

A **IN THE CROWN COURT**  
**AT CARDIFF**

**Indictment No. T20120090**

B The Law Courts  
Cathays Park  
Cardiff  
CF10 3PG

**Date: 4<sup>th</sup> May 2012**

C Before:

**HIS HONOUR JUDGE CURRAN QC**

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D **REGINA**

- v -

**MAURICE KIRK**

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E **MR GARETH EVANS** appeared for the Prosecution.

The Defendant appeared in person.

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**ALL PROCEEDINGS and SUMMING UP**

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G Tape transcription by **Mendip-Wordwave**  
(Official Transcribers of Court Proceedings)  
Rockeagle House, Pynes Hill, Exeter, Devon, EX2 5AZ  
Tel: 01392 213958 : Fax: 01392 215643

H -----

**ALL PROCEEDINGS**

**(12.26pm)**

**CELL MANAGER:** Your Honour, this is from Mr Kirk. "I am not in a position to give evidence. I wish my witness to give evidence so need, so no need for me to attend. The witness is [REDACTED] If they want me to attend and no-one else available to examine I may be able to do it".

**JUDGE CURRAN:** Can I see that? **(handed)** The request for the attendance of [REDACTED] is something that has been repeated throughout by the Defendant. [REDACTED] is the subject of the restraining order. It was because of the Defendant's harassment of [REDACTED] that he was convicted of the offence under Section 2 from the Protection from Harassment Act in the Cardiff Magistrates' Court. [REDACTED] is not the Defendant's witness. He was a witness who was correctly abandoned by the Crown. As putting him in the witness box when he had no evidence to give directly concerning the breach of the restraining order would simply have afforded the Defendant the opportunity of continuing the campaign of harassment against the doctor by having him cross-examined in a public court, when he is not in a position to give any relevant evidence in the case. I have already refused an application by Mr Kirk to have a witness summons served on [REDACTED] compelling his attendance at this court and I will not grant such a witness summons.

In the circumstances, Mr Kirk is to be informed again that [REDACTED] is not a witness in this case; he is not going to be called and unless he comes back into court immediately the trial is going to proceed without him. Would you mind doing that please? Thank you very much for your assistance.

**(12.29pm)**

**(PAUSE)**

A (12.39pm)

**CELL MANAGER:** From Mr Kirk, your Honour. "I needed to see a doctor. I need to be taken back to prison but would like Mr Edwards from North Road to give evidence and there will be no need for me to attend because the court has his statement.

B **JUDGE CURRAN:** Is Mr Ivan Edwards in court?

**MALE ONE:** No, your Honour.

**JUDGE CURRAN:** No. Thank you very much.

C **CELL MANAGER:** Thank you.

**JUDGE CURRAN:** Well I intend to continue the trial. It will not be appropriate for you to address the jury a second time since the Defendant has not given evidence. I shall in effect tell them what happened, but in fact I shall give them a direction that they are not to hold his absence against him in any way or to regard it as support from the prosecution case.

D **MR EVANS:** No. Your Honour, whilst I (inaudible) absolute confidence of course that your Honour has these points already, I think I am duty bound in the absence of the Defendant to raise them in any event as part of the summing up your Honour will give. Those matters are paragraph 4-441 of Archbold the latest edition. I take absolutely no disrespect in pointing that out to you, your Honour. Simply in an abundance of caution. Page 505 of Archbold. The bottom half of 4-441 and it is where a Defendant is unrepresented it is generally desirable to tell the jury he is open to ...

E **JUDGE CURRAN:** Oh yes. I can certainly do that.

F **MR EVANS:** ... out of an abundance of caution.

G **JUDGE CURRAN:** Yeah. Can I have the jury back in please? Two questions asked by the jury. "Is there CCTV footage of the restraining order being handed over? Cell three. If not, why?" The answer is there is no footage. There is no evidence about it and you will have to deal with the case on the available evidence. "Could we see Michael Williams' record of the

H

A presentation of the restraining order as referred to by Lee Barker?” Again Mr Williams has given evidence and there is no evidence of his record of the presentation of the restraining order. That is the answer to that. Thank you.

