

**IN THE CARDIFF COUNTY COURT**

The Law Courts  
Cathays Park  
Cardiff  
South Wales  
Wales  
CF10 3PG

Date : 12 July 2011

BEFORE:

**HIS HONOUR JUDGE SEYS LLEWELYN**

BETWEEN:

**Mr Maurice Kirk**

**Claimant**

**- and -**

**South Wales Police**

**Defendant**

**PROCEEDINGS 1**

The Claimant appeared as a litigant in person  
Mr Lloyd-Williams appeared on behalf of the Defendant

**TRANSCRIPT**

Transcribed from the official tape recording by  
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HHJ Seys Llewelyn Yes, good morning. First let me share with you exactly what has happened. The MAPPAs minutes or a copy of them, were brought by the MAPPAs coordinator, Mr Rhys, to the Court. They were read by me. No copy has been taken. I had no discussion with Mr Rhys about the minutes nor did I invite or have any comment by him upon them save to this single point. On my direct question he confirmed that his authority as coordinator was to physically produce a copy of the minutes to me to be read by me and then returned and they have been and in other words he sat for quite a time silently there where Mr Kirk is sitting, whilst I read them, and I think it is probably right for me at least to give the opportunity, there has been extensive argument and representations from each of you as to whether the MAPPAs minutes should be disclosed. At the moment I would not expect anything further to be said by or on behalf of the Defendant. Is there anything new, Mr Lloyd-Williams?

Mr Lloyd-Williams Not over and above that we have said so far.

HHJ Seys Llewelyn No. Mr Kirk?

Mr Kirk Sorry, I missed what you said to him.

HHJ Seys Llewelyn Yes. Is there anything new? Is there anything which is to be said by or on behalf of the Defendant, by Mr Lloyd-Williams?

Mr Kirk I see.

HHJ Seys Llewelyn I am hardly expecting it. We have had pretty elaborate argument so answer, no.

Mr Lloyd-Williams The answer is no.

HHJ Seys Llewelyn No. And Mr Kirk, I am very well aware of your vivid wish to see these minutes. Is there anything new that you wish to say to me beyond what has already been said at length?

Mr Kirk Yes. A Cardiff judge has now read the minutes of my, relating to my detention on 22 June 2009, leading to a jurors' decision on the first day that it was shambolic and the case should not have come to Court. I make application for full disclosure and as I said yesterday you now have the names of further witnesses I require, for them to confirm whether those were authentic notes or did you in fact see a true copy of the minutes of the South Wales MAPPAs, seven meetings, starting in 8 June 2009 and finishing on 17 December. There are serious issues in those minutes to disclose. The general mindset of the South Wales Police which you did not know about yesterday. Now you have read the minutes. Should you suggest that there is nothing new there to cause you to reconsider the consolidation of the machine gun case with the ongoing one, two and three actions and the fourth and fifth. I am anxious to know that without me seeing the content, some of which I have disclosed by leaked memo from Elizabeth Paul who was present at more than one of those meetings, stating her alarm that I was being set up, likely to be shot and then taking three weeks to set about arresting a man who they could have just telephoned and said "Could you come into

Cowbridge(?) Police Station please? We wish to speak to you about something.” You are now a witness to the content. The police lawyers here have seen those documents. They would not be so daft as not to have given advice on how they were to be written because the minutes would not have been written on the day and it is in the public interest that they be disclosed.

HHJ Seys Llewelyn What I am doing Mr Kirk is re-reading the document produced by you which says social work assessment EP headed this report “Do not be disclosed to the patient” and I am just reminding myself of the content. It is in your bundle put into the Court...

Mr Kirk Oh right. Well, I have got a copy here.

HHJ Seys Llewelyn I am re-reading it already, thank you.

Mr Kirk That is only, I suspect I only released four pages. There are in fact several tens of pages released to me of those minutes.

HHJ Seys Llewelyn You put in 13 pages of the social worker’s (inaudible) EP report.

Mr Kirk Yes, yes. There are at least 40 from that lady for a start.

HHJ Seys Llewelyn Well this is all I have seen.

Mr Kirk Yes. I am concerned that you have the other documents...

HHJ Seys Llewelyn When you say that you have copies of some of the minutes...

Mr Kirk Yes.

HHJ Seys Llewelyn ...other than social worker (inaudible) EP what do you say you have?

Mr Kirk Well, there is a need to know basis here. I am standing in a court room which is a can of worms in my opinion, my honest, my honest opinion and I am amazed that you have not taken immediate action having now read the contents of the minutes, with those particular people sitting around the table, Tegwin-Williams, for example.

HHJ Seys Llewelyn The reason I am asking that is that I have seen the minutes, I shall make some reference to them when I give my adjudication but limited, but what I want to know is whether you had copies you say of the minutes which I should consider because you raise with me whether what I have seen is authentic. That is the point.

Mr Kirk Your Honour, you may recall that having had to stand the stench of Welsh Courts for twenty years...

