

IN THE CROWN COURT AT CARDIFF

The Law Courts
Cathays Park
Cardiff
South Wales
CF10 3PG

BEFORE:

HIS HONOUR JUDGE PAUL THOMAS QC

BETWEEN:

R

PROSECUTION

- and -

MR MAURICE JOHN KIRK

DEFENDANT

Legal Representation

Mr Richard Twomlow (Barrister) on behalf of the Prosecution
Mr Kirk, Litigant-in-person

Other Parties Present and their status

Mrs Celia Jeune - Defendant's sister

Whole Hearing

Hearing date: 25 January 2010
Transcribed from 10:58:38 until 11:30:17
14:46:06 until 15:37:34

Reporting Restrictions Applied: No

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Number of folios in transcript 184
Number of words in transcript 13,192

A **Court Clerk:** Court please rise. Are you Maurice John Kirk. For trial, the case of Maurice Kirk. Are you Maurice Kirk?

Mr Kirk: Well, possibly, but ...

B **Court Clerk:** Are you Maurice Kirk?

Mr Kirk: For fear of not getting bail, last time the only reason for my being refused bail, on
C 17 December, was because apparently I didn't identify myself when I came to Court. I was refused bail, Your Honour, because His Honour Judge Bidder said that due to my mental incapacity, based on the medical records or the report of the director of the South Wales Psychiatric Forensic Service, Dr David Williams, and because I had appeared to ignore Court
D orders during his hearing, I was refused bail.

His Honour Judge Thomas: It's a simple question at the moment, Mr Kirk, is, are you Maurice Kirk? Is, is your name Maurice Kirk?

E **Mr Kirk:** That is what I believe, yes.

His Honour Judge Thomas: Thank you very much. Thank you. Now, there are certain matters that need to be dealt with before a Jury can be empanelled. The first of those is a
F request for anonymity in relation to the witness known in the depositions as Foxy. I've considered this matter, and I now give my ruling on that. The application is pursuant to Section 86(2) of the Coroners and Justice Act 2009, which came into force on 1 January 2010. The application, as I've said, is in respect of a covert undercover officer known in the
G depositions as Foxy, and the application is that that witness's proper name and other identifying material be withheld under Section 86(2)(a)(i) and (ii), that that pseudonym of Foxy be allowed in place of that name, that the witness be not asked any questions of any specified description that might lead to his identification and that the witness be screened
H from the view of the Defendant and the public gallery when giving evidence.

I have of course to be satisfied of the three conditions, (a) to (c), outlined in Section 88 of the Act, and I've considered them. I'm satisfied that the matter set out in Section 88(3)(a),

A
B
namely that there are grounds to fear that if his true identity became known his personal safety would be jeopardised as an undercover officer and that therefore the measures are necessary to protect his safety, and also that the measures are necessary to prevent real harm to the public interest and that it would compromise such a witness from being deployed in a similar way in the future and it would have an adverse effect on the use of such information gathering techniques. Having regard to the nature of the allegations, the contents of the website, as set out in the exhibits, and the need to protect and prevent the, the compromise of future operations, in my view condition (a) is satisfied.

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D
Condition (b) as set out in Section 88(4). The relevant evidence is that of a phone call, a transcript of which has been provided, and the original CD recording of it is available to be listened to. Therefore, the evidence to be given is corroborated fully in the form of such an audiotape, and the evidence can be tested without the need for the witness's identity to be disclosed. It is a very discrete point. It depends on whether or not Mr Kirk said what the recording indicates he said, and it seems to me that that condition therefore is met. In my view, no measure short of anonymity or the use of screens would suffice in order to prevent the witness's identification becoming known.

E
F
Condition (c) is set out in Section 88(5), and I have to have regard to the interests of justice. In this case, the evidence that is purported to be given is an admission, on the face of it, by Mr Kirk that he was in possession of the Lewis gun and that the Lewis gun had at some point not been deactivated. It seems to me here that there would be real harm to the public interest if anonymity was not maintained in circumstances such as this where I can see no prejudice to the Defendant. So that order is granted.

Now, you've asked, Mr Kirk, for transcripts. Can I just check with you there was a, have you ever had any transcripts in that form?

G
Mr Kirk: On numerous occasions Judges of Cardiff Court have promised me transcripts, and I have finished up paying, I would have paid over £1,000 now in having to acquire those transcripts because the Court failed to produce any to me in prison.

H
His Honour Judge Thomas: Well, would you look at this document and see if you've seen a copy of this please? Do you have that?

(defendant confers with his sister)

A

Mr Kirk: I would need to check the files that I've got that are labelled as transcripts. I have asked the prison to bring my legal papers with me to Court. I asked on a regular basis by, by letter. And as I came into the Court this morning, I find that my Court papers are still in the prison, including transcripts that will be, to which this might refer. This isn't the first time. During the eight months, for all that eight months in custody, the prison, when I got shipped off unlawfully to the local lunatic asylum for three months under a Section 35, achieved by Dr Tegwyn Williams alone, writing a certificate without even examining me, the prison withheld all my papers during most of the time that I was in Caswell Clinic, Bridgend. Now here we are again, and I have done everything in writing this time so that there can be no suggestion at the Court of Appeal that I have been obstructive in any aspect from the moment I was arrested to the time that I have been dealt with by Cardiff Court.

B

C

D

His Honour Judge Thomas: Have you seen that document that I've just handed to you, Mr Kirk?

E

Mr Kirk: I cannot answer the question, because my legal papers are being withheld by the prison yet again.

F

His Honour Judge Thomas: There's a bag behind you which appears to contain papers.

Dock Officer: It's all the bags that have been given to us this morning, Your Honour.

G

His Honour Judge Thomas: Are those what you're talking about, Mr Kirk?

Mr Kirk: This doesn't work.

H

(defendant confers with his sister)

Mr Kirk: Tango, Sierra. Testing.

His Honour Judge Thomas: Are those the papers you're talking about, in the dock behind you?

A

Mr Kirk: No, they are in boxes. There are, I think, 15 boxes, and they have only brought one of them. I insisted every time they unlocked the door this weekend. I only acquired the files on Friday. I have been asking for those files for eight to seven months. I only achieved it, well, anyway, that's not your problem. They are now in the prison. I haven't been able to test that they are, because they only allow me six files a day in the cell. There are 52 files, I am told.

B

His Honour Judge Thomas: Well, what I want to check is that you have the depositions for this case, the criminal trial to do with the Lewis machine gun, not the 52 files to do with your civil case but that you have the papers concerning this trial. Now, would you like to look at those papers for a moment for me?

C

(judge confers with clerk)

D

(defendant confers with dock officer)

Mr Kirk: Your Honour, there, they will be in one of these bags, I hope.

E

(defendant confers with dock officer)

His Honour Judge Thomas: Well, I don't, I don't want the bags to be opened at this stage. What I'm going to do, dock officers, there's no need to open the bags at the moment.

F

(defendant confers with dock officer)

G

His Honour Judge Thomas: I know, Mr Kirk, that you have a great volume of material relating to your civil case. That cannot be and will not be in the dock with you. What I have to ensure is that you have the documentation available for this trial. Now, I am going to get you copies of the transcripts that I have seen. You can look at those, but this trial will be starting today at 2 o'clock. You understand that?

H

Mr Kirk: Yes, though I missed the bit before. I'm sorry. This machine doesn't work very well. I can hear you.

His Honour Judge Thomas: Good, well, the --

A **Mr Kirk:** What I'm about is I may not be able to hear the Prosecution later.

His Honour Judge Thomas: Well, we will make arrangements to that end. But what will happen this morning is that those transcripts will be given to you. You will be able to read them in the cells between now and 2 o'clock.

B **Mr Kirk:** Sorry, which transcripts?

C **His Honour Judge Thomas:** The only transcripts that I have seen. If there are other transcripts, then I haven't seen them and I do not know of their existence. So the transcripts that I have seen will be given to you. Do you understand that?

Mr Kirk: What about the transcripts the Crown Prosecution have seen?

