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IN THE CROWN COURT
AT CARDIFF

Indictment No: T20097445

The Law Courts
Cathays Park
Cardiff
CF10 3PG

17th December 2009

Before:

HIS HONOUR JUDGE BIDDER

REGINA

- v -

MAURICE KIRK

MR R W TWOMLOW appeared for the Prosecution

The defendant appeared in person

ALL PROCEEDINGS

Tape transcription by **Mendip-Wordwave**
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ALL PROCEEDINGS

(16.28)

JUDGE BIDDER: Now, the next matter is the question of, I don't believe that there are any other matters for preparation for trial but it is a matter, does anybody wish to make any other ... no? Right. The next question is that of bail, and I will hear a bail application because I consider that the passage of time since the decision by His Honour Judge Mervin Hughes Queens Counsel, to allow the prosecution's appeal against the refusal of bail by the magistrates court is sufficient in this case to justify the court hearing a further bail application on behalf of the defendant. I will now hear the bail application but I will hear the ...

MR TWOMLOW: Your Honour may not be aware that an application was made before the Recorder of Cardiff.

JUDGE BIDDER: And I am going to hear an application as well.

MR TWOMLOW: Yes, very well, but can I ...

JUDGE BIDDER: However, that was the last ...

MR TWOMLOW: That was the 1st of October.

JUDGE BIDDER: Well ...

MR TWOMLOW: And the application was refused on the grounds there were substantial grounds (inaudible) ...

JUDGE BIDDER: Yes, and since then I have had a detailed, well, it is quite detailed, a detailed further application by Mr ... forgive my (inaudible) which seems to me to be a matter that I should consider.

MR TWOMLOW: I was not suggesting that Your Honour should not consider a bail application but Your Honour referred to the (inaudible) ...

A **JUDGE BIDDER:** Yes, that's right. There have been a number of judges who have remanded in custody since then ...

MR TWOMLOW: (Inaudible).

B **JUDGE BIDDER:** ... there was a Section 35 in the interim wasn't there?

MR TWOMLOW: In the (inaudible), yes.

JUDGE BIDDER: Yes, that's right. Thank you very much. But Mr Twomlow, thank you very much for drawing that to my attention, and I now will hear the bail application. First of all I am going to hear what the prosecution say about why bail should not be granted.

C **DEFENDANT:** Could I have a pen and paper please?

JUDGE BIDDER: Yes, of course.

D **DEFENDANT:** And could I please have an explanation as to where I stand with disclosure? If I don't get proper disclosure I stand to go to jail for a long time. If I get the correct disclosure to which I am entitled under the law I will walk free, it is as simple as that.

E **JUDGE BIDDER:** For the third time in this hearing I have told you that when you prepare and serve on the court and prosecution a defence case statement the prosecution will have to reconsider what disclosure they should make based on your defence case statement. You may then make to the court, if you consider that ... I will quote the section to you, alright, so you are aware of it, where you have given a defence statement and the prosecutor has complied with the further obligation to disclose, and if you have reasonable cause to believe there is prosecution material which is required to be disclosed and has not been you may apply to the court for an order requiring the prosecution to disclose it to you. You must put that in writing and send it both to the prosecution and the court. Do you understand? Thank you.

G **MALE SPEAKER:** Your Honour, could I have a note of what rule that is?

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A **JUDGE BIDDER:** Yes it is, no well this is the statute. It is Section eight of the Criminal Procedure and Investigations Act 1996, and the application under the procedure for an application is to be found in the Criminal Procedure Rules 2005, rule 22.5.

B **MALE SPEAKER:** Thank you.

JUDGE BIDDER: Pleasure.

DEFENDANT: I served a defence statement on the prosecution when I was in Port Talbot Police Station.

C **JUDGE BIDDER:** Well, I haven't seen it Mr Kirk.

DEFENDANT: Yes you have. I sent it to Judge Cooke from the prison to make sure that you lot don't wriggle out of this.

D **JUDGE BIDDER:** And I may say that it has to be an adequate defence case statement, one dealing with the circumstances of this offence. There are lot of other matters which you are concerned about, Mr Kirk, but a defence case statement, to be effective, must be one that deals with the issues in this case.

E **DEFENDANT:** I sent the first of my defence statements to you to cover the subject of surveillance.

F **JUDGE BIDDER:** Mr Kirk, I am going to deal with bail. Do you wish to make an application for bail?

