

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 05-CV-1521

ROBERT E. COLLINS, ET AL., APPELLANT,

v. (F-1586-02)

VERONICA L. SMITH, APPELLEE.

Appeal from the Superior Court of the  
District of Columbia  
Criminal Division

(Hon. Stephanie Duncan-Peters, Trial Judge)

(Argued September 5, 2007

Decided February 15, 2008)

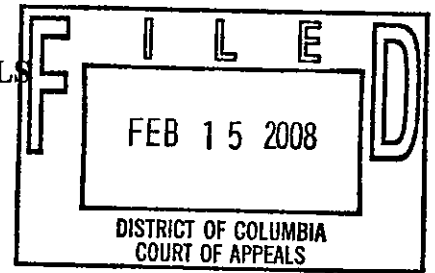
Before WASHINGTON, *Chief Judge*, and FISHER and THOMPSON, *Associate Judges*.

**MEMORANDUM OPINION AND JUDGMENT**

PER CURIAM: Appellant contends that the trial court erred in admitting certain evidence relied upon by appellee to establish the national standard of care in this case. Therefore, according to appellant, there was insufficient evidence as a matter of law to establish the national standard of care applicable in this case. Appellant's main contention is that the appellee's expert improperly used a case study with a small sample size, a foreign report, and generalized references as the foundation for his national standard of care testimony. We disagree.

Admissibility of an expert's opinion is committed to the sound discretion of the trial court. *See In re Melton*, 597 A.2d 892, 901 (D.C. 1991). The trial court should afford a qualified expert wide latitude in determining on what to base an opinion. *See id.* at 903. The bases for an opinion, however, must be reliable and probative in order for the opinion to be admissible. *Id.* In this case, the experts were both highly qualified board-certified orthopedic surgeons who were familiar with the injury and complications presented through their respective practices, attendance at medical conferences, and through their review of medical literature. Under those circumstances, it was not an abuse of discretion to allow the experts to testify that their opinions were further supported by a foreign report and a case study with a small sample size.

Appellant further contends that the experts' testimony on the national standard of care is inadmissible because it relies on generalized references not specific to the circumstances of the injury. Specifically, appellant contends that the expert's testimony was inadequate because it was



based on literature which discussed blood clots following knee and hip surgery and not on literature that discussed blood clots following the treatment of a ruptured Achilles' heel without surgery. However, what needed to be established here was not the standard for treating the ruptured Achilles' tendon, but the standard for preventing deep vein thrombosis and pulmonary embolisms. The appellee's experts used medical literature specific to deep vein thrombosis, pulmonary embolisms, and anti-clotting medications to establish that the national standard of care required Dr. Collins to treat appellant's ruptured Achilles' tendon and assess the present risk factors for deep vein thrombosis and pulmonary embolism.<sup>1</sup> Thus, the experts' testimony was certainly admissible, as it was probative on the subject of preventing deep vein thrombosis and pulmonary embolisms with anti-clotting medication.<sup>2</sup>

We review appellant's sufficiency of the evidence claim *de novo*. See *Hawes v. Chua*, 769 A.2d 797, 806 (D.C. 2001). Upon review of the record, we see no material difference between the testimony in this case and any of our other cases where we held the expert's testimony to be sufficient to establish the national standard of care.<sup>3</sup> See *District of Columbia v. Watkins*, 684 A.2d 395 (D.C. 1996); *Phillips v. District of Columbia*, 714 A.2d 768 (D.C. 1998); *District of Columbia v. Wilson* 721 A.2d 591 (D.C. 1998); *Hawes v. Chua*, 769 A.2d 797 (D.C. 2001); *Snyder v. George Washington Univ.*, 890 A.2d 237 (D.C. 2006). The record indicates that in this case two distinguished doctors testified as to the national standard of care. Both based their opinions on their education and practice, having attended medical conferences, and having read textbooks and peer-reviewed journals that discussed deep vein thrombosis and pulmonary embolisms. Thus, we hold that the trial court neither erred in admitting the expert's testimony, nor did it err in finding that the appellee had introduced evidence sufficient to establish the national standard of care.

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<sup>1</sup>The testimony adduced at trial was that Mr. Smith displayed the following risk factors for deep vein thrombosis: 1) being over the age of 46, 2) obesity, 3) immobility, 4) having a cast, 5) having suffered the injury to begin with, and 6) not being able to put any weight on his leg.

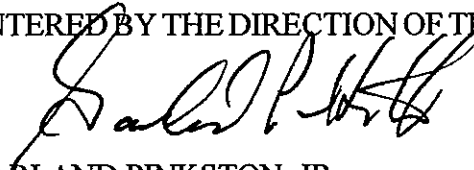
<sup>2</sup>Once the evidence was properly admitted, it was the jury's responsibility to weigh appellant's conflicting evidence that with respect to the potential for development of deep vein thrombosis and pulmonary embolisms and prevention of these complications with anti-clotting medications, Achilles' tendon injuries are different from other lower extremity injuries. See *Etheredge v. District of Columbia*, 635 A.2d 908, 916 (D.C. 1993).

<sup>3</sup>This case is clearly distinguishable from *Nwaneri v. Sandidge*, 931 A.2d 466 (D.C. 2007), because in that case, unlike this case, the plaintiff's expert was never asked on what his opinion was based.

For the foregoing reasons we

*Affirm.*

ENTERED BY THE DIRECTION OF THE COURT:



GARLAND PINKSTON, JR.  
Clerk of the Court

Copies to:

Hon. Stephanie Duncan-Peters

Clerk, Superior Court

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