

R v James Latham Peters

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Background – drug use

- Dr James Peters was a drug addicted anaesthetist who infected 55 women with Hepatitis C between June 2008 and November 2009.
- Working at a Melbourne abortion clinic.
- Inject himself first with syringes of fentanyl before administering the drug to the patient with the same needle.
- He had a long history of drug addiction and had contracted Hep C in 1997.

Background cont'd

- Qualified as an anaesthetist in 1979.
- In late 1994 to 1995, issued false prescriptions initially for his wife but by December 1995 for himself.
- In 1995 informed the Vic Medical Practitioners Board (**the Board**) addicted to both pethidine and fentanyl.
- In May 1996 the Board suspended his medical registration for 12 months.
- In 1996 he received a six month suspended jail sentence.

Background – work history

- Returned to anaesthesia in 1997 under supervision and various conditions imposed by the Board up until February 2010.
- He applied numerous times to have conditions lifted.
- 2003 wife died – recommenced drug use.
- 2004 commenced working at the abortion clinic under supervision of the then owner.
- By late June 2007 working unsupervised.
- Required to attend drug rehabilitation programs - unclear whether he did.
- Did not seek nor was required to undergo psychiatric treatment.
- From at least 2008 using narcotics on a regular basis.

Background – urine testing

- The conditions he practiced under between 1997 and 2010 included providing regular urine samples (over 225).
- However, he was never once tested for fentanyl, his drug of choice.
- Fentanyl is a synthetic opioid - approx. 100 times more potent than morphine – not a part of routine toxicology screen.
- Nursing staff aware of drug problem.
- In 2009 suspicious he was using drugs again but negative urine tests.

Hepatitis C

- In 1997 the Health Dept was notified that Dr Peters was suffering from Hep C.
- Dr Peters knew that he was suffering from Hep C.
- Hep C status never brought to the attention of the Board, either by Dr Peters or the Health Dept.
- Hep C notifiable disease - must inform the Health Dept.
- Disease notifications are not linked to other databases held by organisations such as AHPRA.

Hepatitis C

- Hep C – blood-borne virus causing inflammation of liver.
- The Dept of Health cross match data received from notifications looking for clusters.
- Three cases of Hep C were notified originating from the abortion clinic that Dr Peters worked.
- A team inspected the clinic to examine its systems and procedures and found nothing suspicious.
- Dr Peters was OS at time – he was contacted and tested.
- He claimed he did not know he had the disease.

Criminal proceedings

- In March 2010, CHO referred the matter to the police in March 2010.
- Tried for 55 charges of negligently causing serious harm.
- Forrest J (Vic SC) found his conduct fell so greatly short of the standard of care expected of the reasonable anaesthetist and involved such a high risk of serious injury that criminal punishment was warranted.
- Forrest J stated to Dr Peters *“You breached the great trust that every patient places in his or her treating doctor”*.
- Entitled to a significant sentencing discount for his pleas of guilty. However, Dr Peters showed an apparent indifference to his offending.

Criminal proceedings

- Forrest J - general deterrence is an important factor in the sentencing mix.
- He stated that other health professionals, whether addicted or not, must understand that their patients are entitled to conscientious and professional care, and that criminally negligent conduct will be met with stern punishment.

Court of Appeal

- In August 2013 the Victorian Court of Appeal unanimously rejected Dr Peters' application to appeal his 14 year prison term.
- The Court of Appeal President Justice Chris Maxwell said the sentence was unimpeachable.

Class action

- In May 2012 a class action was commenced in the Supreme Court of Victoria against Dr Peters, Dr Schulberg (the surgeon and owner of the clinic) and the Board (now AHPRA).
- It is alleged that the Board was negligent for registering Dr Peters as an anaesthetist during the period.
- First action of its kind – potential ramifications for AHPRA

Some issues for the future

- What is acceptable drug use? For eg can a doctor use sleeping tablets for insomnia?
- How do we ensure public safety when a doctor has a previous history of drug addiction?
- Should the doctor be subjected to random drug tests for their entire career?
- Should all doctors be required to know their infectious disease status?
- Should all doctors identified as addicts be subjected to continuous random checks for life?

Some issues for the future

- Mandatory reporting?
 - Should the nurses working with Dr Peters have reported their suspicions about his drug use to the Medical Board?
 - Would reporting have triggered a comprehensive assessment, treatment and a risk management plan?
 - Prevented tragic outcome?