

Regina

V

Maurice John Kirk

**DEFENCE APPLICATION TO PROSECUTION FOR RELEVANT DISCLOSURE
PURSUANT TO SECTION 8 OF THE CRIMINAL PROCEDURE AND
INVESTIGATIONS ACT 1996 SECTION 8 AND TO STAY PROSECUTION AS AN
ABUSE OF PROCESS**

**A PARTISAN APPROACH BY THE PROSECUTION
AGAINST MAURICE JOHN KIRK**

- 1) The prosecution have displayed both bias and a *partisan* approach to the prosecution of Maurice Kirk. As such there has been abuse of executive authority. Examples of this abound. The restraining order was brought about because Mr. Kirk protested that he had been the subject of a malicious prosecution that was concluded in his favour. That is the subject of a properly vented civil claim which is live in the Cardiff Civil Justice Centre after a stay on its progress was lifted by His Honour Judge Anthony Seys Llewellyn, Queen's Counsel. (See 1CF03361) During the currency of that case Mr. Kirk was the subject of a psychiatric evaluation by Dr. Williams in whose favour the restraining order was made. That evaluation was inaccurate and outside Dr. Williams's field of expertise. It is discussed at pages 21, 25, 32, 33 and 35 of Mr. Kirk's interview. An objective reasonable onlooker might perceive there was the appearance of bias by the police in bringing about this state of affairs because these events took place against the backdrop of BS 614 159 in which Mr. Kirk pleaded

33 malicious prosecutions against him by South Wales Police.

Three of these claims have concluded in Mr. Kirk's favour, the remainder are subject of an appeal.

Mr. Kirk has made repeated requests for disclosure of the original Restraining Order which appears lost to the present investigation as he asserts it was never served upon him and so he was not aware of it.

There was a clear breach of CPR Rule 31.2 (see Blackstones 2017 Supplement page 177) as Mr. Kirk was not put on notice of the 2011 restraining Order's terms nor was he afforded the opportunity to make representations as to its terms.

Mr. Kirk has made lawful applications to CCRC Miss Jenny Thomas and Magistrates' Court Legal Advisor Huw Morgan through the writer for sight of the evidence of compliance with CPR 31.2 but the same has been denied him.

Maurice John Kirk requests proof that the 2011 restraining order was lawfully made pursuant to CPR 31.2.

Maurice John Kirk requests sight of CPS files URN 62EA0207711, 62EA0349411 and 62 EA 0223612. The third file is subject to Mr. Kirk's assertion regarding Dr. Williams's capacity to exaggerate and appears at pages 47 and 48 of the ROTI pertaining to the index allegation.

Failure to Disclose can amount to an Abuse of Process- see Blackstones 2017 page 1361 and paragraph D3.88.

The said files were requested of Tony Dicken , District Crown Prosecutor, in March 2013. Mr. Dicken agreed with the writer to supply the said files but to date has failed so to do.

See **Blackstone's 2017 Edition**

Paragraphs D3-67 p 1351 *Manipulation or Misuse of The Process of The Court.*

The exhibit 12 pertains to a variation of the 2011 restraining order. If the original order was *ultra vires* then it follows that it cannot be lawfully varied.

The alleged victim, Dr. Tegwyn Williams, in the present instance, falsely asserts that Mr. Kirk threatened to fire-bomb his home.

Mr. Smythe, who presently prosecutes, was present in court when the third alleged breach of the varied restraining order was prosecuted.

See attached Defence Statement which was handed to a representative of the CPS.

It did not see the light of day and was not handed to Maurice John Kirk.

Mr. Smythe, during those proceedings, explained that he had had cause to examine the magistrates' court file pertaining to the original 2011 restraining order and saw there was nothing in the Legal Advisor's notes to prove Mr. Kirk was given that restraining order. He travelled from Bristol to Wales so to do.

A cursory examination of the magistrates' court file shows that it was altered.

In the same proceedings His Honour Judge Rowlands voiced his opinion that if Mr. Kirk's web-site contained the truth or 'fair comment' then it was not to be withdrawn or taken down.

Maurice John Kirk requests disclosure of the transcript of the entire proceedings of the third breach of the restraining order .



