

JAMES HASKELL SUCCESSFULLY DEFENDS FGM CASE



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James Haskell at Guildhall Chambers has successfully defended only the second person in British legal history to be prosecuted for alleged Female Genital Mutilation (FGM). The defendant was tried at the Crown Court at Bristol in February 2018. He was alleged to have allowed his 6 year-old daughter to be subject to a Type IV FGM procedure. The case drew widespread coverage in the national media and press.

An interesting feature of this case is that the Prosecution was brought as an offence of Cruelty to a person under 16, contrary to the Children and Young Persons Act 1933, rather than as an offence under the Female Genital Mutilation Act 2003. It remains a 'moot point' as to whether the alleged procedure in this case, either a small cut or burn to the clitoris, which did not leave a permanent scar, could amount to "mutilation". The 2003 Act is silent as to any interpretation of the word "mutilates".

The Prosecution relied upon evidence from a local community Consultant Paediatrician who first identified the alleged 'lesion'. The child was examined on a second occasion approximately 8 weeks later by the UK's leading expert, Professor Creighton. In 2014 she established the first and only clinic in the UK for children with FGM.

During her evidence, Professor Creighton agreed that from her examination of the child there was no evidence of FGM. She could not exclude the possibility of a Type IV procedure which had subsequently healed. The defence relied upon expert evidence from Nicholas Morris, a Consultant Gynaecologist, who'd established the first adult FGM clinic in 1997.

The Prosecution's case relied principally upon alleged admissions that the defendant was said to have made to a passenger during a short journey in the defendant's taxi. The passenger, was a trustee of a Charity called 'Integrate' who actively campaign against FGM. The defendant, whose first language was not English, insisted that the passenger had misinterpreted the conversation. The Judge was later to describe the evidence from this witness as "inconsistent".

At the end of the Prosecution case, James made a submission that the defendant had no case to answer and that no properly directed jury could convict the defendant. This argument was resisted by the Prosecution. During his legal ruling the Judge accepted the defence submissions and described parts of the prosecution case as "deeply troubling". He directed the jury to find the defendant not guilty.