

7th April 2011

Regina v Maurice Kirk

12th April 2011 Appeal for a 'Contempt of Court' conviction in Cardiff Crown Court on 24th June 2010

1. The Appellant is accused of an apparent frustrated outburst of uncontrolled behaviour at an original hearing in 2010 before the Recorder of Cardiff, His Honour Judge Nicholas Cooke QC. That hearing was ultimately about how the Cardiff Crown Court could deal with whether Dr Tegwyn Williams, during later 2009, deliberately and dishonestly falsified to the Crown Court that the Appellant had brain damage or brain cancer.
2. Not only was Dr Tegwyn Williams seemingly dishonest to the Court, but the Appellant was left not knowing whether he had permanent brain damage or brain cancer and that uncertainty was most distressing indeed. The fact about the dishonesty of Dr Tegwyn Williams and the distress, hardship and problems he has caused has not yet been explored as a particularly relevant context. The Appellant believes it should, in the interests of justice, now be so explored.
3. Not only was Dr Tegwyn Williams' dishonesty most distressing it prevented a hip operation which was shown by a letter from his medical team before the original court. The Appellant was left in terrible pain on morphine and unable to prepare for or attend his court cases and in particular his nineteen year running civil damages claim against the South Wales Police for bullying, harassment and malicious prosecutions.
4. The Appellant believes Dr Tegwyn Williams was dishonest saying there was "clear evidence" of brain damage/brain cancer that would cause an inability of the Appellant to control behaviour in future. This damage was to such a degree that the Crown Prosecution service was asking for a Section 41 under the 1983 Mental Health Act.
5. The purpose of the original hearing in 2010 was to ask the Recorder of Cardiff, His Honour Judge Nicholas Cooke QC, to deal with what seems to be quite unusually horrific dishonesty and false medical evidence by Dr Tegwyn Williams about brain damage that specifically affects behaviour, such as the Appellant is accused of before the Criminal Court of Appeal.
6. It seems like an injustice to the Appellant and his team that Dr Tegwyn Williams' conduct seems to be a clear and particularly serious Contempt of Court. Yet the Appellant found himself accused and put in prison with a one month sentence.

7. The Appellant asks the Criminal Court of Appeal to examine whether the same Crown Court charging the Appellant and the level of sentence were biased, fair or proportionate. Were the past decisions biased, fair and proportionate compared to the Cardiff Crown Courts, given the evasiveness of HHJ Judge Cooke QC to look at Dr Tegwyn Williams being in Contempt of Court? Was not the failure not to deal with Dr Tegwyn Williams' Contempt of Court enough of an injustice, in itself, for the Cardiff Crown Court to have, in any way, provoked the Appellant?
8. Dr Tegwyn Williams' conclusion of "clear evidence" of brain damage, in order to substantially effect the outcome of decisions of the Crown Court, is not a highly subjective view, such as a psychological or psychiatric opinion, but an arrival at a fact to be concluded by only those who are appropriately medically qualified, by being a medical doctor with a specialism to comment on brain damage.
9. Neither Dr Tegwyn Williams nor any with an opinion that he used has the appropriate specialist medical qualification to arrive at a conclusion of clear evidence of brain damage.
10. Furthermore, from the result of the brain scan analysis in Wales earlier, in August 2009, it seems there was no evidence at all of brain damage whatsoever. Why then are the crucial medical records, between August 2009 to 2nd December 2009, whilst the Appellant remained under HM and Dr Tegwyn Williams' care being withheld, despite his applying the Data Protection and Freedom of Information Acts more than once? And why was, just days later at a MAPPA meeting, his name removed from the Level 3 register, the 5% most dangerous within the UK community?
11. Also the Appellant has no serious or relevant convictions to even suggest any need for a lengthy or indeterminate sentence.
12. Yet Dr Tegwyn Williams on the 2 December 2009 gave evidence to the Cardiff Crown Court and Crown Prosecution Service seeking to place a sentence of an indeterminate loss of liberty on the Appellant when Dr Tegwyn Williams clearly knew (or should have known) there was no evidence.
13. Dr Tegwyn Williams' conduct has not yet actually been tried and fairly examined before any Court. There is no finding of fact as to whether the Appellant can or cannot control his behaviour. Neither has it been examined whether Dr Tegwyn Williams has so seriously been in Contempt of Court to show bias, unfairness and a provocation by Cardiff Crown Court. Such fact finding could give a mitigation not previously explored and bring the fairness and proportionality of past decisions into question.
14. The Appellant asks for Orders of Disclosure and Orders of witness attendance to determine:-

