

IN THE CARDIFF COUNTY COURT

BS614159-MC65

CF101471 & CF204141

Maurice Kirk

Claimant

and

The Chief Constable of South Wales Police

Defendant

Claimant's submissions in response to Defendant's submissions concerning Action 2, paragraph 11

South Wales Police caught on their own overhead cameras.

Some Legal Framework

1. The Claimant believes the Defendant's lawyers are again drawing on legal argument not relevant to the Claimant's case being "unusual, extreme and indefinite".
2. In addition, the UK as a Member State of the European Union must be seen to constantly re-evaluate whether the ever new and changing understandings of EU law (and proportionality) allow traditional UK case law to be rigidly applied for all situations.
3. The Claimant understands that where referral to EU Courts may be sought by the Claimant, the UK Court will need to hear all sections of the case, all avenues and all grievances.

Human Rights Law changed one of the UK's Strongest Legal Traditions.

4. The Claimant understands that ultimately it was the effect of Human Rights laws that ended the double jeopardy rule for serious crimes.

5. If, in the interest of justice, (ECHR Article 6) something as heavily enshrined in the UK administration of justice as the double jeopardy rule, can be changed by human rights, so can human rights also bring about a Remedy for the Claimant in his unusual, extreme and indefinite case.

New - Information and Evidence can be viewed as New eg now able to explain Oppression by police to plead guilty. Also other developments since and indefinite

6. Because of the approach of His Honour to try to be helpful and other persons trying to help with preparations, the Claimant is better placed to explain the nature of oppression by police to plead guilty, when being innocent.
7. His Honour will have noticed a certain change in the Claimant presenting argument and evidence and the Claimant feels certain that what he will present regards convictions will be new. The Claimant believes His Honour will only know whether what the Claimant says is new by hearing the issues. In such an unusual case, what the Defendant's lawyers argue risks bringing the justice system into disrepute?
8. Unlike case law of one criminal case before a court , because of the Claimant's case before the civil case being unusual of many and indefinite incidents of harassment by Police, the plea of guilty can be to try to stop or reduce the next wave of , now, violent harassment by police.
9. By not looking at the conviction it can be as if the Court rewards criminality by Police, and leaves the Claimant too vulnerable.
10. There is no danger of opening the doors to something undesirable by precedent, because the facts of this case are both so unusual and errant conduct of Defendant is indefinite.
11. In such unusual and exceptional circumstances the Claimant believes the Court has jurisdiction to revisit issues to look at the new information and evidence.

Defendant seeks to avoid Fair, Proportionate & Proper Administration of Justice

12. The Defendant's lawyers avoid that the strongest legal traditions of a Member State can become out dated, if not unlawful, compared to European Law concepts of the fair and proper administration of justice.

13. It is noteworthy that the Defendants Lawyers do not seek a stay of proceedings in order to prosecute in the Criminal Courts, those officers in the video now before the trial judge.
14. The Claimant believes the Defendant's lawyers are not to be believed as how can the Defendants' lawyers be interested in the fair, proportionate and proper administration of justice when the Defendant's lawyers choose to quite needlessly run up huge disproportionate costs, and so make profit from denying the Claimant his human rights. The Claimant is not a lawyer, cannot get a lawyer, has been acting for himself alone, and is most unwell. When the Defendant's lawyer could so very easily have prevented wrongdoing against the Claimant, addressed all issues, and brought Remedy, years ago.

Defendant's lawyers attitudes towards Claimant helps show a conspiracy of 'nowhere to turn to' for an 'honest and competent' response.

15. Regards the major oppression by police to plead guilty the Defendant's lawyers demonstrate a contempt for the Claimant and his belief of conspiracy that can be used as proof that attitudes exist where the Claimant is unable to raise valid issues.

Onlookers Assist Claimant as a way to Disagree with Defendants Lawyers Submission.

16. The wider information is also seen as sufficiently new, to mean that increasing numbers of professional people, who are non lawyers, see this case as credible, unusual and special enough to be committing time to assist the Claimant in responses.

Hearing the All of the Past as Protection for the Future

17. The Claimant believes the Court needs to do a full examination, of all, including past convictions, (where there is a guilty plea from oppression by police), so to protect the proportionality of Claimant's well being and absolute human rights in future

Human Rights & Proportionality in a Democratic Society: The decisions of the Court should avoid encouraging the emergence of an unaccountable ruling class.

