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R. v. Harper, 2002 YKSC 9

Date: 20020225
Docket No.: 00-00593D
Registry: Whitehorse

IN THE SUPREME COURT OF THE YUKON TERRITORY

BETWEEN:

HER MAJESTY THE QUEEN

AND:

THOMAS MOSES HARPER

NARISSA SOMJI

For the Crown

FIA JAMPOLSKY and GORDON COFFIN

For the Defence

**MEMORANDUM OF RULING
DELIVERED FROM THE BENCH**
(Qualifying Dr. Macdonald as an expert witness)

[1] VEALE J. (Oral): My view is that this is an area that the Court certainly requires expert opinion. I think it is beyond the general knowledge of individuals and certainly this judge, as to the impact that the courtroom process can have on an individual suffering from multiple sclerosis. Certainly the courtroom is a place where healthy individuals suffer a certain amount of stress and trauma, but I think it is a very special circumstance when you are dealing with someone with a

disease such as multiple sclerosis. So I think it is a suitable area for expert evidence to heard.

[2] With respect to Dr. Macdonald, she has been practicing with a caseload of patients suffering from multiple sclerosis for some 25 years. She took a special elective in neurology during her medical studies and observed a number of multiple sclerosis patients at that time, and she has a significant caseload today of multiple sclerosis patients. She is very modest about her expertise in the area, but I think we have heard from Dr. Anzarut on the more intellectual aspects of the disease, and I think it would be very suitable to hear from Dr. Macdonald on the observations that she has made since S.D. has been a patient, I believe starting in 1982.

[3] I am going to rule that she is an expert based on her 25 years of experience with patients suffering from multiple sclerosis and that she can give us her observations and opinion with respect to the issue of the potential emotional and physical impact of requiring S.D. to testify either in this court or in another more suitable location.

VEALE J.