

**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 2**

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

**TRANSCRIPT**

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Mr Lloyd-Williams Just one matter to clarify on the order.  
HHJ Seys Llewelyn Yes.  
Mr Lloyd-Williams Your Honour has indicated that the, it may be better if I use the words that are in the MAPPA guidance, agency, agencies they are called.

HHJ Seys Llewelyn Yes.  
Mr Lloyd-Williams Your Honour has indicated that the agency should be given so many days notice to make representations. Might I suggest this formula, that if an order is made either by your Honour or by any appeal judge that the envelope be opened, the interested agency be given seven days' notice prior to the opening of the envelope to make any representations they think appropriate. So if your Honour or the appeal judge thought the envelope should be opened, seven days before it is opened presumably by way of the coordinator, the agencies can be given the opportunity of making any representations they wish.

HHJ Seys Llewelyn Well, as a matter of practicality, the likelihood is, I suppose, that a judge hearing the appeal from this ruling may have, I hesitate to use the word 'mindset' but the same mindset as I have, namely that he ought to see what is being talked about...

Mr Lloyd-Williams Yes.  
HHJ Seys Llewelyn ...therefore it is almost inevitable that he will, or she will, whichever it is, and I would have thought that the agency ought to prepare their representations now and be prepared for much shorter notice because a judge may, for practical reasons, be reading these papers not a week in advance or two weeks advance, and I have in mind 48 hours notice.

Mr Lloyd-Williams 48 hours. Your Honour, yes. But the type of trigger I have described meets the Court's satisfaction in terms of how the agencies can be involved?

HHJ Seys Llewelyn Yes. Well, presumably the Agency will need to give, it is probably Mr Rhys who was the coordinator, may need to give the name and the address to which the information on notice is given that I or the judge on appeal or if ever the Court of Appeal.

Mr Lloyd-Williams Yes. We have a direct telephone number which we can give the Court. That is Mr Rhys' direct telephone number so the Court could, I imagine, telephone...

HHJ Seys Llewelyn Well, it will probably suffice to put notice to be given either in writing or by telephone.

Mr Lloyd-Williams Yes.  
HHJ Seys Llewelyn All right. There we are.  
Mr Kirk Yes. I need the agencies that you read off the minutes in order that I can put them on notice that I want their records. You have referred to the quasi document. It is very limited about matter of procedures but you are now aware (inaudible) names of the agencies and I still want confirmation from this Court who sat round which table when. You now have that knowledge...

HHJ Seys Llewelyn No, I do not. I do not. I do not have the names. As I have told you the minutes which I have...

Mr Kirk Ah, there are no names on the minutes.

HHJ Seys Llewelyn They are anonymised.

Mr Kirk So how can I establish the agencies who are independent of the police, if you believe that, that is what we have just been told. How can I now put in a Court application for each agency to disclose their own minutes? Please...

HHJ Seys Llewelyn No, I am reflecting on what you say Mr Kirk.

Mr Kirk But it is to save time. Sorry, I am interrupting.

HHJ Seys Llewelyn No, no. I will invite the assistance of Mr Williams. I do not know the answer, as I sit here. Mr Williams, the individual, you call them stakeholders...

Mr Lloyd-Williams Yes, or agencies.

HHJ Seys Llewelyn Well, it is an agency is it not...

Mr Lloyd-Williams Yes.

HHJ Seys Llewelyn ...with constituent, horrible modern word, attendees.

Mr Lloyd-Williams Yes.

HHJ Seys Llewelyn Are you able to assist with that?

Mr Lloyd-Williams Well, I do not have anything other than the documents that your Honour has. The executive summary identifies...

HHJ Seys Llewelyn There was a witness statement, was there not, from Mr Nigel Rhys.

Mr Lloyd-Williams There was from Mr Oliver.

HHJ Seys Llewelyn Ah, Mr Oliver.