18. As we are aware EU law on proportionality regards "the power of state over individual" has a high emphasis on "in a democratic society". In the constitutional debate regards democracy that spans USA, Europe and indeed globally, there is the critical point of consideration of whether

democracy will be undermined by the constant risk of the emergence of a new ruling class, (a ruling class, as they are in reality unaccountable) so that there is only an appearance of democracy.

19. The high level of power given to professionals who give advice, state officials, police, (and their secretive information systems), who can subtly abuse their power (even through the Courts), and cannot easily be challenged, are seen as the main threat to the existence of a democratic society.
20. Textbooks such as by Helen Fenwick suggest there is no Remedy via police complaints systems, where Fenwick suggest leaving the civil courts as the only other option. Yet as we are aware the Defendant's lawyer tactics are to be playful in their use of law, so that cases rarely get as far as the Courts examining facts and wrongdoing by errant police. Yet EU law gives a clear right to a Remedy in these issues.
21. The Claimant believes the Defendant's lawyers and the Defendant need to be viewed as trying to manipulate, if not corrupt the Law and administration of justice to be a part of a trend that is contrary to EU law, in establishing a ruling class, (professional advisors, state officials and police) that is unaccountable. It may be that European Law can bring an authority to the UK Courts to deem such as the Defendant's submission an unlawful outlook designed to bring an imbalance in the power of the state over the individual that is not proportionate or not consistent with a democratic society.
22. The Claimant believes that proportionality can mean reject all or most argument by the Defendant's lawyers, in that the Court does not want to be seen to encourage an unreasonable imbalance of power of the state over the individual to also deny remedy in such an unusual, extreme and indefinite case.

Explanation of unusual, extreme & indefinite, as a context to revisiting a conviction.

Unusual

23. Whereas actions against a Chief Constable can be a single inaction or miscarriage of justice. The Claimant brings a case very different as he also seeks proportionate Remedy and protection for the future, given so very many incidents of action and inaction, and targeted malice, spanning decades, where a normal person cannot be expected to be able to go about their normal business and life. Additionally the complainant and/or prosecution witnesses are only the Defendant or their associates (even the Crown Prosecution Service), and constant indication that the Defendant may be less than honest and indefinitely and unremittingly venting targeted malice on the Claimant, so that the Claimant often has no fair trial.

24. A normal person is unlikely to cope with the oppression, constant time consuming legal issues and/or psychological strain that will come from sustained targeted malice as alleged in this case. Sustained target malice denies opportunity to a fair trial and past trials need to be explored to examine proportionality and Remedy.
25. Statistically, some targeted malice will succeed in wearing down the Claimant, and so due to unusual situation is justification that in terms of reasonableness, balance and proportionality to revisit a conviction to see if that conviction is due to the problems complained of as central in the Claim.
26. The Claimant believes the Court has jurisdiction given the unusual circumstances, to see revisiting a conviction as not a 'back door' measure, but an essential means to exploring manipulations and wrongdoing of errant police officers and their lawyers to unremittingly aim to deny the Claimant justice and a fair trial.

Extreme.

27. Extreme - clearly far beyond not being proportionate, reasonable and balanced, – so that the inference in rights can involve a dominion and power that is an extreme contrast with convention rights ECHR Article 1, 2, 5, 6 & 8 by postulating towards torture (cruel inhumane & degrading) and the control not unlike a master over a slave.
28. A slave, from early civilisation in Babylon to the western world just before abolition, are not normally prisoners but rather often skilled people who can walk the streets amongst normal people, but are subject to high levels of control so that they are not free to plan a career, are sometimes undermined from maintaining a relationship with a wife, friends or have associates. Are usually not allowed to own property and wealth, and are subject to be submissive to the whims of a dominant master, by irrational unfair episodes of oppression and violence, that can be public.
29. The Claimant believes that although the Defendant and their lawyers are not imposing the sustained servitude of a slave, the Defendant and their Lawyers' are achieving too close to the above image of the oppression and dominion that slave is subject to, and that it would seem such oppression and dominion is intended to be seemingly indefinite and unremitting.
30. The Claimant believes the Defendant and their lawyers act to undermine the Claimant being a pilot, vet or manage his properties. The Claimant also believes the defendant indefinitely act in a way to try to stop him having a driver's licence, that is important for the Claimant's work, property management and his lifestyle. The Defendant endlessly interferes with the Claimant in