B  
(JURY IN)

(12.44pm)

C **JUDGE CURRAN:** Thank you for your note, ladies and gentlemen. The first question is, you asked was this, “Is there CCTV footage of the restraining order being handed over? Cell three. If not, why?” You decide the case on the evidence and there is no evidence of CCTV footage in this case. Your second question is, “Could we see Michael Williams’ record of the presentation of the restraining order as referred to by Lee Barker?” Again, Mr Williams gave evidence before D you but with, any record of the presentation of the restraining order is not in evidence and is not part of the evidence. You have to decide the case on the evidence that you heard and nothing else. I deal now with the absence of Mr Kirk from the dock. After the outburst in the course of E which I think you saw him begin to remove his trousers and reach towards his rear, he was taken down to the cells.

F After a delay to allow him to calm down, I ultimately got the, he was declining to come back into court so I got the dock officer to read this document out to him, which I signed. “The prosecution have concluded their case and you have heard the evidence against you. Now is the time for you to make your defence. You may give evidence on oath and be cross-examined like any other witness. If you do not give evidence or if having been sworn you refuse without good G cause to answer any question, the jury may draw such inferences as appear proper. That means they may hold it against you. You may also call any witness you have arranged to attend court. Afterwards you may also if you wish, address the jury by arguing your case from the dock but H you cannot at that stage give evidence. Do you now intend to give evidence? I further have to

A warn you that if you refuse to return to court, the trial will continue in your absence and after the  
summing up, the jury will retire to consider their verdict. You are therefore advised to return to  
court”.

B The first response of Mr Kirk was to say that he wanted to see his Mackenzie friend who  
has withdrawn from that position. He then said that he wanted to see his witnesses. He then said  
by means of a note which was sent to me, when I sent the dock officer back down to tell him that  
the case would proceed in his absence if he did not come up into court, “I am not in a position to  
C give evidence. I wish my witness to give evidence, so no need for me to attend. The witness is  
████████████████████ If they want me to attend and no-one else available to examine, I  
may be able to do it”. He was told again as I repeatedly told him through the case that Dr  
D ██████████ is not a witness in this case and I have refused his application for a witness summons  
to bring Dr ██████████ to this court. Again he was warned by the dock officer that he did not  
come back into court I was intending to proceed with the trial in his absence.

E He then sent a note saying, “I need to see a doctor. I need to be taken back to prison but  
would like Mr Ivan Edwards, North Road, to give evidence and there will be no need for me to  
be present because the court has his statement”. Mr Ivan Edwards is not here; is not known to  
the court; and the court does not have his evidence or any statement from him. It is therefore my  
F intention now to conclude the case by summing up to you and then inviting you to retire to  
consider your verdict.

**(SUMMING UP)**

G **(12.48pm)**

**JUDGE CURRAN:** During the course of this case, you have heard how on 1<sup>st</sup> December of  
last year, which was the third day of a contested trial in the magistrates’ court, in the absence of  
H Mr Kirk who declined to come into court, the district judge found him guilty of the offence

A under Section 2 of the Protection from Harassment Act of harassing [REDACTED] a  
consultant psychiatrist. After that, the Defendant was given an opportunity of coming up into  
court according to the prosecution's case, to hear sentence passed but declined to do so. The  
B prosecution's case is that apart from the sentence of 18 weeks' imprisonment which meant  
because the Defendant had been in custody already for nine weeks, that he was immediately  
released as the rules of sentences of imprisonment are that you serve half in custody and the  
second on licence in the community.

C Apart from a sentence of imprisonment, the prosecution's case is that the district judge  
made a restraining order, a copy of which you have got. It is Exhibit 1 in this case and that  
some days later, Mr Kirk broke the terms of the order by publishing the exhibit which you have  
got before you on his website. The Crown's case is that although he was not physically in court  
D when the restraint order was made, Mr Williams the court clerk went down to the cells and saw  
Mr Barker, the supervising custody officer, hand him a copy of the order. It appears to be the  
Defendant's case that he disputes firstly that a restraint order was made; and secondly that he  
E was given a copy of it and he told the police when he was interviewed that the first he knew  
about the restraining order was sometime considerably later and that he had not seen it before  
being shown a copy of it when he was being interviewed.