G **DEFENDANT:** I wish you to know that you already have a defence statement dated the 19th of June and it covers the fact that I was under police surveillance for a year which is very relevant to the fact that they are pretending that I am a very dangerous person with a machine gun to shoot the Chief Constable. Since then they have admitted that they knew about it a month before I was arrested. They knew about it in August of the previous year and that witness statement, sorry, defence statement allows me, because you have explained it this afternoon, for them to give me disclosure of the enquiries they have made to find that this case

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A is a can of worms and you, at the moment, are saying that unless I can find you a defence
statement I am going to get no further disclosure from the CPS. I am going to now (inaudible)
the defence statement ...

B **JUDGE BIDDER:** In order to move this matter on I would require, in a defence statement,
to have your case as to whether you were in possession of the Lewis gun, whether you
consider it is a prohibited weapon and if not why not, and I think that is pretty much ... and
whether you sold it. And that really is ... and indicate what actually your defence to the charge
C under Section 5, the Firearms Act. If you put a defence statement in which indicates what,
you may for example say, "This is an antique gun. It has been decommissioned and it is
wrong to find that it is a prohibited weapon." And if you were to put that in your own words
D down on a piece of paper and head it 'Defence statement' that would suffice it seems to me for
a defence statement to trigger, to trigger, if that is not an unfortunate word to use in these
circumstances, to trigger the duty of the prosecution to give you further disclosure and the
court's power to consider an application by you under Section 8. Now, Mr Kirk, you are a, if I
E may say so, highly intelligent man, you are able to understand that, and if you do that we can
then make progress.

DEFENDANT: But I have already done most of what you have just said.

F **JUDGE BIDDER:** Well, I fear that I do not ...

DEFENDANT: I have done most of ... I can't without checking, but the majority of the
things you have just raised I have already said, more than once, more than once, which means
that I am entitled to disclosure, and until I can get proper disclosure I believe I am in
G difficulties because until I understand the case that is against me and the real reason, because
at the bottom of all of this it is in the public interest, all prosecutions are based on public
interest ...

H **JUDGE BIDDER:** Thank you, Mr Kirk.

A **DEFENDANT:** ... is it in the interest of the general public, is this about a gun that is circulating that is dangerous, or is it Maurice Kirk that is dangerous?

B **JUDGE BIDDER:** I rule that there has, as yet, been no adequate defence case statement served; when there is the provision will be triggered. They are simple provisions and they are comprehensible to everybody. The gentlemen in court who kindly are helping you, and they have heard it as well. Thank you very much. I will now deal with the bail application.

C **DEFENDANT:** But have you read all the documents in the case?

JUDGE BIDDER: I hope I have. Right, bail application. Mr Twomlow.

MR TWOMLOW: Yes. Prosecution say that each of the three reasons set out in the bail act for the refusing of bail is present here.

D **JUDGE BIDDER:** Mr Twomlow I am going to have to ask you to narrate them.

MR TWOMLOW: I'm sorry?

JUDGE BIDDER: Narrate them.

MR TWOMLOW: Yes, the fear of commission of further offences.

E **JUDGE BIDDER:** Yes.

MR TWOMLOW: That he will interfere with witnesses. And that he will fail to surrender if he is granted bail.

F **JUDGE BIDDER:** Thank you.

MR TWOMLOW: The first two, fear of commission of further offences and interfering with witnesses are linked in many ways. Your Honour, so far as the commission of further offences and the potential of interfering with witnesses is concerned would Your Honour look at the bundle of exhibits which Mr Kirk has, beginning at page 36, where there is a photograph of him, these are from his website, I know that Your Honour is familiar with these papers as Your Honour has ...

H **JUDGE BIDDER:** Well, I looked at the website last night, Mr Twomlow.

A **MR TWOMLOW:** Well, one has examples here of photographs of Mr Kirk dressed for
Cardiff Court and a level playing field, at 36. 38, vengeance is mine, crooked lawyer
shooting. Glorious 12th, the day of grouse shooting begins, 12th of August, is the heading for
the one on 49. The final solution, we have at page 54.

B **JUDGE BIDDER:** 54.

MR TWOMLOW: Page 64 ...

C **JUDGE BIDDER:** You hadn't found the gun by then Mr Twomlow had you? You hadn't
found the gun by then. Is there any evidence that he took any one step towards carrying out
these threats?

D **MR TWOMLOW:** Well, I will refer you in a moment to, one has to look at an overall
picture and the fact that he was pictured with the gun in this way, with these very aggressive
captions. 'Dressed for Cardiff Court and a level playing field' for example, in the context of
what appears, I had it a moment ago, at page 78.

