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Your ref/Eich cyf:

26 July 2011

Dear Sir

Re: Case Number: BS614159 Maurice John Kirk v South Wales Constabulary

Please find a copy of the Note of Judgement of His Honour Judge Seys Llewellyn, QC dated 25th July, 2011 for your information.

Yours faithfully,

K. Edmunds
Circuit Judge's Listing Section
Ext 6412

IN THE CARDIFF COUNTY COURT

CASE NO.BS 614159-MC65

CF101741

CF204141

BETWEEN

MAURICE JOHN KIRK

Claimant

and

THE CHIEF CONSTABLE OF THE SOUTH WALES CONSTABULARY

Defendant



NOTE OF JUDGMENT

1. On 30th November 2010 I delivered written judgment on a number of preliminary issues. One of the issues concerned MAPPAs documents, since Mr Kirk had been categorised as a “MAPPAs Category 3 subject” on 8th June 2009 and so remained until discharged from being so categorised on 17th December 2009. I do not repeat here the resume which I gave there of “MAPPAs” arrangements and the legislative and regulatory framework. In answer to queries raised by me I was told that an Executive Summary of MAPPAs meetings was made in August 2010; and that Executive Summary was produced to me before the hearing on preliminary issues. The Defendant however resisted disclosure of the Executive Summary to Mr Kirk.

2. The written judgment dealt with this issue at paragraphs 132 to 151. I ruled that the Executive Summary itself should be disclosed to Mr Kirk. As I related, according to that Executive Summary Mr Kirk was discussed during MAPPAs meetings on 8.06.2009, 9.07.2009, 20.08.2009, 22.10.2009, 23.11.2009 and 17.12.2009. By Order consequent on that judgment I directed that any application by Mr Kirk seeking disclosure of the MAPPAs Minutes themselves should be issued by 4pm on 25 January 2011, by application notice together with supporting evidence. No such application was ever issued nor has supporting evidence as such been served. However in e-mail communications with the court, in sometimes discursive form, he has made reference to this issue and stated that he was “awaiting the ruling” upon it. Accordingly I asked that arrangements be made for me to see a copy of those Minutes, and I indicated at the directions hearing of 11th July 2011 that I was willing to rule upon it. I gave a ruling by oral judgment on 12th July.

3. At the conclusion of the hearing I was aware that Mr Kirk was making renewed oral application for permission to appeal certain of my rulings of 30th November 2010 and that this was to be heard before the High Court judge in late July 2011.

4. Accordingly on 12th July 2011 I offered to produce a written note of the judgment I had delivered orally, if Mr Kirk wished to appeal this ruling and to ask that his application for permission to appeal be considered by the High Court judge dealing with his other applications. I did so because even if a transcript of the judgment delivered on 12th July were sought, it would not be available in time. It would be for the High Court judge to decide, if so asked, whether he was willing to deal with this matter on the same occasion. At that time it was uncertain that Mr Kirk wished to do so. Since he has now issued an application for permission to appeal, I have endeavoured to assist by producing this Note of my judgment.

5. A Mr Rees attended at court with a copy of the MAPPAs Minutes. I read them in his presence. For the record, there was no discussion with Mr Rees and no comment other than on my direct question for him to confirm that he had authority as MAPPAs co-ordinator physically to produce this copy of the Minutes for me to read and after that for him to then retain them.

6. Mr Kirk has not seen those Minutes (save that he produces to the court what he says is a copy of a report which must have been made by a social worker with initials "EP" at the head of the report) and I was informed by counsel for the Defendant Mr Lloyd Williams, QC that he had not seen any copy of the Minutes.

7. First, I record that the Minutes are anonymised as to those who attended the meetings and it appears to have been a matter of policy from the first meeting for the Minutes to have been so anonymised

8. Second, I record that I could detect no inconsistency between the Minutes as produced to me and the Executive Summary. Eg this includes the entry in the Minutes for the meeting of 9.07.2009, "On 30/6/09 Mr Kirk was arrested for the possession of a s5 firearm. He was subsequently remanded in custody". This is of course inaccurate, since he was arrested on 22 June 2009. The Executive Summary stated the same.

