

Having practiced medicine for more than 20 years, and more than 10 years specializing in complex female pelvic reconstructive surgery, 2 patients under my care died in 2008 and 2009 of complications following surgery. Both of these cases were subsequently the subject of Coronial Inquest.

It has been a very difficult time and I have been quite humbled by the support that I have received from my patients, my colleagues within the specialty and from my referring GP colleagues. I thought that in taking the opportunity to thank you formally for your ongoing support, I might provide a synopsis of the Coroner's Finding and the outcome of my subsequent Appeal to the Supreme Court of South Australia.

On 5 August 2011, Anthony Schapel, Deputy State Coroner, delivered his Finding at Inquest.

Professor Emeritus Roger Pepperell (formerly Professor and Chairman of the Department of Obstetrics and Gynaecology at the University of Melbourne) was asked to comment on aspects of pre, intra and postoperative management. His detailed report does not criticize any aspect of my management. In the Coroner's report; *'Professor Pepperell suggested that as this is a very specialised area of surgery, the issue as to the most appropriate procedure ... would require an opinion from a specialist urogynaecologist.'*

The urogynaecologists asked by the Court for an expert report were Professor Dwyer (Director of Urogynaecology Department at the Mercy Hospital for Women and Clinical Professor at the University of Melbourne) and Dr Carey (Head of Unit, Urogynaecology and Gynaecology at the Royal Women's Hospital in Melbourne). Again, the reports produced by these urogynaecologists were not critical of my pre, intra and postoperative management.

'Dr Carey suggests that the most appropriate operation for treating vaginal vault prolapse remains the subject of ongoing debate. The choice of operation to treat vaginal vault prolapse depends on many factors. The surgeon's training and experience is one matter that will influence the choice of surgery. He suggested that recommending a specific operation can only be made after careful clinical assessment and after taking into consideration the patient's age, medical condition, coital activity, level of physical activity and the history of prior failed surgery.'

Anthony Schapel in his report noted; *'Dr Onuma has practised as a gynaecological surgeon since 2000. He occupies rooms in Medindie. His CV reveals that he has a Bachelor of Science (Hons) in Pharmacology obtained from the University of Leeds UK in 1985, basic medical degrees of MBBS from the University of London UK in 1991 and a Master of Jurisprudence awarded by the Faculty of Law at the University of Birmingham UK in 2000. Other relevant academic qualifications include membership of the Royal College of Obstetricians and Gynaecologists conferred in London in 1996, a Certificate of Completion of Specialist Training, Europe obtained in London in 2000, a Fellowship of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) obtained in 2001 and Fellowship of the Royal College of Obstetricians and Gynaecologists conferred in London in 2008.'*

Professor Dwyer stated that *'Dr Onuma's apparent credentials and experience suggested that he was a very experienced gynaecologist in the area of laparoscopic surgery.'* Professor Dwyer stated that *'even the most experienced of surgeons can, from time to time, have these complications whether operating abdominally or vaginally.'*

In fact, my audited work shows very clearly that my complication rate for routine and complex surgery, on all relevant determinants, is well below that of nationally and internationally quoted rates. Although this information was available to the Court, Anthony Schapel apparently thought that these facts were irrelevant!

Anthony Schapel made the following determination; *'It is clear that these comments were made on the basis that Dr Onuma's assertions as to his credentials, experience and training were to be taken at face value.'* This is a rather bizarre comment to make given the fact that my full CV was presented in the Coroner's Court. No part of this CV was challenged by the Court when in session, or by any of the expert witnesses engaged by the Court. Furthermore I have a synopsis of my CV on my website, www.dronuma.com, for public view. This website is accessed frequently by Universities, specialists, trainees and the public from around world.

