

B E T W E E N: **THE QUEEN**

- v -

MAURICE JOHN KIRK

**DEFENCE STATEMENT AND/OR MOTION TO
QUASH AND/OR PLEA OF DEMURRER**

**COUNT FOR WITNESS INTIMIDATION CONTRARY TO SECTION 51 OF THE
CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994**

1. The Defendant is not guilty of the charge of Intimidation of Witnesses contrary to section 51 of the Criminal Justice and Public Order Act 1994, allegedly made by the Defendant as alleged by the Crown in connection with allegations of common assault contrary to section 39 of the Criminal Justice Act 1988.
1. The Defendant alleges and avers that he never carried out the alleged hand gestures as alleged by the Crown or at all.
1. Further, the Defendant alleges and avers that the said hand gestures carried out by the Defendant as alleged by the Crown didn't amount to an offence of intimidation contrary to section 51 of the Criminal Justice and Public Order Act 1994 as alleged as a matter of law.
1. The alleged hand gestures could on their face be interpreted as also relating to the actions of the bailiffs employed by the Defendant's daughter Ms Belinda Kirk, who were in attendance at the business premises at 175 Cowbridge Road West in Ely, Cardiff. in order to attempt to evict the prosecution witnesses from there.
1. As a matter of fact, the prosecution witnesses have subsequently been evicted from 175 Cowbridge Road West by Order of Cardiff County Court obtained in November 2013.
2. In the premises, the charge of Intimidation of Witnesses contrary to section 51 of the Criminal Justice and Public Order Act 1994 should either be quashed or withdrawn from

the jury, as in all of the circumstances as a matter of law, it would be unsafe for the said charge to be considered by the jury accordingly.

THE JOINED ASSAULT CHARGES

THE FACTS

1. The Appellant is not guilty of the charge of common assault contrary to section 39 of the Criminal Justice Act 1988 in respect of the prosecution witnesses.
2. The Appellant denies that he poked or touched the prosecution witnesses as alleged or at all.

JURISDICTION TO JOIN THE COMMON ASSAULT CHARGES UNDER SECTION 40(1)(A)(B) OF THE CRIMINAL JUSTICE ACT 1988

3. The charges of Common Assault contrary to section 39 of the Criminal Justice Act 1988 were originally going to be tried summarily in the Cardiff and the Vale Magistrates' Court.
4. The Crown have subsequently sought to join them to the Indictment for Intimidation of Witnesses contrary to section 51 of the Criminal Justice and Public Order Act 1994, purportedly under section 40(1)(a)(b) of the Criminal Justice Act 1988.
5. The Defendant therefore moves to quash the said charges of Common Assault on the grounds that they have been wrongly joined in the Indictment against him purportedly under section 40(1)(a)(b) of the Criminal Justice Act 1988.
6. In the premises, the charges of Common Assault contrary to section 39 of the Criminal Justice Act 1988 aren't:
 - (a) "founded on the same facts or evidence" as the charge of Intimidation, or
 - (b) aren't "part of a series of offences of the same or similar character" as the charge of Intimidation "which is also charged",

and in any event, weren't disclosed in relation the transfer of the Intimidation charge to the Cardiff Crown Court from the Cardiff and the Vale Magistrates' Court under section 51 of the Crime and Disorder Act 1998 as now being applicable to offences triable either way.

Dated 27 December 2013

Signed

A handwritten signature in blue ink, appearing to read "Maurice John Kirk". The signature is written in a cursive style with a horizontal line underneath.

MAURICE JOHN KIRK
Defendant

IN THE CARDIFF CROWN COURT

Case Ref: T20130801

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- v -

MAURICE JOHN KIRK

**DEFENCE STATEMENT AND/OR MOTION
TO QUASH AND/OR PLEA OF DEMURRER**

Maurice John Kirk,
Number A7306AT
HMP Cardiff,
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Defendant