David Jonathan Leathley

Counsel for Maurice John Kirk

3rd April 2017

David Leathley

From: Maurice Kirk [maurice@kirkflyingvet.com]
Sent: Monday, April 3, 2017 11:19 AM
To: Cardiff.crn.cm2
Subject: T20170239 Regina v Maurice Kirk re 4th Breach of Restraining Order

The Accused will address the court tomorrow with legal submissions to 'strike out' and to include the following:

1. The original Harassment conviction was an abuse of process (see defence lawyer's 15 November 2011).
- 2.. The Accused's applications, including police disclosure, were ignored.
- 3 The victim's evidence was never put to the strict proof there of.
3. The Accused was denied relevant witnesses.
4. The Prosecutor's application's were illegal.
5. The Accused and three juries, so far, were never served with the proof of a valid original restraining order nor the records from police, court or Geoamy Custody Services that this was ever done.
6. The Criminal Cases Review Commission was never ever given original copy of the magistrate's and appeal court records.
7. Leveson L J et al, in March 2013, were denied the above and 2012 trial full transcript previously ordered by The Accused for this very purpose.
7. The current Prosecutor's Chambers submitted new evidence at both the April 2012's 3rd 'breach of a restraining order' trial and again at the Accused's November 2014 Bristol criminal appeal causing both barristers now being required as witnesses in the forthcoming trial.
8. There continues to be failed police disclosure of relevant evidence.
8. The victim's veracity is now still further in doubt following his 5th erroneous witness statement on this matter.
9. The Chief Forensic Psychiatrist for Wales was blackmailed by the South Wales Police to fabricate damaging medical evidence to incarcerate The Accused, indefinitely, purely to frustrate ongoing civil proceedings against them whilst knowing his 'patient' has been the real victim throughout simply by publishing the truth.

Maurice J Kirk BVSc

In The Crown Court at Cardiff

REGINA

V

MAURICE KIRK

=====

DEFENCE STATEMENT PURSUANT TO SECTIONS 5 & 6 CRIMINAL PROCEDURE AND
INVESTIGATIONS ACT 1996

=====

To The Prosecutor: Crown Prosecution Service Cardiff

To The Court: Cardiff Crown Court

Charge: Breach of Restraining Order

Date: 10th March 2014

If called upon to establish a defence at trial the following statement is served in accordance with
The Criminal Procedure and Investigations Act 1996

THE NATURE OF THE ACCUSED'S DEFENCE

In 2010 the Accused was famously acquitted of the Possession of a Lewis Gun at Cardiff Crown Court. He had purchased a veteran aircraft fitted with a replica machine gun which was sold on to a collector. In the course of his remand Dr. Tegwyn Williams published to the court a psychiatric report stating in it The Accused *had significant brain damage in an area of the brain specifically related to self-awareness, judgment, decision making, self regulation of behaviour and control of emotions*' It further stated The Accused *presents symptoms consistent with Paranoid Delusional Disorder*. The Accused was remanded in custody and very nearly detained as a mental patient in Ashworth High Security Hospital. The report was deliberately false and misleading and even went so far as to suggest The Accused had a brain tumour.

Over the years The Accused has devoted his entire life to fighting perceived police corruption and sought to name and shame Dr. Tegwyn Williams firstly on his web-site and secondly by civil action for malicious falsehood and misfeasance in a public office.

On the 28th November 2013 a CT scan of The Accused's head took place under the auspices of Dr. Rose Marnell. In a letter dated the 3rd day of March 2014. The outcome of the scan was **there is no evidence The Accused suffers from Paranoid delusional Disorder, there is no evidence to indicate he suffers from significant brain damage and there is no evidence he has cancer.**'

In order to protect his position Dr. Tegwyn Williams reported The Accused for harassment and the Restraining Order subject of these proceedings was applied for.

A Copy of The Restraining Order was never served on The Accused.

On the 13th day of October 2013 The Accused rang the police. He wanted clarification as to what his position was as the CT scan appointment clashed with a court fixture.

The Accused said ***Which is why I've decided IT'S ONLY A SUGGESTION that the police psychiatrist needs his house burned down and I'm seriously considering...It's a suggestion that in order to sort this matter out, it's gone on some years, that I go, it only takes a phone call to find out where he lives because I have someone I paid to find out where he lives AND I'VE MADE SURE THAT I DON'T KNOW WHERE IT IS BECAUSE I DON'T WANT TO KNOW WHERE IT IS UNDER THESE CIRCUMSTANCES,I HAVE THOUGHT SINCE SPEAKING TO ROGER DAVIES THAT ERM IT'S ONLY A SUGGESTION THAT IF I NIP UP THERE WHERE HE LIVES..HE CAN'T BE FAR FROM CARDIFF THE POLICE PSYCHIATRIST....IF I BURN HIS HOUSE DOWN THE WHOLE PROBLEM ABOUT WHETHER I HAVE A BRAIN TUMOUR OR NOT WILL BE, WHAT DO YOU CALL IT? PUT TO FAST TRACK'***

The Crown's case is that this was an Implicit threat conditional upon the Police not acting to arrange the CT scan.

The Police did not act upon the 'implicit threat' as The Accused as ever was merely gathering material for his web-site and published the following after the phone conversation ***I am asked to hold...but not before suggesting it takes only one phone to arrange for the doctor's house to be burnt down to address the minds of those ultimately responsible for what they have done to my family and my life.***

Under The Protection of Harassment Act 2007 section 8 (4) (c) this conduct was reasonable as it was the catalyst for a subsequent brain scan that could not otherwise have occurred. Pursuant to Section 8 (4) (b) of The Protection From Harassment Act 2007 The Accused's actions were for the purpose of detecting the crime of misfeasance in a public office by Dr. Tegwyn Williams and designed to draw attention to The Accused's plight.