HHJ Seys Llewelyn Yes, do not be offensive to me.

Mr Kirk I have picked up some bad habits.

HHJ Seys Llewelyn Do not be offensive to me, Mr Kirk, please.

Mr Kirk Some of the bad habits were portrayed yesterday and if I produce what I have under my current control...

HHJ Seys Llewelyn Well, it is a matter for you.

Mr Kirk ...how do I know they will not then change the minutes once I have appealed your decision and gone to the Court of Appeal, gone to Human Rights, this is all human rights European law we are into now. How do I know that they are not going to switch the documents that you did not even take a copy of, I am so disappointed to hear, so that when they are eventually produced somewhere down the line, lawfully or unlawfully, there will be a discrepancy between what they have just said are original copies of the minutes of seven

MAPPA meetings during 2009. I have (inaudible) to you part of leaked documents to indicate that I am serious. I come back, I have not spent twenty years suffering under the mindset of South Wales Police expecting to crawl back under a stone because that is what they think that I am going to do. I am still grieving. Their treatment has still not beaten me. I have not run out of money. I have not run out of steam and I am still breathing. I am very concerned that you have not taken a copy.

HHJ Seys Llewelyn

No no, I have been listening to what you have said Mr Kirk, and I have been considering it. Mr Williams, I have just been reflecting on what Mr Kirk has said. For the moment, it is alright, I am addressing Mr Williams. He is concerned, and he has a long standing preoccupation that the Defendant has not and will not act properly. If the adjudication is contrary to him he will...

Mr Kirk

Sorry, could you speak up please?

HHJ Seys Llewelyn

Certainly. If the adjudication which I make is contrary to Mr Kirk, he doubtless would wish at some future stage to contemplate disclosing that of which he says he has copies in order to test the authenticity of the original but is reluctant to do so at this stage because of a perceived risk, perceived by him, that the Defendant itself might act improperly with regards to the relevant minutes. To some extent that ties my hand as to what I can look at from Mr Kirk because it is a matter for him what he does or does not produce.

Mr Lloyd-Williams

Yes.

HHJ Seys Llewelyn

It does seem to me that it might be a protection to both parties, and I repeat to Mr Kirk and to the Defendant for me to consider making an order, and it would not have been right to do so with Mr Rhys who had strictly limited authority before me but make an order that the copies be produced, I can look at them again, that a copy be taken within this Court building and I will, I could verify that it is a true copy, I can initial them, they can be placed in a sealed envelope not to be opened say on the authority of the trial judge or any judge dealing with an appeal from a matter in respect of this case and that would protect both Mr Kirk and the Defendant. If there is nothing in his perception of the prospect of the copies not being authentic or them being later altered that protects the Defendant. If there were a risk of any wrongdoing, then it would protect him. Do you have any observations?

Mr Lloyd-Williams

Only this. I have spoken to him very briefly this morning to tell him the procedure that we would adopt that he must assist whether he was directed to not say anything to your Honour which is as I understand it exactly what he did.

HHJ Seys Llewelyn

Yes.

Mr Lloyd-Williams

It is clear that he sees his role entirely independent of the police in particular and us as legal advisors generally so he is not willing to engage particularly with us. He sees his role as independent as the coordinator of MAPPA. As a way ahead that seems an entirely

sensible way of dealing with it.

HHJ Seys Llewelyn What I was told by Mrs (Inaudible) who spoke to him was that he is not a police officer.

Mr Lloyd-Williams Yes, that is right.

HHJ Seys Llewelyn He is a member of the police staff, or at least half half in that he is employed by the probation service and also in part by the police.

Mr Lloyd-Williams Your Honour, that is right. I was corrected firmly on that this morning, that he is not a police officer.

HHJ Seys Llewelyn Yes.

Mr Lloyd-Williams Your Honour, as a way forward it seems entirely sensible. My only slight concern is that bearing in mind the contents of the guidance, the MAPPa guidance which is the blue folder which was handed in previously last year and I think I have a copy that your Honour can see if necessary. What happens to the minutes is not something under his control but is something that has to be referred back to what I will call for the moment the stakeholders, as that is a popular phrase these days, in other words the various parties who play a role in MAPPa whether it is the health authorities or doctors or whatever so before he can do anything he seems to have to go back to them just to tell them what is proposed and if necessary let them make the decision. For our part...

HHJ Seys Llewelyn Yes, well, if I make an order, liberty to apply, if they wanted to complain about the order they can come and argue it in front of me.

Mr Lloyd-Williams Your Honour, yes. I certainly cannot see any objection to that.

HHJ Seys Llewelyn No.

Mr Lloyd-Williams If your Honour could indicate the times that your Honour has in mind as to when the copies would be...

