

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

ROBERT L. BARTO, Executor of : No. 01-00665
the Estate of Lois M. Fry :
Barto, Deceased :
 :
Plaintiff :
 :
vs. : Civil Action - Law
 :
RANA COLALANNI, CRNP; :
DR. DAVID AMBROSE, M.D.; :
LOYALSOCK FAMILY PRACTICE; :
and SUSQUEHANNA HEALTH :
SYSTEMS, :
Defendants : Motion in Limine

OPINION AND ORDER

The Defendants filed a Motion in Limine to Preclude the Preclude the testimony of Lycoming County Coroner, Charles E. Kiessling, Jr. The Plaintiff intends to call Coroner Kiessling at trial to opine that Lois M. Fry Barto died on February 10, 2000 of myocardial infarction or a heart attack. While Plaintiff is seeking to prove the cause of death through the Coroner's testimony, Plaintiff is not seeking to have the Coroner testify regarding the decedent's condition on February 4, 2000, when the decedent was seen by Defendant Rana Colalanni, CRNP, at her office.

On February 10, 2000 Kiessling was called to determine the cause of death of Ms. Barto pursuant to his

statutory duty. The Coroner examined the body of Ms. Barto at Muncy Valley Hospital. He talked to family members to acquire some medical history. He also talked to the emergency room physician, Dr. Swartz who attended Ms. Barto and he discussed his conclusions with the doctor. Coroner Kiessling also spoke with Defendant Colalanni, a certified registered nurse practitioner, concerning her contact with the decedent on February 4, 2000, including the testing she did on Ms. Barto on that date. After his investigation, Coroner Kiessling concluded that the cause of death was due to an acute myocardial infarction, and he released the body of Ms. Barto to a funeral home at the request of the family. An autopsy was not performed.

While acknowledging that the Defendants have raised a close and difficult issue, the Court is satisfied that the opinion testimony of Coroner Kiessling regarding the cause of death is admissible as evidence, and that the weight of his opinion will be an issue for the jury to evaluate and determine.

The Lycoming County Coroner is not a medical doctor and is a lay coroner. However, it is clear that Pennsylvania has a liberal standard of admissibility of expert opinion leaving it to the jury to determine the

weight they will give to any such opinions.

The Pennsylvania Supreme Court in Miller v. Brass Rail Tavern, Inc., 541 Pa. 474, 664 A.2d 525 (1995)

summarized the standard of admissibility as follows:

It is well established in this Commonwealth that the standard for qualification of an expert witness is a liberal one. The test to be applied when qualifying an expert witness is whether the witness has any reasonable pretension to specialized knowledge on the subject under investigation. If he does, he may testify and the weight to be given to such testimony is for the trier of fact to determine.

664 A.2d at 528. (Emphasis in Original).

It is also clear to the Court that Coroner Kiessling as a lay coroner is not entitled to render an opinion regarding the cause of death of an individual he has examined simply because he is the coroner. Rather, as with any proffered expert witness, the Court must assess the qualifications of the proposed witness and determine if the witness' qualifications indicate a reasonable pretension of expertise regarding the opinions being offered by the witness. See Commonwealth v. Smith, 202 Pa.Super. 302, 808 A.2d 215 (2002). The Pennsylvania Supreme Court in Miller explains:

It is not a necessary prerequisite that the expert be possessed of all the knowledge in a given field, only that he possess more knowledge than is otherwise within the ordinary range of training, knowledge, intelligence or experience.

(citation omitted.) 664 A.2d at 528 (citation omitted.) The Court has carefully reviewed the briefs of the parties and the deposition transcript of Coroner Charles Kiessling. The Court is also mindful of the admonition contained in the recent Superior Court decision in Commonwealth v. Smith, supra, which stated “.we urge trial courts to use caution in qualifying lay coroners as experts on cause of death based on their qualification and the facts of the case.” 808 A.2d at 229.

While Coroner Kiessling is not a physician, he has significant experience in the medical field as a coroner, deputy coroner and a registered nurse. Coroner Kiessling had been a deputy coroner for twelve (12) years, and he has served as Coroner since January 2000. Dep. at 5. He investigates approximately 250 deaths per year as Coroner. Dep. at 6. In the course of time as Deputy Coroner and Coroner he has investigated in excess of 1,000 cases. Dep. at 6. As coroner his statutory duty is to determine cause of death. See 16 P.S. Section 1237(b).

Apart from his experience in the Coroner's office, Mr. Kiessling has worked in the medical field as a registered nurse for eighteen (18) years. Dep. at 6. While serving as a registered nurse, Mr. Kiessling worked in a

hospital emergency room where he routinely performed cardiac lab work, enzyme and EKG testing to determine heart problems. Dep. at 15.¹ Mr. Kiessling has also received forensic training as a death investigator from the Pennsylvania Attorney General's Office. This training is required by statute for all coroners. Dep. at 13. Mr. Kiessling also participates in continuing education training, which is required annually for his position. Dep. at 13.

The Court believes that Mr. Kiessling's combination of qualifications as a deputy coroner, coroner and registered nurse rise to the level of a reasonable pretension of specialized knowledge on the issue of the cause of death of the decedent. It would appear to the Court that Coroner Kiessling is at least as qualified as, if not more qualified than, the coroner in the recent 2002 Superior Court case, Commonwealth v. Smith, supra, where the Superior Court upheld a trial court's ruling allowing a lay coroner to opine as to the cause of death of a victim in a homicide by vehicle case. The lay coroner in the Smith case was a deputy coroner who had held the position since 1984. He also was a licensed mortician for sixteen years. In his

¹ Mr. Kiessling testified that sixty to seventy (60-70) percent of the deaths he sees as a coroner are non-traumatic type deaths, which are of

position as deputy coroner he investigated hundreds of deaths, some of which were the result of automobile accidents. The Superior Court in Smith was satisfied that this experience gave the lay deputy coroner "a pretension of specialized knowledge on the subject matter in question, qualifying him as an expert witness." 808 A.2d at 230. Likewise, this Court believes that Coroner Kiessling's qualifications satisfy the reasonable pretension standard to qualify as an expert witness.

Accordingly, the Court will DENY the Defendants' Motion in Limine to exclude his opinion testimony.

O R D E R

AND NOW THIS ____ day of February 2003, the Court DENIES the Defendants' Motion in Limine to Preclude the Opinion Testimony of Charles Kiessling as to the cause of death of the decedent.

By The Court,

Kenneth D. Brown, Judge

cc: Clifford Rieders, Esquire
Robert Seiferth, Esquire
David Bahl, Esquire
Work File
Gary Weber, Esquire (Lycoming Reporter)

cardiac origin.