F That is the central issue in this case. Now you and I have been trying the case together  
working as a team if you like. But as I told you at the start of the trial, the parts we have had to  
play up until now have been quite separate and apart and will continue to be quite separate and  
apart from now on. Now that is because the law is my responsibility and for that reason when I  
G sum the case up to you now, I will do it in two parts. In the first part I will tell you the law that  
you need to know for the purposes of the case and in the second part I will remind you about the  
evidence. The reason for that is that you will have gathered that our parts are different. Mine  
concerns the law but you on the other hand concern all questions of fact and evidence and you  
H

A judge the evidence and you decide whether the case has been proved or not. You are not required to resolve every point of detail. Simply those matters which enable you to decide whether the charge on the indictment has been proved. I say that the facts of the case are for your judgment and so they are.

B In those circumstances remember that anything that I say when I deal with the evidence is not to be taken as being anything that you need to follow. Because remember that if you consider I am expressing a view about the evidence or emphasising a particular part of it, you are under no obligation whatever to adopt any view or emphasis of mine unless it happens to coincide with a view or emphasis that you have independently come to yourselves. When I deal with the evidence, I am not going to repeat every single word of it and just remember that if I do not mention a particular piece of the evidence that you consider is important, then as long as you apply the legal directions that I give you, continue to have regard to it and give it the weight that you think it deserves. All of that quite simply is because at the end of the day when it comes to the facts of the case, it is your judgment that counts and nobody else's.

E Remember as I have said that you decide the case only on the basis of the evidence which is being put before you. The first legal direction that I must give you concerns the burden and standard of proof. These are criminal charges that the prosecution bring against the Defendant and the prosecution therefore has to prove it. The burden of proving the case is always on the prosecution and the Defendant does not have to prove his innocence. The standard of proof required of the prosecution is such that you cannot convict him unless you are sure he is guilty. What is called having the case proved beyond a reasonable doubt. If you are sure, your verdict is guilty, if you are not sure, your verdict is not guilty. If you look at the indictment you will see that he is charged with the single offence of acting in breach of a restraining order contrary to the provisions of Section 5 of the Protection from Harassment Act.

H

A In particular, what he is alleged to have done is to be a party to material being placed on  
the internet relating [REDACTED] which he was prohibited from doing by restraining order  
made by the Cardiff Magistrates' Court on 1<sup>st</sup> December. You have got a copy of the order. It  
B prohibits him, the Crown say, from contacting, approaching or communicating with [REDACTED]  
directly or indirectly by any means; from displaying or disseminating any material, photographic  
or otherwise, relating to him; becoming a party to the display or dissemination of any material,  
photographic or otherwise, in relation to him; becoming a party, or placing any information on  
C the internet concerning him; or becoming a party to any material being placed on the internet  
concerning him. So what the prosecution have to prove, to prove this charge is this: firstly that a  
restraining order was made at the Cardiff Magistrates' Court on 1<sup>st</sup> December 2011; secondly  
D that the order prohibited the Defendant from being a party to placing any information concerning  
[REDACTED] on the internet; that a copy of the order was served upon the Defendant; and that the  
Defendant either placed the information about the doctor on the net himself or was a party to  
somebody else doing it and that he had no reasonable excuse for doing so.

E As I have said, the central issues are: was there a restraining order and was it served on  
the Defendant? That is what it amounts to. Was he a party to putting that information on the  
net? In this case, the Defendant represented himself. That was his choice. Do remember the  
F stresses and strains involved in defending yourself in a court of law. It is very important indeed  
that you should make every allowance to the Defendant for the difficulty arising in doing that.  
Secondly, he has not come back into court in the circumstances that I have told you about. It is  
essential that you also remember that you must not hold that against him either. Nor must you  
G regard that as being some kind of support for the prosecution's case either. The prosecution still  
have to prove the case and you can only convict him if you are sure in the, of the matters that I  
have already outlined.