JUDGE BIDDER: 78. Yes.

E **MR TWOMLOW:** A £10,000 reward for information leading to prosecution. A substantial
reward is offered on a website and a number of people named ...

JUDGE BIDDER: Yes.

F **MR TWOMLOW:** ... and then car numbers of all the above, home and social addresses of
all of the above, details of their families and schools attended, clubs attended, friends and
acquaintances.

G **JUDGE BIDDER:** Is there any evidence he has approached any of these addresses or anyone
connected with him has approached any of these addresses to even approach carrying out any
of these threats? Seriously, I appreciate that he has got these addresses, it is very worrying for
those people named here if that is the case, but I am just asking whether there is any evidence
that these threats have come closer to being reality rather than fantasy.

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A **MR TWOMLOW:** The answer to that, I think, is no, but on the last occasion when the
Recorder of Cardiff asked him about this he said that you must understand, and I am
paraphrasing I expect, "You must understand that there are times when it is necessary to hire
B somebody to follow children home from school to find out where people live so that you can
serve summons on them, for example," and he is a man who, in my submission, has
demonstrated that his whole life is dominated by the civil ...

JUDGE BIDDER: It is also right to say that none of these are witnesses in this case.

C **MR TWOMLOW:** Sorry?

JUDGE BIDDER: The page you have referred to, page 78, none of these are witnesses in the
case.

D **MR TWOMLOW:** No, they are not. They are not witnesses in this case but they are people
who are involved in the civil proceedings, I accept that.

JUDGE BIDDER: Do you have any direct evidence of interference of witnesses in this case?

Any positive evidence that he has attempted to interfere with the witnesses in this case?

E **MR TWOMLOW:** No, there is not.

JUDGE BIDDER: What do you say is the evidence he may do that?

MR TWOMLOW: Well, he ...

F **JUDGE BIDDER:** This page and the other pages?

MR TWOMLOW: I'm sorry?

JUDGE BIDDER: This page and the other pages is evidence he may interfere with witnesses
in this case.

G **MR TWOMLOW:** If there are matters with which Mr Kirk disagrees, or matters he thinks
he can influence then he is prepared to go to lengths which may involve violence, and Your
Honour has seen his antecedent history which is lengthy and which involves a disregard of

H

A any bounds put upon him, or the general public indeed, by the authorities. He is anti-authoritarian.

B **JUDGE BIDDER:** Well, let's just look at that please. His antecedent history shows up to 2001 a substantial history of violence and in 1978 there was an assault occasioning actual bodily harm for which he received a suspended sentence at Taunton Crown Court. Section 5 Public Order Act '79. ABH Section 47, which I suspect was not unconnected with the driving while disqualified.

C **MR TWOMLOW:** Yes.

D **JUDGE BIDDER:** Criminal damage, Well Street Magistrates 1980. Assault on police, times two, Yeovil Magistrates 1980. Common assault, '95, times two. Section 4 and battery '97. Section 5 and battery, and resisting a police officer, '99. Failure to provide a specimen of breath and minor traffic offences in 2000. Section 4 Public Order Act 2000, and 2001 failure to provide a specimen of breath. There's nothing since then is there?

E **MR TWOMLOW:** No. There is nothing since then, and I am not suggesting that on its own that this record shows ... all it shows is that he is capable, and has been in the past, of on occasions resorting to violence, but it may not be of the most serious type, so it is just part of the picture in relation to his character.

F **JUDGE BIDDER:** Yes, thank you.

G **MR TWOMLOW:** In addition to the photographs of him with the gun with the captions, and those, in my submission, are a public declaration of the potential to frighten people at the very least and try to influence them or threaten them, and one could not have clearer evidence than those photographs carrying a gun (inaudible) a gun which is, there is now evidence it is a gun which is capable of being fired.

JUDGE BIDDER: Thank you. And what about failure to surrender?

H **MR TWOMLOW:** I'm sorry?

A **JUDGE BIDDER:** What about failure to surrender?

MR TWOMLOW: Yes. May I just consider whether I have made ... he knows that this is five years imprisonment if he if convicted and if you have read the case summary you may appreciate that he doesn't have a defence.

B **FEMALE SPEAKER:** (Inaudible).

JUDGE BIDDER: Alright. Carry on Mr Twomlow.

C **MR TWOMLOW:** He (inaudible), he has posted on his website of his ability to cross boundaries without documents and he has travelled, and it has been well known that he has flown to America and so on. He is an experienced pilot and he has access to aircraft. He owns a number of properties, including properties in France and he is not somebody who respects conditions imposed by courts if he doesn't agree with them. So far as ... well, perhaps D I will hear what he has to say about where he might propose to go were he granted bail before dealing with that matter.