D **His Honour Judge Thomas:** As far as I am aware, there are no other transcripts, other than the ones that I will give to you. Now, you may well have already had copies of them. I suspect you have, but, just to be certain, you will have those copies. You understand?

E **Mr Kirk:** I've spent over £1,000 buying some, most of them. Now, which are which, I can't remember, but I, I've missed a few because I've lost track of how many trials, Court hearings we've had. This will be the, is it the thirteenth, fourteenth time I've come to Court? We've had eight Judges so far. I think you are the eighth Judge. I know I missed 7 August, and I think I missed 3 September.

F **His Honour Judge Thomas:** Yes, you will get --

G **Mr Kirk:** But what I said was --

His Honour Judge Thomas: You will get, Mr --

H **Mr Kirk:** The Crown Prosecution --

His Honour Judge Thomas: Mr Kirk --

Mr Kirk: Have been buying them.

A

His Honour Judge Thomas: Mr Kirk, you will get all the transcripts that I have seen and that as far as I am aware have been authorised by the Court. You will have those.

Mr Kirk: What is the purpose of them?

B

His Honour Judge Thomas: I've no idea, but you can have --

Mr Kirk: No, what is the purpose of you --

C

His Honour Judge Thomas: What I've got.

Mr Kirk: What is the purpose of you giving them to me?

D

His Honour Judge Thomas: So that you have what we have and I can be sure that you have what we have, in terms of transcripts.

E

Mr Kirk: The, the previous Judges said that I could have all of them. I now need the money to have my witnesses brought to Court. It's called bus fares and things like that. *Now*, I've paid out over £1,000 because the Judge said that if I employed a lawyer I would be allowed to have a psychiatrist. If I employed a lawyer, I could get transcripts. I now need the return of the money that I've paid to the Court that the Court has promised in order that I can instruct a lawyer to do certain work. I have the bills. I have sent in the bills to the Court, of the transcripts that I have ordered. I've now got my sister, who's having to travel from abroad to try and assist, has been paying on my behalf. We, I need to have money returned in order that I can conduct what I call a fair trial.

F

G

His Honour Judge Thomas: Yes, you've told me that before. I've given you now or you will have in due course the transcripts that we have. You must now go down to the cells and check that the documentation that you have brought with you is the documentation which contains, for example, the depositions and exhibits in this case. As far as witness summonses are concerned, I've looked at your letter and I will keep that under review as we go along. But it seems to me that the only orders that I can make are where there are named individuals

H

with addresses, and in particular those to whom a witness summons can properly be directed.

We will look at that as the case goes on.

A

Mr Kirk: I wish to speak to my sister in private.

His Honour Judge Thomas: Mr Werren is your McKenzie friend, as I understand.

B

Mr Kirk: I wish to speak to Celia, who has flown in from abroad specifically to see me on matters relating to this trial.

C

His Honour Judge Thomas: Well, those matters can be --

Mr Kirk: Are you refusing?

D

His Honour Judge Thomas: I am telling you this, if you will listen, that Mr Werren can give you any help that is necessary.

Mr Kirk: Who is Mr Werren?

E

His Honour Judge Thomas: Mr Werren, as I understand it, is your McKenzie friend.

Mr Kirk: Who told you that?

F

His Honour Judge Thomas: I've no idea.

Mr Kirk: Well, I think I ought to know.

G

His Honour Judge Thomas: Do you want Mr Werren to act as your McKenzie friend?

Mr Kirk: Who is he?

H

His Honour Judge Thomas: Do you want him to act as your McKenzie friend? If you say no, then he won't act as your McKenzie friend. If you say yes, he will. Do you want him to act as your McKenzie friend?

Mr Kirk: I'd need to consider that.

A

His Honour Judge Thomas: Well, you go and consider that.

Mr Kirk: But I need to speak to my sister Celia immediately in private. It is my legal right under Article 6.

B

His Honour Judge Thomas: I will consider that in the meantime.

Mr Kirk: Good.

C

His Honour Judge Thomas: Right. Now, then, you must go. Mr Kirk, you will now go, please, and make sure that you've got the papers you need for this trial. That is to say the depositions and the exhibits for this trial. Do you understand?

D

Mr Kirk: Yeah.

His Honour Judge Thomas: Right. And just to tell you what's going to happen this afternoon, this afternoon a Jury will be sworn in to commence the trial, and the Prosecution this afternoon will tell the Jury what they say their case is. What Mr Twomlow says at that stage will not be evidence. It is simply the Prosecution setting out their case. And after that, the Prosecution will start to call their evidence, so I want to know that you have got your papers with you so that we can embark upon that. Do you understand?

E

F

Mr Kirk: Yes.

His Honour Judge Thomas: Thank you very much.

G

Mr Kirk: Could I have my computer returned from the police please?

His Honour Judge Thomas: No.

H

Mr Kirk: But it is my defence. I'm required to serve a defence statement on the Prosecution before, before the Jury hear evidence.

A **His Honour Judge Thomas:** You've been asked on many occasions to do that. You can be provided with pen and paper to set out what your defence statement is if you wish to do it. But you cannot have access to your computer.

Mr Kirk: But the law allows me a few more days.

B **His Honour Judge Thomas:** I'm afraid that what the law is is my province, not yours. You've been given many, many opportunities. Now, if you want to draft a defence statement today, I will, even though it's out time, permit it. But that will have to be on pen and paper. Do you understand?

C **Mr Kirk:** This weekend *the*, the Crown Prosecution revealed and served on me, the Defendant, for two indictments, each carrying a, a mandatory five year prison sentence, which I have now realised, which is one of the reasons why I wish to speak to my sister. It is becoming painfully obvious that the Prosecution Service do not want five years. Plus they can protect themselves from my civil actions against the police. They want, they are seeking a ten year prison sentence. If you look at the wording of each indictment, because of the document that they have served on me, this Saturday, I've only had this, this Saturday in the post. May have been Friday. The letter which relates to this new exhibit was dated before you and I first met, on 18 January. It's dated 12 January.

D **E** **F** **G** Because I have *a* meticulous record of the letters both leaving my prison cell and entering my prison cell, I notice that letters from my lawyers around the country dealing with other matters get opened when they have Section 49 written on it, or whatever it is. I also notice that the letters coming from certain people take more than seven days from the date, the, the stamp on the outside of the letter gets to my cell, inside my cell door. Now, the, just getting back to the file, the exhibit IDW/3, which must mean ID Williams, Detective Constable Williams, third exhibit, has been served on me under the law of Criminal Procedure and Investigations 1996, 6A, whereby it states that:

“You now have 14 days to file a defence statement.”

H Now, if that law is at variance to your interpretation, I am in difficulty. But what is important, Your Honour, and please, I, I appreciate your patience, because I do tend to ramble, especially when I get annoyed, the document that has been served on me is an article

A in the April edition of Pilot Magazine, 2002, and it is clear to me that I need details of the incident to which they refer, in order to consider changing my plea on one of the charges, not both charges, on one of the charges.

His Honour Judge Thomas: Which is the document that you refer to?

B **Mr Kirk:** Well, the Prosecution won't give it to me.

His Honour Judge Thomas: Can you, can you just tell me again, Mr Kirk, what document you refer to?

C **Mr Kirk:** I forget. I suffer, Dr Tegwyn Williams has, has said that I'm not fit for bail, because I suffer from a mental disorder. No one else. And one of the aspects he's put in it, he, that I suffer from a, a, an illness known as short term memory and fixed paranoid delusional disorder.

D **His Honour Judge Thomas:** Well, if you can find out which this document is that you refer to, Mr Twomlow, can you --

E **Mr Kirk:** Well --

His Honour Judge Thomas: Help --

F **Mr Kirk:** I, I, I --

His Honour Judge Thomas: With that?

G **Mr Kirk:** I find it quite amusing that it's --

Mr Twomlow: I'll just take instructions.

(counsel takes instructions)

H **Mr Kirk:** Taken so long to find it, when it has been held back for eight months and deliberately delayed to the very last moment.

A **His Honour Judge Thomas:** Well, let's, let's not put pressure on people to find something --

Mr Kirk: It's --

B **His Honour Judge Thomas:** Quickly.