the street, on the road or in his home in ways that can sometimes be that violent and intrusive to make it not realistic to have a wife alongside the Claimant or else she would be subjected to the same pressure or for Claimant easily to have relationships with children, friends and associates as they could all be drawn in and be like affected. The Claimant believes the Defendant's lawyers seek to finish the aim of targeted malice by pushing up cost of a full team of to barrister two parties and junior lawyers as a way to counter an unwell, worn out and therefore so often muddled litigant in person, who has difficulty responding and to explaining the sheer volume of wrong doing by the Defendant and their lawyers. The Claimant believes that the Defendant and their lawyers behave this way as "Get Kirk" now means to abuse their position in legal proceedings to mischievously and quite needlessly run up disproportionate costs, and then aim to recover cost to deny the Claimant property and moderate wealth.

31. As stated previously, seemingly insignificant incidents, are a way for the Defendant and their lawyers to asset the ability of indefinite oppression and dominion, and so seemingly insignificant incidents cause major distress and hardship for the claimant.
32. Although not seeking to prove the high thresholds of Article 3 and Article 4, but rather regards what is the proportionality and Remedy for Article 1 (property), Article 2 (Life), Article 5 (Liberty), 6 (fair trial), Article 8 (Private Life).

Indefinite and unremitting.

33. There is no indication that this unusual and extreme conduct by the Defendant and their lawyers towards the Claimant will ever stop.
34. The Claimant believes the case law and argument provided by the Defendant's lawyers is not relevant to such an unusual, extreme and indefinite case.

Remedy and the Defendant's lawyers' attempts at the erosion of democracy

35. If the UK courts has no jurisdiction or way to counter arguments and conduct of the Defendant's lawyers there would be no Remedy, so to not only bring the administration of justice into disrepute, but be an erosion of democracy from an imbalance of power of the state over the individual.

Civil Procedure Rules and European Law

36. Despite the case law cited by the Defendants lawyers, the authoritative Civil Procedure Rules (CPR) remain quite clear that that convictions stand unless proved otherwise. The nature of unusual, extreme, exceptional, indefinite, unremitting conduct of errant police, where each new day bring new meaning to past events, also means a need for the Court to examine/re-examine all actions.
37. European Law does not allow UK Courts rely on UK case law as a way to “look the other way” regards important issues in the past, so to put the Claimant at risk for the future, and thereby with reasonable foresight, allow the power of the state to unlawfully inflict on an individual, that which is extreme, indefinitely and unremittingly.

Remedy - Defendant's Information Systems and EU Law.

Information systems are becoming more effective and so have new meaning. There is need to know to what level the police information systems details (as in police only systems) about the Claimant are misleading, malicious or false so to provoke an average or errant police officer to behave less fairly, provocatively, or in bad faith, or to use targeted malice.

The Facts

1. Why did the Claimant tender, to the Defendant, around six years ago, over fifty full leaver arch files containing intricate record covering the thirty odd incidents of police misconduct? It was to avoid both time and expense before the ‘proverbial’ eventually ‘hit the fan’. It is the Claimant’s submission that the Defendant’s response is so erroneous and irrelevant a submission it is an abuse of process..

2. [Defendant's Para 2]

“Kirk’s attack upon the factual basis of his conviction, particularly where that conviction has been reviewed by a number of courts, including the Crown Court and Divisional Court and especially where that conviction arises from an unequivocal plea of guilty, would bring, it is submitted, the administration of justice into disrepute”.

3. Claimant’s magistrates’ plea of ‘guilty’, ‘Reviewed’ by whom?
4. It was **never** an ‘unequivocal plea’. It was only obtained by police oppression of many years causing economical hardship as typically exemplified in this year’s ‘machine gun’ Crown Court trial with little or no compensation each time the Claimant wins his case..

