

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

CARDIFF DISTRICT REGISTRY

B E T W E E N:

**MAURICE JOHN KIRK**

Claimant

-and-

**THE SECRETARY OF STATE FOR JUSTICE**

First Defendant

-and-

**THE NATIONAL PROBATION SERVICE**

Second Defendant

-and-

**THE CHIEF CONSTABLE OF SOUTH WALES**

Third Defendant

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**STATEMENT OF ADRIAN PAUL OLIVER**

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1. I, **ADRIAN PAUL OLIVER**, Solicitor of Dolmans of One Kingsway, Cardiff, CF10 3DS, make this Statement in support of the Third Defendant's Application to Strike Out the Amended Particulars of Claim as against the Third Defendant and/or that Judgment be entered on behalf of the Third Defendant against the Claimant, on the grounds that the Amended Particulars of Claim does not disclose a reasonable cause of action against the Third Defendant and/or in any event does not disclose a claim with a real prospect of success.

2. This Application is concerned with the pleadings referred to in the Order of HH Judge Keyser Q.C. sitting as a Judge at the High Court on 31<sup>st</sup> July 2017. The Third Defendant has previously requested Further Information in respect of the Amended Particulars of Claim, but the Claimant, in default of Paragraph 4 of that same Order, has neglected to provide a Response to that Request. The Amended Particulars of Claim contain sections which are incomprehensible and frequently do not allow for any meaningful analysis of the pleading. The Request was settled in order to identify the precise nature of the claim(s) being advanced by the Claimant. The Claimant having failed to provide a Response, the Court is obliged to consider the pleaded case as it presently stands.
3. It appears that the Claimant is now advancing a two-fold case against the Third Defendant. Firstly he alleges that having been released on licence (albeit that he contends that the terms of the licence were unlawful), his licence was revoked (albeit that he contends that that Revocation of Licence was unlawful) and that thereafter officers acting on behalf of the Third Defendant unlawfully arrested him. Secondly, it appears to be alleged that in some wholly obscure fashion, the Third Defendant interfered in parole hearings which took place once his licence had been revoked. I will consider the various aspects of these claims in turn.
4. On the 2<sup>nd</sup> May 2014, the Claimant was sent to prison for 16 months having been found guilty of two breaches of a Restraint Order which had been imposed to prevent the Claimant's harassment of Dr. Tegwin Williams, a Consultant Forensic Psychiatrist. This matter has a long history, but relates to an occasion when the Claimant was in custody pending trial for possession of a machine gun; the Court ordered that the Claimant should undergo psychiatric examination. Acting in accordance with this order Dr. Williams produced a report. It appears that the Claimant took issue with the contents of that report and has thereafter unlawfully pursued Dr. Williams.
5. The Claimant received a sentence of 8 months in respect of two breaches of the Restraint Order, the sentences to be served consecutively.

6. On the 4<sup>th</sup> July 2014, the Claimant was released on licence. As noted already, the Claimant alleges that the conditions which formed part of the licence were unlawful. It is not alleged by the Claimant that the Third Defendant played any part in the formulation or imposition of those conditions.
7. In Paragraphs 6 and 7 of the Amended Particulars of Claim, the Claimant admits that following his release on licence, he was subsequently subject to recall to serve the unexpired remainder of his sentence. His complaint against the Third Defendant is that when the Third Defendant's officers arrested him (that arrest being admitted), they didn't honestly believe that he had committed the offences which gave rise to breach of the licence conditions. This pleading makes little sense. As the Claimant himself has pleaded, he was not arrested for committing any offences, but rather for breaching his licence conditions. The basis of his claim against the Third Defendant therefore, is entirely misconceived.
8. In any event the substance of the Claimant's complaint appears to be that the licence conditions were unlawful and that the revocation of his licence was unlawful. These are matters which are not susceptible to challenge by way of common law action for damages but rather should have been challenged by way of judicial review. Such an action would not lie against the Third Defendant. In any event, the limitation period for such an action has expired.
9. Further, the Third Defendant's officers were acting in accordance with a notice of Revocation of Licence issued by the Secretary of State for Justice on 11<sup>th</sup> July 2014: Attached hereto is a copy of the Revocation of Licence marked APO1. It will be noted that the action was taken under Section 254 of the Criminal Justice Act 2003, as a result whereof, the Claimant was to be treated as a prisoner at large. The Third Defendant's officers were lawfully entitled to rely upon the notice of Revocation of Licence. Whatever complaint can be made in respect of the conditions of the licence or the revocation thereof, no action can be pursued against the Third Defendant when its officers acted in accordance with the notice. If the Claimant's complaints had any merit, then he should have challenged the revocation at that time.