Mr Kirk: IDW/3.

C (pause)

(counsel takes instructions)

D **Mr Twomlow:** Does Your Honour have it? The, the --

His Honour Judge Thomas: Not, not to hand immediately, no.

E **Mr Twomlow:** I've just been handed ...

(pause)

F **His Honour Judge Thomas:** IDW/3, which is *the* magazine article Maurice "Flying Vet" Kirk, Pilot Magazine, April 2002.

Mr Twomlow: Yes, Your Honour.

G **His Honour Judge Thomas:** And you say you don't have a copy of that.

Mr Twomlow: No, we don't.

H **Mr Kirk:** I have a copy, *but* --

Mr Twomlow: He has a copy, yes.

Mr Kirk: I had a copy served on me only this weekend.

A

His Honour Judge Thomas: Is that correct?

Mr Twomlow: *It was* served recently. I don't know when it, when Mr Kirk received --

B

Mrs Jeune: Well, I can't *hear*.

Mr Twomlow: It, but it would have been ...

C

His Honour Judge Thomas: Do you have a ...

(defendant confers with his sister)

D

His Honour Judge Thomas: Do you have a copy?

(defendant confers with his sister)

E

Mr Kirk: I cannot hear what this gentleman says.

His Honour Judge Thomas: Right, well, Mr --

Mr Kirk: And I will not be using the word gentleman throughout the trial.

F

(parties confer)

His Honour Judge Thomas: Right, let's, I ...

G

Mr Twomlow: I wondered if you wanted me to repeat what I said, because Mr Kirk didn't hear me.

H

His Honour Judge Thomas: Yes, please.

(defendant confers with his sister)

His Honour Judge Thomas: Mr Kirk, Mr Twomlow will no doubt speak a lot louder than he normally would.

A

Mr Twomlow: It was served recently. And I don't know when Mr Kirk would have received it, but it may have been this weekend.

B

His Honour Judge Thomas: Right.

Mr Twomlow: So --

C

His Honour Judge Thomas: Do you have a --

Mr Twomlow: Not --

D

His Honour Judge Thomas: Copy --

Mr Twomlow: Disputing --

E

His Honour Judge Thomas: To hand --

Mr Twomlow: That.

F

His Honour Judge Thomas: Mr Kirk?

(defendant confers with dock officer)

Mr Kirk: I have a copy, yes.

G

His Honour Judge Thomas: Right. Now, then, what do you want to do in relation to that, do you say?

H

Mr Kirk: In the light of what it contains ...

His Honour Judge Thomas: Yes.

A **Mr Kirk:** It now gives me, it causes me some difficulties in one of the pleas where the remaining, those, those charges that are left remaining in this case, there are two, do I understand? Am I --

His Honour Judge Thomas: Yes.

B **Mr Kirk:** Correct? Well, one of them I wish to reconsider, but I need time and I need to speak to my sister on the matter.

His Honour Judge Thomas: Right, now --

C **Mr Kirk:** Oh, no, please let me finish. He has in front of him the very date and the, the surveillance on me in the prison. He also has confirmed that I only received it this Saturday when I opened my mail. But the occurrence number or the reference number, first of all
D could the Prosecution give me the, the, they give it so many names. I have my family everywhere trying to preserve evidence for this trial. They're out there trying to communicate with the police. Could I please at least have the reference number of this proceedings at the local police station? Do you see what I mean?

E **His Honour Judge Thomas:** No, I'm afraid I don't. What do you mean? The --

Mr Kirk: It's, it's called an incident number, could I have, at least to write down for my sister to make enquiries when we have a lunchbreak, to pursue the incident, the police
F incident number for which I'm in, standing before the Court for?

His Honour Judge Thomas: The only document that you are standing before the Court for is the indictment.

G **Mr Kirk:** But it had to have originated by police action, and every police action, it's been given, or in my *youth if I*, when I used to be allowed to work as a veterinary surgeon it was called an incident number.

H **His Honour Judge Thomas:** Well, I don't, I don't --

Mr Kirk: In your time, Your Honour, it is now called an occurrence number.

A **His Honour Judge Thomas:** Well, I don't have that. The Prosecution may or may not, and no doubt the Prosecution will in the next half hour or so consider that request, which I can't look at, at the moment.

B **Mr Kirk:** Yes.

His Honour Judge Thomas: Just to deal with your, just to deal with your first point about your sister, dock officer, is there any reason, from your point of view, why his sister cannot come down to the cells to speak to him?

C **Dock Officer:** *I mean, I'm* going to have to check with the supervisor because it, I think it's, if you say so, Your Honour, then we'll just have to *do it*.

D **His Honour Judge Thomas:** Right, well, could you find out what the supervisor's approach is? And then I will consider the application anew. And that can be done administratively in chambers.

E **Mr Kirk:** Sorry, are you suggesting that Reliance has refused my sister to come and see me this morning?

F **His Honour Judge Thomas:** No, what I'm saying is that if they want to make representations, I will hear them and I will decide. That is what I'm saying. If they have an objection, then I will consider that objection.

Mr Kirk: So who's in charge, Your Honour?

G **His Honour Judge Thomas:** If they make an objection, I will consider it. And if I think it is a proper objection, I will not allow your sister. If, on the other hand, I think it is not a proper objection, then I will allow your sister. Do you understand?

H **Mr Kirk:** Did they make an objection for a Mr Francis Werren?

His Honour Judge Thomas: Mr Werren has been allowed to see you this morning, hasn't he?

A **Mr Kirk:** No.

His Honour Judge Thomas: Did you ask him to come to see you?

B **Mr Kirk:** Well, that's a matter for me.

His Honour Judge Thomas: Well, I'm not going to play games with you, I'm afraid, Mr -
-

C **Mr Kirk:** I was told --

His Honour Judge Thomas: Mr --

D **Mr Kirk:** That he came --

His Honour Judge Thomas: Mr Kirk --

E **Mr Kirk:** Down --

His Honour Judge Thomas: Mr Kirk, I haven't interrupted you this morning. Now, please don't interrupt me.

F **Mr Kirk:** *No*, no, I, I hope I don't. Sorry --

His Honour Judge Thomas: Thank you.

G **Mr Kirk:** Your Honour.

His Honour Judge Thomas: Now, what I want to do is I want to find out what the position is. If it proper for your sister to come down, which I will decide, she will come down and see you, all right? If there is an occurrence number that can be given to you properly, then that will be done. But I will make the decisions. Now, then --

H **Mr Kirk:** But concerning my changing of plea or not ...

A **His Honour Judge Thomas:** Yes.

Mr Kirk: The new article that has been served on me this weekend refers to an incident that relates to this case, and I need the occurrence number for that in order that my family can make enquiries to preserve evidence. Do you see?

B **His Honour Judge Thomas:** Well, I don't at the moment, but --

Mr Kirk: *Well, it, it --*

C **His Honour Judge Thomas:** No doubt, but no doubt, if it can be ...

Mr Kirk: Yes, but it's urgent.

D **His Honour Judge Thomas:** All right.

Mr Kirk: He, she's come over to do just that.

E **His Honour Judge Thomas:** Yes, OK.

Mr Kirk: She, we've now got a, a, a late served exhibit for the Jury, on the pretext to try and get a defence statement out of me, because they gave me 14 days under the law, starting from last week, which means I can, I'm entitled to an adjournment of everything. But I'm not asking for it, because I'm also a taxpayer.

F (counsel takes instructions)

G **Mr Kirk:** But now that they have given me the document that they should have served on me at the time of my arrest, in there is an incident directly of importance to the Jury, and to the Defendant, I suppose, which has a police occurrence number because the police were heavily involved.

H **His Honour Judge Thomas:** Right.

Mr Kirk: So I, please, during, and last thing, please, during this adjournment. The CPS keep giving me documents throughout the summer with the pretext that they're giving me another 14 days to lodge a, a, a defence statement. And I am completely confused as to the total number of undisclosed and non sensitive incidents that they rely on. Actions. They're, they're numbered 1 to 300 and something. And could I have a clean copy, please, of the lot because, because they've come in dribs and drabs, and I've sent some away in the post. I am completely confused, due to this new article of the Pilot Magazine coming in.

