

A
B
C
D
E
F
G
H

IN THE CROWN COURT
AT CARDIFF

Indictment No. A20140005

The Law Courts
Cathays Park
Cardiff
CF10 3PG

Date: 27th March 2014

Before:

HIS HONOUR JUDGE CROWTHER QC

REGINA

- v -

MAURICE KIRK

MR SMYTH appeared for the Prosecution

The Appellant appeared in person

ALL PROCEEDINGS

Tape transcription by **Mendip-Wordwave**
(Official Transcribers of Court Proceedings)
Rockeagle House, Pynes Hill, Exeter, Devon, EX2 5AZ
Tel: 01392 213958 : Fax: 01392 215643

ALL PROCEEDINGS

(11.04am)

JUDGE CROWTHER: (inaudible) what is proposed in respect of the appeal involving the witness who is a barrister in Cardiff, Mr Evans.

THE APPELLANT: Yes.

JUDGE CROWTHER: It seems to me that that case should be heard away from Cardiff because he is a lawyer locally and in those circumstances, enquiries are being made with the Bristol Crown Court and this case can go to Bristol.

THE APPELLANT: Yes. Your Honour (inaudible) there are some (inaudible) accepted all this and accepted that it must be heard before the two jury trials, one of which has now been mysteriously (inaudible) and they (inaudible) before his Honour Judge Rowlands and I am somewhat annoyed (inaudible) my anger that now it has been accepted that the trial is at least being heard outside the area (inaudible) what is so (inaudible) is that it must expedited. It must be heard very quickly because I his Honour Judge Rowlands to understand in evidence I will (inaudible) from Mr Evans on cross-examination was at the heart of her Honour Eleri Rees saying that yes, last November I was to hear that appeal before any trials and I said if that evidence is heard first, I guarantee there will be no (inaudible) trials.

JUDGE CROWTHER: Yes. Well ...

THE APPELLANT: Then suddenly they got switched and so, they got switched to my (inaudible) to the wrong trial (inaudible) and it is chaos and (inaudible) keep asking respective judges is there a defence under Section (inaudible) of the 1997 Harassment Act? I would asking you as a stranger that is there a defence that led (inaudible) created on (inaudible) and secondly, your Honour I would ask you to make (inaudible) but more the prosecutor (inaudible) to release the court records that led up to (inaudible) for this barrister from a different area, Bristol, and for me (inaudible) prosecution and that I have (inaudible) seeing justice because I have so far served

A nearly three years of my life in prison terms to deal with a doctor under the sole control of South
Wales Police fabricating medical records about me which are so, so malicious that (inaudible)
my life (inaudible). I feel I should be telling you this, your Honour, because your Honour
(inaudible).

B **JUDGE CROWTHER:** Yes. I am.

THE APPELLANT: (inaudible)

JUDGE CROWTHER: No, I understand the background and I understand that there was a
C trial over the last week or so but there is not to be a second trial. Now my greatest concern is to
see that these two appeals come on as soon as possible and in places which are appropriate. Now
let me say first, the case involving the barrister in Cardiff can be heard in Bristol. My proposal
was that this, that case be listed next Friday in Bristol Crown Court which will be a hearing in
D which an appeal date, a hearing date can be fixed.

THE APPELLANT: Your Honour, I am in my 70th year.

JUDGE CROWTHER: I appreciate that.

E **THE APPELLANT:** (inaudible) for 21 years his Honour (inaudible) QC is tearing his hair out
at the delay in the (inaudible) against the police and I have been promised and he has been
promised that I will have my legal papers in prison and the latest date they could put in writing
was yesterday and, of course, it has not happened and I still have not managed to get at my legal
F papers for the trial that has just been dealt with and I have not got my paperwork for the appeals
to which you are referring to.

JUDGE CROWTHER: No.

G **THE APPELLANT:** There are three appeals. There is a serious one (inaudible) top of the rang
vehicle, related to all of these trials and I can't remember the number but they will not list it. I
want that one listed and that (inaudible) quickly and disposed of.

H **JUDGE CROWTHER:** Right. Certainly the, can I call it the prison appeal? You know
what I mean?

A **THE APPELLANT:** (inaudible)

JUDGE CROWTHER: I ...

THE APPELLANT: Yes, that is (inaudible).

B **JUDGE CROWTHER:** I can hear that case either on 7th/8th April or 22nd/23rd April. Now I expect you would prefer the earlier date. There is a difficulty with the earlier date. Police Constable Young is not available on that date. Now I do not know if that is a witness that you would want to cross-examine.

C **THE APPELLANT:** Yes. Your Honour, you are dealing with a (inaudible) and then a (inaudible) for witnesses always seem to be ill or unavailable and while I am in custody I am being blackmailed (inaudible) but by certain people in the Cardiff (inaudible) I do know who wish to cast aspersions to anybody coming from Bristol, and that he is a vital witness but can I have those (inaudible) dates please?