9. Third, there is nothing in the Minutes or arising from the content of the Minutes to indicate or suggest that Mr Kirk was subject to MAPPAs arrangements before, or had been subject to MAPPAs arrangements before, 8 June 2009.

10. The Minutes themselves stated , as did the Executive Summary,

"In February 2009 Legal Services, the Courts and Dolmans, the solicitors representing the South Wales Police, decided that it would be more appropriate to request Chief Constable Wilding to swear an affidavit re the civil action. Kirk took exception to this in that having been served with the affidavit he stated that the statements made by the Chief Constable were false and that he wished to arrest her. Kirk attended police headquarters and attempted to enter to make an arrest. This was unsuccessful and he was taken to Bridgend Police Station where he made a complaint against the officers who spoke with him and the Chief Constable". A series of protective measures were then instigated surrounding the Chief Constable with close protection being provided for all public engagements.

In March 2009 Kirk attended Cardiff County Court where he reiterated to the Judge that he would be arresting the Chief Constable of South Wales Police".

11. In addition , the Minutes stated, as did the Executive Summary,

“Further intelligence was gathered from Kirk regarding his open source website, “Flying Vets” [sic]. On this website were a number of highly concerning issues:

1. A picture of South Wales Police Authority members stating, “well I know where a few of these live.
2. A picture of Maurice Kirk holding a large machine gun with a magazine attached offering this for sale for £4000.00 with live ammunition. This was posted in August 2008 and removed shortly afterwards.
3. A £10000.00 reward is being offered for information relating to the whereabouts lifestyle, registration numbers, family, friends, associates, clubs, schools etc of 25 individuals. Those listed begin with Chief Constable Barbara Wilding followed by a list of serving and retired police officers and staff, members of the community other law enforcement officials. This was posted in April 2009. ..”

This intelligence has been further examined and more recently the picture of Kirk brandishing the firearm has been placed on the site three times with comments to the effect, “This will level the playing field at County Court”, and “The final solution”.

South Wales Police are obviously treating this matter very seriously with two key objectives:

- To protect members of the community, police staff and witnesses
- To investigate criminal activity. ”

12. As to perceived risk, the Minutes repetitiously included, in the same word as did the Executive Summary, a statement that the meeting agreed that Mr Kirk posed a risk to [a number of groups of individuals, as stated in the Executive Summary] ”.

13. In my written judgment on the preliminary issues, I considered that public interest immunity was an issue which must be considered in this case. To state the obvious there is also a public interest in a litigant having access to material, if that material is likely to advance his case. It is the task of the Court to balance those competing interests. I direct myself first, that I have a discretion in this matter and second, that on authority “the party seeking disclosure ought at least to satisfy the court that the documents are very likely to contain material which would give substantial support to his contention on an issue which arises in the case, and that without them he might be “deprived of the means of proper presentation” of his case. I need not repeat here the citation of authority for those propositions made in the written judgment

14. In the present proceedings, in the three actions being heard together, I am considering allegations in respect of a great number of incidents between 1992 and 2002. All long pre-date the period of the MAPPA minutes. It is part of Mr Kirk’s belief, and his case as presented to me, that there is and was a conspiracy to harm his interests and I particular to have him struck off as a practising veterinary surgeon. Part of his case has been that the incidents stopped or greatly reduced once this aim was achieved (or seen to be likely to be achieved) in 2002. As I have recorded above, I can see no material to suggest that MAPPA involvement pre-dated 2009.

15. Quite apart from the arguments of principle against disclosure of such potentially sensitive material, which I described as formidable in my written judgment delivered on 30th November 2010, the 2009 Minutes appears to me to fall well short of any relevance such as would justify disclosure or use in the present proceedings. I have considered Mr Kirk's submission that they reflect the "mindset" of the police but there is every risk of a satellite issue not arising in that period devouring time and attention when there is an abundance of material and evidence directly from 1992 to 2002 which the court will be required to consider.

16. Accordingly on 12th July 2011 I ruled against disclosure of copies of the MAPPA Minutes to the Claimant Mr Kirk. I refused permission to appeal.

Anthony Seys Llewellyn

His Honour Judge Seys Llewellyn, QC

25th July 2011.