5. After seven years of this type of conduct the thought of yet another fight, to keep his veterinary licence, by having to take every minor motoring conviction for near futile Judicial Review applications, at the 'hard of hearing' building, in London, was just too much. The Royal College of Veterinary Surgeons (RCVS) had launched, at the same time, a 'collateral attack' to have the Claimant's name removed from the veterinary register following clandestine communications with Welsh Assembly members and Cardiff MP, themselves spurred on by erroneous information laid by a Felicity Norton and others.
6. The Defendant's agenda was obvious. The Claimant was only to be stopped in his vehicles when he was on his own, hence the need for blacked out back windows, registered vehicles rarely in his own name and invariably, accompanied, during his frequent night emergencies around the Vale of Glamorgan to farm clients, by his appropriately dressed 'blow up doll', called Julie.
7. Before this date the Defendant was dependant upon a 'positive' road side breath test reading, to obtain a lawful arrest and detention. When, in the late 90s, those cases began reaching appeal stage in the Crown Courts were all overturned except the one presided over by the current trial judge.
8. Judges' statements often appeared to be a 'throw away' comment (See court exhibits in the above mentioned files). Their Honours, Peter Jacobs, Pierce, Bishop, Vosper and Gaskell etc. all were warning the Defendant of future conduct. Despite this, senior police officers allowed apparent vengeance, for whatever reason, to now dominate the minds of certain police officers.
9. Therefore, from around 1998 the Defendant's agents were strategically positioned in Crown Court hearings in order to signal, appropriately, to any police witness under cross examination. [See exhibits in HHJ Cooke QC's aborted 'dangerous driving' jury trial, jury complain, and HHJ Gaskell's delivered transcript of CPS prosecutor in the Cowbridge Show case during the Claimant's 'Abuse of Process' application]. Jackie Seal, answering to subpoena, refused to answer questions from the witness box, under oath, excusing herself, "for fear of incriminating myself".
10. The Claimant's secretary and staff were seen just a little too often, unfortunately, quietly following out of the court room, such like witnesses, to witness frantic communications between others, yet to take the stand. [See "Get Kirk " affidavit of veterinary nurse listening to police discussing the Claimant outside the 1994 Barry Magistrates] This necessary defence by the Claimant, in the corridors of the courts, was finally abandoned due to the assistance of HM Court Service using their own overhead cameras filming conspiracy.
11. From now on, each time the Claimant could be stopped in his vehicle he was to be recorded as 'refusing a road side breath test'.
12. There was, therefore, little risk for the Defendant in not obtaining a conviction for in South Wales, unlike elsewhere in the United Kingdom, following any routine 'refused breath test at the road side' any later negative result back at the police station meant, invariably, no police action.

13. In the Claimant's cases a purported positive 'road side breath test' would nearly always indicate a 'zero reading' on the police station's definitive test machine raising the obvious assumption.
14. Police oppression was ratcheted up by increased physical violence on the Claimant, the oldest trick in the book to provoke an act of retaliation and therefore an assault conviction. This was the direct responsibility of the Defendant who had either instructed it to be done or had failed to prevent it.
15. Other extreme acts of behaviour were now introduced such as 4th July 99, launching of at least one police helicopter just to obtain air to air dangerously close filmed video while tail chasing across the Vale of Glamorgan. The video remains undisclosed but has been freely shown to Cardiff ait traffic staff, described by one, as very reckless. The Defendant simply needed to establish if it was the Claimant in the front seat or, perhaps, Julie, as he was somewhat light on the necessary paperwork, at the time, to lawfully fly a British registered aircraft.
16. These incidents with an ever increasing financial burden and effect on his time for his practice and with his young family caused the Claimant to have to consider, more seriously, the Crown Prosecution Service's tendered a new tactic of their own, the offering of an alternative but lesser charge. From now on police violence dominated most incidents.
17. See PC Kilberg violent incidents, smashing his way into the Claimant's car in 1st Dec 99 roadside breath test 'refusal' with Claimant being offered, part heard, an alternative 'obstruction' charge, his violent 8/9/00 assault, throwing the Claimant across the bonnet of his car in Llantwit Major.
18. See PC Osborne violent assault, caught on overhead video and with others in Roath police station, his and PC Mark Cocksey's gratuitous violence caught on May 02 overhead video in the Hayes, central Cardiff, film also withheld from this civil court trial.
19. See PC Cocksey's violent assault at the County Court public counter,[See in 4th Action].
20. See 19th August 98 incident with gratuitous violence by ex police inspector Howard Davies, security guard and arresting officers at Cowbridge Show.
21. See May 05 incident with PC Bickerstaff and PC Holehouse before HHJ Pierce, in Newport Crown Court, stopping short the appeal proceedings once Her Honour witnessed the sheer size of them, the Claimant then appealing a conviction under Section 5 public Order, that he had put 'fear in their minds' when being violently arrested in Cowbridge High Street.
22. Forty odd further incidents, in 4th Action, are dominated by Defendant's deliberate 'inactivity', 'to prevent crime', 'catch the culprits' and 'recover stolen property'. The 4th Action is currently destined for the Court of Appeal as the current trial judge is not minded, yet, for it to be joined. All these Actions, even standing alone, highlight unusual circumstances of proximity and proportionality making current Defendant's legal submissions quite inappropriate.