A Now that is all that I need say to you about the law. The evidence can be dealt with quite  
briefly. Michael Williams is a legal adviser employed by the court service. He was working in  
Court 4 he told you, with District Judge John Charles. “It was the third day of the trial of  
B Maurice Kirk who was charged with an offence under Section 2 of the Protection from  
Harassment Act. The district judge ...” he said, “... retired to consider the case and then  
returned to announce his verdict. He asked for the Defendant to be produced from the cells. I  
was told by the cells on the phone he did not wish to be produced. He did not come into court.  
C The district judge announced his verdict and gave his reasons. The prosecution made application  
to the district judge for a restraining order. The Defendant was not in court. The district judge  
asked me to contact the cells and explain to the officers that there was an application for a  
D restraining order. The response from the officers was that he did not wish to attend court and did  
not want to make representations about the restraint order or sentence”.

“The district judge accordingly sentenced him and made the restraining order as part of  
the sentence. He then told me to make sure the order was personally served on the Defendant  
E before the Defendant left the building. I produced the restraining order made. I waited for the  
staff to prepare it because it was originally in handwritten form by the district judge and it was  
typed out. I then went to the cells myself at about ten past two. I spoke to the supervisor Lee  
Barker and asked if I could serve the restraining order on the Defendant. Mr Barker said the  
F Defendant was in the toilet, said he would prefer to serve the order himself, so the Defendant  
was not antagonised by my presence. I agreed, provided I could observe the order being served  
and he agreed and asked me to wait in an ante cell”.

G “I heard Mr Kirk coming down the corridor and I heard Mr Barker say, ‘I have been  
asked to serve these forms on you’. I saw Mr Barker hand the forms to the Defendant myself.  
The other form was a copy of the options for paying the costs ordered by the district judge. I  
don’t believe the Defendant knew of my presence. I didn’t see him look in my direction at any  
H

A time. I then left the cell area.” He said the proceedings he thought, that is to say the trial were  
concluded sometime between 12 and 1 and while, he said, the Crown Prosecution Service may  
have made oral representations to the district judge the order was drafted and made by him. He  
B said to Mr Kirk, “This is the only time I have had to serve an order on a prisoner in the cells. I  
did so on the instructions of the district judge.” He said, “I have not been put up to this” and he  
denied the suggestion that the court had a total disregard for human rights.

C He said, “I asked Mr Barker if I could serve the order personally. He told me that you  
were in the toilet and wanted to serve it himself as he did not want to antagonise him”. He said,  
“I do remember you being on crutches and I did see him give you the forms in the corridor”. Mr  
Barker, the supervisor said this, “I had a phone call from the court clerk asking if the restraining  
D order could be handed to Maurice Kirk. He wanted to come to the cell suite, custody suite to  
give it to him. I agreed and he came to the cell area. He had the restraining order in his hand.  
Due to the fact that he was the court clerk in the case, I stated I would hand the restraining order  
to Maurice Kirk so Maurice Kirk would have no contact with Mr Williams. He agreed. He said  
E he needed to witness me giving the restraining order to Mr Kirk. He stayed this side of the gate  
and beyond it I gave the restraining order to Maurice Kirk.”

F “It was a single sheet of paper with Restraining Order in bold letters across the top. I  
proceeded to his cell and opened the door. Mr Kirk came to the door. I handed it to him and I  
said, ‘This is a restraining order from the court’. I closed the cell door and went back to Mr  
Williams and he left the area”. He felt Mr Williams, I think he said 15 to 20 feet but then said  
he was the distance from the witness box to the double doors at the back of the court away at the  
G time that the form was handed over. He said, “I didn’t exchange the document handed me by  
Mr Williams for another one before giving it to Mr Kirk. Mr Kirk did not respond as I recall. I  
am not sure if he said anything to me. There was no interaction between Mr Williams and Mr  
H Kirk, nothing at all. I didn’t see what Mr Kirk did with it. He did take it from my hand. I shut

A the cell door.” He said, “There is a camera above the gate”. He said, “Later on Mr Kirk refused  
to leave his cell and said he wanted to go back to the prison”. He explained that he had finished  
duty at 2.40 and he said when he was asked by Mr Kirk that “I said words to the effect, this is a  
B restraining order from the court. It was just the one sheet of paper that I gave to Mr Kirk”.

