

## DEFENDANT'S APPLICATION FOR PROSECUTION DISCLOSURE

*(Criminal Procedure and Investigations Act 1996, section 8;  
Criminal Procedure Rules, rule 22.5)*

### Case details

Name of defendant: appellant Maurice John Kirk

Court: Cardiff Crown Court

Case reference number:

Charge(s):

Appeal against conviction for common assault contrary to section 39 of the Criminal Justice Act 1988 at Cardiff and the Vale Magistrates' Court on 10 December 2013.

**Note:** You must give a defence statement, and allow the prosecutor time to respond, before you can make an application for prosecution disclosure.

### How to use this form

**1. Complete the Case details box above and answer the questions set out in the boxes below.** If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.

**2. Attach to this form:**

(a) a copy of your defence statement, and

(b) copies of any correspondence with the prosecutor about disclosure.

**3. Sign and date the completed form.**

**4. Send a copy of the completed form and everything attached to:**

(a) the court, and

(b) the prosecutor.

### **1) What material do you want the prosecutor to disclose ?**

1. All CCTV evidence relating to the CCTV cameras at HMP Cardiff regarding the reception and vehicle lock area of the alleged assault by the Appellant on Prison Officer David Rogan, or immediately outside the prison regarding that area.
2. All documentary evidence relating to the companies responsible for the maintenance and upkeep of the CCTV cameras at HMP Cardiff regarding the reception and vehicle lock area of the alleged assault by the Appellant on Prison Officer David Rogan, or immediately outside the prison regarding that area for the period that would be concerned.
3. All documentary evidence relating to Prison Officer Rogan's employment duties and rosters at the prison in connection with whether he was ever required to

attend as part of his duties at the prison reception area, and also in relation to prisoners' property for the period in question relating to the various relevant detentions of the Appellant in HMP Cardiff.

**2) Why do you think the prosecutor has that material ?**

1. The CPS are under a duty to request the police to investigate as to whether any of the CCTV cameras at HMP Cardiff regarding the reception and vehicle lock area or immediately outside were working on the day, and whether the CCTV evidence has been retained and is retrievable.
2. The CPS are also under a duty to request the police to investigate as to whether there are records from the companies responsible for the maintenance and upkeep of the CCTV cameras at HMP Cardiff regarding the reception and vehicle lock area or immediately outside.
3. The CPS are under a duty to request the police to investigate as to Prison Officer Rogan's employment duties and rosters at the prison in connection with whether he was ever required to attend as part of his duties at the prison reception area and also in relation to prisoner's property.

**3) Why might that material:**

- (a) undermine the prosecutor's case against you, or
- (b) assist your case ?

1. The material concerned would prove whether the Appellant's arrest of Prison Officer David Rogan was justified under section 24A(1)(a) and/or (b) and/or (2)(a) and/or (b) and/or (3)(a) and/or (b) and/or (4)(c) and/or (d) of the Police and Criminal Evidence Act 1984 and/or under Common law powers of arrest and was proportionate.
2. The material concerned would prove to what extent Prison Officer David Rogan was lying in the Magistrates' Court and proposes to lie further in the Crown Court.

**4) Do you want the court to arrange a hearing of this application ? YES / NO**

If YES, explain why you think a hearing is needed. (If you do not ask for a hearing, the court may arrange one anyway.)

1. The evidence is complex and was deliberately withheld from the Appellant at the Magistrates' Court.
2. The CPS were in breach of their disclosure duties to the Appellant to ensure a fair trial as guaranteed under section 1 to 7A of the Criminal Procedure and Investigations Act 1996 and/or article 6(1) ECHR as incorporated under schedule 1 of the Human Rights Act 1998.

Signed:



~~defendant appellant / defendant's solicitor~~

Date: ...27 December 2013.....