Mr Lloyd-Williams I do not think that is going to deal with that issue, I think. I have the statement here, 31 August 2010. That was pursuant to your Honour's order. Can I just hand my copy up, or a copy up anyway, to remind your Honour?

HHJ Seys Llewelyn Yes. (**Document handed up**). I am just looking at my own note on criminology. Well, the police are represented, are they not?

Mr Lloyd-Williams The police are represented.

HHJ Seys Llewelyn Well, is that not the simple mechanism but insofar as, in effect that is the mechanism which we have adopted so far. Mr Kirk in these proceedings has, well, he has not made an application but I have treated it as an application against yourselves that the minutes should be disclosed and that is essentially it, is it not? We have had an informal application not in proper form but that is the substance of it, is it not?

Mr Lloyd-Williams Yes, and that has failed.

HHJ Seys Llewelyn And therefore it is going to go before the High Court judge on appeal assuming that Mr Kirk either gets permission from me or seeks permission from the High Court judge which he will doubtless seek.

Mr Lloyd-Williams Yes but your Honour I think what, as I understand it, what Mr Kirk wants, it may be that your Honour, even if your Honour will mind to assist him on this point cannot assist him, is to let him know who was round the table so to speak, so to use your Honour's knowledge which your Honour is not prepared to disclose directly by the

minutes and so use your Honour's knowledge having read the minutes as to who was round the meeting, so he is seeking to use information that is contained in the minutes which your Honour is not prepared to disclose in order to make further applications directly to those individual parties.

HHJ Seys Llewelyn Well, on what I have seen this morning I am in no position to assist Mr Kirk...

Mr Lloyd-Williams No, yes.

HHJ Seys Llewelyn ...because they are anonymised.

Mr Lloyd-Williams Your Honour yes but in any event...

HHJ Seys Llewelyn But I think the vehicle is the appeal to the judge.

Mr Lloyd-Williams Yes.

HHJ Seys Llewelyn I think the best I can do, I am not here to advise the parties but it seems to me, Mr Kirk, that your avenue is to appeal my ruling to the appeal Court which is the High Court judge and to do so promptly and I ought firstly to tell you that the first question is whether I give permission to appeal my ruling.

Mr Kirk Do we get that today?

HHJ Seys Llewelyn Well, I am just thinking about it.

Mr Kirk Could I assist?

HHJ Seys Llewelyn Yes.

Mr Kirk Let us not be a little more pragmatic about all this. Is there not an application later in the hearing today that the machine gun case be put off for five years, if these minutes are not relevant to 1992 to 2002 they are mightily relevant to the next issue that we are addressing today and that is their application to adjourn the fifth or sixth action.

HHJ Seys Llewelyn Yes. At the moment I have not dealt with this as an application in those proceedings because it is not. It is now dealing with these proceedings.

Mr Kirk I thought it was listed for (inaudible).

HHJ Seys Llewelyn But I am going to go on to deal with that application.

Mr Kirk Yes, well, if I was to be cooperative and not appeal, the whole matter arises again today or next month or next year, that these minutes are extremely relevant to be disclosed for the machine gun trial civil proceedings only listed, only put into Court a few months ago.

HHJ Seys Llewelyn I can see the way the argument could be developed for that and then we may be into straight balance between public interest and relevance.

Mr Kirk Well, I am of the impression which is why I wrote hearing for MAPPA disclosure, an application to put off the machine gun damages claim for five years. I thought I received an application from the Defendants and I cannot remember now...

HHJ Seys Llewelyn There is an application which I need to rule on today where the Defendants say that the newest action, if I can call it that, the machine gun action, should be stayed pending the resolution of these proceedings.

