

Affidavit of Michael Phy

I, the undersigned Michael Phy, hereby swear and affirm that the following is a true and accurate statement. I have personal knowledge of the information contained in this affidavit.

1. I am over the age of 18 years and am of sound mind.
2. I am licensed as a physician in the State of Texas and have been licensed since 1998.
3. I am currently employed by Texas Tech University Health Science Center as a Physician and I specialize in Internal Medicine. As a part of my duties and responsibilities, I am one of the team physicians for the Texas Tech University football team.
4. On the morning of December 17, 2009, I treated a member of the Texas Tech football named Adam James ("James"). James reported to me that late in practice the previous night he had suffered an injury to his neck and head. He recounted symptoms to me which were consistent with a concussion. James further reported that he had an episode of vomiting the night before. He stated that while he still had a headache, it was a little better than it had been the night before. He also reported feeling off balance and dizzy.

I performed a physical examination on James and gave him a diagnostic test for athletes used to determine whether they have a concussion. Based on James' medical history, my medical examination on him, and the diagnostic test performed, it is my medical opinion that James had suffered at least a mild concussion. I informed James as well as the trainer, Steve Pincock, that James should not practice and should not take part in any activities. His symptoms would be re-evaluated over a seven-day period. I told Pincock that James would be out for the remaining practices. I did not instruct anyone with Texas Tech to place James in an enclosed and dark space, and in my medical opinion there was no medical reason to require James to stand in an enclosed dark space for up to three hours. In spite of the fact that James may not have been harmed by these actions, I consider this practice inappropriate, and a deviation from the medical standard of care.

5. I saw James on Tuesday, December 22, 2009. Although I did not exam James on December 22, I spoke to him casually, and he told me that he felt much better.
6. I hereby swear that the above and foregoing statements are true and correct.

Michael Phy
Michael Phy

Date: January 1, 2010
Witnessed by: Craig Wells

Subscribed and sworn to before me by Michael Phy this 1st day of January, 2010.

J. P. Salvatierra
Notary Public