His Honour Judge Thomas: Right, well --

Mr Kirk: Thank you, Your Honour.

His Honour Judge Thomas: What, what --

Mr Kirk: I'm most grateful.

His Honour Judge Thomas: What you will have is a clean copy of the logs. Is that, that wouldn't cause any problems, Mr Twomlow? Because you --

Mr Twomlow: Well --

His Honour Judge Thomas: I think I've --

Mr Twomlow: No, I --

His Honour Judge Thomas: Asked for one for my, my own purposes.

Mr Twomlow: No.

His Honour Judge Thomas: You will have one of those. I will discover whether or not there is any objection from the cells because they have their own security issues which are beyond my remit immediately. And then we will come back here at half past 12 to make sure that we can have a clean start to the trial at 2 o'clock.

Mr Kirk: Yes. Would I be entitled to have something in writing as to their objections?

A **His Honour Judge Thomas:** Objections to what?

Mr Kirk: To access to my witnesses. I have successfully sued Reliance for a five figure sum, they knew that, when I got beaten up three times in one day whilst under the Magistrates' Court. The prison have just received a £50,000 judgment against them for yet another judgment I've had against them over the years for false imprisonment. Those two issues I will ask you please to bear in mind in the way that I'm being treated. Like, for example, my files that relate to this charge are still locked up in the prison when they should be here.

C **His Honour Judge Thomas:** Right. I hear --

Mr Kirk: Thank you.

D **His Honour Judge Thomas:** What, I hear what you say. Perhaps, please, if there is any representation to be made by the supervisor, that can be transmitted to me. Thank you very much.

E **Mr Kirk:** *Thank you, Your Honour.*

Court Clerk: Court please rise.

F (adjournment)

Court Clerk: Court please rise. Return to trial of Maurice Kirk.

G **His Honour Judge Thomas:** Yes. Now, Mr Kirk, you indicated when we last adjourned that you might be considering your, your pleas. Is that the situation? Or ...

Mr Kirk: No, one plea only.

H **His Honour Judge Thomas:** One plea only.

Mr Kirk: Because of the late production of exhibits and a, a statement *for a* Prosecution witness.

A

His Honour Judge Thomas: Yes.

Mr Kirk: Only received this weekend from the Prosecution Service, which, which has thrown a doubt in my mind about one of the remaining charges left in your original list of indictments.

B

His Honour Judge Thomas: Yes.

C

Mr Kirk: The article from the April edition of 2002 Pilot Magazine refers to the police incident, and you'll recall that you had difficulty with the CPS knowing what an occurrence number was. I was aware that I had two uniformed police officers behind me and three un, non uniformed officers, *they* now make three, plus representatives from Dolmans, who are the, the lawyers for the police in my civil action against them for malicious prosecution.

D

The adjournment, I hope that you would now have the occurrence number for the incident that is before this Court, so that my sister, I'm trying to charter a, an aircraft at the moment, in her time, to be taken to the various places of incident in order to gather the material from the relevant police stations. You want me to look at that article that has just been served as an exhibit. It, it, it is an exhibit of Detective Constable ID Williams, identified as IDW/3.

E

His Honour Judge Thomas: Yes.

F

Mr Kirk: If you've had the time to see in the papers, there are a number of issues relating to this case.

G

His Honour Judge Thomas: Yes, I have.

Mr Kirk: So my first question is, I'm, I, I'm hoping, *almost* anxious, to get the occurrence number for the indictments that are before you. And as I said, I seek an, well, *I had* the lunch hour to consider one of the indictments in the light of fresh evidence, but I still haven't been given the fresh evidence, because I haven't yet been given the occurrence numbers of the

H

incidents that refer, that, that are identified in the Pilot Magazine document that was only given to me this weekend.

A

His Honour Judge Thomas: Well, I'll ask the Prosecution about that in a second. But too, have you had a notice of further evidence from an Andrew Nightingale?

B

Mr Kirk: Yes, I received that two days ago.

His Honour Judge Thomas: And have you had one from David Woodford and Andrew Huxtable?

C

Mr Kirk: No.

His Honour Judge Thomas: One is from David Woodford, who is the brother of the man from whom it appears the Prosecution say you bought the, the aircraft.

D

Mr Kirk: *Well*, what, what is it? A, a, is it a, is it, when you say, what, what, what is the form it, that it's in?

E

His Honour Judge Thomas: *Let me* just hand you that, and perhaps you could look at it and see if you've seen a copy of that.

(counsel takes instructions)

F

Mr Kirk: No, I haven't. What I am aware of is that I refused to accept documents from my friend who had acquired them from the Crown Prosecution Service.

G

His Honour Judge Thomas: Well ...

Mr Kirk: He said, of course I don't know, but I said I was, I was accepting nothing from someone who I hardly know, and I took up the matter with those who are in charge of my custody.

H

His Honour Judge Thomas: Well, what I'd like you to do when Mr --

A **Mr Kirk:** And they said that I was not allowed to have them. They had to be served on me in Court.

His Honour Judge Thomas: Well, if you'd like to sit there for a moment and read through that document, please take your time.

B **Mr Kirk:** It has eight pages. Can you confirm that yours has eight pages?

His Honour Judge Thomas: Well, you've got mine, so if yours has got eight pages, mine has got eight pages.

C **Mr Kirk:** Could I have a copy for my sister please?

(no audible response)

D **His Honour Judge Thomas:** Thank you.

(pause)

E **His Honour Judge Thomas:** Right.

(pause)

F **Mr Kirk:** Yes, I'm, I, I, I think I understand those documents.

His Honour Judge Thomas: Now, does your sister, sister sit in front of you?

G **Mr Kirk:** Sorry?

His Honour Judge Thomas: Does your sister sit in front of you?

H **Mr Kirk:** Yes.

His Honour Judge Thomas: If you want to hand her that document, please do so.

Mr Kirk: No, I would like to keep it because it may be important.

A

His Honour Judge Thomas: Thank you, right. Mr Twomlow, what's the position with the occurrence number?

B

Mr Twomlow: Well, I'm told that the occurrence numbers are included in the documents which Mr Kirk refused to accept this morning.

His Honour Judge Thomas: Right. Could the occurrence --

C

Mr Twomlow: When they were handed to his McKenzie friend, as we understood --

Mr Kirk: Could --

D

Mr Twomlow: Him to be --

Mr Kirk: Could I --

E

Mr Twomlow: Or his, his representative.

Mr Kirk: If, if only he can turn, I won't need those, *if* --

Mr Twomlow: All right.

F

Mr Kirk: If I can hear him.

G

Mr Twomlow: The documents, which were handed to Mr Werren this morning for, we hoped, onward transmission to Mr Kirk, included documents which included the incident number which we believe he seeks, but he refused to accept them, we understand, from Mr Werren. We have them here. They can be passed to him with the Jury bundle. I don't know if there's any other document.

H

His Honour Judge Thomas: Right. Now then, Mr Kirk, one of the problems about refusing to accept documents is that then when you complain that you haven't had them, we're all rushing around and wasting your time as much as ours.

A **Mr Kirk:** Oh, no. Oh, no.

His Honour Judge Thomas: Now, would you please take the occurrence number document and other documents and would you please read those in the dock?

B **Mr Kirk:** The reason why the CPS hand them to stranger is so that they can deny I ever got them in the first place, or --

His Honour Judge Thomas: May well be.

C **Mr Kirk:** I did get them when I never get them.

D **His Honour Judge Thomas:** Well, that may well be, in which case, if you'd sit down now, they will be handed to you. You will have them. You can read them. And then there's going to be no mystery about it, is there?

Mr Kirk: That is, we, I believe we are in, in harmony on that one, Your Honour.

E **His Honour Judge Thomas:** Good.

(counsel takes instructions)

F **Mr Twomlow:** What he's been handed is a clean copy of the MG6Cs and the Jury bundle, the proposed Jury bundle.

His Honour Judge Thomas: So the occurrence number is in the MG6C.

G **Mr Twomlow:** So I'm told.