23. Let the web site reader be left in no doubt that for the Claimant, to have pleaded guilty for even the most 'trivial of convictions', Lord Hoffman words, not those of the Claimant's, uttered during the 19th January 2004 Privy Council RCVS Appeal, he was at real risk of being reported by the Defendant to have his name removed from the veterinary register. The Defendant achieved it's aim on 29th May 2002. [See exhibits guilty plea for 'crossing single white line, at less than 5 mph, to avoid a wobbling old cyclist, rendering the Claimant, 'unfit to practice veterinary surgery'].
24. This month the Claimant was asked to 'sex a cat' for a friend. Upon spying a free mason watching him from the bar of the public house the Claimant gave an apparent 'equivocal' verdict. Had the Claimant not done so, with the 'perception of witnesses believing he was acting in a capacity of being a veterinary surgeon' he would have instigated, again, the possibility of being jailed by information, to the RCVS, from the Defendant.
25. This example of the 'sexing of a cat' is the 'real world' in which litigant's in person must currently fight, in a climate of widespread deceit within the British judiciary, this Claimant having been repeatedly refused legal representation by, at least, 147 lawyers, at the time when this 'overhead video' incident took place. [See exhibits of Claimant's secretary's plethora of evidence, over eight years, experiencing the futile trawl]. Just as the Claimant, in this litigious environment, could not fully explain to his friend his verdict over the cat, he could not tell any magistrates either, the reasons behind his equivocal plea of 'guilty' because, without disclosure of the still awaited custody record of yet another violent incident, he would never have been believed.
26. Equally, without disclosure of the full facts behind the violent incident it may be understandable, to some, as to why their Lordships, Mr Justice Scott Baker, Mr Justice Morison and Mr Justice Brooke came to the decision they handed down.

27. **[Defendant's Para 3 a]**

"This is not fresh evidence. It is clear from the history, as set out in our main submissions on this point, that Mr Kirk had this video available to him at a very early stage in the proceedings, certainly prior to his case being heard in the Crown Court and also prior to the various proceedings in the Divisional court and at the time of his application to vacate his plea. It follows, therefore, that those courts were considering Mr Kirk's submissions in relation to his original plea of guilty against a background of that video evidence being available. This is therefore not fresh evidence".

28. **Court exhibits** in the 52 odd leaver arch files reveal the truth in Action 2, Paragraph 11:

5th April 2000: Claimant court record, 'warts and all', of Magistrate court proceedings of what actually occurred, contrary to the Defendant's preferred pleadings.

10th April 2000: Defendant takes possession of copies of 'overhead road video' and custody videos refusing to disclose them to the Claimant despite recorded delivery 6th April 2000 letters requesting their disclosure.

11th April 2000: 1st Magistrates hearing: Four Guilty pleas, 6 points put onto Claimant's licence now exceeding the 12 point limit for a driving ban possibility. There is no record that the magistrates addressed the matter as to whether the pleas needed to be unequivocal from a litigant in person.

29. *"that conviction has been reviewed by a number of courts",*

The Charges

- i. No seat belt
- ii. No MOT
- iii. No insurance
- iv. Refuse roadside breath test
As for:
- v. 'driving whilst using a mobile telephone' the Crown Prosecution Service, amazingly withdrew, on behalf of the Defendant, the very charge that caused the Defendant's assault on the Claimant whilst dragging him from his car. [Only redacted version supplied to Claimant]. Is the Claimant expected to believe the police had the time and interest to turn round a police vehicle, in heavy traffic, alerting 'all police cars' if he was not already under covert surveillance?

Exhibit from file, enclosed, is just an example of the Defendant's conduct as to '**proximity**', '**unusual**' and '**unremitting**'. This photograph of the other police car, overtaking the Claimant, was taken by the Claimant during the CPS verbal account, before magistrates, of a 'high speed chase' to avoid an arrest. This and other parts were redacted from the original 5th April 2000 video, ordered to be released after two previous Crown Court judges, during 2000 and 2001, had already ordered copy of original films.

30.

