for the murder of a police officer in the City of Leeds by the use of a self loading pistol. American citizen denying responsibility for the murder. Principle of whole life imprisonment upheld in due course by the Court of Appeal as consistent with Article 3 ECHR.

R v Janet Charlton

Successful defence of a woman responsible for killing her partner by the infliction of multiple axe wounds to the head. Defence advanced was provocation/defence of another [her daughter]. Prosecution case – deceased man bound and gagged as part of sexual activity at the time when he was struck with the axe and killed. Defence case that the defendant was suffering from battered woman's syndrome and provoked by the deceased's depravity. Sentenced to 5 years' imprisonment for manslaughter, reduced on appeal to 3 years' imprisonment.

R v B

Successful defence of the father of an 11 week old baby charged with causing her permanent brain damage and disability by shaking. So called "triad" of signs. Defence case – herpes simplex virus. Prosecution case and diagnosis by paediatricians demonstrated to be flawed. Prosecution abandoned after extensive investigation of expert evidence during trial.

R v VS

Successful defence of mother charged with murder/manslaughter of her ten week old baby. Case involved so called triad of signs ie subdural haemorrhage, retinal haemorrhage and swelling of the brain – prosecution alleged conventional theory that triad diagnostic of shaking – defence case systemic infection. Complex medical issues. Other successful defence cases involving unsubstantiated allegations of “baby shaking” where the differential diagnosis was accepted by the jury.

R v C

Successful defence of a father charged with causing grievous bodily harm to his child [permanent and serious brain damage]. Allegation that the baby had been shaken. Defence case – pertussis infection. Complex evidential issues relating to haematology, ophthalmology and neuro-radiology.

R v Howard Martin

Prosecution of general practitioner charged with the murder of 3 of his patients by the use of excessive doses of morphine and other drugs. Defence case successful – based on “double effect” principle.

R v Muzzaker Shah and Others

Prosecution for the murder of PC Beshenivsky and attempted murder of PC Milburn by shooting in the course of an armed robbery in Bradford in 2005.

R v Deborah Winzar

Nurse charged with and convicted for the murder by insulin poisoning of her husband – advice to the Chief Constable of Cambridge and the CPS.

R v Colin Norris

Complex Prosecution of a Staff Nurse for the murder of four patients and the attempted murder of a fifth at the Leeds General Infirmary by insulin overdose ‘ administration of anti-diabetic medication.

R v Guang Hui CAO

Prosecution for the murders of two Chinese students in Newcastle upon Tyne – the subject of suspected Chinese gang retribution.

R v P D

Successful defence of a Solicitor practising in the North East of England charged with attempting to pervert the course of public justice. Actions of Durham Police involved listening to a private and potentially privileged consultation between PD and his client using remote monitoring equipment which had been installed by Durham Police in such a way that the Police could eavesdrop on the conversation after the interviewing officers had left the Interview Room. The equipment failed to comply with Home Office Guidelines. Application to stay the proceedings as an abuse of the process of the Court on the ground that the conduct of the Police amounted to “directed” and “covert” surveillance within RIPA 2000 and was conducted without lawful authority.

Prosecution abandoned after the police officers gave evidence. Concurrent issue – unlawful searches of the defendant’s home exercising inappropriate powers under Section 32 PACE – seizure of computers without a Special Procedure Warrant – reading of legally privileged files.

R v Anthony Morley

Defence of a man who was by occupation a chef - charged with murder - stabbed the victim to death and then removed sections of his flesh which was seasoned with herbs and then cooked with Provencal olive oil and eaten. Unsuccessful defence of diminished responsibility based upon dissociative state due to confused sexuality. Court of Appeal [the Lord Chief Justice] – confirmed that the starting point for “cannibalism” was 30 years [junior counsel Paul Greaney Q.C.].

R v Stephen Griffiths

Prosecution at Leeds Crown Court of serial killer of prostitutes. Responsible for dismembering and eating parts of their bodies.