Mr Kirk Yes.  
HHJ Seys Llewelyn Shall I go on to deal with that now?  
Mr Kirk But all these issue of MAPPAs will just simply be regurgitated.  
HHJ Seys Llewelyn Well, they may be. Shall I go on to deal with that? If you are asking for permission to appeal, I have been reflecting about it at the same time, at the moment I do not see a real prospect of an appeal court taking a different view and that is the real test and if the Appeal Court, the High Court judge disagrees with me if you appeal that ruling on MAPPAs minutes in these proceedings, if he disagrees well then you succeed.

Mr Kirk I hear this on a regular basis. If a judge says "I do not think..." well, he is not likely to say anything else if he has just refused the disclosure of very sensitive documents.

HHJ Seys Llewelyn Yes. An intelligent and perceptive comment, Mr Kirk. It is unusual for judges to say "Here is my ruling and I think you have got a real prospect of success" but I can tell you that it does happen and particularly where the law is tricky. Yes, Mr Williams.

Mr Lloyd-Williams Your Honour yes. As far as the, as I intend to call it, the machine gun action, your Honour will know that Particulars of Claim have been issued.

HHJ Seys Llewelyn Yes, I read them yesterday.  
Mr Lloyd-Williams Has your Honour seen the defence which has also been served?  
HHJ Seys Llewelyn No, I do not think I have.  
Mr Lloyd-Williams And there should be a statement of Mr Oliver in support of the application to stay.

HHJ Seys Llewelyn I have seen that.  
Mr Lloyd-Williams Well, there should be a defence. I can hand in my copy. **(Document handed up)**.

HHJ Seys Llewelyn Thank you. Right, I have read that.  
Mr Lloyd-Williams Your Honour will see that the defence joins the issue in detail with the non-machine gun matter but is the defence's perfunctory or in short form as it is put in Mr Oliver's statement when it comes to the machine gun matter. Your Honour, what the Defendant seeks is one of two approaches to this matter. Primarily, to put the matter of, the machine gun matter off generally until after the trial of the three actions so at least to get something resolved in this series of proceedings issued by Mr Kirk, so in view of your Honour's indication yesterday that would place us somewhere after the three trials which might be about March or April next year. The alternative to that is for more time to be allowed to enable the Defence to plead a full and proper defence, condescending to details in respect of the machine gun matter rather than the somewhat short form perfunctory defence at the moment. Your Honour, so far as the formula is concerned it is apparent from Mr Kirk's Particulars of Claim in the machine gun matter that his approach to the police response to the machine gun matter is that as a result of the former chief constable(?) having been forced as he would see it to file and

affidavit and having filed an affidavit which as he would see it was false he pursued her and as a response to that, because he was getting close as he would see it to the heart of the conspiracy, so the police concocted this matter against him; that is the machine gun matter. It is of course central to that approach to establish from Mr Kirk's point of view that the affidavit filed by or sworn by the former chief constable was in fact false and known by her to be false, that is of course something which has been raised in the three actions which your Honour has to consider. It was raised by Mr Kirk in front of his Honour Judge Chambers QC and it has been raised in front of your Honour on a number of occasions and the response of the Court has been that at the moment at least the affidavit has to be taken at face value but once the trials are over one can see what material comes to light, if I can put that in that very general sense, both from the Defendants' officers and from Mr Kirk himself, the Court will be a better position to know whether that which was contained in the affidavit was knowingly false at the time when it was sworn. It appears to us therefore that the result in the three existing actions which are proceeding to trial in the early part of next year, the result of that in particular such findings as are made in relation to documents, what was known or not known by particular people, is of central relevance to the Court's approach and therefore the Defendant's approach as well, in the machine gun action. In other words it is important, one would have thought important to both parties to resolve the three actions which are proceeding to trial before one turns to the machine gun matter. That being so, we would respectfully invite the Court to that approach adopted in the two other actions, the fourth and fifth actions, namely that they be saved until after the first three actions had been tried. The reason behind that would apply in this case but even more so because the result of the first three actions are so intimately linked to what is said to be the core or the basis of the police action in the machine gun action. And Sir, we say the only way in which all of the complaints made by Mr Kirk can be kept in a manageable way is to proceed to trial as rapidly as one sensibly can on the first three actions whilst keeping the remaining, or now the other three actions to one side until the first three actions are resolved. That is dealt with in the statement of Mr Oliver.