“Mr Williams thought it would be better for me to give it to him. There was a  
conversation between the two of us and it was agreed that was, between myself and Mr  
Williams.” He said he thought Maurice Kirk was ... he said he thinks Maurice Kirk was in cell  
C three. It is an observation cell. There is a cell camera in there. He said if a prison is served with  
legal papers it would be recorded. “All I recall was Mr Williams handing me the sheet of paper  
with restraining order on it. There might possibly have been two sheets. Mr Williams rang me  
D once. He said I did not record the service of the restraining order on that custody log that you  
have seen because Mr Williams said it would be on the court file that it had been served.”

You heard from Detective Constable Paul Wilson about the Defendant’s arrest at Wood  
Green Crown Court. He was cautioned and he replied, “I thought this was dealt with. Just take  
E me to the station. At least it’s a ride back to Barry” and the officer described him as being very  
compliant. You heard from Detective Constable Brinkworth. She was tasked by her Detective  
Sergeant to access the net and the Defendant’s website. She thought it was [www.flyingvet.com](http://www.flyingvet.com).  
F “I Google searched that and Maurice Kirk. I printed off Exhibit 2 which you have got and the  
two pages of the wanted poster are enlargements of the wanted poster which was on the print  
out.” She said, “I’ve got no personal knowledge of the matters contained in it and MAPPA  
stands for multi-agency public protection”. You heard finally from Constable Gunning who  
G interviewed Mr Kirk in the presence of an appropriate adult, a Mr Jones, and when charged  
afterwards and cautioned Mr Kirk replied, “I know nothing whatsoever about the restraining  
order until today, despite asking for it. As for the poster, the magistrate did not allow the CPS to  
H include it in the allegation”.

A           “After the interview ...” said the officer, “... I spoke to three gentlemen in the foyer to  
identify potential witnesses. I made enquiries at the court to ascertain what time the restraining  
order was given to you” he said to Mr Kirk. “On 20<sup>th</sup> December ...” he said, “... the police  
B received an e-mail from a Mr Dafydd Morgan asking for details of what was described in the e-  
mail as an arrest warrant and restraining order and an e-mail was sent to him telling him to tell  
Mr Kirk to apply to the court”. A Detective Constable Mintel examined the lap top. There was  
nothing found on it relating to this enquiry and he said the prosecution do not intend to rely on  
C any evidence of anything found on the laptop. You have the Defendant’s interview record and  
you can take that with you when you retire to consider your verdict. The interview record  
contains the Defendant’s account of the matter to the police. It is something therefore that you  
should bear in mind when you consider whether or not the prosecution have proved the case. As  
D I have said, you must not in any way hold his absence against him and as I have said before you  
must make every allowances for the difficulty involved in defending yourself in a court of law  
and not allow yourself to be influenced by anything said or done by Mr Kirk while he was giving  
E his, while he was talking or while he was asking questions of the witness.

Remember the three central issues in the case. Was there a restraining order? Was it  
served on him? Was he a party to putting the material on the net? Those are the three points in  
the case. That is really all the case is about and that is why you have not been told anything  
F about what happened leading up to the conviction on 1<sup>st</sup> December because it is not relevant.  
Finally, another legal direction, you have heard of course that the Defendant does have a  
conviction. That is to say that conviction for the offence under Section 2 of the Protection from  
G Harassment Act. You had to be told that because otherwise there was no explanation for the  
making of the restraining order. But you must not in any way assume because of that conviction  
that he is guilty of this offence. It is not proof or evidence of guilt on this offence. You decide  
the evidence, you decide whether or not he has committed this offence purely on the question of  
H

A the evidence before you. You only heard about the conviction because otherwise it would have  
B been incomprehensible that there was a restraining order.

When the jury bailiff has been sworn, I shall invite you to retire to consider your  
B verdicts. It may be the first thing you would like to do is to order yourself something to eat from  
the canteen.

**(13.06pm)**

**(Jury bailiff sworn)**

C  
**JUDGE CURRAN:** Thank you, ladies and gentlemen.