JUDGE BIDDER: Thank you, then I will hear from him.

E **MR TWOMLOW:** Unless there is any other matter, Your Honour?

JUDGE BIDDER: No, thank you very much. Now, Mr Kirk, I have a letter from Mr Wirren (?) and I am going to read it into the transcript.

F **DEFENDANT:** No, I don't agree. I don't have the knowledge of it and I (inaudible) ...

JUDGE BIDDER: I am going to read it so that you can hear it.

DEFENDANT: I object to it entering my court case with all due respect. I have not read it ...

JUDGE BIDDER: Mr Wirren's letter.

G **DEFENDANT:** I am familiar with my situation, I do not want that document read into my case.

JUDGE BIDDER: Do you wish to rely on it?

H **DEFENDANT:** No.

A **JUDGE BIDDER:** Very well, I will not. Thank you very much. Right, what do you want to say to me on the question of bail? Do you have somewhere to live if you are released from custody?

B **DEFENDANT:** Who's idea is it that this is a bail application?

JUDGE BIDDER: Do you have somewhere to live if you are released from custody? I give you one more opportunity to answer that question.

DEFENDANT: Yes.

C **JUDGE BIDDER:** Where and with whom?

DEFENDANT: I have a choice of property.

JUDGE BIDDER: Where do you propose to live if you are released from custody on bail? That is the third time, I shall not ask again.

D **DEFENDANT:** 52 (inaudible) Road.

JUDGE BIDDER: 52 (inaudible) Road. Where is that?

DEFENDANT: Barry.

E **JUDGE BIDDER:** And does anyone else live at that address?

DEFENDANT: I have got squatters there at the moment and I am anxious to persuade them to leave.

F **JUDGE BIDDER:** And that is your property? Simple question.

DEFENDANT: Do I have to answer that?

JUDGE BIDDER: Simple question, is that your property? I want to know ...

DEFENDANT: (Inaudible) to answer that.

G **JUDGE BIDDER:** Right, there we are, thank you. Are you financially secure?

DEFENDANT: Yes.

JUDGE BIDDER: Thank you. Where is your passport?

H **DEFENDANT:** Which one?

A **JUDGE BIDDER:** Do you have more than one passport?

DEFENDANT: I lost one earlier last year and the police went searching my property, found that one, so I now believe they have both. One might have expired by now.

B **JUDGE BIDDER:** If you wish to put those headphones on they will help you ...

DEFENDANT: I can hear you, I couldn't hear a word the prosecution were saying ...

JUDGE BIDDER: No. Thank you very much.

DEFENDANT: ... whether it matters or not.

C **JUDGE BIDDER:** The passport, you believe that is held by the police now?

DEFENDANT: Yes.

JUDGE BIDDER: Thank you. If you were to be granted bail is there a local police station to which you could attend and report regularly?

D **DEFENDANT:** No.

JUDGE BIDDER: There isn't?

DEFENDANT: No.

E **JUDGE BIDDER:** What, Barry? There's a Barry Central Police Station.

DEFENDANT: The civil action is based on over 200 incidents that relate to the conduct of the Barry police force.

F **JUDGE BIDDER:** So you could not report there? Could you report to another police station?

DEFENDANT: What are my obligations for reporting ...

JUDGE BIDDER: I am not saying there are any at the moment, I am just trying to find out whether it is possible that I could impose a condition of reporting. I haven't made my mind up yet.

G **DEFENDANT:** I have been asking to be transferred to an English prison from the moment I was arrested.

H

A **JUDGE BIDDER:** I have medical reports on you, do you wish to say anything about the
contents of those medical reports in so far as it affects the issue of bail? They consider you fit
to plead. Both of the doctors consider that you have significant personality defects. The one
B doctor considers you probably have a mental disorder within the meaning of the Mental
Health Act.

DEFENDANT: Which one is that?

JUDGE BIDDER: The other, the most recent doctor does not consider that you are mentally
C ill. Are there any other matters that I should ... I don't think either of the doctors ...

DEFENDANT: Yes, I think it is very ... now that you have nailed it down to Dr Tegwyn
Williams saying that I have a mental disorder and that Dr Silva from Ashworth High Security
D considers I do not, if you read the last paragraph of his long article, which I don't have any
more, it is clear that he persuaded Dr Williams to retract the argument that I should be
incarcerated in that place called Caswell Clinic ...

