

IN THE COURT OF APPEAL

(CRIMINAL DIVISION)

THE QUEEN

- v -

MAURICE JOHN KIRK

**GROUND OF APPEAL AGAINST THE MAKING OF
A RESTRAINING ORDER**

(These grounds have been prepared with the assistance of lay McKenzie advisers assisting Mr. Kirk with Mr. Kirk's permission, who was unrepresented at the trial and conducted his own defence.)

**APPEAL AGAINST THE MAKING OF A RESTRAINING ORDER UNDER
SECTION 5A(5)(A),(B) OF THE PROTECTION OF HARASSMENT ACT 1997**

1. The Appellant was acquitted of 1 count of Harassment by Stalking, contrary to section 2A(a),(b) of the Protection of Harassment Act 1997 before HHJ Johnson and a jury at the Crown Court at Exeter on 20th May 2021.
2. At the conclusion of the trial, HHJ Johnson imposed a Restraining Order for a limited time against the Appellant under section 5A(1) of the Protection of Harassment Act 1997 on the same date in respect of his constituency MP, [] MP, the Member of Parliament for the [] Constituency.
3. The Appellant now seeks leave to appeal against the making of that Restraining Order as though it had been made on his conviction as part of his sentence under section 5A(1),(5)(a),(b) of the Protection of Harassment Act 1997.

GROUNDS OF APPEAL

LACK OF PROPER REASONS JUSTIFYING THE MAKING OF THE RESTRAINT ORDER

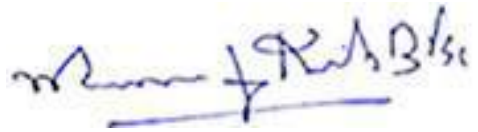
4. It is contended that although the learned Judge applied the correct civil standard of proof on a balance of probabilities in making the Restraining Order against him, the learned Judge failed to give sufficient reasons for the making of the Order, in view of the fact that the Appellant had been acquitted of the charge against him by the jury.
5. In particular, the learned Judge failed to identify the acts or any specific acts in relating to the Appellant's conduct that in his view would have justified the Restraining Order being made against the Appellant.

ARTICLE 10(1) ECHR, HUMAN RIGHTS ACT 1998

6. The learned Judge erred in law and/or in principle in directing that the Appellant may not publish anything concerning [] MP, thereby interfering with the Appellant's "right to freedom of expression" under article 10(1) ECHR, Human Rights Act 1998.
7. Further, the learned Judge failed to take into account or consider the Appellant's "Convention Rights" and in particular his "right to freedom of expression" under article 10(1) ECHR, Human Rights Act 1998 when making the Restraining Order against him.
8. The prohibition against the Appellant from publishing anything about [] [] MP restrains the Appellant from commenting on the competence and reliability of his constituency MP, when such matters as to her conduct in not responding to the Appellant's requests to her and her constituency officer for help is a matter of public interest and importance regarding the democratic system and accountability of elected MPs to their electorates.
9. In the premises, the making of the Restraining Order against the Appellant was disproportionate and was not "prescribed by law, or "necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary" for the purposes of article 10(2) ECHR, Human Rights Act 1998.

Dated 28th May 2021-05-28

Signed

A handwritten signature in blue ink, appearing to read 'Maurice John Kirk', with a horizontal line underneath.

MAURICE JOHN KIRK
Appellant in Person

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