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**IN THE CROWN COURT  
AT CARDIFF**

**Indictment No. A20110290**

The Law Courts  
Cathay Park  
Cardiff  
CF10 3PG

**27<sup>th</sup> January 2012**

Before:

**HIS HONOUR JUDGE HUGHES**

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**REGINA**

- v -

**MAURICE JOHN KIRK**

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**MR EVANS** appeared for the Prosecution.

The Defendant appeared in person

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**PROCEEDINGS**

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Tape transcription by **Mendip-Wordwave**  
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**P R O C E E D I N G S**

(Court rise)

(10.17am)

**COURT CLERK:** Are you Maurice Kirk?

**DEFENDANT:** Yes.

**COURT CLERK:** Thank you, please sit down.

**MR EVANS:** May it please your Honour, I appear on behalf of the Crown in this matter.

**JUDGE HUGHES:** Yes.

**MR EVANS:** I am grateful to the court for listing this matter at short notice.

**DEFENDANT:** (Inaudible).

**JUDGE HUGHES:** Just a moment. Pardon?

**DEFENDANT:** I am very deaf.

**JUDGE HUGHES:** Right, well we will try and keep our voices up so that you can hear.

**MR EVANS:** I certainly shall.

I was just explaining, your Honour, that I am grateful to the court for listing this matter at such short notice. The matter is listed for appeal against conviction, on 3<sup>rd</sup> February next week.

**JUDGE HUGHES:** Yes.

**MR EVANS:** The issue, or the first issue, your Honour, is that I have a pre-existing professional engagement on that day, so I would not be able to complete the matter, should it start in the morning. But it may be that the time estimate given of half a day is insufficient, in any event.

**JUDGE HUGHES:** Yes.

**MR EVANS:** I prosecuted this matter in the Magistrates' Court and a conviction was entered on 1<sup>st</sup> December of last year. In the Magistrates' Court with cross-examination undertaken by legal representative, rather than Mr Kirk in person ...

A **JUDGE HUGHES:** Yes.

**MR EVANS:** It still took two days of evidence and a further two days of Administrative Hearings. It may be that half a day is somewhat optimistic.

B **JUDGE HUGHES:** Two days of Administrative Hearings? What were they about?

**MR EVANS:** It was listed initially, your Honour, and the first warning as to the legal representation ...

**JUDGE HUGHES:** I see. Yes, two days before the actual Hearing. Yes.

C **MR EVANS:** Yes.

**JUDGE HUGHES:** Yes, well can you tell me how many prosecution witnesses have been required?

D **MR EVANS:** That is of course another difficulty, your Honour. There is a notice of appeal, well a letter purporting to be such a notice, dated 2<sup>nd</sup> December 2011. Mr Kirk does not state within that notice who he requires, and as such of the nine witnesses that were in the Magistrates' Court, at this moment they would all be required.

E **JUDGE HUGHES:** Yes. And ...

**MR EVANS:** Four lay witnesses, five police officers.

**JUDGE HUGHES:** Right. And one of them, presumably is the complainant?

F **MR EVANS:** Yes.

**JUDGE HUGHES:** Right. Does the complainant himself have any difficulty with next Friday?

G **MR EVANS:** Forgive me your Honour (Pause) Not that I am aware of, your Honour, but I do know he has a busy diary. He is a practising psychiatrist.

H **JUDGE HUGHES:** Yes. Well now, at the Magistrates' Court, the District Judge made rulings on 15<sup>th</sup> November before the case was heard on 1<sup>st</sup> December, which required that a separate lawyer should cross-examine on behalf of Mr Kirk.

A **MR EVANS:** Yes.

**JUDGE HUGHES:** For reasons which I can understand. It seems to me, having read the papers, that a similar procedure should be adopted at the Appeal Hearing. Is that a view with which you agree, or not?

B **MR EVANS:** Certainly.

**JUDGE HUGHES:** It is also important that I should give Mr Kirk the opportunity, if he wants to do so, to appoint such a person himself. Mr Kirk, can you hear me?

C **DEFENDANT:** I am sorry, I have at least seven, six appeals, and one trial. I heard some of that now; is this to do with the harassment conviction?

