

Case Ref: A20140082

STATEMENT OF WITNESS

*(Criminal Procedure Rules, r. 27.2;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980, s.5B)*

STATEMENT OF TERENCE EWING

Age of witness (if over 18, enter "over 18"): Over 18

This statement (consisting of 4 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

1. I attended the trial of Maurice Kirk for alleged harassment offences at Cardiff and the Vale Magistrates' Court in court 6 before District Judge John Charles on 1 December 2011, as I had done at a number of earlier hearings before the court during November.
2. I arrived at around 11.00 hours and the trial was continuing in the absence of Mr. Kirk who wasn't present in the dock which was the first thing that I noticed as I found a seat amongst Mr. Kirk's supporters who were already in the court public section at the rear of the court.
3. At the close of the prosecution case, District Judge Charles retired to consider his decisions in respect of the charges against Mr. Kirk and came back at around 12.45 hours and delivered his guilty verdicts by reading out a short judgment that took around 5 minutes.
4. Prosecuting counsel Mr. Gareth Evans then informed District Judge Charles that he had a draft restraining order in respect of Mr. Kirk, and that the prosecution was claiming around £3,000 in costs and he had a costs breakdown.
5. Prosecuting counsel then handed the draft restraining order to District Judge Charles along with the costs breakdown and District Judge Charles stated that the terms should be made stronger.



Signed: (witness)

Date: 4 April 2014.....

6. There then ensued discussions between Mr. Gareth Evans and District Judge Charles about the terms of the restraining order and I recall that there was discussion concerning the publication of the image of the alleged victim and Mr. Kirk going within the physical vicinity of the Caswell Clinic.
7. After the discussion between Mr. Gareth Evans and District Judge Charles had finished, District Judge Charles wrote amendments to the draft order on it with what looked like at the back of the court a fountain pen, and then handed it back to Mr. Evans.
8. I recall that he may have asked the usher to make a copy of it, as he then spoke to the Clerk to the court whom I now know to be a Mr. Williams, and directed that over lunch a copy of the draft restraining order as amended by him be shown to Mr. Kirk in the cells, so that he could make any representations on the terms.
9. I also recall that he did the same concerning the costs breakdown for £3,000 and that he also directed that a copy of that be given to Mr. Kirk in the cells.
10. I recall that Mr. Williams took possession of these copy documents and stated that he would take them down to the cells for Mr. Kirk to look at.
11. The court then rose for the luncheon break at around 13.00 hours and I left the court for lunch at the court canteen along with some other supporters of Mr. Kirk.
12. At around 14.00 hours I again attended court 6 before District Judge Charles and after the District Judge had entered the court, Mr. Williams informed him that the draft restraint order and costs schedule had been given to the court security staff in the cells to be drawn to the attention of Mr. Kirk.
13. District Judge Charles then enquired of Mr. Williams whether Mr. Kirk would be coming into court to attend the sentencing, and whether he had any representations to make regarding the draft restraining order and the costs breakdown.
14. Mr. Williams informed the court that he would telephone the court security staff in the cells, which he then proceeded to do from his desk in front of District Judge Charles.
15. I recall Mr. Williams then dialled the phone and then introduced himself and enquired if Mr. Kirk had any representations to make concerning the draft restraining order, the costs schedule and whether he would be attending the court.



Signed: (witness)

Date: 4 April 2014.....

16. I recall that Mr. Williams put the phone down and there was a delay of about 5 minutes.
17. The phone then rang and Mr. Williams answered it and spoke to someone on the end of the line for around 30 seconds.
18. Mr. Williams then put the phone down and informed District Judge Charles that Mr. Kirk was declining to attend the court at all.
19. District Judge Charles then announced his sentence of imprisonment that I recall was six months and that there would be a restraining order in the terms as drafted and that Mr. Kirk would also pay the costs of the prosecution of £3,000.
20. At this conclusion, District Judge Charles informed Mr. Williams that the restraining order when typed up should be served on Mr. Kirk before he left the court at the end of the day, as the sentence imposed meant that he had to be released that afternoon with time served.
21. Mr. Williams said he would see that this was done, and the court then rose. I don't recall Mr. Williams going down to the cells at this stage, and Mr. Kirk's supporters then left the court along with myself.
22. Mr. Kirk's supporters then congregated in the main foyer to wait for Mr. Kirk to emerge from the custody area of the court.
23. I waited until around 17.00 hours and then left the court, although Mr. Kirk's other supporters remained at the court.
24. I also attended the trial of Mr. Kirk at Cardiff Crown Court between the 2 May 2012 and 4 May 2012 before His Honour Judge Curran in court 2.
25. After the close of the proceedings in the afternoon of 3 May 2012, Mr. Kirk remained in the dock that was in the centre of the court, as he wanted to talk with his supporters.
26. I recall that prosecuting counsel Mr. Gareth Evans came past with the solicitor from the CPS and Mr. Kirk spoke to him in the presence of the other supporters and myself concerning the whereabouts of the draft restraining order with District Judge Charles's handwritten additions on it.
27. I recall that Mr. Evans spoke to the CPS solicitor and stated that it might be at the CPS headquarters at Merthyr Tydfil and that they would produce it the next morning.



Signed: (witness)

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28. Earlier, Mr. Kirk had indicated to Judge Curran that he proposed calling Mr. Gareth Evans as a defence witness, and Mr. Evans had informed His Honour Judge Curran that he would have to take advice from his professional body as to his position.
29. I arrived the following morning on 4 May 2012 at around 11.00 hours and the case had already commenced.
30. At some stage during the proceedings, there was a commotion in the dock but I didn't see exactly what happened, but the surrounding court security staff bundled Mr. Kirk down to the cells.
31. I seem to recall that there were questions from the jury before they actually retired and I recall one was asking why was there no CCTV and could any CCTV be produced. It may be that this was the only question at this time.
32. I recall that His Honour Judge Curran spoke to Mr. Evans regarding the CCTV issue and informed the jury that the CCTV evidence couldn't now be found.
33. His Honour Judge Curran then summed up to the jury and they then retired. I recall that there were further questions from the jury during their deliberations, and that one concerned the evidence of the police witness who had informed the court that she had viewed Mr. Kirk's site. I cannot now recall how the question was framed.
34. I recall that the jury came back in the court for this interchange and were then sent out again. I cannot now recall what Judge Curran in fact told the jury.
35. Regarding the asking of the first set of questions, it is my recollection that this took place prior to the jury retiring, but I may be wrong about that and two sets of questions were asked whilst the jury were in its deliberations.
36. I am able and willing to attend court and give evidence if required by Mr. Kirk and his legal representatives.



Signed: (witness)

Date: 4 April 2014.....