HHJ Seys Llewelyn  
Mr Lloyd-Williams  
HHJ Seys Llewelyn  
Mr Lloyd-Williams

How long did it take for the criminal trial to proceed to a verdict?  
The actual period in Court itself?  
In Court?

HHJ Seys Llewelyn  
Mr Kirk

I do not know. I think Mr Kirk might be in a better position than me to know. I think it was two weeks or maybe I might be wrong.  
Mr Kirk?  
Well, I will be calling members of that jury to give evidence and they have told me, they volunteered, I did not agree with the meeting with the jury after the trial and I had nothing to do with it other than to be

- in hearing distance of it, and they said they made their minds up on the first day.
- HHJ Seys Llewelyn Yes. Well, there are questions, nothing is free of difficulty here, but there are questions of law which will arise as to jurors speaking as to anything as to their deliberations.
- Mr Kirk Could I respond to what I have just heard?
- HHJ Seys Llewelyn Yes, absolutely.
- Mr Kirk To suggest that this matter has already been before Mr Nicholas Chambers QC is of course erroneous. His passing shot was that he allowed me to demand that the chief constable sign the affidavit and that was in November of 2008. The affidavit was to be signed by, in the first few days of January and then when that day passed she then handed in her notice about three days later and I constantly got in contact with those responsible to say "When is this document going to be signed?" And eventually I had to personally go into the offices at Dolmans and I said "I ain't leaving until this is sorted and call the police if you like, because I will because you are in breach of Mr Chambers' order." And miraculously the next day I had it signed and delivered to me in some form, having been signed that afternoon when I was in the offices of Dolmans. Now what is most unusual about this case, I am being told by wiser men than me, and that is that I lodged, to the best of my ability at the time, about six or seven years ago, about 50 lever arch files of each court case that I had been subjected to whilst living in Wales trying to practice as a veterinary surgeon in between Court cases...
- HHJ Seys Llewelyn I have...
- Mr Kirk ...and in the affidavit...
- HHJ Seys Llewelyn I have heard and seen your representations about that.
- Mr Kirk In the affidavit there are two court cases which particularly involve surveillance police which did not want, they did not want identified and I believe that not just the chief constable knowingly signed a document, but remember the latest news about News of the World, they are all saying that the owners of the newspaper and the editor must have known which money was being paid to which police officer to obtain information and that is a matter, that is something else but I have had the feeling before I even heard about the News of the World that she must have known...
- HHJ Seys Llewelyn Well, we are getting onto the detail of this and for the moment of this I want to grapple with the concept of whether we deal with that trial.
- Mr Kirk Well, throughout the defence and what I have heard today, they are again admitting that all these cases are intertwined which is why there should be consolidation of the machine gun case. I am ordering the transcript now for the appeal court judge to show how shambolic and how vindictive the police were and it is going to be transcribed, it is going to be somebody else (inaudible), not Maurice Kirk rabbiting on. I know what you have to suffer in your job. There is a transcript which stands on its own. A man who was very ill at the

time, defending himself with a judge who refused to let him have his documents, alienating, I am saying it in this room but not publicly, alienated the judge so much they said I could have been a multiple rapist and they would have let me off, and that is most damning information from that trial and it remains confidential for all the obvious reasons.

HHJ Seys Llewelyn

Right. Well I have got your submissions. Mr Lloyd-Williams, I am very clear in my mind as to what ought to happen. Firstly the defence ought not to be left in its present state and there ought to be a fully pleaded defence that sometimes preparation for a trial whether imminent or far away are aided by knowing exactly what it is that the Defendant says. In this particular case I have some doubts as to whether the picture will change at all for want of or for assistance by a properly pleaded defence but I think that it ought to be there...