His Honour Judge Thomas: In order to save time, can that entry be identified.

H **Mr Twomlow:** I would have to take some instructions in relation to that.

(counsel takes instructions)

A **Mr Twomlow:** *Well*, we're having some difficulty in identifying which particular occurrence that number is supposed to apply to, I've just heard Mr Kirk say, in relation to this indictment. Whether that is something that makes sense, I'm not sure.

B **His Honour Judge Thomas:** Well, I think, if I understand what Mr Kirk is saying, he wants to know for some reason the occurrence number relating to this arrest. Is that right?

Mr Kirk: I am grateful for your succinctness.

C **His Honour Judge Thomas:** Do we have the occurrence number relating to this arrest that we can hand to Mr Kirk, or at least enable him to identify it quickly please?

Mr Twomlow: I will have to take instructions about that. I don't have it at my fingertips.

D **His Honour Judge Thomas:** No, of course not.

(counsel takes instructions)

E **Mr Twomlow:** I'll see that that is done.

(pause)

F **His Honour Judge Thomas:** All right, has that now been provided to, to Mr Kirk?

Mr Twomlow: No, but, but something is being done to provide it.

G **His Honour Judge Thomas:** Oh, I see. I see. Right, Mr Kirk ...

(defendant confers with dock officer)

H **His Honour Judge Thomas:** Do you want time to consider the position with your sister, in the light of those documents?

A

Mr Kirk: Well, it's a fascinating read if nothing else. I, I feel I'm going to be asking for time later, and I feel that on this occasion I'd better let you get on with what is important.

B

His Honour Judge Thomas: Well, let's get the Jury sworn in ...

Mr Kirk: Yeah.

His Honour Judge Thomas: In that case. Thank you.

C

Mr Twomlow: Your Honour, there is the question of what questions the jury panel ought to be asked in relation to matters before they're empanelled.

D

His Honour Judge Thomas: Well, thank you for reminding me. Mr Kirk, it's important, I think, for you to concentrate for a moment. It seems to me that in view of much of the material I've read, although it would not strictly disqualify anybody, I think there may be prudence in asking if anyone is a serving South Wales police officer or the husband, wife or partner of such a serving officer. Would you agree?

E

Mr Twomlow: Yes.

His Honour Judge Thomas: When the jury panel come in, Mr Kirk, I propose to ask them if any of them is a serving South Wales police officer or if their husband, wife or partner is such an officer, in which case they will not serve on the Jury.

F

Mr Kirk: I don't wish you to do that, but you're in charge, Your Honour.

His Honour Judge Thomas: Well, I'm going to make that decision. Thank you.

G

Mr Twomlow: There's also the, the fact that Mr Kirk has been a veterinary surgeon in the South Wales area.

H

His Honour Judge Thomas: Yes.

A **Mr Twomlow:** And it may be that people have had dealings with him and indeed his wife. Kirsty Kirk is a veterinary surgeon in the Llantwit Major area, based in the home where they lived.

B **His Honour Judge Thomas:** Well, I suspect that any instruction that they are given as a jury panel would cover knowing Mr, Mr Kirk.

Mr Twomlow: Yes.

C **His Honour Judge Thomas:** So we can --

Mr Twomlow: Well --

D **His Honour Judge Thomas:** We can reinforce that. Now, Mr --

Mr Twomlow: Yeah.

E **His Honour Judge Thomas:** Kirk, we're going to have a Jury in, in a moment. You're not entitled to object to them because you don't like the cut of their jib.

Mr Kirk: *Yes.*

F **His Honour Judge Thomas:** All right.

Mr Kirk: I, I, I like your --

G **His Honour Judge Thomas:** Tempting though that may be, you can only object to them if you know them or think you may know them or have a good reason for objecting them.

Mr Kirk: Right.

H **His Honour Judge Thomas:** Thank you.

Mr Kirk: Thank you. Thank you.

(counsel takes instructions)

A **Mr Kirk:** Would Your Honour require me to read the names of the witnesses who are going to give evidence, and the areas they come from? Or ...

B **His Honour Judge Thomas:** Yes, please. And, Mr Twomlow, I know it's, it's difficult, but I wonder if every time you address me you can do so at --

Mr Twomlow: Yes.

C **His Honour Judge Thomas:** 90 degrees, as it were, so that Mr Kirk can hear.

Mr Twomlow: *All right.*

D **His Honour Judge Thomas:** Thank you.

(judge confers with clerk)

E **His Honour Judge Thomas:** Now, I wonder, please, if the people sitting in the public gallery there can move across so that the Jury can occupy the, those seats, just for the moment. Yes, the, the three people in that, could you move over to the other side please?

(counsel takes instructions)

F **Mr Twomlow:** Well, Your Honour has in mind to mention the length of the, potential length of the trial to the Jury, *Your Honour.*

G **His Honour Judge Thomas:** Yes.

(jury panel enters)

H **His Honour Judge Thomas:** Yes, members of the Jury in waiting, good afternoon. I'm sure you've had a, a wait this morning. Can I, before a jury ballot is held for 12 of you to, to act as jurors, just say a couple of things at this stage? The first is that although jury service is normally for two weeks, I'm told that there is potential here for this case to go into a third

A week, so if any of you has any pressing commitment, and by that I mean a pre booked holiday or a, a hospital appointment that, that can't be rearranged, please let us know, if you are balloted, when you come into the, into the jury box.

B There are certain other matters too that I need to tell you about. If any of you is a serving officer in the South Wales Police Force or if your husband, wife or partner is a serving officer, would you please indicate at this stage, please? No, I see nobody. Also, the gentleman at the back?

C **Male:** I, I am South Wales Police staff.

His Honour Judge Thomas: In that case then, it's probably best you don't sit on this Jury. Thank you for letting us --

D **Male:** *Thank you.*

His Honour Judge Thomas: Know. Thank you. Well, if you'd just wait there for a moment ...

E **Male:** *Definitely.*

His Honour Judge Thomas: The other matter is, the Defendant in this case, Mr Maurice Kirk, has over many years practised as a veterinary surgeon in the Vale of Glamorgan area. If any of you have been to him in that capacity, or rather I should say your animals have been to him in that capacity, could you let us know please, or indeed to his wife, who I think operates out of the same practice? No. In that case the, the ballot will, will commence. Thank you.

G **Court Clerk:** Members of the Jury in waiting, please listen carefully. And as I call your name, will you please answer by saying yes and then taking a seat in the jury box, starting at the front? Thank you. (juror 1).

H (juror 1): Yes.

Court Clerk: This way. (juror 2).

A **(juror 2):** Yes.

(usher confers with jurors)

B **Court Clerk:** (juror 3).

(juror 3): Yes.

C **Court Clerk:** (juror 4).

(juror 4): Yes.

D **Court Clerk:** (juror 5).

(juror 5): Yes.

E **Court Clerk:** (juror 6).

(pause)

(juror 6): Yes. Sorry.

F **Court Clerk:** (juror 7).

(juror 7): Yes.

G **Court Clerk:** (juror 8).

(juror 8): Yes.

H **Court Clerk:** (juror 9).

(juror 9): Yes.

Court Clerk: (juror 10).

A

(juror 10): Yeah.

Court Clerk: (panel member 1).

B

(panel member 1): Yes.

His Honour Judge Thomas: I'm told that this potential juror has a pre booked flight and therefore would not be able to serve for the period of time. So in that case, Madam, there's no need for you to, to, to come on the jury box.

C

(panel member 1): Thank you, Judge.

D

His Honour Judge Thomas: Thank you.

Court Clerk: (juror 11).

E

(juror 11): Yes.

Court Clerk: (panel member 2).

F

(panel member 2): Yes.

(defendant confers with dock officer)

G

(judge confers with clerk)

His Honour Judge Thomas: Yes, I'm told that this lady has a family illness at the moment, which may mean that she wouldn't be able to concentrate fully on the issues in this case, and therefore it seems to me that she should not be asked to serve on this Jury. Thank you.

H

Court Clerk: (juror 12).

(juror 12): Yes.

A

Court Clerk: Could the Defendant please stand?