CPS often fabricates evidence, to obtain a higher penalty, once the accused has pleaded guilty. Who is so stupid or confused as to plead guilty knowing the politics within the British judicial system, nowadays, overrules the original purpose of our adversarial system with respect for the 'rule of law'? The Claimant maintains his innocence of the alleged offence so does the police oppression, causing him to plead the opposite of his conceived belief, mean it was 'unequivocal' and therefore outside the benefit of Section 142 of the 1980 Magistrates Act?

31. Each time the case came back to court, often without the Claimant, contrary to his written requests (see exhibits), there were either different magistrates, clerks of the court or CPS prosecutors so just who deliberated on what and where is the evidence?

32. Now proved erroneous information, put forward by Defendant, ten years ago, the evidence of the full brutality inflicted on the Claimant by PC Osborne and others is still undisclosed which is wrong.
33. The Claimant was allowed to drive away from the court, that day, with 15 points on his licence so how competent was that court to deal with a matter that later assisted his name from being removed from the veterinary register?
34. **12th April 2000:** Claimant's letter to the Defendant repeating unequivocal request for overdue unexpurgated custody video and other records required for imminent 'driving ban' hearing. The Defendant, again, refused to disclose.
35. **13th April 2000:** Magistrates letter **refusing to re open the case.**
36. **13th April 2000:** Claimant's letter to Magistrates court asking, if that is the case, then when does the court have power to make the Claimant 'disclose' insurance particulars for what does he do now with at least 15 points on his licence?
37. **13th April 2000:** Magistrates 2nd letter confirming the hurried arrangements for 're-opening' the case but for the purposes for 're-sentencing' only.
38. **25th May 2000:** 2nd Magistrates hearing (with Claimant present) re-open the case, under Section 142 of 1980 Magistrates Act, but the clerk, quoted verbatim, "in the interests of justice to do so" which meant, the Claimant submits, only for the purpose of banning the Claimant.
39. The Claimant, therefore, immediately asked that the Cardiff Crown Court deal with the matter, as per the law but was refused. [Claimant's Crown Court exhibit files, on this matter of driving, identifies it was minded not to get involved until much later when the Claimant had to explain, at length to Mr Williamson, the chief clerk, the complexities of the Defendant's web he weaves, contacting Guernsey and the Claimant's insurance broker in England, for example, in order to brief HHJ Peter Jacobs on his last day before he got away from the Welsh court circuit to Norfolk.]
40. Upon the Claimant finding the incident may have been caught on video he did everything imaginable to obtain 'true copy' of that evidence and change all his guilty pleas. The Claimant's secretary's routine 6th April 2002 recorded delivery letters (see 52 files of Claimant exhibits), requesting both preservation of custody record and disclosure, including videos from both Roath and Rumney Police stations, is but little of what the Claimant then did, knowing the Royal College of Veterinary Surgeons' lawyers were hell bent on having him struck off for whatever 'misconceived' indiscretion they could muster.
41. The Claimant identified, from the back of the open police van and alone the German made vehicle, registration, 5AL, and Cardiff Bus white Caucasian male driver, both stuck by the police road block. Both were obvious witnesses of the police violence and possible purported 'refusal of a breath test'. Police and DVLA, as usual, refused to properly assist those witnesses to be available at any of the magistrates' hearings to help the Claimant re open the guilty plea.

42. **[Defendant's Para 1]**

"The Defendant relies upon the matters of law previously put before court"

