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IN THE CROWN COURT
AT CARDIFF

Indictment No. T20120090

The Law Courts
Cathays Parks
Cardiff
CF10 3PG

4th May 2012

Before:

HIS HONOUR JUDGE CURRAN QC

R E G I N A

- v -

MAURICE KIRK

MR GARETH EVANS appeared for the Prosecution

THE DEFENDANT appeared in person

SENTENCING REMARKS

Tape transcription by **Mendip-Wordwave**
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SENTENCING REMARKS

(4.19 pm)

JUDGE CURRAN: Maurice John Kirk has been convicted by the jury of an offence contrary to the provisions of Section 5 of the Protection from Harassment Act. The conviction arises from his being convicted at the Cardiff Magistrates Court before District Judge John Charles on 1st December 2011. He was convicted then of an offence under Section 2 of the Protection from Harassment Act, having pursued a course of conduct which amounted to harassment of [REDACTED] a consultant forensic psychiatrist who is based at the Caswell Clinic near Bridgend.

The background to the offence appears to be that sometime ago [REDACTED] had been responsible for the treatment of Mr Kirk. It appears that somehow [REDACTED] diagnosis of Mr Kirk as suffering from a mental illness of some kind had been allowed to fall into Mr Kirk's hands or had been in some way brought to his attention, because he was subsequently able to quote from [REDACTED] report. That has led to something of a campaign of harassment against [REDACTED] which led to the conviction in the Magistrates Court.

At the Magistrates Court a restraining order was applied for by the Crown Prosecution Service and although a draft of the order was handed by the prosecutor to the District Judge, it was in fact the District Judge himself who finalised the order. A copy of it was then taken down to the cells and served on Mr Kirk, who was clearly aware of its contents.

Some days later, in complete defiance of one of the prohibitions contained in the order, he caused to be published on the internet on his website further abusive material directed at [REDACTED] [REDACTED] As a result of that he was charged with this offence and the trial has just been concluded.

A The offence crosses the custody threshold and requires nothing short of an immediate
sentence of custody. Harassing somebody, particular this particular doctor who is in a very
difficult position, having had the misfortune of having treated the defendant in the past, is a
B very serious matter and there is no doubt at all that Mr Kirk, as the behaviour during the
course of this trial has demonstrated, is capable of acting in a highly intimidating and
threatening and abusive manner. For that reason his conduct was obviously a source of great
concern to the doctor. For that reason the offence, involving a bare-faced breach of the order
C very shortly after it has been made, requires nothing short of immediate custody.

Having said that, I also bear in mind that this offence does not involve an actual
attempt to confront the doctor or go to his place of work, but the mere publishing of offensive
D material on the net, on the defendant's own website. For that reason, therefore, I am not
required to go anywhere near the maximum sentence which is open to the court for offences
under this particular Section of the Act, which is no less than five years imprisonment. As it
is, I bear in mind the age of the defendant, the fact that he has been in custody for a
E considerable period of time, bail having been refused because of the likelihood of further
offences being committed.

In the result, the appropriate sentence is one of nine months' imprisonment. The
F defendant will serve half of that sentence in custody; that is to say four and a half months.
The second half, in accordance with the usual directions by Parliament, will be spent on
licence in the community. So far as the half of the sentence the defendant has to serve in
custody is concerned, that is to be reduced by the number of days that he has spent in custody
G on remand in connection with this matter up until now. I think it may now be 133 days; I am
not sure. Well, as of yesterday it was 131, so today it is 132. It is to be reduced by 132 days

A that he has spent in custody on remand in connection with this matter up until now and the
restraining order obviously remains in force.

B I sentence the defendant in his absence, because he has declined to come back into
court and, since there may well be, as there very often is by Mr Kirk, an application for leave
to appeal against this conviction to the Criminal Division of the Court of Appeal, I would
make it clear in my sentencing remarks, which may be drawn to the attention of the judge
receiving the application for leave, that consideration needs to be given perhaps to the way in
C which the defendant behaved throughout the trial, which the transcript would reveal, and
indeed the repeated offers which were given him this morning to come back into court and to
give evidence and to call witnesses if he wanted to, all of which he declined, as a result of
which I was driven to conclude that there was no alternative but to continue the case without
D his physical presence.

E That concludes the proceedings. I have considered the question of costs. I know
nothing at all about the defendant's means. I am aware of the fact that, in view of his age, I do
not know that he is any longer in employment; he was a veterinary surgeon. I shall order him
to pay a contribution of £1,000 towards the cost of the prosecution. I reduce it from the full
figure of £3,500 because I do not know anything about the defendant's means and that is in no
way meant to be critical of the prosecution, who have perfectly properly brought this case to
F the court. Was this a defence election for trial?

CLERK: Yes, your Honour.

JUDGE CURRAN: I am informed that it was. The fact that I have limited the amount of
G costs is not in any way meant to be critical of the prosecution at all; this was a case that was
properly brought, but knowing the things I do about the defendant's means and in the light of
his age, I have limited the amount for those reasons. I shall grant him three months to pay; if

A he is not able to pay within that time, he will have to make the appropriate application to the
Magistrates Court, which will be the collecting court. There we are ladies, thank you very
much, that is the end of it.

B The effect of the order, incidentally, I might say, because Parliament requires that only
half of a custodial sentence is spent in custody, is that I think the likelihood is that Mr Kirk
will be released if not today, very shortly, is that right?

MR EVANS: Possibly your Honour, yes, because of the number of days on remand.

C **JUDGE CURRAN:** Yes, thank you very much.

(4.26 pm)

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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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