

Use excerpts as numerically designated from the Swedish "Passive Smoking" Case briefing paper to answer questions regarding the case prior to the release of the court's decision.

1A-B General questions regarding Gun Palm case.

2A-B Swedish Workmen's Compensation law --- unique reverse burden of proof.

3A-E Comments from the scientific community regarding claims that ambient tobacco smoke may cause health problems.

If the court's decision rules in favor of Mr. Palm, the entire briefing paper may be used in response.

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OCTOBER 9, 1985

BRIEFING PAPER  
SWEDISH "PASSIVE SMOKING" CASE

THE (DATE) DECISION BY SWEDEN'S SOCIAL INSURANCE SUPREME COURT, WHICH AWARDED OCCUPATIONAL INJURY INSURANCE COMPENSATION IN A CASE INVOLVING "PASSIVE SMOKING", IS NOT A DEFINITIVE RULING ON THE IMPACT OF AMBIENT SMOKE ON NON-SMOKERS. IT IS A RULING WHICH ONLY CONCERNS SWEDISH LABOR INSURANCE COMPENSATION.

THE PRESENT RULING INVOLVED THE CASE OF A WOMAN, MRS. GUN PALM, WHO REQUESTED THAT THE LUNG CANCER SHE HAD CONTRACTED BE CLASSIFIED AS AN OCCUPATIONAL INJURY. SHE BASED HER CLAIM ON THE FACT THAT SHE HAD WORKED FOR MANY YEARS IN AN OFFICE WHERE HER COLLEAGUES SMOKED. THE PRESENT RULING, HOWEVER, WAS NOT BASED ON A FINDING THAT HER LUNG CANCER WAS CAUSED BY AMBIENT SMOKE, A SUBJECT ON WHICH NO TESTIMONY WAS GIVEN.

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what is  
this  
rule?*

1A MRS. PALM DIED IN EARLY 1982, AND THE CLAIM WAS PURSUED BY HER HUSBAND, MR. PALM. AFTER THE GOTHENBURG INSURANCE FUND DECIDED NOT TO ALLOW MR. PALM FULL COMPENSATION UNDER THE OCCUPATIONAL INJURY INSURANCE ACT, CONCLUDING THAT SHE HAD NOT BEEN EXPOSED TO AN "INJURIOUS INFLUENCE AT WORK", MR. PALM REQUESTED A RE-EXAMINATION OF THE FUND'S DECISION. IN THE SUMMER OF 1982, THE BOARD OF THE INSURANCE FUND VOTED NOT TO AMEND ITS EARLIER DECISION, THUS DENYING FULL COMPENSATION TO MRS. PALM'S ESTATE.

1B IN THE FALL OF 1983, THE INSURANCE COURT OVERTURNED THE FUND'S DECISION AND RULED THAT MRS. PALM'S ILLNESS WAS OCCUPATIONALLY RELATED. HER ESTATE WAS AWARDED AN ADDITIONAL 10% FOR FULL COMPENSATION. SUBSEQUENTLY, THE NATIONAL INSURANCE BOARD (NIB) FILED AN APPEAL WITH THE SUPREME INSURANCE COURT.

2A SWEDISH WORKMEN'S COMPENSATION LAW IS LIBERALLY CONSTRUED TO PERMIT COMPENSATION TO WORKERS AND THEIR DEPENDENTS. GIVEN THIS, THE DECISION SHOULD NOT BE INTERPRETED TO HAVE ESTABLISHED SCIENTIFICALLY ANY CAUSAL BASIS FOR THE RELATIONSHIP BETWEEN EXPOSURE TO AMBIENT SMOKE AND DISEASE.

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2B IN ORDINARY SWEDISH CIVIL COURT PROCEEDINGS, MRS. PALM'S ESTATE WOULD HAVE HAD TO PROVE THAT HER LUNG CANCER WAS ACTUALLY CAUSED BY AMBIENT SMOKE.

NO SUCH TESTIMONY WAS REQUIRED IN THIS CASE. THE FOUR EXPERTS IN THE FIELD OF OCCUPATIONAL MEDICINE WHO GAVE WRITTEN OPINIONS REFLECTED THE SERIOUS LACK OF WORLDWIDE MEDICAL AND SCIENTIFIC CONSENSUS ON THE ISSUE OF HEALTH AND AMBIENT SMOKE. THE TWO EXPERTS WHO EXPRESSED OPINIONS THAT AMBIENT SMOKE COULD BE A CAUSE OF LUNG CANCER RELY LARGELY ON TWO 1981 STUDIES (HIRAYAMA AND TRICHOPOULOS ET ALTERA) WHICH HAVE SINCE BEEN SERIOUSLY DISPUTED BY A SEGMENT OF THE SCIENTIFIC COMMUNITY. HOWEVER, NO CRITICAL ASSESSMENT OF THESE STUDIES WAS REPORTED BY THE COURT OR, INDEED, WAS RELEVANT TO THE CASE GIVEN SWEDEN'S UNIQUE BURDEN OF PROOF REQUIREMENT IN SUCH COMPENSATION CASES.