HHJ Seys Llewelyn Yes of course, but now I am reflecting on another matter which is what I have seen are minutes, if there are, which is exactly what was required to be shown to the Court or at least invited to be shown to the Court. Mr Kirk has produced as I think you have seen something headed "Social Work assessment EP, this report cannot be disclosed to the patient" and dealing with MAPPa involvement. Now I will tell you both that that is not amongst the papers that I have seen this morning.

Mr Lloyd-Williams Yes, I cannot actually place the document that your Honour is referring to and I suspect that is information known to one of the stakeholders or one of the parties to MAPPa, whether it would appear on the minutes depends I suppose on whether it was discussed or not. I say that without being able to bring the document to mind at one moment.

HHJ Seys Llewelyn Yes. Well, I wonder whether you have seen it because it is placed, there is a bundle which Mr Kirk produced to help the Court and to help his own arguments in the appeal from my own rulings of 30 November...

Mr Lloyd-Williams Right.

HHJ Seys Llewelyn ...and it is a document, I infer that this bundle was produced for

Mr Kirk putting before the High Court judge on appeal. Is that right Mr Kirk?  
Yes.

HHJ Seys Llewelyn Yes.  
Mr Lloyd-Williams I certainly have not seen it.  
HHJ Seys Llewelyn I am very keen as I have been throughout that anything which I see from one party should be seen by the other, otherwise I do not look at it, with a limited exception of these minutes.

Mr Lloyd-Williams May I just instructions for one moment?  
HHJ Seys Llewelyn This is simply to identify the document.  
Mr Lloyd-Williams May I just take instruction?  
HHJ Seys Llewelyn Yes.  
Mr Lloyd-Williams My instructing solicitor has not seen the document. It may be if I could have just have two minutes, to remain in Court, whilst I have a look at the document so I could understand what it is, if that is permissible your Honour?

HHJ Seys Llewelyn Yes, of course.  
Mr Kirk Sir, did I understand that Dolmans had seen them?  
Mr Lloyd-Williams No. The instructing solicitor has not seen it.  
HHJ Seys Llewelyn What I have just been told by Mr Williams is that he has not seen this before and his instructing solicitor who is in Court...

Mr Kirk I think I sent those to the Defendant from France when I was serving them for an appeal. Do they not get a copy of my bundle?

HHJ Seys Llewelyn I do not know the answer to that. My understanding is that when you have sent matters for the Court, the solicitors for the Defendant have acted as a postbox and unless they are invited to look at what you are sending to the Court they do not. That is my understanding.

Mr Kirk So when I appeal your decision today later and I have to make bundles for the Court of Appeal, I also have to make a bundle and serve it on Dolmans which is what I did. That bundle. Here we are (inaudible) that they can see the document where a witness is alarmed (?).

HHJ Seys Llewelyn In a moment or two I will take that out.  
Mr Lloyd-Williams The position as I understand it, may I hand that document back, is that the papers were certainly served on Dolmans although of course we take no particular part in the appeal. Whether that document appears in the appeal bundle, my instructing solicitor does not know because she does not have the appeal bundle here so has not been able to check. It is certainly not a document that I have seen. Having seen it, it does appear to be the type of document that I was referring to, namely indicating one person's involvement with Mr Kirk since they would not necessarily reflect what was in the minutes of MAPPA I assume, unless the contact through that person Mr Kirk is raised at the MAPPA meeting and then it would be presumably spoken into and then recorded in the minutes themselves so the fact that what is in that document is not set out in verbatim in the minutes is perhaps not surprising although I say that without having seen the minutes themselves or what they therefore might consist of.

HHJ Seys Llewelyn Well there we are, I am simply sharing with you the fact and just help me, well, you have already given me the answer namely that they may have been there in documents available to your instructing solicitors. The first stage of an appeal, as you know or if you do not know I will share it with you Mr Kirk, is that the papers are put before the Appeal Court and in this case a High Court Judge to consider on paper. At that stage it is an application for permission to appeal. If permission to appeal is given at that stage then it becomes an appeal. In this particular case he refused permission paper considerations and that is why you are coming back on 29 July to present your arguments orally that there should be permission to appeal, normally unless and until permission to appeal is given the other side in my experience tends to sit on its hands and wait to see whether permission is given.

Mr Kirk We are short of time, your Honour. Those MAPPA minutes should go before the Appeal Court judge on 29 July and you are now knowledgeable and aware of the differences of what is in the minutes to the documents that Dolmans have pretended they have not read before. This is a further example of the mindset...

HHJ Seys Llewelyn I am getting to deal with whether there are or are not inconsistencies in what is shown to me, without going further.

Mr Kirk Could I ask roughly how many pages there were for the minutes?

HHJ Seys Llewelyn They are pretty slim. I can tell you that. They are pretty slim. It is not...

Mr Kirk That does not surprise you or me, does it? They will not be the original. How on earth could seven meetings be pretty slim?

HHJ Seys Llewelyn Yes. I am going to give five minutes' reflection to one point which has been raised by Mr Kirk. I will return to give adjudication.

Judgment follows