B

His Honour Judge Thomas: Before, before this happens, sorry, I should have asked Mr Twomlow on behalf of the Prosecution to read out the names of the witnesses *he's* going to call. I should have done that at an earlier stage, I'm afraid, but if those who are all in waiting, and you, members of the proposed Jury, if you know or recognise any of these names, could you let us know please? Sorry, Mr Twomlow.

C

Mr Twomlow: Yes. Ladies and gentlemen, the names of the witnesses are as follows, DC Parker, based in South Wales, that's Detective Constable Parker, a police officer, Detective Constable Derek Allsop, based in South Wales, Miss Sarah Williams, based in Bridgend, Police Constable French, based in South Wales, Mr Ronald Cooper, Mrs Jennifer Cooper and Mr Charles Page, all of whom come from Lincolnshire, Mr Michael Scott, who is from Newark, Newark, in Nottinghamshire, Mr Nigel Brown, based in Bridgend, Mr Andrew Huxtable, also based in Bridgend, Police Constable Adam Rigley, based in Nottinghamshire, DC, Detective Constable Donna Robinson and Detective Constable Gary Dixon, who are both from Nottinghamshire, Police Constable Meurig Powell from South Wales, Detective Constable Burr from South Wales, Detective Constable Minto from South Wales, a Mr Philip Rydeard from Manchester, Police Constable Richard Jones from South Wales, Detective Constable Christou from South Wales and Detective Constable James Phillips from South Wales, then a Mr Mabbit from London, Mr Perry from Birmingham, Detective Constable Dodge and Detective Constable Paul Williams and Detective Constable Erica Knight, who are all from South Wales, Mr Woodford, Mr Sawyer, who is from London, Detective Constable Dave Griffiths from South Wales, Detective Constable Ian Williams from South Wales and Detective Inspector from South Wales. Those are the names for all the Prosecution witnesses.

D

E

F

G

His Honour Judge Thomas: Thank you.

H

Court Clerk: Could the --

Mr Kirk: Could, could --

Court Clerk: Defendant please stand?

A

Mr Kirk: Could I have a copy of that please?

(no audible response)

B

Mr Kirk: Thank you.

(counsel takes instructions)

C

His Honour Judge Thomas: Yes, *please could you ...*

Court Clerk: Maurice Kirk, the names you are about to hear are the names of persons who will form a Jury to try you. If you have any objection with any member called, you should make your objection known as they come to the book to be sworn, before they are sworn. Any objection shall then be noted. Do you understand?

D

Mr Kirk: I understand.

E

Court Clerk: Members of the Jury about to be sworn, will each of you as your name is called please stand, take the book in your hand, read the oath out loud in either English or Welsh from the card before you. After you've read the oath, please pass both those items along and then sit down. Thank you. (juror 1).

F

(juror 1): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

G

Court Clerk: (juror 2).

(juror 2): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

H

Court Clerk: (juror 3).

A (juror 3): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

Court Clerk: (juror 4).

B (juror 4): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

Court Clerk: (juror 5).

C (juror 5): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

Court Clerk: (juror 6).

D (juror 6): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

E **Court Clerk:** (juror 7).

E (juror 7): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

F **Court Clerk:** (juror 8).

F (juror 8): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

G **Court Clerk:** (juror 9).

G (juror 9): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

H **Court Clerk:** (juror 10).

(juror 10): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

A

Court Clerk: (juror 11).

(juror 11): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

B

Court Clerk: (juror 12).

(juror 12): I swear by Almighty God that I will faithfully try the Defendant and give a true verdict according to the evidence.

C

Court Clerk: Members of the Jury, the Defendant Maurice Kirk is charged on an indictment containing two counts. On Count 1, the Defendant is charged with possessing a prohibited weapon, the particulars of the offence being that between the 1st day of January 2008 and the 23rd day of June 2009, without the, without the authority of the Secretary of State, had in his possession a firearm, namely a Lewis machine gun which was so designed or adapted that two or more missiles could be successfully discharged without repeated pressure on the trigger. On Count 2, the Defendant is charged with selling or transferring a prohibited weapon, the particulars of the offence being that between the 1st day of January 2008 and the 23rd day of June 2009, without *the*, without the authority of the Secretary of State, sold or transferred a firearm, namely a Lewis machine gun which was so designed or adapted that two or more missiles could be successfully discharged without repeated pressure on the trigger. To each of these counts, the Defendant has pleaded not guilty. It your charge to say, having heard the evidence, *whether he's* guilty or not guilty. Your Honour, now these are the remaining jurors.

D

E

F

G

His Honour Judge Thomas: Thank you.

Court Clerk: The remaining jurors not called for service on this trial, please follow the usher back to the jury assembly area. Thank you.

H

His Honour Judge Thomas: *Well*, members of the Jury, before I ask Mr Twomlow to outline the Prosecution case to you, it may help you at this stage if I make one or two

A preliminary remarks. We'll be sitting, generally speaking, from about 10 o'clock in the morning to about 1 o'clock. We'll break off then until about 2:00 or 2:10, depending on the circumstances. I'll try, if I can, to give you a, a morning break because it's a cramped jury box. And if I'm in a good mood, I'll give you a break in the afternoon as well. You'll know what my mood is like by that fact if nothing else. And we'll sit then till about 4:15 or 4:30 every evening.

B

Can I ask you please to bear this very much in mind? Now, when you go home tonight and in subsequent nights, I'm sure that someone will ask you what you've been doing. Please don't discuss the case with anyone. The reason, I'm sure, is obviously, because they may

C say something or express an opinion or a view which will not be based on the evidence that you've heard and may subconsciously affect your views, so it's very important not to discuss the case with anyone. And can I suggest that you don't discuss the case at all, even among yourselves, in public where people will overhear you? It's probably best that if you do

D discuss it, that you do so when all of you are present and in your jury room.

It may well be a case, I don't know, that attracts some media attention. If it does, then can I ask you please not let that have any influence on you? It will inevitably be at best a very short summary of what is said in Court. You will have heard all the evidence, and, as I will

E stress to you, it is you and you 12 alone who decide the facts, the evidence in this case.

Now, Mr Kirk represents himself in this case, and as a result I will give him such assistance as I can to present his case properly to you, but it may also mean that we will all have to be

F perhaps rather more patient than usual within, of course, reasonable bounds. But I am conscious that you give up your time, to serve on a Jury, and it's important that that time is not unduly wasted, that we can, we get on with it. There may of course, as there are in, in any given case, times where there will be interruptions, for legal argument or, or, or

G otherwise. Those times, I'll ask you to leave Court, and perhaps you'll bear with us if we aren't as swift as you may wish us to be. It's usually a good idea to bring a book if you're on jury service. But we will do our best, or I will do my best, to make sure that interruptions are kept to a bare minimum.

H Finally, though there's no reason to believe that that will, this will occur in this particular case, if anyone approaches you or if anything happens outside this Court or even within your

own number that causes you any disquiet or concern, please let a member of the Court staff know about it immediately, and we'll take steps to remedy it.

A

But that, I think, is enough from me for the moment, and the next stage is that Mr Twomlow, if he's in a position to do so, will outline the Prosecution case.

B

Mr Twomlow: Well, Your Honour, I'm reluctant to invite the Court to have one of those interruptions that Your Honour just spoke about to the ladies and gentlemen of the Jury, already, but there are one or two matters which I'd like to raise with Your Honour before I open the case, which I, I, I'm afraid it would be necessary for the Jury to retire while that is done.

C

His Honour Judge Thomas: Well, are we realistically going to get into a position to start and complete your opening this afternoon?

D

Mr Twomlow: It is a matter that I have considered. I, I think it's, *it's*, there is likely to be an interruption of some length now for these matters to be discussed and dealt with, and so it may well be that it would be better to open the case first thing in the morning.

E

His Honour Judge Thomas: Right. Members of the Jury, it means an early afternoon, and you'll have to put up with that as best you can. And could I ask you please to be back to start the case tomorrow at 10:30? Thank you very much.

F

(jury retires)

His Honour Judge Thomas: Yes, Mr Twomlow.