**JUDGE HUGHES:** Yes.

D **DEFENDANT:** Right.

**JUDGE HUGHES:** It is to do with the case that was heard on 1<sup>st</sup> December over three days, before a District Judge in the Cardiff Magistrates' Court, when you were found guilty of the harassment, and the Restraining Order was made. Do you remember that?

E **DEFENDANT:** Well, I am in difficulties, your Honour, three years now (inaudible) seems to have been a policy of me not being told things to which I am entitled. For example, I am not being given the court documents or copies of court record of what has been going on. Not just in the Crown Court but also in the Magistrates' Court. Now ...

F **JUDGE HUGHES:** Can I just tell you that I have been reading your letters, of which there are several on the court file. Many of them of course do not deal with the appeal that I am concerned with today, but are dealing with anxieties that you have about disclosure, about other matters which you raise at some length in you letters. But I need to focus now on the appeal which you have made against the Order on 1<sup>st</sup> December. Now, on that occasion cross-examination on your behalf was undertaken by a lawyer. Do you remember that?

G **DEFENDANT:** I was told that is what happened, yes.

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A **JUDGE HUGHES:** Yes. Well now then, on the appeal the same procedure will be followed  
but you need to be given an opportunity if you want to, to appoint a lawyer yourself. And you  
are entitled to have seven days in which to notify the court in writing whether you intend to do  
B that. If you do not do it, the court will itself appoint a lawyer to cross-examine the witnesses on  
your behalf. But that lawyer will owe a responsibility to the court, and not to you. Do you  
understand that?

C **DEFENDANT:** Rather a lot to take in. I am entitled to know why in the Magistrates' Court I  
was not entitled to cross-examine the police officer.

D **JUDGE HUGHES:** Yes. The procedure was followed under the Justice and Criminal  
Evidence Act 1999, Section 36. An Order was made preventing you from cross-examining the  
witnesses yourself. I suppose it was because it was thought that might be a continuation of the  
harassment that was being alleged against you. Now that proceedings followed, this court  
intends to follow the same procedure, but you need to be aware that if you want to you can  
appoint such a lawyer yourself. But you must tell the court within seven days whether you  
E intend to do that, and if you do, who the lawyer is, the address of the lawyer, and confirm the  
lawyer can attend at the Hearing and appeal. Do you understand all that?

**DEFENDANT:** Am I entitled to have a copy of the court record of the lower court?

F **JUDGE HUGHES:** There is a record of the conviction, which is on the court file, and certainly  
a copy can be made available to you of that.

**DEFENDANT:** Well why wasn't I given that at the time?

**JUDGE HUGHES:** I have no idea what you were given or what you were not given.

G **DEFENDANT:** But I am asking, am I entitled to the clerk of the court's record, because I heard  
very little of the Hearing.

H **JUDGE HUGHES:** All right. You are entitled to receive a Memorandum of Conviction,  
which you can be provided with if you have not already got it. But I want you to focus on what I

A am saying to you now; is it your intention for the appeal, to have someone to represent you, in  
order to cross-examine the prosecution witnesses?

B **DEFENDANT:** I am sorry, your Honour, I believe I am entitled to a (inaudible) notes in order  
to understand why I was refused the right to cross-examine the police officers in the (inaudible)  
Hearing. Am I entitled, your Honour?

**JUDGE HUGHES:** You can apply to the Magistrates' Court ...

**DEFENDANT:** I have (inaudible).

C **JUDGE HUGHES:** I am not going to engage in an argument with you. I am telling you what  
will happen on the appeal. You will have the opportunity to appoint a lawyer to cross-examine  
for you. If you do not do that, the court will do it for you.

D **DEFENDANT:** I am asking, am I entitled to have the clerk of the court's notes, saying why I  
was not allowed?

**JUDGE HUGHES:** You may apply to the ...

**DEFENDANT:** The Magistrates refuse to answer my letters, for the last 18 months.

E **JUDGE HUGHES:** It is not a matter for me to deal with that. Will you please focus on what I  
am saying to you? Do you ...

F **DEFENDANT:** Can you then tell me why you are refusing me the right to cross-examine  
police officers in the case?

**JUDGE HUGHES:** Yes. Because I take into account everything I have read about the case,  
and I believe it in the interest of justice that you should not be allowed to do so.