*file  
date*

OTHER EVIDENCE CONSIDERED BY THE NATIONAL SOCIAL INSURANCE SUPREME COURT WAS A REPORT BY SWEDEN'S NATIONAL INSTITUTE OF ENVIRONMENT MEDICINE (SML) WHICH CONCLUDED: "IT IS IMPOSSIBLE TO DETERMINE WITH CERTAINTY THE CAUSAL RELATIONSHIP LEADING TO THE OCCURRENCE OF AN INDIVIDUAL CASE OF CANCER." THE REPORT ALSO NOTED THAT MRS. PALM'S WORK HISTORY INCLUDED 18 YEARS IN SHIPBUILDING YARDS WHERE SHE MAY HAVE BEEN EXPOSED TO BOTH ASBESTOS AND RADON.

3A DR. G. LEHNERT, A GERMAN PROFESSOR OF OCCUPATIONAL MEDICINE IN ARBEITSMEDIZIN, SOCIALMEDIZIN, PRÄVENTIVMEDIZIN (APRIL, 1984) REVIEWED THE EVIDENCE PRESENTED BY THE FOUR MEDICAL EXPERTS ON WHOSE OPINION THE 1983 COURT JUDGEMENT WAS BASED. HE CONCLUDES: "IF ONE RECOGNISES THAT THE EPIDEMIOLOGICAL STUDIES ON THIS THEME WHICH ARE AVAILABLE AT PRESENT, NOT ONLY PROVIDE CONTRADICTORY RESULTS, BUT HAVE ALSO SOMETIMES PROVOKED A CONSIDERABLE DEGREE OF AS YET UNREFUTED SCIENTIFIC CRITICISM, AND IF ONE ACCEPTS THAT THE WEALTH OF MEDICAL KNOWLEDGE RELATING TO ACTIVE SMOKERS CANNOT BE EXTRAPOLATED TO PASSIVE SMOKERS, THEN ONE CANNOT DEEM MRS. G.P.'S EXPOSURE TO PASSIVE SMOKING AS BEING SCIENTIFICALLY PROBABLE OF HAVING CAUSED HER TO SUFFER FROM A BRONCHIAL CARCINOMA, AND THEREBY HAVING CAUSED HER DEATH. ALTOGETHER THEN, EVERYTHING THAT IS KNOWN TO MEDICAL SCIENCE TODAY WOULD OPPOSE RATHER THAN FAVOUR SUCH A CAUSAL LINK."

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(attended experts from X countries)

3B

MORE RECENT STUDIES ON THE ISSUE HAVE CONCLUDED THAT THERE IS NO CONVINCING SCIENTIFIC EVIDENCE TO SUPPORT THE CLAIMS THAT AMBIENT SMOKE MAY CAUSE HEALTH HAZARDS. THE SECOND WORKSHOP ON ENVIRONMENTAL TOBACCO SMOKE CONDUCTED AT THE UNIVERSITY OF GENEVA, SWITZERLAND, IN 1983 CONCLUDED THAT "AN OVERALL EVALUATION BASED UPON AVAILABLE SCIENTIFIC DATA LEADS TO THE CONCLUSION THAT AN INCREASED RISK (OF LUNG CANCER) FOR NON-SMOKERS FROM ENVIRONMENTAL TOBACCO SMOKE EXPOSURE HAS NOT BEEN ESTABLISHED."

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A 1983 U.S. GOVERNMENT-SPONSORED WORKSHOP OF CURRENT RESEARCH ON POSSIBLE EFFECTS OF AMBIENT SMOKE ON LUNG DISEASE IN THE NON-SMOKER, CONDUCTED AT THE NATIONAL INSTITUTES OF HEALTH, CONCLUDED THAT SUCH EFFECTS, IF ANY, RANGE FROM "NEGLIGIBLE TO QUITE SMALL."

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con:

SIMILARLY, ORGANIZERS OF A SEMINAR ON "THE MEDICAL PERSPECTIVES ON PASSIVE SMOKING" HELD IN VIENNA IN 1984 CONCLUDED THAT LEGISLATIVE MEASURES INTENDED TO "PROTECT" PEOPLE FROM AMBIENT TOBACCO SMOKE COULD NOT BE JUSTIFIED BY THE AVAILABLE HEALTH DATA.

int'l group / quite

3E

FURTHERMORE, IN 1985, PROF. H. SCHIEVELBEIN OF THE GERMAN CARDIAC CENTER IN MUNICH CONCLUDED AFTER EXTENSIVE RESEARCH ON "PASSIVE SMOKING" THAT "AVAILABLE FINDINGS FROM ANALYTIC, EPIDEMIOLOGICAL AND DOSIMETRIC INVESTIGATIONS DO NOT VERIFY THE CLAIM THAT 'PASSIVE SMOKING' REPRESENTS A GENERAL HEALTH RISK FOR HEALTHY ADULTS."

was dos this mean a non-scientific language

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