JUDGE BIDDER: Yes.

E **DEFENDANT:** ... under a Section 35. I have in my possession, having interrogated a
psychiatrist yesterday in the prison for over one hour, two psychiatric reports that you have not
...

F **JUDGE BIDDER:** Dr Silva says at the end of his report, "I agree with Dr Williams," in fact I
think they are actually in agreement on this, that you do not currently appear to be suffering
from a mental disorder of a nature or degree that would make detention in hospital
appropriate.

G **DEFENDANT:** Exactly.

JUDGE BIDDER: Both of them agree with that. Thank you.

H

A **DEFENDANT:** Exactly. You will recall that Tegwyn Williams in October was trying to get me Sectioned to Ashworth under a Section 37 because the law, you lot had run out of your 12 weeks (inaudible) ...

B **JUDGE BIDDER:** Would you therefore agree that none of the medical reports indicate, as far as the medical reports are concerned, that you are violent or a danger to the public? I suppose you would agree with that wouldn't you? A matter for you entirely.

DEFENDANT: I would need notice for a question like that.

C **JUDGE BIDDER:** There we are, thank you very much indeed. Are you in a financially sound enough position to give a security in a large sum for your bail?

DEFENDANT: I wish to submit a £50,000 the prison has been ... I received a judgement from the County Court.

D **JUDGE BIDDER:** Well, that is a prospective matter isn't it?

DEFENDANT: Well, it is a judgement for £50,000 for false imprisonment for the last time I got locked up. I wish to submit £50,000. I have asked the prison to transfer that money to my account (inaudible), they have refused. It is currently under appeal with the IMB and the various prison departments. That is £50,000 I would like to leave with the court.

E **JUDGE BIDDER:** Thank you. Very well, is there anything more you wish to say in relation to bail?

F **DEFENDANT:** Yes there is.

JUDGE BIDDER: What?

DEFENDANT: That on the 1st of December the prosecution were made to include the Data Protection Act and the Freedom of Information Act procedures that I started back in August for them to eventually allow the release of my medical records and there are medical records that show that they had psychiatric reports in July from two independent psychiatrists stating, if you read them, I have them with me, clearly indicating that I was fit for purpose to stand

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A trial. They were deliberately withheld from the trial judges, sorry, the bail judges, and they were in the possession of the prosecution who are present here today. This letter that I have sent to the court (inaudible) is dated the 1st of December, and it is from the multi agency public protection arrangements from the Chief Constable's HQ stating that I have been a level three MAPPA under surveillance for some time. After I interrogated the psychiatrist yesterday for over an hour she admitted that she and other members of staff including doctors and social workers had been at these meetings prior to my being arrested. Now that means that my phone taps and the following by helicopter and cars and all this, that and other gives further evidence that they knew all about this gun a year before I was arrested. That defence statement that you appear to be wishing to set aside was written for this very purpose and it is dated the 19th of June, three days before I was arrested, on the day before, on the 21st, the helicopter hovered, the police cars arrived and they then aborted my arrest. They were arresting me for threatening criminal damage. Some knee jerk reaction somewhere along the line they have added on this machine gun. Had the first judge, the magistrates in Barry were very aware of my credibility and my position in society as a veterinary surgeon in Barry since 1993, and I was given unconditional bail. The following day I was given a jail sentence under IPP, that is to say you will serve time in prison un-convicted. I asked for an adjournment to prove that the information that was laid before the court was a pack of bloody lies. I now have that information and I wish to submit it to you by way of documentation. I have sent a lot of it already to the Crown Court by way of letters throughout the summer. I have these medical reports that have only become available to me since the 2nd of April. I have here a statement from a man who witnessed me seeing the aeroplane for the first time in a museum with a gun attached. They have fabricated aspects of this trial, and remember, Your Honour, that we should be considering this case under the basic principles of public interest, was there any intent? You covered that nicely by cross-examining the prosecution and I am grateful.

A Any threat, you have already covered that and I am grateful. Was there any harm done by me
owning that gun during the period of time? I think you even covered that in a clever legal
way. Has there been any loss in this trial? No. The (inaudible) surrounding the way that I
B was detained for personal monetary gain by the police in a civil action is seriously affecting
justice if this case is going to be heard in a fair manner, which is why I laboured on disclosure.
C It is known to those people in this court that I have won five Crown Court cases in this
building, all based on disclosure. Failed disclosure by the prosecution, and on one of the
cases the jury was sending messages by pieces of paper asking that the inspector in the
D (inaudible) court, signalling to the policeman as I cross-examined. That was the level of the
history surrounding the venom that is behind their reason to prosecute me and lock me away,
to prejudice my rights as a civil member of the public to take civil proceedings against the
police.

