

Correspondence

Body Parts Can Be Dangerous to Health

At times, it seems that the legal hand of the forensic sciences does not know what the medical hand is doing. An example of such confusion lies in the May, 1999 decision by the New York Court of Appeals rendered in the case of a bitten finger. In *People v. Maxwell Owusu*, the judges had to decide if teeth should be considered dangerous weapons. In a 5-to-1 decision, the Court ruled that the teeth of Mr. Owusu were not a weapon. The case stemmed from a 1996 incident in which Mr. Owusu was arrested for allegedly forcing his way into his estranged wife's Brooklyn apartment. Once inside, Owusu got into a fight with another man and bit the man's left index finger to the bone, severing nerves and causing permanent damage. Owusu was charged with first-degree burglary, first-degree assault, second-degree assault, and second-degree burglary, felonies which require the use or threat of a "dangerous instrument" during the commission of the crime. The top charge carried a possible sentence of 12½ to 25 years in jail. The Court threw out the assault charges and the first-degree burglary charge and reduced the second-degree burglary to third-degree burglary, saying that teeth cannot be considered a dangerous instrument because they were part of Mr. Owusu's body and not some portable device he picked up to cause more serious injuries. In other words, Mr. Owusu's teeth came with him.

In light of the recent State Court of Appeals ruling that teeth are not "dangerous instruments," one must assume that the Court sought the learned opinions of medical, dental, and forensic experts before rendering such an incredible decision. It must seem amazing to the *Journal's* readership that the Court ruled that an impulsively biting set of teeth would not be considered a weapon capable of producing severe short- and long-term physical as well as emotional trauma.

Members of the New York judiciary should visit their local morgue or pick up a textbook of forensic medicine to see just what kind of injuries different body parts are capable of producing. One need not have a medical degree to realize what grave injuries fists, elbows, teeth, and feet, etc. can inflict on the human body.

If the opportunity ever arises for another court to rule on a similar case, the justices should not overlook the fact that the human brain is the most deadly of all body parts. Without an evil-thinking brain, there can obviously be no way to marshal other benign-appearing body parts into instruments of physical aggression nor to form intent to commit acts of violence. Legal semantics and political rhetoric are not acceptable substitutes for common sense regarding matters of public safety and health.

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Commentary on Hubar JS, Carr RF. Computed dental radiography used to reproduce antemortem film position. *J Forensic Sci* 1999 Mar; 44(2):401-4

Sir:

We presented a lecture at the 1998 Academy of Forensic Sciences Annual Meeting in San Francisco about the use of digital radiography to identify the victims of the 1996 TWA Flight 800 disaster. More accurate replication of the antemortem radiograph film position was *only one of the many benefits* mentioned in that presentation. A thorough search of the literature should have revealed an abstract of that presentation in the proceedings from that meeting. Journalistic ethics and accuracy would require the authors of this paper to contact and interview the authors of the previously presented work on the identical subject, especially since the results are "in vivo" and far more valuable than the current "in vitro" report.

We do appreciate the authors taking the time to write the article and spread the word on the use of digital radiography in postmortem examinations. We do not appreciate the less than professional background research done by the authors, and by the editors of the *Journal* who should have been aware of the presentation of the same material at their own Academy's Annual meeting.

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Authors' Response

Sir:

We accept full responsibility for the literature search done prior to the acceptance of the above referenced paper. The paper was accepted for publication in final form in August of 1998. We did not encounter reference to a publication, abstract or otherwise, on the use of dental digital radiography, by Drs. Firestone and Friedman in that search, nor have we found one in a specific retrospective search of the *Journal of Forensic Sciences*, 1998 (all issues) through March 1999 (the issue in which our paper appeared). Presumably the *Journal of Forensic Sciences* would contain meeting abstracts of the Academy of Forensic Sciences were these to be published. Maybe we are just not getting it. (?)

Unfortunately, neither of us was able to attend the 1998 Academy of Forensic Sciences Annual Meeting to hear Drs. Firestone and Friedman present their lecture. Even more regrettable, we do not have a meeting program in which we assume, an abstract of the lecture has been printed. Had we known of such an abstract while writing our paper, we certainly would have referred to it.

Though we do not comprehend the apparent reference to postmortem identification as an in vivo process, we nonetheless look