**DEFENDANT:** Thank you. Now, can I have please a copy of what you have read?

G **JUDGE HUGHES:** Well I have been reading all your letters.

H **DEFENDANT:** No. Those are letters after the time that a Judge refused me the right to cross-  
examine police officers. Could I please have a copy, the court document that you now say are in  
existence, that I haven't had the (inaudible) question to me about me finding a lawyer next week.

A **JUDGE HUGHES:** All right.

**DEFENDANT:** Am I appearing to be unreasonable?

B **JUDGE HUGHES:** You are not focusing on what I am asking you to focus upon. I am not going to engage in an argument with you. For the last time, I am telling you, you have the chance to appoint your own lawyer if you want to. If you do not want to, the court will do it for you.

C **DEFENDANT:** So you are refusing me a copy of the court record that has caused you to refuse me the right to defend myself, in a British court of law.

**JUDGE HUGHES:** I am not refusing you anything.

Right, Mr (inaudible talking over)

D **DEFENDANT:** I have applied to the court, that I have been on the case without a lawyer.

**JUDGE HUGHES:** Mr Evans, the position is, as you know, under the Act, the court is obliged to consider various considerations, which I have done under Section 36?

**MR EVANS:** Yes.

E **DEFENDANT:** Sorry, I didn't hear that (inaudible).

**JUDGE HUGHES:** I am explaining to Mr Evans that I am required to consider the Act, in particular, Section 36 through to Section 38, which I have done. Now then, we need to fix a date. I suggest either Thursday 1<sup>st</sup> March or Monday 5<sup>th</sup> March.

F **MR EVANS:** Your Honour, 1<sup>st</sup> March is convenient for me.

**JUDGE HUGHES:** It is a Thursday.

**MR EVANS:** Yes please.

G **JUDGE HUGHES:** All right.

**MR EVANS:** Your Honour, it may assist, 8232 of Archbold 2012 Rule 31.1 of the Criminal Procedure Rules, deals with the appointment your Honour has already referred to.

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A **JUDGE HUGHES:** Yes. I think I am required to give Mr Kirk seven days to notify the court in writing, under the rules, and if that does not happen by the date, the court will then move to appoint its own lawyer to cross-examine on his behalf.

B **MR EVANS:** Your Honour, the court is able to alter that period.

**JUDGE HUGHES:** I had intended to think about doing that, had the appeal remained in on Friday. But that is going to go off, there is no need to shorten that period, I think.

**DEFENDANT:** Am I entitled to have legal papers?

C **JUDGE HUGHES:** Which papers to you want, Mr Kirk?

**DEFENDANT:** Well there are seven court cases relating to this incident that is now subject to appeal in a British court of law, and I wish to have the legal papers ... for example, the one I am interested in they wont even give me the documents. Have you seen ... why should I be in custody at the moment (inaudible)?

**JUDGE HUGHES:** Well, those are not matters for me to deal with. There are a number of different cases that you have been involved in. All I am going to say is this; please listen carefully to what I am going to explain to you now. I have considered the provisions of the Youth Justice and Criminal Evidence Act of 1999 and in particular Section 36. That is the section where the court is obliged to consider whether or not you should be allowed to cross-examine prosecution witnesses. I have decided that it is likely that the evidence of witnesses would be diminished if you yourself were to do it, and that it would be not contrary to the interest of justice to give such a direction. And I have borne in mind the provisions of Section 36(3) of the Act, in particular taking into account the nature of the questions you are likely to want to ask and the behaviour that you demonstrated by the letters you have written to the court. It is quite plain to me, as it was to the District Judge, that the same procedure must be followed. You therefore have seven days in which to notify the court, in writing, whether you intend to

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A instruct a lawyer yourself. If you fail to do that, then the court will appoint somebody itself, and  
the case will be heard on Thursday 1<sup>st</sup> March.

**DEFENDANT:** Could I have a copy of the questions that were put to the witnesses last time  
B and the answers recorded by the court?