D **JUDGE CROWTHER:** Yes. 7th/8th April is only good if you do not want PC Young, but I could hear the appeal including PC Young on 22nd/23rd April.

E **THE APPELLANT:** Well due to my private circumstances, so I will have to take the quickest one, your Honour.

JUDGE CROWTHER: So you are content the case is heard on 7th/8th April Mr Kirk?

F **THE APPELLANT:** Your Honour, I am far from content but you see a judge granted me bail in January, in which case we would not be meeting like this.

JUDGE CROWTHER: No, I understand that Mr Kirk. Might I just have a word with the clerk please?

G **THE APPELLANT:** (inaudible) your Honour (inaudible) my sister has been in direct contact with the justice ministry. His Honour Judge (inaudible), I have the transcripts, I have spent over £10,000 personally in transcripts alone to prove my case and on the matter of bail I was granted bail, subject to a (inaudible) myself and my family and certain people within the Cardiff

H

A (inaudible) as I call it, wrote to my niece from prison so that trial last week was a (inaudible).
Now, sorry (inaudible) your Honour, thank you.

JUDGE CROWTHER: Not at all. You must have ...

B **THE APPELLANT:** (inaudible) yes, sorry. In this case, at the end of this I (inaudible) bail.

JUDGE CROWTHER: ... well you must have your say Mr Kirk and I will listen to all the
circumstances but let us do what we can with timing these appeals first shall we? If ...

THE APPELLANT: Yes.

C **JUDGE CROWTHER:** ... if you are, if not content, then if you understand that the appeal
can be heard on 7th or 8th April but that Police Constable Young will not be there to be cross-
examined, we will list it then. Otherwise, I will list it on 22nd/23rd. It is a matter for you bluntly.

D **THE APPELLANT:** (inaudible) 24 hours to consider. The difficulty is I cannot (inaudible) I
can't write very well. It is very slow. But could I have a 24 hour (inaudible) at the moment it
looks as if I have to take 7th April but there are friends who may (inaudible) to what is going on.

MR SMYTH: Can I point out for Mr Kirk's benefit, I hope for his benefit ...

E **JUDGE CROWTHER:** Yes, Mr Smyth.

MR SMYTH: ... that PC Young simply interviewed you about the allegation. He does not give
any evidence about ...

THE APPELLANT: Oh, oh ...

F **MR SMYTH:** ... the actual incident.

THE APPELLANT: ... oh I see. I am terribly sorry. (inaudible) Mr Smyth, as good as ever
...

G **MR SMYTH:** So you might ...

H

A **THE APPELLANT:** ... (inaudible) week, yes in that case there need be no delay (inaudible)
one of the officers who arrested me (inaudible).

JUDGE CROWTHER: No. Well ...

B **THE APPELLANT:** In which case, I do not need him.

JUDGE CROWTHER: ... no, well that is good news so it means we can list it quickly.
You will appreciate, Mr Kirk, in an appeal the judge does not get the statements in advance so as
to keep the judge uncontaminated to decide the case. So I did not know that and I could not have
C advised you of that. Alright? Now, let us ...

THE APPELLANT: (inaudible) your Honour, please do not ask me to agree with that
information, but we will (inaudible) thank you for your (inaudible).

D **JUDGE CROWTHER:** Alright. Now let us see if we can help with the Bristol case to any
extent. If I were to list it for this mention in Bristol next Monday, you appearing over the video
link, that really is as fast as we could get that case on.

THE APPELLANT: (inaudible)

E **JUDGE CROWTHER:** Alright. Well I will say the case involving the Cardiff barrister
Mr Evans, will be listed for mention at the Bristol Crown Court, Monday 31st March. Mr Kirk,
you and I will meet again on 7th April for the hearing of the other appeal and those are the only
two cases of which I am seized.

F **THE APPELLANT:** Your Honour I would ask that the, my application is that your Honour,
that I have the contemporaneous records and the court records of the case of harassment that
finished on 1st December. That relates to an alleged restraining order that caused me to arrest the
G prosecutor David Gareth Evans which is now the subject of appeal to be heard in Bristol. There
has been nefarious comments by those with (inaudible) interest and extra outside (inaudible)
rules of justice and the rule of law and I would ask you, if you get Mr Smyth to expedite the
disclosure (a) of their depositions relating to the two things we are dealing with, and also for the
H full court record of the (inaudible) trial, that is to say the depositions and the copy of the, not