43. It is because of the unabated **police oppression** and their change of tactics, openly now using HM Court Service and the Crown Prosecution Service to abuse the law, whenever possible, to prevent the Claimant driving himself between his farm clients, is one more reason why the Claimant applied for the current trial judge in these proceedings to recuse himself and for any further court proceedings, criminal or civil, in Wales, be vacated to a jurisdiction in keeping with Article 6 of ECHR and 1998 Human Rights Act.
44. **27th June 2000:** Magistrates letter **again refused to re-open** the other guilty pleas of the 11th April 2000 confirming, in writing the Defendant still, maliciously, it is the Claimant's submission, maintaining the Claimant had 'no insurance', any way and applications to re-open all the pleas were therefore quite irrelevant!
45. **18th September 2000:** Magistrates hearing: Claimant is refused original magistrates to consider re-opening all guilty pleas. Claimant walks away with all guilty pleas overturned, now, except the subject of this current submission, 'refuse breath test' on the road side. The Claimant says 'walked away' but actually attempted to drive away but not before a further assault by police, taking possession of his car, before realising Cardiff Magistrates Court had received and already accepted, many months before, the usual written appeal application, to Crown Court, in the likely event of a conviction. Even in Wales that right to lodge an appeal and remain driving, is often ignored but the details of the Claimant's experiences of that, witnessed also by his secretary on her first day at work, may, in this context be construed, in agreement with the Defendant's lawyers as, *"would bring, it is submitted, the administration of justice into disrepute"*.
46. Court Claimant exhibits of contemporaneous note records the Defendant opposed the re-opening, reliant purely on a new prosecutor and new clerk to read out whatever history that might or might not have been recorded, at the time, should now be disclosed to this trial judge, NOW.
47. **10.41 am:** Claimant gives closing speech.
48. **10.45 am:** The Defendant, using a barrister, uttered such Claimant written down comments as, **"no pressure on Kirk to cause an equivocal plea"**, by the Claimant already anticipating RCVS involvement later.
49. **6th October 2000:** Crown Court Hearing, for the Appeal from Cardiff Magistrates, obtained HHJ Pierce's assurance that the Claimant was entitled to the full magistrates' record and custody record, including overhead video, identified, now, as being in existence, by the Defendant, for the very first time during the hearing but still not handed over.
50. The Crown Court ruled, however, contrary to numerous previous other appeals, commencing in South Wales, the Claimant invariably having been given different rules and regulations almost every time he had asked. Cardiff Crown would not hear an appeal after the Defendant had pleaded guilty

at magistrates and the Divisional Court, in any event, where the Claimant's appeal now lay, now took precedence.

51. That was never the case, in the past, in numerous previous criminal appeals from Crown Court to a 'hard of hearing' building in London.
52. To cut this submission short, it took a further eight months of the Claimant, trying to obtain Defendant held videos of the incident and custody in two police stations. Court exhibits again reveal, Criminal Complaints Commission, MPs, CPS, numerous high ranking police were all contacted, to no avail.
53. In late 2000 or early 2001 Mr Justice Scott Baker, on papers alone, considered the Claimant 'an experienced litigant' as the reason for dismissing his Judicial Review Application needed to allow him to cross examine the twenty odd police officers now implicated in this local 'arrangement'.
54. **13th March 2001:** Divisional Court finally ruled, following another Claimant appeal, he experiencing, at the time, both inclement weather and an improvised fuel pump failing, whilst cruising at 4000 ft over Elba Island, in the Mediterranean.
55. Both the High Court and Applicant were still without the videos ordered by HHJ Pierce as the Respondent, the Chief Constable, had the videos as his counsel should very well know. The Claimant erred for a moment forgetting that in both British criminal and civil courts it is an accepted norm for the conduct of any lawyer, however, forgetful, errant or plain deceiving, in their oral or written submissions, are always immune to prosecution due to the **'Memorandum of Understanding' between the Chief Constable of South Wales and the Law Society'**.
56. Mr Justice Morison ruled in their Lordships' judgment, **"I am bound to say I can see no grounds for believing that the magistrates erred in the exercise of their powers to permit a change of plea. There is no basis for suggesting that the original plea was either equivocal or confused."**
57. But their Lordships never had the necessary information, *'fresh evidence'* now before this civil court.
58. **[Defendant's Paragraph 3 b]**
59. *"A further important consideration is that Mr Kirk pleaded guilty. He therefore must have accepted that he had committed the offence"*.
60. Well, the Claimant, at least, is thankful his recent jury, on the small matter of a likely ten year mandatory prison sentence being handed down, didn't have that apparent level of duty or 'misconceived belief'. When considering the facts eleven preferred to believe the Claimant contrary to all the bewigged gentlemen, in court, had to say about it.
61. **[Defendant's Paragraph 3 c]**

62. *"it cannot be said that this video evidence materially undermines the statement of PC Osborne"*.
63. Oh, no? So why is it that the QC prosecuting the Claimant, in the Royal College of Veterinary Surgeons hearing in 2002, after hearing PC Osborne, on oath and seeing the overhead video quickly withdrew the charge against him but not without leaving much prejudice in the minds of the lay jury?
64. 'Effective Remedy', under Article 47, and not having it, is what the Claimant's cases are all about.

CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION

Chapter VI - JUSTICE

Article 47
Right to an effective remedy and to a fair trial

Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.

Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.

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