

Appeal Notice

(Criminal Procedure Rules, rule 63.3)

Appellant

Name: Maurice John Kirk

Address: HMP Cardiff, Knox Road, Cardiff, South Glamorgan CF24 0UG

Details of appeal

Appeal from the Cardiff and the Vale Magistrates' Court

Case number: 1300596600

Appeal to the Crown Court at: Cardiff

Crown Court case number:

This is an appeal against the following decision:

(specify the conviction or finding of guilt, the sentence or other order against which you want to appeal, and give its date)

Conviction for Common Assault on a Prison Officer at HMP Cardiff, contrary to section 39 of the Criminal Justice Act 1988 and sentence of 12 week's imprisonment on 10 December 2013.

HOW TO USE THIS FORM

You must:

- 1. Fill in the boxes above, and give the information required 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. Sign and date the completed form in the space below.**
- 3. Send or give copies of the completed form to**
 - (a) the magistrates' court office and**
 - (b) the other party to the case** (e.g. the prosecutor),**so they receive it not more than 21 days after:**
 - the date you were sentenced or your sentence was deferred (whichever was earlier), if your appeal is against conviction or against a finding of guilt,
 - the date you were sentenced, if your appeal is against sentence,
 - in any other case, the date of the order or failure to make an order about which you want to appeal.

The Crown Court may extend that time limit, **but if your appeal is late you must explain why.**

The issues in this case are: *(summarise the matters of fact or law, or the reasons for sentence or other order, that are in dispute)*

1. Whether the Appellant had lawful excuse for making an arrest of Prison Officer David Rogan 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?
2. Whether Prison Officer David Rogan was guilty of committing an offence of theft of the Appellant's Passport, or had aided and abetted, counselled or procured it under section 8 of the Accessories and Abettors Act 1861, and/ or had conspired to do so under section 1 of the Criminal Law Act 1967?
3. Whether the Appellant had "reasonable grounds" for suspecting that Prison Officer David Rogan was guilty of committed an offence of theft of the Appellant's Passport, or had aided and abetted, counselled or procured it under section 8 of the Accessories and Abettors Act 1861, and/ or had conspired to do so under section 1 of the Criminal Law Act 1967?
4. Whether Prison Officer David Rogan was in the act of committing an offence of theft of the Appellant's Passport, or was in the act of aiding and abetting, counselling or procuring it under section 8 of the Accessories and Abettors Act 1861, and/ or was conspiring to do so under section 1 of the Criminal Law Act 1967?
5. Whether the Appellant had "reasonable grounds" for suspecting that Prison Officer David Rogan was in the act of committing an offence of theft of the Appellant's Passport, or was in the act of aiding and abetting, counselling or procuring it under section 8 of the Accessories and Abettors Act 1861, and/ or was conspiring to do so under section 1 of the Criminal Law Act 1967?
6. Whether the Appellant had "reasonable grounds" for believing that it was necessary to arrest Prison Officer David Rogan in order to thereby "prevent loss or damage" to his passport, and/or to prevent Prison Officer David Rogan "making off before a constable could assume responsibility for him", and/or that it appears to the Appellant that "it was not reasonably practicable for a constable to make an arrest" instead and it was therefore "necessary to arrest" Prison Officer David Rogan accordingly.

Only fill in this box if your appeal is against a conviction or a finding of guilt.

Which of the prosecution witnesses in the magistrates' court do you want to ask questions if they are witnesses in the Crown Court? (Name them)

Prison Officer David Rogan

Police Constable Andrew Mason

Police Constable Victoria Howe

Detective Constable Young

(Relating to the Appellant's Police interview at Cardiff City Police Station as the Appellant doesn't agree to his Witness Statement being read to the court under section 9 of the Criminal Justice Act 1967. The Appellant will require the original DVD tape to be played to the court.)

In the magistrates' court, the trial lasted 3 hours.

In the Crown Court, I expect the appeal to take about 5 hours.

Under section 142 of the Magistrates' Courts Act 1980, in some cases a magistrates' court can re-open a conviction, sentence or other order and make a fresh decision.

Have you asked the magistrates' court to reconsider your case?

No.

In this box list the other parties to whom you have sent or given copies of this form.

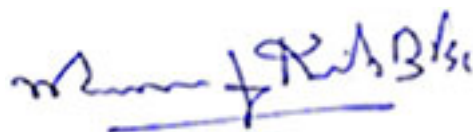
I have sent or given copies of this appeal notice to:

Mr. D. Roberts
Senior Crown Prosecutor
CPS
Cardiff CJU
19 floor
Capital Tower
Greyfriars Road
Cardiff
CF10 3PL

If your appeal is against a finding that you insulted someone, or interrupted proceedings, in the magistrates' court:

- (a) ask for and attach the magistrates' court's written findings of fact, and
- (b) attach your reply to those findings.

Signed:



Appellant / Appellant's solicitor

Date: 27 December 2013