A necessarily the copy, but the identity, the copy of the court exhibits and the jury notes which I
only obtained by appealing to the Crown Court up here in London, two years later. Then I have
to (inaudible) court record of the lower court as is so well described and I think (inaudible) Mr
B Smyth and whoever is dealing with it in Bristol, and yourself or whoever picks your case, to look
at the transcripts that I have bought and paid for, namely 17th, the second, for example the 2nd
December '11, 2nd December '12, the 2nd December 2009, the transcripts of 17th October 2013
and the transcripts of 3rd December and 23rd January this year which cover the argument that I
C have suffered over the serious miscarriage of justice recently and that there is abuse of process
to, that has now been compounded in the manner in the way that the, her orders from the
Recorder of Cardiff last summer, that I was to cross-examine Mr Evans has been played out. In
D particular, your Honour, the prosecutor (inaudible) their Section 36 of whichever (inaudible)
justice it is, 37, 38 I am not allowed in the library so I am having to guess what part it is, that is
whether he successfully time after time to obtain a successful harassment conviction to obtain a
dismissal of my appeal on 1st March in 2012, to prevent me from cross-examining (inaudible) Dr
E (inaudible) Williams and now the prosecutor. They have succeeded in putting off this
(inaudible) for six months on the legal argument that I (inaudible) contactable. I (inaudible) or
for some other reason. Because we heard on 14th October '12, '13, (inaudible) when I was on my
F way to the court, (inaudible) police station and that is where I have been detained yesterday and
ever since, that Mr Smyth has with him that legal argument which was handed to His Honour
Judge (inaudible) who insisted that I had a copy of it. I was anxious that I get that document
very quickly in order that I can prepare for 7th April hearing before yourself. I am most grateful
G for your patience, your Honour.

JUDGE CROWTHER: Well not at all. I am going to ask, of course, that Mr Smyth sees
to any orders for disclosure that have previously been made in these cases and if any orders made
for disclosure which have gone unfulfilled, are outstanding, they must be fulfilled, Mr Smyth.
H That is what I am going to say.

A **MR SMYTH:** Your Honour, can I answer ...

THE APPELLANT: The matter, the matter ... sorry.

JUDGE CROWTHER: No, it is alright. You carry on Mr Kirk.

B **THE APPELLANT:** (inaudible) the letter that I need to (inaudible) will be whether or not many documents (inaudible) quickly as possible (inaudible) getting into (inaudible).

JUDGE CROWTHER: Yes. Well so far as the appeals are concerned, if there are notes of the clerk in the court below I would expect those to have been obtained in the usual way. Am I right about that Mr Smyth?

C **MR SMYTH:** The position about the hearing on, that culminated on 1st December 2011 is that, as I understand it, a copy of the court file was disclosed sometime back to Mr Kirk.

JUDGE CROWTHER: Yes.

D **MR SMYTH:** Because he produced during the course of the recent trial a copy of one page.

JUDGE CROWTHER: Yes.

E **MR SMYTH:** What has not been disclosed, but what does exist are the clerk's handwritten notes of the evidence.

JUDGE CROWTHER: Yes.

F **MR SMYTH:** Now previously the court, that is to say the magistrates' court had taken the view that as the magistrates' court is not a court of record, then those notes were not required to be disclosed. But I know from my dealings over the last three weeks, that they are in existence. Whilst ...

G **JUDGE CROWTHER:** It is not unusual for such notes to be available in an appeal hearing is it?

H **MR SMYTH:** But this is an appeal ... no, but of course this is an appeal in somewhat removed circumstances because effectively the potential relevance is that Mr Kirk wants to argue that the prosecutor's conduct of that hearing amounted to an attempt to pervert the course of justice which justified him in affecting a citizen's arrest.

A **JUDGE CROWTHER:** Well the prosecution is to obtain those notes and to apply the ordinary disclosure tests to them.

MR SMYTH: Yes.

B **JUDGE CROWTHER:** That is what I am going to say. I am going to say no more than that, because it is not my job to order disclosure but to ask and to ensure that the prosecution has done its job. I would ask, Mr Smyth, given that you have had conduct of recent cases and that Mr Kirk has some confidence in your conduct of recent cases, that you see those documents and
C you make your assessment of their disclosability.

MR SMYTH: Certainly.

JUDGE CROWTHER: Does that suit you, Mr Kirk?

D **THE APPELLANT:** I am almost speechless, your Honour. There is one last, I might as well go (inaudible) learned in prison you ask for (inaudible) what you want and therefore I would ask that in particular the ruling by his Honour Judge Llewellyn Jones QC dated 20th, 14th or 21st November be authenticated because his Honour Judge Llewellyn Jones (inaudible) that it was to
E do with another case. This was defence exhibit two, two weeks ago and because (inaudible) if it were true that the conviction and sentence had been agreed by the what I call the (inaudible) your Honour, to those whose faces fit the Cardiff (inaudible) and that is the, the ruling (inaudible) to
F be opened once the case is heard and it says in this ruling here, that (inaudible) sentenced (inaudible) to be opened. I would like Mr Smyth personally ensure that I have not (inaudible) and that the full record that led to harassment that caused me to, caused me to make a private person's arrest (inaudible) to make sure that there was clear evidence that I was not assaulting
G him.

