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**IN THE CROWN COURT**  
**AT CARDIFF**

**Indictment No: T20097445**

The Law Courts  
Cathays Park  
Cardiff  
CF10 3PG

**20<sup>th</sup> April 2010**

Before:

**HIS HONOUR JUDGE THOMAS**

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**REGINA**

- v -

**MAURICE KIRK**

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**MR R TWOMLOW** appeared for the Prosecution

The defendant appeared in person

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**ALL PROCEEDINGS**

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

**MR TWOMLOW:** I represent the prosecution, Your Honour. I don't know the basis of the application or what the application ... only that it is in relation to costs, that is all.

**JUDGE THOMAS:** Yes. Thank you Mr Roberts. Yes, Mr Kirk.

**MR KIRK:** Good morning, Your Honour.

**JUDGE THOMAS:** Good morning. Is Mr Werrin here today?

**MR KIRK:** No, I am representing him.

**JUDGE THOMAS:** Right.

**MR KIRK:** Your Honour, when we last met I was unaware that information had been given by this prosecution barrister here, Mr Twomlow, to a bail judge on the 2<sup>nd</sup> of December informing the court that they feared that I had a brain tumour. Now, the costs that have been incurred because of this are substantial which is why I felt that this should be brought to your notice as the trial judge today. Briefly, last August Dr Tegwyn Williams managed, without even examining me, to persuade a bail judge on the 7<sup>th</sup> of August to have me transferred from the prison to his forensic laboratory called the Caswell Clinic, stating that he feared that I was mentally ill. Under Section 35 they had to give up after 12 weeks but just before the end of the 12 weeks they insisted on a brain scan and I was subjected to intrusive investigation by way of radioactive isotopes into my brain to obtain a scan. Now, the doctors locally said that there was indication of brain damage or a brain tumour. Now I was left in the dark on most of this because I was a prisoner, but I managed to get the past member of parliament for the Vale of Glamorgan, conservative member of parliament, Walter Sweeney, to get his lovely wife, (inaudible), who is a consultant radiologist to get an expert on my behalf at my expense. That has incurred costs. What is more serious, Your Honour, is that on the 2<sup>nd</sup> of December Dr Tegwyn Williams informed the CPS that he feared I had cancer. This was said in the face of the court, I had been

A refused access to the court, I was being held by the two gentlemen, one of the gentlemen that  
was actually here with custodial services, and I was complaining, "Why am I not in my court?  
My court starts at half past ten?" and at about ten past 11 the Crown Prosecutor representative of  
B Her Majesty the Queen, Mr Twomlow, who is on my right here this morning, told the court that  
he feared that I had cancer and that I should be further detained in a psychiatric hospital and that  
it should be high security and it should be Ashworth, one of Broadmoor's high security prisons.

**JUDGE THOMAS:** Was this in front of me?

C **MR KIRK:** I have a transcript of this ...

**JUDGE THOMAS:** Was that said in front of me?

**MR KIRK:** It was said in front of His Honour Judge Bidder QC. I have the transcript. And  
D more to the point the manner in which redacted transcripts were sent to me at my expense  
throughout the summer is another aspect of an usual aspect of costs application today. Now, I  
am only touching on the medical matters because I am in the magistrates court next week, I was  
E arrested for attempted burglary of the forensic laboratory down at Caswell Clinic in Bridgend,  
trying to obtain the medical records that they had removed after my lawful application under the  
Data Protection Act, having applied to the prison on one hand and paying the money, and  
F applying to Caswell Clinic and paying the money, they have both given me my medical records,  
they are both withholding all the records of Dr Ruth Bagshaw, Professor Roger Wood and Dr ...  
I have forgotten his name now, all of which were involved with the investigation of brain  
damage/tumour. Now, Your Honour, you are a judge of our land, it has got worse than that, I  
have been released due to the decision of a jury who were very annoyed about the whole case,  
G they were interviewed at length after the trial.

**JUDGE THOMAS:** Well I hope they weren't because that is a criminal offence.

**MR KIRK:** In which case I will put it in writing to Your Honour my understanding of that  
H incident and if you wish to take proceedings if it against the law I ask you to do so.

A **JUDGE THOMAS:** Well, they shouldn't be interviewed.

B **MR KIRK:** The issue that I wish to say is that even when I contacted my (Inaudible) health  
centre doctor of some 18 years for my records they have refused and refused me entry to the  
premises again as a patient. I asked them to do this while I was in custody, I asked them to do it  
immediately as I got out. Now, I have then gone to another doctor, registered with another  
doctor, and she cannot get the records because Bupa, the private hospital here in Cardiff will not  
do a brain scan for me, at my expense, under my insurance or through the National Health  
Service. It stinks, Your Honour. There are doors closing and it involves the medical profession.