E These matters that have been raised that I have uncovered from my prison cell also
disclose that amongst the surveillance there have been 32 people handling this gun, this gun,
based on what I have read served on me was not functional when the police acquired it. I
F have just heard that it has been used since, I remember a Judge (inaudible) it has been fired
since it has been in the presence of the police, and that they couldn't do it when they first had
it. There is no evidence that it had been fired since I had it or the previous chap had it, and he
had it for a year.

JUDGE BIDDER: I think that is right, Mr ...

DEFENDANT: Yes. Now their tampering with it, to the degree to which he has indicated,
G causes me to want to look at ...

JUDGE BIDDER: They tested it, it is not tampering it is testing.

DEFENDANT: Sorry, sir?

JUDGE BIDDER: It is testing, not tampering.
H

A **DEFENDANT:** Right, it is just ...

JUDGE BIDDER: And that will be evidence that you will be able to test at trial.

DEFENDANT: Yes. But one of my other defence statements states that I was sold the gun

B as a decommissioned gun, well recorded in the documents relating ...

JUDGE BIDDER: That is what you have told two of the witnesses in the trial as well by the

way.

DEFENDANT: Yes. So why can't I get the disclosure of the books relating to this certified

C civil aviation (inaudible) aircraft? Because they are not exhibited in the list, the documents

will relate to the gun, the documents ...

JUDGE BIDDER: I am afraid, Mr Kirk, we are wandering from the point about bail. I think

D I have heard, you are talking about the actual circumstances of the charge and what I am really

interested in are matters that are relevant to bail.

DEFENDANT: Are you going to let me get some disclosure before we go before a jury or

not?

E **JUDGE BIDDER:** Well, I have already said that. Well there we are. Right, thank you. I

will make a ruling therefore in relation to bail. The defendant has made a bail application

which I have been prepared to hear. He is charged with a very serious offence contrary to

F Section 5 of the Firearms Act of possession of a prohibited weapon and also for selling a

prohibited weapon to which he has pleaded not guilty. I have looked in detail at the

documents that he has submitted to court and also looked at the prosecution papers. There is

G an extremely strong case against him on that and it is difficult, short of challenging the bone

fides of the expert witnesses that there are to conceive of a defence to this charge. That

charge, unless there are exceptional circumstances, carries with it a minimum term of five

years imprisonment.

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A There is, on his website, evidence of serious threats with photographs of him holding
that weapon in his hands, against the court and lawyers presenting the case. There is evidence
on his website that he has obtained home addresses of various persons, not one of them a
B witness in this case but they are witnesses or potential witnesses in his civil action. That is
evidence that he has the capacity to find the home addresses of persons who are witnesses.
There is no evidence, however, that he has taken any positive steps towards approaching or
C finding the addresses of any of the witnesses in this case. There is evidence that he said to the
court that he had hired someone to follow the children of witnesses in the civil case, home.

 He has a number of previous convictions. He obviously has in the past been a violent
man but his convictions end in 2001 and the last conviction for actual violence was in 1999,
D however he has the potential to be violent. He is aware now, if he wasn't before, that there is
minimum term of imprisonment. He is able, and there is clear evidence of this from his
E website, to fly an aircraft and he has boasted that he can cross borders without documents. He
owns properties in France and I have seen that he is unwilling to comply or cooperate with the
court.

 On the other hand he has a fixed address that he could live in if released on bail, that is
52 (inaudible) Road Barry. He has assets. His passport is held by the police. It is difficult for
F him to report to a local police station because of his relationship with the police in this part of
the world. The medical reports that I have do not indicate, the medical reports do not indicate
that he is a danger to the public or is violent, but the medical reports that I have seen do
G however indicate that he is a man with fixed ideas of persecution by many people and that is a
man with a history of violence.

 My judgement is in this case that because of his incapacity or unwillingness to
cooperate with the court any conditions that the court would imply attached to any bail
H granted would simply be ignored by him if he did not agree with them. In my judgement there

A are substantial grounds for believing that if released on bail, even with stringent conditions, he
would commit further offences and/or interfere with witnesses. I also consider that there is a
risk that he would fail to surrender to his bail. I therefore refuse bail in this case. Thank you
very much. Custody time limits.

B **MR TWOMLOW:** Your Honour, there was an application made some time ago and there is
a further document simply bringing matters up to date and so that is a very recent document.
Does Your Honour have that?