JUDGE CROWTHER: Yes. Alright. Well you have heard what I have said and I task Mr Smyth to ensure that any previous orders for disclosure are fulfilled and that in respect of ...

H **THE APPELLANT:** (inaudible)

A **JUDGE CROWTHER:** ... and in respect of other information that he has considered it
and that is the notes of which he has spoken. So there we are. I do not think I can do any more
with respect to preparation of these cases Mr Kirk. You had an application for bail. Of course I
B will hear it, but another judge has remanded you in custody, Judge Rowlands, following your
conviction earlier this week and in those circumstances ...

THE APPELLANT: (inaudible)

JUDGE CROWTHER: ... in those circumstances, I cannot grant you actual bail. What I
C would say though is that if you make an application before Judge Rowlands which is successful,
or if Judge Rowlands seeks to give you a non-custodial sentence I will hear a bail application on
your behalf very quickly indeed.

THE APPELLANT: That is your problem, your Honour. Is, is, apart from my (inaudible) this
D (inaudible) is that his Honour Judge Rowlands has, has indicated that he has deferred sentence. I
have been in prison now for nearly six months.

JUDGE CROWTHER: Yes. I know.

E **THE APPELLANT:** (inaudible)

MR SMYTH: Your Honour, can I assist on this?

THE APPELLANT: (inaudible) I am sorry for that. I keep getting my (inaudible) which
F sometimes very, very (inaudible).

JUDGE CROWTHER: Well let me hear Mr ...

THE APPELLANT: (inaudible)

JUDGE CROWTHER: ... let me hear Mr Smyth who has got something to say and I
G think is trying to assist.

MR SMYTH: His Honour Judge Rowlands adjourned sentence in relation to the breach of the
restraining order and threats to cause damage to next week.

JUDGE CROWTHER: Yes.

H **MR SMYTH:** On the assumption that one appeal at least would have been concluded.

A **JUDGE CROWTHER:** Yes.

MR SMYTH: It was not immediately obvious why that need happen, in other words why he needed to adjourn ...

B **JUDGE CROWTHER:** No.

MR SMYTH: ... but possibly with a hearing so imminent he thought it desirable to take that in. He does not require a Pre-Sentence Report therefore, therefore bail may become academic if indeed sentencing can take place quickly.

C **JUDGE CROWTHER:** That is why I have said to Mr Kirk I will consider a bail application after Judge Rowlands has either granted Mr Kirk bail or sentenced him to a non-custodial sentence, subject to my ruling.

MR SMYTH: In fact the only matter that keeps him in custody is the reach of the restraining order and the threats to cause damage.

D **JUDGE CROWTHER:** Yes. Yeah. I am not seized of that case and cannot deal with it, Mr Kirk, so there we are. I hope at least we have set a timetable which is acceptable to you.

E **THE APPELLANT:** Yes, your Honour, I'm grateful but they are moving (inaudible) another appeal on purpose to deal with (inaudible) stealing a car, driving without insurance and no MOT and no tax and the fact that it was my sister's car you will get evidence this week, is an aside, but that appeal needs to be expedited because it could carry a custodial sentence.

F **JUDGE CROWTHER:** Yes. Alright. Well I am going to ask the prosecution to look at all outstanding appeals and to have a schedule they can put before both the judge in Bristol and me on the next occasion, so that we know what is outstanding, Mr Smyth.

G **MR SMYTH:** I am afraid I know nothing about this other case.

JUDGE CROWTHER: No. I have seen no file about it, but ...

THE APPELLANT: (inaudible)

H **JUDGE CROWTHER:** ... if you make enquiries I would be very grateful.

A **THE APPELLANT:** (inaudible) your Honour (inaudible) help Mr Smyth because we do not
meet that often. I was (inaudible) that the, I would like Mr Smyth to know that the appeal was
lodged somewhere in December or November and the car is foreign (inaudible) I have very
B rarely seen driving a car (inaudible) 21 years by the South Wales Police and so therefore it is not
eligible for an MOT or tax (inaudible) the licence (inaudible).

JUDGE CROWTHER: Well, Mr Kirk, you and I will meet again on 7th April. Thank you
very much for your help this morning.

C **THE APPELLANT:** Thank you, your Honour.

(11.28am)

D

E

F

G

H

A We hereby certify that the above is an accurate and complete record of the proceedings, or
part thereof.

B

Signed: Mendip-Wordwave Partnership

C

D

E

F

G

H