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But it goes further, on the records last August when the scan was done, sorry, it wasn't late in  
those three months it was towards the end of the first month, it was August, they said I must  
have a brain scan again after three months; I have not yet have it. I can't seem to get one. It has  
now caused me to be, my feathers plucked, I cannot fly. The Civil Aviation Authority were  
contacted by the prosecution here on my right, and all this information is known to the CAA.  
The Civil Aviation Authority refused to return my suspended licence which was suspended  
when they got the message from South Wales Police that I was dealing in machine guns attached  
to aeroplanes. Now, I only live for flying aeroplanes and my family and if the lot round here  
continue to tread on my toes I am going to get angry, and I am going to do things that I will  
regret later. I am very serious about what I have just said. The man on my right is a criminal; I  
have that view, the jury had that view. Yes, they had that view. And I would ask that you, with  
the power of a judge, would look at the situation as a whole, fortunately you are the trial judge,  
because I am coming back here as an appellant in a few months time from the magistrates court  
that takes place on the 28th of April where I am facing a reduced charge of Public Order number  
five, well you don't win Public Order number fives, it is a (inaudible) law, it is there to keep  
people off the street, to see if they are carrying arms or whatever, knives, it is a standard  
(inaudible) law, we all know that. And I will appeal it here on a matter of principle, so this

A matter is not going away and my defence was that I went to the hospital and I was a visitor, I  
signed in and I said, "I have come for the records that you have not handed over under the Data  
Protection Act," and I told you the seriousness and the relevance of those. I am grateful for me  
B taking up your time. Frank Werrin was ill and could not come today. I did not even know he  
had made this application. I have come from France because he rang me only Friday, a few days  
ago.

**JUDGE THOMAS:** Can you help me with this, Mr Kirk, if you would? Is Mr Werrin a  
C qualified solicitor?

**MR KIRK:** I have no idea, and I doubt it, but he did have a right of audience and a lot of  
expense was incurred because I wasn't allowed to interview my witnesses.

**JUDGE THOMAS:** How much did you pay him in total?  
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**MR KIRK:** I paid him ...

**JUDGE THOMAS:** How much?

**MR KIRK:** ... my sister, my magistrate sister has paid him in the region of £1,000. I don't have  
E (inaudible) but there is still outstanding costs of something just under £2,000 in total, and there  
are my gun experts.

**JUDGE THOMAS:** Are there any invoices?

**MR KIRK:** Yes.  
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**JUDGE THOMAS:** Do you have them with you?

**MR KIRK:** I am afraid I didn't expect the privilege of having a right of audience today so I  
have left everything in France in a fireproof safe so that the South Wales Police can't get at it.

**JUDGE THOMAS:** Right. Yes, Mr Twomlow, what do you want to say about it?  
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**MR TWOMLOW:** Well, where a defendant is acquitted a defendant's costs order can be made  
to cover properly incurred expenses as I understand it, and that is a matter that has to be  
determined then either by the trial judge if it is a simple issue, I think, or to be taxed, but I don't  
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A think it is a matter for the prosecution particularly to comment upon. Apart from the fact that I must say that I am disappointed that Mr Kirk found it necessary to personally insult me in the way that he did because there is no basis for it whatsoever.

B **JUDGE THOMAS:** Well, it is unfortunate but I am not going to deal with that matter.

**MR TWOMLOW:** No, I am not going to say anything else about it.

**JUDGE THOMAS:** But do I have the right, this is what worries me, to make a costs order in relation to someone who is not legally qualified? That is the dilemma.

C **MR TWOMLOW:** Well I think if one looks at paragraph, it is page 999 of Archbold in relation to costs.

D **JUDGE THOMAS:** Yes. I got that up this morning and I couldn't find any power to make an order for what in effect was a McKenzie friend (?).

**MR TWOMLOW:** Well it is, the word 'expenses' seems to be used. If they are properly incurred expenses, so it would be wider than simple legal costs, the expenses of witnesses and so forth, it may be something which are covered by it.

E **JUDGE THOMAS:** Sorry, where did you find that? Oh I see, subparagraph six.

**MR TWOMLOW:** Paragraph six, 13 deals with ...

**JUDGE THOMAS:** Sorry? 6.13?

F **MR TWOMLOW:** Yes, 6.16. Section 16, six stipulates, "What (inaudible) decision is being made to make a defendant's costs order it shall, before the payment of such amount as the court considers reasonably sufficient to compensate the person in whose favour the order is made, for any expenses properly incurred by him in the proceedings." So the question would be whether, I think, expenses incurred by Mr Kirk are properly incurred by him in the proceedings. Obviously if Mr Werrin were a qualified solicitor it may have been more straight forward but Mr Werrin certainly did attend throughout the proceedings on numerous occasions and was allowed into (inaudible) matters rather than the trial to speak on behalf of Mr Kirk, although Mr Kirk often

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A didn't accept what Mr Werrin had actually said, but he was here on the face of it assisting Mr  
Kirk and he did go to see him, I know, in the cells on a number of occasions with information  
sometimes that the prosecution had given to Mr Werrin, and that was during the trial. I think  
that is probably as far as I can go in assisting the court about that.