G

Mr Twomlow: May I first of all say that the occurrence number has been handed to Mr Kirk's sister, I believe, now.

His Honour Judge Thomas: Right. Mr Kirk, did you hear that?

H

Mr Kirk: I think an occurrence number for the incident for which I was arrested is now available.

His Honour Judge Thomas: Good.

A

Mr Kirk: Thank you.

His Honour Judge Thomas: Yes, Mr Twomlow.

B

Mr Twomlow: Your Honour, there are these matters. First of all, Mr Kirk has not had an opportunity, I know, because he was only given it this afternoon, to see the Jury bundle.

His Honour Judge Thomas: Right.

C

Mr Twomlow: In the course of my opening I wish to refer to the Jury bundle, and it seemed to me that it, it wouldn't be right to do that without Mr Kirk having an opportunity to comment on the bundle if he wished to, and to make any representations he wishes to about what ought to be in it.

D

His Honour Judge Thomas: Yes.

E

Mr Twomlow: And so that's the first reason. Secondly, the machine gun is here in Court and will be on the bench so the Jury can see it during the course of my opening. That would only have taken a few moments to deal with that, but that was the, the second matter.

His Honour Judge Thomas: Second concern, yes.

F

Mr Twomlow: I wondered whether Mr Kirk was in a position to proceed without the information that he's just had and whether he required any further time to discuss matters with his sister or his --

G

His Honour Judge Thomas: Well, I was, I was certainly going to give him all that opportunity.

H

Mr Twomlow: Yes, *but* the major --

His Honour Judge Thomas: At the --

Mr Twomlow: Part --

A **His Honour Judge Thomas:** End of the --

Mr Twomlow: Was --

B **His Honour Judge Thomas:** Prosecution opening, but I take your point that if there are potentially contentious matters in the Jury bundle, they should be addressed.

C **Mr Twomlow:** *All right.* And there's one other matter. There are two video clips which were taken from his website, which the Prosecution propose to play to the Jury, not in opening but early on in the evidence. They've been subtitled because it's not very easy to make out some of the words on them. Now, Mr Kirk has not seen those, and there's, they can be played. They're not very long. They can be played on this equipment. And it may be that there's other material in them that he might object to. I don't know. But the Prosecution feel that he ought at some point either today or first thing tomorrow to be able to see those and makes his representations if he has any, he might not have, about them before they're shown to the Jury. And that's something which also perhaps ought to be done before the evidence begins.

E **His Honour Judge Thomas:** Yes, I agree. Now, Mr Kirk, what is going to happen now is this. We're going to adjourn until tomorrow morning. In the meantime, if you want to discuss the new documentation or any other matter with your sister please do so. I'm sure the facilities will be available this afternoon and tomorrow morning for you to do so. What I think is important now is that you see the clips of the website, which the Prosecution, I'm told, have subtitled. And if you take issue with what they've subtitled, we need to know that at an early opportunity. So I'm going to rise. The Prosecution will play the website to you. **F** **G** If you have any objections, let the Prosecution know. And then I would rule on it if necessary tomorrow morning.

Mr Kirk: There are really far more important things than looking at bits of film.

H **His Honour Judge Thomas:** There may be, but that's something that we need to deal with at this point.

Mr Kirk: Yes, but, but what is urgent is my application this morning about whether I should consider my plea for one specific indictment.

A

His Honour Judge Thomas: Yes, well, I'm very much --

Mr Kirk: Well, well, until I am given the information from the Prosecution, I can't even consider changing anything.

B

His Honour Judge Thomas: What information is that, Mr Kirk?

Mr Kirk: The occurrence number that is now being submitted to me is at variance to the one that's attached to my arrest sheet. That is the first point, to prove, fortunately for me, the very reason of the need for police occurrence numbers. For example, if your house is burgled, you can ring them up a week later and say, I wish to refer to a burglary. Oh, can you give us the reference number? You give them the occurrence number, and they look on the computer and say, well, we've caught the burglars and we've found a, a, a settee and a, a broken television, i.e. in order to communicate with the person that has created or caused the occurrence number to occur.

C

D

E

His Honour Judge Thomas: Right.

Mr Kirk: Getting back to the reason for this, they have late served, deliberately to pervert the course of justice, a document which is the April 2000 [sic] Pilot Magazine article, which refers to a number of police incidents. And I referred to one of them, which has the picture of the aircraft it concerned landing at Ferryside after the Farnborough Airshow, when I broke the propeller. Well, let's say we separated company. And I needed the occurrence number for that incident in order to pursue my own researches with my family, who are out there trying to preserve evidence while I'm in custody. Now, I need that and I need it immediately. I've been asking for this sort of information for some time.

F

G

His Honour Judge Thomas: Mr Kirk, let me just say this to you. I'm sure that if there are occurrence numbers that are readily available, I see no reason and haven't been told any reason why you should not be given them. But whatever may or may *not* have happened in Llansaint on the way back from the Farnborough Airshow has, it seems to me, absolutely nothing at all to do with the issue that you face. The issues that you face are, first of all did

H

A

you possess the Lewis gun? Secondly, was that a prohibited weapon. And thirdly, did you then transfer that on? Now, by all means have as much time as you need with your sister to decide what you want to do about those charges. That is your right. But you must address yourself to that, it seems to me, in isolation from what may or may not be an occurrence number from the crash landing in Ferryside or Llansaint.

B

Mr Kirk: But the Prosecution have served witness statements by the police officers relating to that, and their information is at gross variance to other information from people in the village. And I wish to subpoena those police officers to give evidence on my defence for the relevance relevant to the charges.

C

His Honour Judge Thomas: What I suspect, although no one's addressed me on it, but having read that article, Mr Kirk, it seems to me that the Prosecution are looking at the passage on the final page about asking for support in putting a live machine gun on his DH.2. That, I suspect, is the reason for that. That's got nothing to do, really, with Llansaint, has it?

D

Mr Kirk: I had just left Farnborough Airshow with the aircraft, and if you read that article just there in that paragraph, it refers to the Civil Aviation Authority. Now, they are using the Civil Aviation Authority as witnesses against me, and I've had statements relating to the alleged offence. And they would not have interviewed the CAA if they hadn't wanted that, that evidence to support their case. That article there has, has caused me to identify a reference number. I have several. I have two here, EA/009637 and EA/9990958. And I need the information from the police for those two incidents relating to the, the article. Let's put it that way. And you have directed me to two examples where they have the information. They are refusing disclosure. I have asked for this information some months ago.

E

F

G

His Honour Judge Thomas: And every time that you've asked for it, it has been explained to you that they're only obliged to give you disclosure if it is relevant or undermines the case. Now, that is something that the Prosecution have a duty to keep under review. What I need to know at this moment is really two things. I want to know what is going to happen about your plea. If you wish to change your plea, then you must be given the opportunity to do so, and if you wish to speak to your sister in the meantime please do so. But I fail to see the relevance of occurrence numbers to that conversation. The second and more immediate matter is, the Prosecution, before they can open the case against you, wants to know two things, firstly if you agree the contents of the Jury bundle. If not, why not? And --

H

A **Mr Kirk:** Sorry, I didn't hear that. Say that one again.

B **His Honour Judge Thomas:** You've been handed a Jury bundle. If you accept the contents of it, let the Prosecution know. If you do not, say what you do not accept and the reasons why, and it can be dealt with. The other matter is that the Prosecution need to find out whether you object to the way in which they're presenting your website. Now, in a moment I'm going to rise. That will be put on the, are you listening to me, Mr Kirk? Mr Kirk?

C **Mr Kirk:** Yes, I'm hearing you.

His Honour Judge Thomas: Would you do me the courtesy of looking at me then, please, when I'm speaking to you?

D **Mr Kirk:** Well, Your Honour, I'm trying to find the letters from the CPS dated last week and 22 January, 20 January and 12 January, which they seem to be reluctant to put before you. And this is fresh information under the 1999 Act. I am being given a further 14 days to prepare my case.

E **His Honour Judge Thomas:** No, you're not.

Mr Kirk: Ah, thank you for expanding on it.