Mr Lloyd-Williams  
HHJ Seys Llewelyn

Your Honour, yes.

...and that ought not to be put on ice in the machine gun action. The question is as to how long is required. I have in mind 14 days or 21 days, something of that sort.

Mr Lloyd-Williams

Your Honour, I was going to ask for considerably longer than that. The reasons are twofold. One is I want to plead the defence as fully as possible in order to meet the allegations being made by Mr Kirk and there are matters raised by Mr Kirk which specifically relate to or happened in the various Court hearings. As the Court will know the papers such as they are collected by the police and handed to the CPS, the CPS appearing in Court, I have raised the role, the independent role of the CPS in the pleadings themselves so as to alert Mr Kirk already to that particular issue. Whether the police have any knowledge as to what went on within the various court hearings and whether I am able to plead to them for the police owned documents I do not know but I would like to make the police position clear, so far as I am able to, in respect of any particular hearing over and above simply saying "It is not us, it is the CPS because they had conduct of the proceedings." So there will be a need to collect a lot of material. My own personal position for the next few weeks makes it difficult for me to address this issue in detail in a way that I would like. I was going to ask the Court if the Court would allow three months for the defence to be filed. I appreciate that is quite a long time but it will still be three to four months prior to the commencement of the, three months I am sorry, before the trial of the three trials in the early new year so if there is anything that arises from the defence in this matter that Mr Kirk thinks needs to be brought to the attention of the Court he will have had it for three months prior to the commencement of the trial of the three matters.

HHJ Seys Llewelyn  
Mr Lloyd-Williams  
HHJ Seys Llewelyn

Well three months prior is October.

Yes.

I would prefer to have it done right and fully so that Mr Kirk sees everything, not something which is at all opaque.



- Mr Lloyd-Williams Your Honour, there is also this. There is the MAPPA issue which might have to be re-traversed in these proceedings...
- HHJ Seys Llewelyn Yes.
- Mr Lloyd-Williams Your Honour knows I do not see, contrary to what Mr Kirk asserts, I do not see those documents. Whether there are, and I do not want anyone to think that there are, but whether there other such documents in relation to the machine gun matter, I do not know but it is going to require quite a careful approach from those representing the Police in these proceedings as to what material there is and what I can see and not see, depending on what material there might be. I am sorry to be (inaudible) vague(?) way because I have not seen the material, I do not know the type of material that is there so I do not know whether there might be similar issues raised in the machine gun matter as there has been in this case in relation to the MAPPA documents.
- HHJ Seys Llewelyn At a level of abstraction I can see if they want to preserve your innocence as to the MAPPA minutes, if you are remarkably high level abstractive, I can see that that might be a difficulty but the reality of the machine gun action is going to be was there good and proper reason for...
- Mr Lloyd-Williams Yes.
- HHJ Seys Llewelyn ...an arrest and the manner of arrest. Was there good and proper reason to bring charges, the interrelationship of the police and the CPS as to that and as to any steps which were instructed by the Court. Is it really going to be a difficulty?
- Mr Lloyd-Williams Well, I have seen some material which might suggest there might be an issue raised about that. I am sorry to put it in that rather obscure way at the moment.
- HHJ Seys Llewelyn It is fairly obscure to me.
- Mr Lloyd-Williams It is a fairly obscure way. It may be that there is material. If I put it this way, there are two definitions we are considering here. In the criminal trial they are considering was he guilty or not and Mr Kirk makes such allegations as he wanted to as to why the police might be acting a certain way and whether that would have an effect on the jury is a matter for the jury. These proceedings are different of course. We are not considering whether he is guilty or not, where there is a reasonable cause to suspect that an offence had been committed. What information they relied upon in feeding into the reasonable cause might be different material that we produce at trial to show that he is guilty of the offence.
- HHJ Seys Llewelyn Well, I can see that but I still am unclear that there is a difficulty. I can see that the scoring through, going through the police CPS material that that is going to be (inaudible).
- Mr Lloyd-Williams Whether I will get the CPS material I do not know but certainly the police material. I can only at the moment indicate without people suddenly thinking that there are documents that are being kept from them, I simply do not know what the documents are but your

Honour, I would wish to ensure that the Defence is pleaded properly and if there are any issues which need to be addressed they are highlighted early so they can be resolved earlier rather than allowed to fester, if the Court can...