B **JUDGE THOMAS:** Yes. Anything else you want to say on the subject of Mr Werrin, Mr  
Kirk?

C **MR KIRK:** Not on Mr Werrin, but there were three or four other people who were doing  
exactly the same type of assistance of acquiring witnesses and trying to get the evidence from the  
witnesses because I wasn't allowed to interview the witnesses whilst in custody.

**JUDGE THOMAS:** Yes, I will rise to consider my decision. I may be 15 minutes.

D **(10.27)**

**(Adjourned)**

**(10.37)**

E **JUDGE THOMAS:** Yes, this is an application for costs on behalf of Mr Kirk arising out of the  
recent criminal trial, at the conclusion of which he was acquitted by the jury of the charges  
which were laid against him. The hearing today arises from a letter, or more accurately, letters,  
sent by a Mr Werrin who describes himself as the provider of legal services and, in fact his  
description is 'financial and legal consultants'. I am not aware that he is in fact a qualified lawyer  
F and Mr Kirk rather thinks that he isn't. I have been referred to the Prosecution of Offences Act  
1985, Section 16 in particular, subparagraph six, which says that a defendant's costs order shall,  
subject to the following provisions of the section, be for the payment out of central funds in  
G whose favour the order is made," which in this case would be Mr Kirk, "of such amount as the  
court considers reasonably sufficient to compensate him for any expenses properly incurred by  
him in the proceedings." The question I have to decide then is whether the expenses of Mr  
H Werrin were properly incurred.

A This is a rather unusual situation. As I have already said, Mr Werrin is not legally  
qualified, on the other hand he did attend virtually every day of a two week trial and he did  
clearly provide a service in acting as a conduit between the court and Mr Kirk when matters  
B became fractious as they did on a daily, if not hourly, basis. Without such assistance an  
extremely difficult trial would have been rendered more difficult. He clearly did provide Mr  
Kirk with advice, although the extent to which Mr Kirk listened to that advice is questionable.  
He was, it is right to say, helpful to the court at several junctures. I accept that Mr Kirk did incur  
C expense in obtaining Mr Werrin's assistance. I am told that he is not here today, I think I was  
told that this because he is ill.

I am told by Mr Kirk, and I have no reason to doubt it, that he paid Mr Werrin the sum,  
D or has paid the sum of £1,000 although no invoices have been provided. It seems to me in very  
unusual circumstances, and it should not in any way be seen as a precedent, that it would be  
proper in all the circumstances to award that sum of £1,000 out of central funds, which  
represents approximately £100 per day. I have been told that other money is owed to Mr Werrin  
E but in the absence of any documentary evidence to that effect it seems to me that it would not be  
proper to award that further sum.

Mr Kirk raises other matters, he says that other people came along to assist him. It is  
F right that there were a large number of supporters and family members who came along,  
although it has to be said that for the most part they were not helpful, indeed in certain  
circumstances and in respect of certain individuals they were positively unhelpful and disruptive  
of proceedings. It seems to me that they fall into an entirely different category to Mr Werrin.  
G No expert report was ever served by Mr Kirk on the prosecution. One gentlemen who purported  
to be a gun expert had to be threatened with contempt proceedings such was his behaviour in  
court, and was indeed ultimately removed. There should be no costs from central funds in  
H relation to them.

A           The final matter, which is a rather unusual one, relates to a brain scan. I understand that  
and why Mr Kirk feels strongly about that; he made it clear throughout the proceedings, and he  
made it clear today, however, contrary to Mr Kirk's beliefs I cannot award costs to pay for any  
B           such scan or indeed to order that such a scan should take place. It has no direct bearing on these  
proceedings. He may of course have legal remedies elsewhere but not, I am afraid, in this court  
at this time. They are not, in my view, expenses related to this trial or costs related to this trial  
C           which for present purposes that is as far as my powers extend. So just to clarify the situation I  
make an award of £1,000 out of central funds in respect of Mr Werrin but that is the limit of the  
order that I make for costs out of central funds. Thank you very much.

**MR KIRK:** Do I have the right to appeal your decision?

**JUDGE THOMAS:** I believe you do, yes.

**MR KIRK:** Do I need your permission to ... no.

**JUDGE THOMAS:** Thank you.

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

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Signed: Mendip-Wordwave Partnership

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