**(Jury retire to consider their verdicts)**

D  
**(ADJOURNMENT)**

**(15.38pm)**

**JUDGE CURRAN:** For the sake of the record, I shall now give the jury a majority direction  
E since they have been in retirement for two and a half hours. Mr Kirk has been informed and has  
said he does not want to come up to court.

**MR EVANS:** Your Honour, yes.

F  
**(JURY IN)**

**(15.40pm)**

**JUDGE CURRAN:** Thank you.

G  
**CLERK:** Will the foreperson please stand? Will you answer my next question either yes  
or no. Have the jury reached a verdict upon which you are all agreed?

**FOREMAN:** No.

H  
**CLERK:** No. Sit down please.

A **JUDGE CURRAN:** Please try to reach a unanimous verdict if you can, but if you cannot reach  
a unanimous verdict I can at any time from now on accept a verdict from you which is a majority  
B verdict provided at least ten of you agree with the verdict. In other words, from now on a verdict  
could be 12:0, 11:1, or 10:2 but nothing less than 10:2 would constitute a verdict. Do not feel  
under any pressure to reach a verdict this afternoon. You can have whatever time you want.  
You will not be detained in the building late and if necessary the trial can easily be adjourned  
C until Tuesday morning, but with that further direction in mind, could I invite you to retire and  
continue your discussions?

(15.41pm)

(JURY OUT)

(ADJOURNMENT)

D (16.08pm)

**JUDGE CURRAN:** I gather that the jury have reached a verdict and I am informed that Mr  
Kirk has declined to come up to court.

E **MR EVANS:** Yes, your Honour.

(JURY IN)

F (16.09pm)

**CLERK:** Your Honour, three hours has elapsed since the jury first retired to consider their  
verdict.

**JUDGE CURRAN:** Thank you.

G **CLERK:** Would the foreperson please stand? Have the jury reached a verdict upon which  
at least ten of you are agreed?

**FOREMAN:** Yes.

H

A **CLERK:** Do you find the Defendant Maurice John Kirk guilty or not guilty of acting in breach of a restraining order?

**FOREMAN:** Guilty.

B **CLERK:** You find the Defendant guilty? How many agreed to that verdict and how many of you dissented?

**FOREMAN:** Ten agreed. Two dissented.

**CLERK:** You find the Defendant guilty with a majority of ten to two?

C **FOREMAN:** Yes.

**CLERK:** Thank you. Sit down please.

D **MR EVANS:** Your Honour, there is an antecedent record to which Mr Kirk had referred to in some part. I wonder if your Honour has seen a copy of it?

**JUDGE CURRAN:** No, I have not.

**MR EVANS:** I wonder whether your associate could provide you with a copy? **(handed)**

E **JUDGE CURRAN:** Maurice John Kirk born 12<sup>th</sup> March 1945 in Taunton; 67 years of age; and he has 15 convictions for some 25 offences. They are spanning from 1978 until December of last year. There are offences of violence and assault occasioning actual bodily harm in 1978, moving through a number of public order offences, driving offences. The item at item 12 is an  
F offence of contempt of court in June 2010 from this Crown Court and had a sentence of 28 days' imprisonment imposed. There was further public order offences in August 2011 and there is of course the harassment conviction from 1<sup>st</sup> December 2011 for which as the jury have probably heard an imprisonment term of 18 weeks was imposed, together with the restraining order.  
G There was on the same day, a conviction for common assault and a failure to surrender to custody and on 2<sup>nd</sup> December at the Highbury Corner Magistrates' Court, there was a conviction for racially aggravated harassment, a public order offence with a racial aggravation, as well as  
H another failing to surrender to custody at the appointed time. Your Honour would you like me to

A go into any other detail of the other items on the record or read them into the public record?  
They do span quite a number of years.

**JUDGE CURRAN:** Would you inform Mr Kirk please or can somebody inform Mr Kirk that  
B I intend to sentence him, that he has been convicted and that I intend to sentence him now. So if  
he wants to come into court to make any representation to me, this is his opportunity of doing so.

