

CHAPTER 8: The opinion rule and the presentation of expert evidence

1. *In Turner [1975] QB 834, Lawton LJ said that ‘jurors do not need psychiatrists to tell them how ordinary folk who are not suffering from any mental illness are likely to react to the stresses and strains of life’. When will the courts admit evidence of the opinions of psychiatrists and psychologists?*

This issue is discussed, particularly at paras. 8.25ff.

2. *In Adams [1996] 2 Cr App R 467, Rose LJ suggested that ‘[Bayes theorem] is not appropriate for use in jury trials, or as a means to assist the jury in their task’. Do you agree?*

This question is discussed at paras 8.61-8.64.

3. *Oedipus is on trial, charged with the murder of his father, Rex. The defence wishes to call the following witnesses:*

(i) Dr Rave, who will testify that Oedipus, who is not suffering from any mental illness, like any other rational human being, is likely to have been provoked beyond endurance when his father, a die-hard Everton supporter, let off a canister of pepper spray into the face of his son, a loyal Liverpool fan, when Liverpool scored the winning goal in the annual Merseyside derby in the last minute of injury time; and

(ii) Dr Morticus, a pathologist, who will testify that although there is external evidence of quite serious injuries on Rex’s body, it is his firm personal conviction that Rex actually died of natural causes—namely, shock brought on by the defeat of his beloved football club.

- (a) Presuming that Dr Rave is a relevantly qualified doctor (cf *Nightingale v. Biffen* (1925) 18 BWCC 358; *R v. Clarke and Morabir* [2013] EWCA Crim 162) and can display sufficient relevant expertise to satisfy the judge, since R is expressing an opinion on a matter which is not beyond the ken of the average juror, it is most unlikely that R will be entitled to testify as an expert delivering opinion evidence on the matter: consider in particular the cases referred to in para. 8.22, including *R v. Turner* [1975] QB 834.
- (b) It is axiomatic that experts are entitled to testify to their professional opinions, not to their personal opinions: *R v. Cook* [1982] Crim LR 670.