The basis for Anthony Schapel's conclusion is even more suspect when consideration is given to the evidence provided by Dr Harvey; the Court notes; *'the cases ... both involved complexity that might require surgical expertise that Dr Harvey himself did not possess but which Dr Onuma in his view did possess.'* In short, Dr Harvey, an experienced obstetrician and gynaecologist of more than 30 years, who had observed me operating on several occasions and whom I had taught some aspects of complex pelvic floor reconstructive surgery was not to be believed.

The Coroner's Court, represented by Anthony Schapel, has deliberately chosen to ignore the detailed reports produced by its own appointed expert witnesses. It has chosen, deliberately to ignore the evidence elicited from Dr Harvey; *'Dr Harvey had referred a number of cases to Dr Onuma for surgery. He had observed his surgical skills and technique and he greatly respected it. He also described Dr Onuma as a very good teacher of surgical technique and that in his experience very good teachers usually made very good surgeons.'*

The following are further examples of the prejudicial comments made by Anthony Schapel:

- *'there is very little objective material to establish Dr Onuma's competence and skill to safely perform surgery of this complexity other than, for the most part, through somewhat self serving statements of his own.'*
- *'the Court experiences a measure of disquiet about the manner in which these surgeries were carried out.'*
- *'leads one to legitimately question the competence of the medical practitioner concerned.'*

These comments are clearly very prejudicial and inaccurate. I believe that the comments are not so much ambiguous as a deliberate attempt to damage my

reputation. I believed that these comments impugned me and mounted an appeal to the Supreme Court of South Australia. The Appeal was heard on 5 October 2011.

ONUMA v THE CORONER'S COURT OF SOUTH AUSTRALIA [2011] SASC 218. Judgment of The Honourable Justice Kelly, 9 December 2011

'The Deputy Coroner observed that the circumstances surrounding the deaths of both of these women were complicated and that the task of analysing the circumstances had been unusually difficult.'

*'It is plain from the evidence before the Coroner's court that it was the combination and accumulation of that chain of events which ultimately led to ... death on 18 July 2009. **It is not apparent why the Court's formal finding as to the cause of death focused on only some of those events to the exclusion of others.**'*

The importance of this statement was magnified when it was repeated again almost immediately; *'The combination of factors which led to ... death were all identified in the evidence before the Court. It is difficult to understand why they were not also identified in the formal finding as to the cause of death.'*

'The language used by the Deputy Coroner is quite ambiguous ... However, the impugned comments plainly have the capacity to reflect adversely on the appellant.'

The Supreme Court looked carefully at the reports of the expert witnesses;

'The thrust of the expert evidence, particularly from Professor Dwyer, was that the surgery performed by the appellant was complex abdominal surgery in a highly specialised area'

Justice Kelly went on further:

'For the reasons which follow I consider that there was no evidence to justify the impugned comments.'

*In summary the evidence before the Court was that ... both women who had significant comorbidities however the evidence reveals that both women consented to the surgery after being appropriately informed of the risks. Both women unfortunately suffered complications which are known to occur and may well have occurred irrespective of who performed the surgery. **None of the expert opinions before the Court questioned the need for surgery, the qualifications or the competence of the surgeon, or the nature of the procedures performed on each of the women. None of the expert opinions questioned the appropriateness of the post-operative management of either woman.***

.. it is significant that none of the medical practitioners called to give evidence at the inquest questioned the qualifications, skill or competence of the appellant.'

The Supreme Court thus concluded that I had succeeded on the substantial grounds of my appeal and awarded substantial costs against the State for the costs of bringing the case to court.

The Supreme Court has found that the Coroner's office has impugned me. I believe that the actions of Deputy State Coroner Anthony Schapel have nothing to do with the practice of law or medicine. I have put in a formal complaint to the Australian Human Rights Commission.

'The Committee would like to acknowledge the high standard of preoperative assessment, documentation of the treatment plans and patient consent in both of these cases.' (Mortality and Morbidity Committee of St Andrew's Hospital;17 November 2009);

I continue to work and teach in a very specialized area of gynaecology; Advanced Minimal Access Female Pelvic Reconstructive Surgery.