If the Accused planned such an arson attack he would not have rang the police making it plain he had no knowledge of which house required burning down.

There was no threat as there was no executory intent ***See R V G&F (2012)EWCA Crim 1756*** paragraphs 38 to 40 and paragraph 31. The Accused did not know where Dr. Williams lived and impressed that he did not want to know and he therefore had no realistic means to execute a plan to burn the house down. No place or time or practical details were identified.

Mr. Tony Dicken

District Crown Prosecutor

Crown Prosecution Service

Capitol Tower

Greyfriars Road

Cardiff

12th March 2013

Dear Tony,

Re Maurice Kirk Appeal Against Conviction Court of Appeal Thursday 14th March 2013

Thank you for your assistance this morning.

I confirm that I have been instructed under the Direct Public Access scheme to render preparatory advice to Mr. Maurice Kirk.

Mr. Kirk has written to the Court of Appeal for Disclosure.

He needs witness statements (depositions) in the magistrates' trial which ended on the 1st December 2011. This was an allegation brought by Dr. Tegwyn Williams and was the genesis of a restraining order being made (now the subject of Mr. Kirk's application on Thursday for leave to appeal).

You very helpfully provided the reference number for that file as URN 62EA0207711.

Mr. Kirk has also requested statements related to an appeal arising from the earlier case which was concluded 1st March 2012 at Cardiff Crown Court.

Mr. Kirk has also requested witness statements and depositions regarding the jury trial re Breach of the Restraining Order ending 4th May 2012. You again helpfully provided the URN as 62EA0349411.

Mr. Kirk further asserts that he was arrested last summer upon the basis of a further statement by Dr. Tegwyn Williams. This may be linked to Discontinued Proceedings for harassment and the assertion of a false witness summons being sought against the director of The Caswell Clinic. You provided the URN as 62 EA 0223612.

It was decided that the appeal file was likely to be in the trials unit at CPS Cardiff.

I am obliged to you for the time and trouble.

Regards,

David Leathley

David Leathley Old Emails

From: Maurice Kirk [maurice@kirkflyingvet.com]
Sent: Saturday, May 25, 2013 8:03 AM
To: David Leathley
Subject: Re: CPS/refuse to communicate

Thanks just read ring me fortodays meet thank

On 24 May 2013 07:45, "Coalexchangechambers" <coalexchangechambers@gmail.com> wrote:
Dear Mr. Kirk,

I have pleasure in confirming that, further to telephone and written correspondence, Mr. Tony Dicken of CPS Cardiff agreed to make available a number of CPS files involving Dr. Tegwyn Williams (one complaint was subject to a no further action decision). These were to be provided in time for your renewed application for leave to appeal conviction for breach of a restraining order also involving Dr. Williams.

The arrangement was that these files could be delivered to the Cardiff Civil Justice Centre.

Since our meeting last Sunday I have telephoned CPS Cardiff on your behalf about this disclosure but have been met with no answer.

I trust this assists.

David Leathley L.L.B.; of Lincoln's Inn. Barrister.

Sent from Samsung Mobile

Maurice Kirk <maurice@kirkflyingvet.com> wrote:

Please send me suitable evidence that CPs continue to refuse to answer you and/ or answer re losure but will not send or clasrify.....needed for application 10 am tomorrow.....you might have alresdy sent me something but cannot find!!

best regards

--

Maurice J Kirk BVSc
Puits aux Papillions
49 Tynwydd Road St Doha
Barry CF62 8AZ 22230 Merdrignac
UK 07907937953 Brittany

www.kirkflyingvet.com
mauricejohnkirk.wordpress.com
www.wacl.org.uk
maurice@kirkflyingvet.com

OF THE UTMOST URGENCY

Dear Sirs,

I enclose a memo sent today to Mr. Tony Dicken, District Crown Prosecutor.

I am a barrister practising from the Coal Exchange in Cardiff instructed by Mr. Maurice Kirk to render help with regard to his forthcoming application for leave to appeal conviction in the Court of Appeal sitting in Cardiff on Thursday 14th March 2012.

Mr. Kirk has asked for files with the URN of 62EA0207711, 62EA0349411 and 62EA0223612 be disclosed as he asserts they are discosable with regard to his appeal.

Mr. Kirk has made strenuous efforts to have these files disclosed before. I gather he intends criticism of the CPS before Lord Justice Leveson if these files are withheld.

I enclose a memo sent this morning to Mr. Dicken.

Is it possible to have these files brought from the repository in Merthyr some time today or tomorrow, please?

Yours faithfully,

David J Leathley

Telephone 02920 450118