C **JUDGE BIDDER:** I do. There is no court available, there is no judge available to try a three
week trial before the 25th of January.

MR TWOMLOW: Yes.

D **JUDGE BIDDER:** I have overridden my normal practice of trying to assist counsel to list the
matter for their convenience. I have ignored the representations, or not ignored them, but I
have overruled the representations made perfectly properly by Mr Twomlow to the extent that
it is very likely in this case that Mr Twomlow who has conducted this case from the very
E outset and has done a great deal of work on it, may have to return the brief. I regret that, but
that is the earliest date I can list this matter. I also regret the fact that that is going to cause
considerable inconvenience to the civil justice centre where a trial, a civil trial is now going to
F have to be relisted for a later date. All that I have done because it is urgent that this man be
tried as soon as possible. It is his liberty at stake. I cannot put it any stronger than that.
Therefore there is good and sufficient cause, is there not, you have an application before the
court which indicates that whatever may have been the delays in this case, they have been
G caused primarily by the court's own desire to determine whether Mr Kirk was fit to plead. He
didn't ask that that be done, that was the court of its own motion doing that, that has led to
substantial delay but that is not the fault of the prosecution. Do you wish to say any more Mr
H Twomlow? Thank you. Mr Kirk? The question is should I extend the custody time limits?

A They expire on the 23rd of December. If I do not extend them you must be released on that date.

DEFENDANT: Sorry?

B **JUDGE BIDDER:** If I do not extend the custody time limits you have a statutory right to be brought back before the court and released on bail, do you follow? Thank you.

DEFENDANT: So where do we stand now?

C **JUDGE BIDDER:** The issue for the court, there are two issues, I have to be satisfied, before I can extend the custody time limits I have to be satisfied that they need to be extended first of all for some good and sufficient cause. That cause is the fact I cannot list this case any sooner before the Crown Court than the 25th of January. Secondly I have to be satisfied that the prosecution has acted with all due diligence and expedition, that is not, that does not mean D that there ... for example they asked for a seven day extension to serve their papers, but that is not the sort of delay that the court considers in these matters. The prosecution have other cases than yours to prosecute, and it is a very busy Crown Prosecution Service here. That is E the issue.

DEFENDANT: That is what I am talking about. Three months of my life has been thrown away because the prosecution had in their possession psychiatric reports from Dr Seeley and F Dr Gaynor Jones dated the 29th I think it was, and the 31st of July, six days before I was sectioned, Tegwyn Williams, in favour of me, I have got them here ...

JUDGE BIDDER: Yes.

DEFENDANT: ... to show you, and they had them without disclosing them because I was G under MAPPA surveillance and I wasn't even convicted.

JUDGE BIDDER: Is that correct, Mr Twomlow? Did the prosecution have medical reports which would have been sufficient for the Recorder of Cardiff to make a decision on fitness to H plead?

A **MR TWOMLOW:** Prosecution, I am not aware of any medical reports at that stage. Prosecution is not aware of any medical reports until very recently in fact, the court had reports but the prosecution did not.

B **JUDGE BIDDER:** I will see these.

DEFENDANT: Well it doesn't end there ...

JUDGE BIDDER: Well let me just see these please? I have got to read them first.

DEFENDANT: (Inaudible).

C **JUDGE BIDDER:** I can't read and listen at the same time.

DEFENDANT: If I could put them into perspective.

JUDGE BIDDER: Yes, well can I read them first please, Mr Kirk?

D **DEFENDANT:** Yes.

JUDGE BIDDER: Thank you. Yes, that is consultant Dr Gaynor Jones, Forensic Psychiatrist, who was concerned that you might be suffering in July 2009 from a mental illness. Then we have 27th ... 27th of July the psychiatric, I don't know who this is but ...

E **DEFENDANT:** Dr Seely.

JUDGE BIDDER: ... Dr Seely, thank you.

DEFENDANT: Forensic psychiatrist.

F **JUDGE BIDDER:** Dr Seely considered there was no clear effective psychotic symptoms evidence during the course of conversation. That is two, yes, thank you. Measure and balance of being able to speak. Yes. But the prosecution didn't have this.

DEFENDANT: It is talking about ...

G **JUDGE BIDDER:** This is your medical records ...

DEFENDANT: Yes they did. If I could, the third document is dated the 29th.

JUDGE BIDDER: Yes, I am (inaudible) this now, just a moment.

H **DEFENDANT:** Just the middle bit where I tried to ring it for you.