F **His Honour Judge Thomas:** You're not. You should have put in that defence statement beforehand. If you put in a defence statement, then they will have to look again at the question of disclosure. If you don't put it in, then they are under no obligation to do so. That's been explained to you by me and others.

G **Mr Kirk:** Do you mean I need to hand in another defence statement?

His Honour Judge Thomas: Well, I haven't seen anything that gets near a defence statement.

H **Mr Kirk:** Well, no.

His Honour Judge Thomas: A defence statement --

A

Mr Kirk: Because they had --

His Honour Judge Thomas: You see --

B

Mr Kirk: Sent me --

C

His Honour Judge Thomas: No, don't, don't, don't talk over me please, Mr Kirk. What you need to put in the defence statement are these things. First of all do you accept that you were in possession of the Lewis gun? Yes or no. If no, why you say the Prosecution are wrong in saying that you were in possession. The second thing you need to put in the defence statement is, if it was in your possession, do you accept that it was a prohibited weapon, prohibited weapon? If you say it was, fine. If you say it was not, you must explain the reasons why you say it was not. Thirdly, did you transfer that to a third party? Again, yes or no. Those are three simple propositions. I hope someone is writing them down on your behalf, because, unless we know what your answers are to those basic questions, the next stage of disclosure does not occur, by law. So you need, just to recap, you need to tell the Prosecution, do you accept that you were in possession of the Lewis gun?

D

E

Mr Kirk: Well, I've answered that.

His Honour Judge Thomas: What's the answer?

F

Mr Kirk: Well, it's --

His Honour Judge Thomas: Yes or no.

G

Mr Kirk: In the Prosecution documentation when I was in, under interrogation after being examined by the psychiatrist in, in, on 22 or 23, 22 and 23 June, two, one, oh, what is it, which year are we in now?

H

His Honour Judge Thomas: *Mr* --

Mr Kirk: 2009.

A **His Honour Judge Thomas:** Mr Kirk, I don't think I can put this question any clearer. The, the question that you need to answer, if you're prepared to answer it, is this. Were you in possession at any stage of that Lewis gun? Yes or no or I don't want to answer.

B **Mr Kirk:** Just now you said prohibited weapon, so I have answered what was required when I was under arrest, which I thought was sufficient information for the normal person, the person on the Clapham omnibus ...

C **His Honour Judge Thomas:** So I'll take that as an I'm not prepared to answer. Fair enough. In that case, there is no defence statement *that they can act on*.

Mr Kirk: There is no defence statement.

D **His Honour Judge Thomas:** If you are not prepared to answer the simple question whether or not you were in possession of the Lewis gun, then nothing can happen thereafter, because no one knows what your case is.

E **Mr Kirk:** But I have put it, I, I, I, I've tape recorded by two Williams and a Mrs Knight, with, in the presence of a, an appropriate adult, with a psychiatrist around the corner, when these questions were asked and I answered them.

F **His Honour Judge Thomas:** Well, let's just answer them again if you can. The first question is, were you ever in possession of a Lewis gun? Yes or no.

Mr Kirk: Why am I obliged to repeat the Prosecution's case?

G **His Honour Judge Thomas:** All right. Well, I've got the, I've got the message, Mr Kirk. You aren't prepared to give details, in which case, as I've said, the next stage of disclosure is not triggered.

H **Mr Kirk:** Yes, but that's a breach of Article 6. I, I have given them sufficient information under CPIA 1996, unless you can persuade me otherwise. At the moment you haven't.

A **His Honour Judge Thomas:** I don't have to persuade you of anything, Mr Kirk. I ask you the simple question. You refuse to give me a straightforward answer, in which case the next stage of your disclosure is not triggered.

Mr Kirk: But they have just written to say I have another 14 days to do it.

B **His Honour Judge Thomas:** Yes, well --

Mr Kirk: Do you say that that is incorrect?

C **His Honour Judge Thomas:** I've just told you how you can get the next stage of your disclosure, by simply answering that simple question.

Mr Kirk: So can I --

D **His Honour Judge Thomas:** Now, you will have --

Mr Kirk: Can I do this next week sometime?

E **His Honour Judge Thomas:** No, no. No. You can either do it now --

Mr Kirk: Why not?

F **His Honour Judge Thomas:** Because it's a simple question. Either you were in possession or not in possession of a Lewis gun.

Mr Kirk: Can I serve another defence statement to your liking sometime next week?

G **His Honour Judge Thomas:** No.

Mr Kirk: Why not?

H **His Honour Judge Thomas:** Because I've asked you a straightforward question. That is all that is required of the defence statement.

Mr Kirk: So therefore the letter of the 20th and 22nd and the 12th of this month from the CPS are erroneous.

A

His Honour Judge Thomas: In --

Mr Kirk: They were saying I had 14 days to serve an, another defence statement. How many have I served so far? About four or five?

B

His Honour Judge Thomas: And *in* none of those have you answered the question I've just posed of you. And that is the important question.

C

Mr Kirk: And you are denying me the right to do it before the 14 days are up.

His Honour Judge Thomas: *No*, I'm simply asking you now to tell us what the answer is.

D

Mr Kirk: Please, I, I please be non ...

His Honour Judge Thomas: Sorry?

E

Mr Kirk: I'm, it feels ambiguous at the moment to me. I'm sorry. I apologise.

His Honour Judge Thomas: Well, it's --

F

Mr Kirk: But --

His Honour Judge Thomas: The point is this, you see. If you *'re capable* --

G

Mr Kirk: Can I put in another defence statement before the 14 days runs out?

His Honour Judge Thomas: If you put it in, in 14 days ...

H

Mr Kirk: Yes.

His Honour Judge Thomas: You won't get disclosure till after 14 days. Who does that help, Mr Kirk?

A **Mr Kirk:** Right, so I, if I put in one to suit you ...

His Honour Judge Thomas: You're not suiting me, Mr Kirk, one way or the other. The point is, if you put it in in --

B **Mr Kirk:** No, hold it. Who do I have to satisfy? You or the CPS?

His Honour Judge Thomas: If you put it in in 14 days ...

C **Mr Kirk:** Yes.

His Honour Judge Thomas: Then you won't get any disclosure for 14 days, will you?

D **Mr Kirk:** Is that a problem?

His Honour Judge Thomas: Not for, not for the Prosecution, I suspect, but it may be --

E **Mr Kirk:** No, but is it --

His Honour Judge Thomas: For you.

Mr Kirk: A problem for you?

F **His Honour Judge Thomas:** Not, Mr Kirk, the point is this. This trial is continuing. What information you are entitled to depends, as I say, on you giving answers to simple questions. Now, what I'm going to do is I'm going to rise. I am going to ask the Prosecution to play to
G you the ...

Mr Twomlow: Two, two, there are two video clips.

H **His Honour Judge Thomas:** Two video clips. I would like you please to stay in Court and watch them and to tell us whether you agree with the way in which they are being presented.

Mr Kirk: Am I obliged to stay in Court?

A **His Honour Judge Thomas:** You're not, but then again you wouldn't be able to complain, would you, if the documents were presented in that form to the Jury.

Mr Kirk: Are you --

B **His Honour Judge Thomas:** The next --

Mr Kirk: Going to --

C **His Honour Judge Thomas:** The next thing --

Mr Kirk: Are you going to order --

D **His Honour Judge Thomas:** Please, please don't interrupt me, for a moment. The next thing then, is you can speak to your sister as long as the Reliance authorities are prepared to keep you in this building, and tomorrow morning when you arrive. Your sister can have an unfettered conversation with you then. I hope that she has understood what I hope is a simple proposition as to what triggers the next stage of disclosure.

E

Mr Kirk: I ask you to ask the police to return what property of mine they took from my house on 22 and 23 June. They are required to prepare a defence statement.

F **His Honour Judge Thomas:** Well, I've explained that. I'm not going through that again.

Mr Kirk: And it --

G **His Honour Judge Thomas:** Thank you.

Mr Kirk: Includes my computer please. I cannot serve a proper one --

H **Court Clerk:** Court please rise.

Mr Kirk: Without.

His Honour Judge Thomas: Thank you.

A

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