HHJ Seys Llewelyn  
Mr Lloyd-Williams All right.  
Can I indicate this is a compromise? It is only a very slight compromise. If I could suggest to the Court that the Defence be filed by 1 October, it reduces it down to about two and a half months and we would have a date to work towards. I could be confident that I can get the matter resolved by then.

HHJ Seys Llewelyn  
Mr Kirk Yes. You were wanting to say something, Mr Kirk.  
I just happen to have a bail application for 7 August which clearly implicates the police information to the Crown Prosecution Service as being erroneous.

HHJ Seys Llewelyn  
Mr Kirk Anyway, it goes to the evidence in the case.  
I think I should try and assist here. It has taken a year for me to try and find a lawyer in the UK to draft the Particulars of Claim. I am not impressed with the Particulars of Claim but I knew that they had to go in, in order to get this hearing going today because it relates to the mindset of the South Wales Police. Because no time has been spent on the Defences yet as such other than the computer (inaudible) press a button and it comes out, they are now going to do a proper (inaudible). I would suggest and I ask, and I do ask that I resubmit my Particulars of Claim because there are particulars of law that are not there and I did not have time to work out what they were and if I allow them to now proceed in doing a proper defence I am going to be in difficulties so I would like to resubmit and as soon as they receive it then the clock ticks, depending on how much time you give them and I consider a month is appropriate but it...

HHJ Seys Llewelyn  
Mr Kirk You do not have any draft of what you are suggesting should be the amended form?  
Sorry?

HHJ Seys Llewelyn  
Mr Kirk You do not have any draft of what you propose?  
Well no. it is just that I am not a lawyer and I have learned from experience of previous against South Wales Police that things are being struck out because I am not using the correct words in each paragraph. I have got to keep repeating that I was harassed since 1997 or it was malicious or it was (inaudible) or it was this and I have not had time to go through that document to do all that, and also at the end I have not put at the bottom what I am claiming. I am claiming one million pounds but I believe that at the bottom of the statement I am trying to find a lawyer. I have employed a lawyer to mediate but you have made it quite clear there is no future in mediation. They...

HHJ Seys Llewelyn I have made clear that if the parties themselves will not mediate then it is foolish for me to stop the case on the supposition that they would. I would be delighted if this case were mediated.

Mr Kirk Yes. I am going to approach lawyers again to just, just to improve what I have written because it is not, it is not up to the standard that you would accept as a proper Particulars of Claim. I freely believe that. Whether I am right or wrong I do not know but I am taking this advantage of saying that if they have spent no money on it yet I wish to re-present...

HHJ Seys Llewelyn Well, I think if that is going to be done then it ought to be done within a sensible time. I am just thinking aloud. On the whole, one expects Particulars of Claim to be in proper form, to be fully particularised. I have some sympathy for the position of a litigant in person but I think that if there is to be any amendment it needs to be done. I mean, one of the ways of dealing with this would be to give you a lot of time, a lot more than would ordinarily be given and that is to mid-August and the Defendants who do not know what you may be adding in to be given a lot of time, namely until mid-October, or the end of October. I think that might make more sense actually. What is a Friday in the middle of August?

Mr Kirk What can a litigant in person do when he cannot get any lawyers in the land to help him draft these things?

HHJ Seys Llewelyn Well, that is not in my control.

Mr Kirk I know it is not.

HHJ Seys Llewelyn Yes. I do now have a clear view.

**Judgment follows**