

REMARKS

(12.17pm)

RECORDER OF CARDIFF: Yes, sad in some ways that the defendant in this case, who I suppose is not coming, could not have been compelled to sit through the last case and get some sort of idea of what Courts actually have to do, having read some of what he writes. Yes.

MR ACE: Well we have made contact I should say with the prison, confirming that he is not willing to attend.

RECORDER OF CARDIFF: Yes.

MR ACE: And also that he currently on a hospital wing. It seems he has been refusing food.

RECORDER OF CARDIFF: Yes.

MR ACE: They have done an initial test on him, whether or not he can make those kind of decisions. It seems that they find that he is. They have not been able to . . .

RECORDER OF CARDIFF: I am sorry, I did not quite catch the last sentence. Go back one sentence. Carried out initial tests?

MR ACE: Initial tests, they are not psychiatric tests, it seems, or preliminary tests to determine his way of thinking, have indicated that he is quite capable of making those decisions for himself at this stage. That seems to be the initial test, but, of course, it is not a full psychiatric assessment and he is refusing to undertake one.

RECORDER OF CARDIFF: Yes. Well I made the Orders I have made in the past. I have tried to assist.

MR ACE: Yes.

RECORDER OF CARDIFF: It certainly on the face of it seems from the correspondence he has been sending in that he would not be able effectively to represent himself in contested proceedings. He appears to have obsessions about particular issues, whereas what is

A important would be for him to concentrate on the merits of this case. Today the matter was listed
for a bail application and I directed his production at court. He has refused to come. On an
earlier occasion in line with the normal modern practice it was arranged to be dealt with over the
video link, so that we can save money, and he refused to go to the video link room. I have done
B everything I can to give him an opportunity to make a bail application and he refuses to make
one.

In relation to representation, I have indicated on previous occasions, and indicate again,
C that I would grant a Representation Order to any firm of solicitors who is prepared to act for
him. But he has identified no firm of solicitors who he will have acting for him, so I cannot
accommodate in those circumstances. I caused the leader of the circuit to be written to, with a
view to seeing whether anyone would act pro bono on his behalf, to assist me if he was not co-
D operating. The leader of the circuit has indicated that at least at the moment there is no-one who
is prepared to act. To some extent this maybe a product of the contents of his website over the
years, and the allegations he has made against various members of the legal profession. I hope
E that someone will be prepared to act notwithstanding.

I have tried to do everything I can to assist. I will again order a transcript of what I say
today, so that nothing is done in his absence that he is not aware of. I really do not think there is
much more I can do.

F **MR ACE:** My Lord, no. I don't know whether some information from a psychiatrist for any
information may assist the Court. What has been attempted . . .

RECORDER OF CARDIFF: Thank you very much Mr Ace. If anything can be done to
G expedite a psychiatric report upon Mr Kirk and a medical report as to his physical condition it
should be done. And Mr Kirk needs to understand that the Court simply identifies that a report
is needed. We do not choose the particular psychiatrist to achieve a result, and we expect the
psychiatrists to behave in accordance with their usual professional standards.

H

A **MR ACE:** My Lord, yes.

RECORDER OF CARDIFF: But when I am confronted with someone who will neither be dealt with over the video link or come to make a bail application, and who writes letters which do not focus on the issues which actually arise, I am bound to try to look after him by causing an enquiry to be made into his psychiatric health. Solicitors have tried to assist, and I have been grateful. They have had meetings with him. But they tell me they cannot act for him, he does not want them. I have indicated it is not a question of an individual firm, he can have whatever firm he likes, and he will not have one.

MR ACE: My Lord yes.

RECORDER OF CARDIFF: In such circumstances considerable public money is being wasted by what he is doing and we are at the moment getting nowhere. And if he continues to refuse to come to court until I have a psychiatric report I am in some difficulty I think appointing someone to act on his behalf.

MR ACE: My Lord, yes.

RECORDER OF CARDIFF: So there is an impasse entirely of his own making. And if he is not mentally ill it is difficult to understand what he is trying to achieve. Today's hearing leads to nothing and wastes further public time and money. It is apparent that he has no conception that he causes difficulty to other people, other litigants, defendants, witnesses and so on by behaving in this fashion. He is entirely on the face of it concerned with himself and nothing else. Beyond that I cannot go.

MR ACE: Well bearing in mind it is a Court Order to report, I understand thus far.

RECORDER OF CARDIFF: Yes.

MR ACE: Would it be incumbent perhaps on the Court to contact the . . .

H

A **RECORDER OF CARDIFF:** Yes the Court will contact the psychiatrist concerned and see whether he can speed things up. Likewise in relation to the medical report I asked for from the doctors at the prison, if it can be speeded up it must be done.

B **MR ACE:** Yes.

RECORDER OF CARDIFF: I am willing to release the matter, of course, from myself. It can be dealt with by any other judge who is prepared to take it during my absence. And it remains as it was on the last occasion, that a bail application can be dealt with at short notice. C But it is not to be listed unless Mr Kirk indicates that he is prepared either to come to court or appear over the video link, given that both options have been pursued and he has refused to cooperate on either basis.

D **MR ACE:** Thank you very much, my Lord.

RECORDER OF CARDIFF: Thank you. I am sorry your time has been wasted. Transcript ordered. Thank you. Mr Ace, one thing did occur to me, there may have been some psychiatric assessment of Mr Kirk in the United States.

E **MR ACE:** My Lord that has occurred to me. We have discussed that in relation to the incident which is referred to in the case itself.

RECORDER OF CARDIFF: Yes.

F **MR ACE:** Flying near the President's ranch.

RECORDER OF CARDIFF: If someone could obtain a copy of that, of course, it would need to be disclosed to Mr Kirk and him given a full opportunity to comment on it. That might provide material upon which I would be able to make an Order?

G **MR ACE:** Yes. I am afraid I am not in a position as to what the disclosure rules regarding information of the Americans in this case do have on this. They clearly will have a wealth of information on him, and there clearly must have been some kind of assessment.

H **RECORDER OF CARDIFF:** Yes, well it is just a thought.

A **MR ACE:** Yes.

RECORDER OF CARDIFF: That if anything can be done to try to make progress in this case. To some extent it would save him from himself.

B **MR ACE:** Yes.

RECORDER OF CARDIFF: But I cannot make any Order against United States Authorities. There is no application before me anyway. And I just do not know what they discovered.

C **MR ACE:** Well it maybe that there is reference in the current medical notes that will be held in this country to that incident and to those issues. It maybe that the current psychiatrist can at least take whatever steps he thinks appropriate to obtain information, if it is indeed possible to obtain it.

D **RECORDER OF CARDIFF:** Yes.

MR ACE: It is something that has occurred to the Crown as well.

E **RECORDER OF CARDIFF:** Yes. It also seems important that what is actually happening in this case is properly reported as opposed to what might appear on websites.

MR ACE: Yes.

F **RECORDER OF CARDIFF:** Portraying some unfair treatment of someone who in fact the Court is bending over backwards to treat fairly. 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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