- A. To Order Dr Tegwyn Williams to explain in writing and in person to the Criminal Court of Appeal as to specifically what extent has the Appellant any kind of brain damage or brain cancer that means medically capable or medically incapable of controlling his behaviour during an alleged outburst that was deemed a Contempt of Court. No such evidence was previously explored or taken into account, when trying or sentencing the Appellant for Contempt of Court. The Appellant sees it as only fair to now look at whether he has brain damage that affects his behaviour.**
 - B. For Dr Tegwyn Williams to disclose all that is remotely relevant medical records, notes and reports.**
 - C. To Direct or Order that (possibly such as the Crown Prosecution prepare files) so that Dr Tegwyn Williams will be examined whether he was or is in any way in Contempt of Court, so to examine whether Cardiff Crown Court failed to deal with that in a way to be of any relevance as a provocation or mitigation that effects the proportionality, unfairness or bias of the decision in finding of Contempt against the Appellant and of the severity of the sentence.**
 - D. The Criminal Court of Appeal is asked to allow adequate Disclosure and Order attendance by Dr Tegwyn Williams, to explore if there is explanation to justify some kind of outburst before HHJ Judge Cooke at Court as not unreasonable. The context of Dr Tegwyn Williams' behaviour as being so incorrect or horrific and dishonest and the level of failure of the Cardiff Crown Court to guard justice, by not addressing Dr Tegwyn Williams' dishonesty, need to be considered.**
- 15 That dishonest evidence of brain damage remains on file with Forensic Psychiatry Services and so would appear to still most seriously threaten the Appellant's right to any future fair trial and right to liberty, indeed, safe to fly his aircraft. This includes his ability to conduct his Appeal in the Royal Courts of Justice.
- 16 The reason why disclosure was sought, was that there were unusually serious issues, where false or rather blatantly dishonest medical reports and records were used, on 2nd December 2009, in an attempt to have the Appellant further jailed from remand, to be jailed indeterminately, when the Appellant has no serious or relevant convictions for an indeterminate sentence for IPP (Imprisonment for Public Protection) in a high security psychiatric prison. Recorded on official transcript a Section 41 or similar, of the 1983 Mental Health Act, was being attempted, even though three other reports, from similar level 12 forensic psychiatrists before the court on the day contradicted Dr Tegwyn Williams.
- 17 The Appellant, a pilot and WW1 aeroplane enthusiast/owner, was on remand for possessing and then selling just one enthusiast's WW1 Lewis machine gun attached to his air display

replica WW1 DH2 pusher biplane and so, if he had been found guilty, faced a ten year minimum prison sentence.

18 When enthusiasm for WW1 aeroplanes is quite a rational and well accepted activity (especially at the 2000 Farnborough Air Show), as opposed to allowing the Appellant to simply defend the case, forensic psychiatrist Dr Tegwyn Williams decided that the Appellant should be subject first to three Section 35s, followed by an application for a Section 41.

19 The Appellant took the precaution of taking witnesses to the June 2010 Crown Court proceedings, being refused a tape recorder or reasonably priced true record, should he not be allowed a copy of the medical records contained in the 2nd December 2009 and June 2010 court logs, similar documents never being refused to him in the past.

20 The Appellant is now in receipt of directions from the Criminal Court of Appeal refusing

A. the release of those very court logs, referring to his medical records of a possible brain tumour and

B. refusing the Appellant to be able to call those very same defence witnesses in court on the day of the alleged offence.

21 His Honour Judge Cooke QC refused to order the release of the medical evidence referred to for a Section 41, under the 1983 Mental Health Act, presented by Dr Tegwyn Williams on the 2nd December 2009, which is what this appeal is all about.

22 The Appellant has appealed to the UK's higher court, the Criminal Court of Appeal, to order the clarification from the Welsh Authorities of the Appellant's mental state during his extended remand in custody and twelve day trial that will affect his future unless clarified.

23 Should Their Lordships be better informed and now order the release of a true copy of the public record, 2nd December 2009 and June 2010 Cardiff Crown Court logs, the former hearing having taken place, with court tape recorder switched off, in the absence of the unrepresented Appellant and contains that clarification he will withdraw this Appeal and seek redress by other means.

24 1st March 2011 Court Order ruled that should the Appellant fail to attend the 12th April 2011 hearing his Appeal will be dismissed.

25 His Honour Judge Cooke QC was given written proof that the repeatedly used CPS falsified medical evidence caused both surgeons and anaesthetists in South Wales to refuse to operate on the Appellant for an urgently needed total hip replacement causing considerable pain.

- 26 Leaked memos of a South Wales Police MAPPA (Multi Agency Public Protection Arrangements) 8th June 2009 meeting reveal that the Appellant was being set up with the likelihood of being shot by police, by delaying his arrest, following the IAG (Independent Advisory Group) 1st June meeting, at police HQ, concerning the 27th February 2009 Chief Constable's, the Defendant in civil proceedings, false affidavit (Paragraphs 14 to 21), denying police incidents and court cases had ever taken place.
- 27 The Appellant is now further incapacitated recovering from a 25th March 2011 total hip replacement successfully obtained abroad, for his own protection, at Pontivy Hospital, Brittany.
- 28 It is the Appellant's belief that it is the duty of the Criminal Court of Appeal of England and Wales to so order proper disclosure under the Rule of Law and all universal and European declarations of human rights to a fair trial.

Maurice J Kirk BVSc

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1. Cardiff District Registry, Court of Appeal
2. Alun Cairns MP