**MALE ONE:** Yes, your Honour. Can I leave to pass that on?

**JUDGE CURRAN:** Please do.

**MR EVANS:** Your Honour, there is the Crown's application for costs as well although I should  
C probably wait until Mr Kirk comes into court if he does so. He may wish to have something to  
say about that.

**JUDGE CURRAN:** What is the figure?  
D

**MR EVANS:** The average figure from the schedule provided to prosecutors is £3,500.

**(16.13pm)**

**(PAUSE)**

**(16.14pm)**  
E

**JUDGE CURRAN:** Am I right in saying that there was subsequently an appeal by Mr Kirk  
against the conviction for the offence under Section 2 of the Protection from Harassment Act.  
The appeal was dismissed; the conviction upheld; and the order remains in force.  
F

**MR EVANS:** Your Honour, yes. And the Crown do not seek to vary or extend the order. It is  
until further order and seems to me to cover all the appropriate type of behaviour.

**(16.14pm)**

**(PAUSE)**  
G

**(16.16pm)**

**JUDGE CURRAN:** I do intend to deal with the case this afternoon, members of the jury. I  
should say that although you are welcome to stay while I sentence Mr Kirk, whether he comes  
H



A back into court or not, of course you are not under any obligation to do so. If any of you want to  
go home, please carry on. Thank you very much for the care and attention that you gave the case.  
Some of you I know will have finished your jury service. If so you leave with the thanks of the  
B community and the court service for the important work that you have done. Those of you who  
have not, well you will just have to be back here on Tuesday morning, like me. There we are.

(16.17pm)

(PAUSE)

C (16.18pm)

**MALE ONE:** (Inaudible) he wishes to remain in his cell.

**JUDGE CURRAN:** Thank you very much. Maurice John Kirk had been convicted by the  
D 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 1<sup>st</sup> December 2011. He was convicted then of an offence under Section 2  
of the Protection from Harassment Act having pursued the course of conduct which amounted to  
E 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]  
[REDACTED] diagnosis of Mr Kirk of suffering from a mental illness of some kind had been  
F allowed to fall into Mr Kirk's hands or had been brought, 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  
G 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  
H copy of it was then taken down to the cells and served on Mr Kirk who was clearly aware of its

A 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 web site further abusive material directed at [REDACTED]  
[REDACTED] As a result of that, he was charged with this offence and the trial has just been  
B concluded. The offence crosses the custody threshold and requires nothing short of an immediate  
sentence of custody.

Harassing somebody, particularly this particular doctor who is in a very difficult position  
having had the misfortune of having treated the Defendant in the past, is a very serious matter  
C 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 very shortly after it had been made  
D 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 material on the net, on the Defendant's own website.

E 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 considerable period of time, bail having been refused because of the  
F likelihood of further offences being committed. In the result, the appropriate sentence is one of  
nine months' imprisonment. The 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  
G 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 spent in custody on remand in connection with this matter up until now. I think it may now  
be 133 days. I am not sure.

H

A **CLERK:** (Inaudible).

**JUDGE CURRAN:** Well as of yesterday, it was 131, so today it is 132. It is to be reduced by the 132 days that he has spent in custody on remand in connection with this matter up until now, and the restraining order obviously remains in force. 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 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.

D 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 his physical presence. That concludes the proceedings. I 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 costs 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 the court. Was this a defence election for trial?

F **CLERK:** It was your Honour. Yes.

G **JUDGE CURRAN:** I am informed it was. The fact that I have limited the amount of 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 nothing as I do about the Defendant's means, and in the light of his age I have limited the amount for those reasons.

H

A **MR EVANS:** Yes.

**JUDGE CURRAN:** And I shall grant him three months to pay. If 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 collective court. There we are ladies. Thank you very much. That is the end of it. 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 that the likelihood is that Mr Kirk will be released if not today then very shortly. Is that right?

B  
C **MR EVANS:** Possibly your Honour. Yes. Days on remand (inaudible).

**JUDGE CURRAN:** Hmm?

**MR EVANS:** Possibly. Looking at the number of days on remand.

D **JUDGE CURRAN:** Yes. Thank you very much. There we are.

(16.26pm)

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

B

Signed: Mendip-Wordwave Partnership

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