10. Insofar as the Claimant is now claiming damages for breach of the Human Rights Act 1998 or the European Convention on Human Rights, then such claims are statute barred.
11. The second claim made by the Claimant against the Third Defendant is set out at Paragraph 12 of the Amended Particulars of Claim. It appears to be based upon the premise that the Parole Board refused to hold a parole hearing, or alternatively refused to grant the Claimant parole. It is clear from the Amended Particulars of Claim, that any complaint made by the Claimant is primarily directed to those who control parole. The Claimant does not, in any meaningful sense, specify how the Third Defendant is said to have been responsible for making decisions with regard to parole. Any such claim for review of those decisions is statute barred and in any event are not sustainable against the Third Defendant.
12. More generally the paragraph is confused and confusing as to precisely what is alleged against the Third Defendant. The Claimant complains that an OASys assessment of him relied on spurious police information that he constituted a risk to Dr. Williams and others. However, as the Claimant appears to accept, he had been convicted and sent to prison for breach of a Restraining Order in respect of Dr. Williams. In the circumstances, it is difficult to see how the Claimant could possibly advance a claim on the basis that such information was "spurious".
13. The final sentence of the paragraph makes no sense. Whatever it is supposed to mean, it gives rise to no cause of action as against the Third Defendant.
14. Paragraph 12, insofar as it purports to set out or identify cause of action against the Third Defendant is wholly misconceived.
15. The failure of the Claimant to provide any additional information in respect of Paragraph 12 should count against him when considering whether or not Paragraph 12 identifies any arguable case.

16. Further, insofar as the Claimant seeks damages in respect of this matter under Section 8 of the Human Rights Act 1998 or under Article 5 of the European Convention on Human Rights, then such claims are statute barred.

**STATEMENT OF TRUTH**

I believe that the facts stated in this Witness Statement are true.

Signed A.P. Oliver, DL

Full Name ADRIAN P. OLIVER, DOLMANS

Dated 25.08.17

CASE NO: C90 CF012

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QUEEN'S BENCH DIVISION

CARDIFF DISTRICT REGISTRY

B E T W E E N:

**MAURICE JOHN KIRK**

Claimant

-and-

**THE SECRETARY OF STATE FOR JUSTICE**

First Defendant

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Second Defendant

-and-

**THE CHIEF CONSTABLE OF SOUTH WALES**

Third Defendant

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**WITNESS STATEMENT OF ADRIAN PAUL  
OLIVER**

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Dolmans Solicitors  
One Kingsway  
Cardiff  
CF10 3DS  
Sol Ref APO/SWP001-511  
Our REF 597456

Defendant  
Adrian Paul Oliver  
Dated this 25 day of August 2017

Claim No: C90CF012

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
CARDIFF DISTRICT REGISTRY  
BETWEEN:

MAURICE JOHN KIRK

Claimant

AND

SECRETARY OF STATE FOR JUSTICE

First Defendant

AND

PAROLE BOARD FOR ENGLAND AND WALES

Second Defendant

AND

CHIEF CONSTABLE OF SOUTH WALES POLICE

Third Defendant

EXHIBIT SHEET

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This is the exhibit marked "APO/1" in the Statement of Adrian P. Oliver

SIGNED: A.P. Oliver, DC

DATED: 25.08.17

NOT PROTECTIVELY MARKED

Electronic Monitoring Services - London and Eastern:  
West Midlands and Wales:

T:08080 965 124  
T:08080 152 369



**Prison No: K95957**  
**D.O.B: 12 Mar**  
**1945**  
**CRO No: 25171/95D**

## REVOCATION OF LICENCE

**Criminal Justice Act 2003**

**The Secretary of State for Justice hereby revokes the licence**  
**commencing on** 04 Jul 2014  
**in respect of** MAURICE KIRK

**and recalls the offender to prison.**

**This action is taken under Section 254**  
**of the Criminal Justice Act 2003**  
**as amended**

  
**for Secretary of State for Justice**  
11 July 2014

**Note:**

**A person whose licence is revoked is liable to be detained in pursuance of their sentence and may be apprehended without warrant. If they remain at large they are deemed to be unlawfully at large and any period for which they remain at large does not count towards their sentence.**

**Ministry of Justice**  
**Offender Management and Public Protection Group**

NOT PROTECTIVELY MARKED