**JUDGE HUGHES:** Were you not present on the last occasion?

**DEFENDANT:** Not for all the court case.

**JUDGE HUGHES:** Where were you?

C **DEFENDANT:** Well I was refused my legal papers, and I was refused (inaudible) my lawyer, a  
gentlemen (inaudible) West Wales with the files, sitting in the court, and I wasn't allowed a file.  
I wasn't allowed to cross-examine. I wasn't allowed pen and paper. I wasn't allowed any  
D defence witnesses. So I said, "Well I'll go down and get myself a cup of tea, and read The  
Echo".

**JUDGE HUGHES:** Oh I see.

**DEFENDANT:** Then after, sir, your Honour, I was given no documentation (inaudible) and I  
E ask you, sir, to supply me with certified true copy, certified true copy by this court, by this Judge,  
of what documentation, audit trial has been caused for you to refuse me the right to defend  
myself, and for what is left (inaudible) conviction that took place in my absence, and its  
F outcome. For three years, your Honour, before I became ... when I first became in front of  
Judge Hughes, here in this court, I was on (inaudible) without my knowledge. The prison asked  
me to confirm in writing that the prison and probation service had nothing to do with it. The  
Judge Hughes refused to inform me that I was in the top five percent most dangerous, when he  
G overturned the Barry Magistrates commission for (inaudible). Now that was the beginning of  
three years. And in the last three years the courts, the Judges at Cardiff have repeatedly refused  
to give me those documents created by the criminal proceedings, to which a British subject is

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A entitled, and here I am now being told that there is some law based on documentation you have considered, to support the Judge in the lower court.

**JUDGE HUGHES:** No, no, no, you misunderstand it. The first thing you misunderstand, is you are not being denied the right to defend yourself. You are simply being told that you cannot cross-examine, yourself, prosecution witnesses. That will be done on your behalf by a lawyer. The other thing is this; that much of what I have been reading, are your own letters which you have written to the court. And partly based upon those my decision is made, as I have no doubt the District Judge's was.

**DEFENDANT:** Could you please give me a copy of whatever you have read, including my (inaudible). I am not allowed to copy things in the prison. I come to court and I am not allowed to have my legal papers. (Inaudible) was a classic case two years ago where it wasn't (inaudible) until the very end of a 12 day trial that I was allowed to have legal papers to defend myself in court. Could I please ask you, the Trial Judge ... sorry, your position today ... to give me, or Order, the court, the lower court relating to this, and there was a remand warrant, I have been in custody now for a breach of a Remand Order. Could you please Order the lower court ... because it relates to this trial that is coming ...

**JUDGE HUGHES:** No I cannot make Orders like that against the lower court.

**DEFENDANT:** Yes, but they are the same prosecution witnesses.

**JUDGE HUGHES:** Mr Kirk I am not going to engage in an argument or a discussion with you about this; I have made my ruling. If you want to have copies of documents that you have written yourself you can apply to the court administration and they may, or may not, provide you with copies of your own letters.

**DEFENDANT:** No (inaudible) ...

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A **JUDGE HUGHES:** I am not making any Order about that today. This case will be heard on 1<sup>st</sup> March as an appeal and you will have a lawyer appointed, if you have not within seven days told the court that you are going to appoint one yourself. Is that clear to you?

B **DEFENDANT:** Can I apply today?

**JUDGE HUGHES:** You can apply, but I am afraid you must do so in the proper way. On notice to the prosecution ...

**DEFENDANT:** I have done that.

C **JUDGE HUGHES:** I beg your pardon?

**DEFENDANT:** I have done all that.

**JUDGE HUGHES:** Well I have not seen it, it is not before me this morning.

D **DEFENDANT:** Of course you haven't seen it. You like a ... you run a (inaudible) of, you seem to have a culture, an inherent culture based on deceit, and your time will come, sir. Along with all the other Judges, who knew that I was (inaudible) Level 3, and all kept your mouths shut. Eight Crown Court Judges, your Honour, not you perhaps, but ...

E **JUDGE HUGHES:** No, well I have not had any dealings with it before, Mr Kirk. I have never met you. I have read all about you, and I have never met you before. And I shall meet you again on 1<sup>st</sup> March.

F **DEFENDANT:** Thank you, sir.

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A We hereby certify that the above is an accurate and complete record of the proceedings, or part thereof.

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Signed: Mendip-Wordwave Partnership

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