R v Ness and Awan

Prosecution at Newcastle upon Tyne Crown Court of the two accomplices of Raoul Moat. Ness convicted of being a party to the murder by Moat of Christopher Brown. Ness and Awan convicted of being parties to the Attempted Murder of Police Constable David Rathband, shot on duty by Raoul Moat while the two defendants waited in a get away car. Both defendants also convicted of Conspiracy to murder police officers and armed robbery.

Reported Cases of Legal Importance

- Attorney-General's Reference (No. 3 of 1994) House of Lords [1998] A.C. 245 (Liability for murder/manslaughter arising from the infliction of injuries to the unborn child)
- R v Beedie Court of Appeal [1997] 2 Cr.App.R. 167 (Now the leading case on the double jeopardy rule in criminal proceedings)
- R v Woolin House of Lords [1999] A.C. 82 (Foresight of consequences as proof of intent in murder)
- R v H House of Lords [2003] 1 W.L.R. 411 (Unfitness to plead and the implications of Article 6 of the European Convention on Human Rights).
- R v B [2003] 1 W.L.R. 2809 (Court of Appeal) Propriety of prosecution comment and cross examination on the issue of absence of motive for false complaints. Review of commonwealth jurisprudence.
- Green v Police Complaints Authority and the Chief Constable of South Yorkshire, House of Lords, [2004] 1 W.L.R. 725 (Disclosure of evidence generated in investigations supervised by the Police Complaints Authority where Articles 2 and 3 of the European Convention are engaged).

- R v Bieber [2008] EWCA Crim 1601: Guideline case on Article 3 ECHR and "whole life" terms of imprisonment.
- R v Sullivan, Ellener and Others [2004] EWCA Crim 1762: Guideline sentencing case on life imprisonment – Transitional Provisions, Schedule 21, CJA 2003.
- R v Rahman and Others (House of Lords [2008] UKHL 45: Joint enterprise in homicide).

Professional Memberships

Personal Injuries Bar Association
 Bar European Group
 West Riding Medico-Legal Society
 Health and Safety Lawyers Association

Member of the European Circuit and the North Eastern Circuit

Member of the Advisory Panel for 'Blackstone: Criminal Practice'

Profile as a leader at the Bar: Chambers Guides - Recommended in Crime, Health and Safety and Personal Injury. Quoted extensively in the Legal 500.

Seminars

- Principles of Cross-Examination in Criminal Cases
- Prosecution and Defence of Cases involving Joint Enterprise in Homicide
- Shaken Babies – a Syndrome or a Miscarriage of Justice?

Non - legal Interests

A "classical" horseman and horse owner (with particular interest in the pure bred Spanish horse), farmer and landowner specialising in the breeding of pedigree Charolais Cattle.

A regular contributor to classical equestrian publications and book reviews

Member of the "Asociación Nacional de Criadores de Caballos de Pura Raza Española", The Association "pour la Légèreté en Equitation" - Saumur, The British Horse Society, The British Charolais Cattle Society.

Recently published book reviews in equestrian literature:

- The Pure Bred Spanish Horse – The Works of Juan Carlos Altimirano
- Twisted Truths of Modern Dressage – Philippe Karl
- Training the Horse in Hand – The Classical Iberian Principles – Alfons Deitz
- Classical versus Classique – a debate between Philippe Karl and Christophe Hess

Equestrian Articles:

- Masters of Equitation Part 1 – “The Emergence of Classicism.”
- Masters of Equitation Part 2 – “The Refinement of Classicism”
- Masters of Equitation Part 3 – “Balance and Lightness”
- Masters of Equitation Part 4 – “The Forward Impulse and the Survival of Classicism”



A series of four articles on the Principles of Lightness in Equitation under the title of “Légèreté and the French Classical Tradition”

- Part 1: The Meaning of Légèreté
- Part 2: The Refinement of Légèreté
- Part 3: True and False "Lightness"
- Part 4: Lightness - Continuing the Tradition
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Anyone wishing to gain access to these articles should contact Kirsten Frankland on 0113 203 5501 or email on kirsten@parkcourtchambers.co.uk

Currently researching and writing a major text book on the development and refinement of classical horsemanship with particular emphasis on the pure bred Spanish horse.

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