A **JUDGE BIDDER:** Yes.

DEFENDANT: That is the 29th of July, they already had me under their radar before I was sectioned on the 7th of August before His Honour Judge Llewellyn Jones.

B **JUDGE BIDDER:** Yes.

DEFENDANT: And Dr Tegwyn Williams had never examined me and his first document to get me sectioned is dated the 3rd of August and he hadn't even seen me for an examination. I went before the court on the 7th ...

C **JUDGE BIDDER:** Can I draw your attention back please to the issue. These matters, it was the Recorder of Cardiff who determined that your fitness to plead should be considered ...

DEFENDANT: Yes.

D **JUDGE BIDDER:** ... that is an order of the court. He ordered the report, the two reports, they have got to have two reports. Prosecution had nothing to do with that.

DEFENDANT: Yes, but the prosecution had this information because Dr Gaynor Jones ...

JUDGE BIDDER: That wouldn't have been sufficient for the Recorder to make a decision.

E **DEFENDANT:** Dr Gaynor Jones told me yesterday, and she confirmed it a month ago, that she was present at MAPPAs meetings throughout the summer before I was arrested, that they were investigating my psychiatric state and that the MAPPAs, that means the prison staff, the probation, the prosecution, the police, people from the social worker, Elizabeth Hall ...

F **JUDGE BIDDER:** I follow your point but the court had to be satisfied. Even if the prosecution had thought he is not unfit to plead, the court wanted to know that. That is my point.

G **DEFENDANT:** Yes, but the prosecution withheld favourable evidence to show the court that there was no need for a psychiatric Section 35 to be served.

JUDGE BIDDER: Okay, I understand your point.

H **DEFENDANT:** Do you understand?

A **JUDGE BIDDER:** I do understand your point.

DEFENDANT: Thank you.

B **JUDGE BIDDER:** Thank you. Right, I am going to make a ruling on the custody time
limits. First of all I have to in order to see to an application to extend custody time limits I
have to be satisfied that there is some other good and sufficient cause. In this case the custody
time limits have to be extended because it is impossible for me to list this matter before a
C judge of sufficient experience to deal with what is obviously going to be a difficult trial before
the 25th of January. I have done my utmost to ensure that it will be tried on that date.
Secondly I have to be satisfied that prosecution have acted with all due diligence and
D expedition. I have read a detailed chronology of the events in this case. The prosecution
cannot be faulted, save for one instance where there was a seven day application for an
extension which is a minor request for an extension of time to serve papers, and the papers are
actually quite extensive. There is no evidence before me the prosecution withheld from the
Recorder of Cardiff details of the defendant's medical history and in any event, even if they
E had put these matters, these medical records that Mr Kirk has disclosed to me now which
suggest that when being observed in prison his medical state was not (inaudible) the Recorder
of Cardiff required to know whether he was fit to plead or not. I understand why he did that.
F Two medical reports were necessary, that has taken a substantial length of time and it is that
which has caused the delay in this case. I am satisfied that there is some other good and
sufficient cause therefore and that the prosecution has acted with due diligence (inaudible) I
extend the custody time limit to the 26th of January, that is the end of this hearing. Thank you
G very much. You may take him down.

DEFENDANT: Can I see my (inaudible) ...

H

A **JUDGE BIDDER:** That is a matter for the prison officers, I can't do anything about that.
Thank you. Mr Twomlow, can you complete the formal details on the front of this document,
I want a record of it.

B **MR TWOMLOW:** Yes.

JUDGE BIDDER: All I want is the ...

MR TWOMLOW: Just the formal details on the front.

JUDGE BIDDER: That's right.

C **MR TWOMLOW:** Yes certainly.

JUDGE BIDDER: By the way, I also direct that the Court Manager formally writes
tomorrow, or her deputy writes tomorrow to His Honour Judge (inaudible) Llewellyn Queens
D Counsel in response to his letter of the 12th of December 2009 notifying His Honour of the
listing date for this trial, the time estimate of three weeks and apologising to His Honour for
the inconvenience that is caused by the listing of this trial on the 25th of January. Thank you.

E I direct that that should happen. There is his letter, it must be responded to, okay? Can you
let her know please. Thank you very much indeed.

MALE SPEAKER: (Inaudible).

JUDGE BIDDER: We can put that on. Thank you Mr Twomlow, very much. Thank you
F Mr Twomlow. I am very sorry, Mr Twomlow that I couldn't help. Thank you gentlemen for
attending by the way.

(17.19)

(Adjourned)

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

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