**Section 8** JR Application 18th June 2012 **CO/6357/2012**

# Case Stated Refusal

The facts relied on:

1. Before the 1st March 2012 Appeal, from 1st December 2011Magistrates verdict, on 27th January 2012 (HHJ Hughes QC), 22nd February (HHJ Curran) and in April (HHJ Davies QC) the Claimant was well warned he would be denied similar basic rights as had already featured in the Magistrates hearings, contrary to Article 6 of the Human Rights Act 1997 and European Convention of Human Rights and Fundamental Freedoms 1950.

2. 27th January 2012 Crown Court transcript (Section 5) indicates:

   p.3G Section 36 of Youth and Justice Criminal Evidence Act 1999 applied without reason.
   p.4E Refused records of lower court otherwise allowed <u>if the Applicant had been on legal aid</u>
   p.5E Again refused public records needed in order to prepare for Appeal (Magistrates court log and contemporaneous notes of evidence)
   p.D6 Refused disclosure of evidence from police, CPS and outstanding custody and court records
   p.D10 Applicant refused the 20th January 12 Remand Warrant (Section 4) recording 'mental health Issues' with the then current health of the Applicant being in doubt, again, thus needing the lawyer as he was either fit or was not fit to attend and conduct his Appeal?

3. The Crown Court Appeal further heard, on 1st and 2nd March 2012, with the Applicant still in custody he was refused medical attention or access to both his witnesses and legal papers, the prison actually confiscating his 'exhibits' sent in to prove how the CPS would have to switch the posters, from its evidence in Magistrates, as the wrong one was introduced by the CPS in incident (Sections 13 and 8) taped for later. At the 1st December 2011 Magistrates closing of the hearing the CPS attempted to get the district judge to allow 'wanted' and 'wanted dead or alive' poster exhibits to be synonymous in law.

4. On 22nd February 2012 His Honour Judge Curran, for the trial by jury, the indictment being Breach of 1st December 11 Restraining Order, listed for 2nd May, varied things again by refusing the Defendant right to cross examine all but the doctor, the purported complainant. The judge was reliant, apparently, (see transcript Section 6 Page 5a) on Section 36 of the Youth and Justice Criminal Evidence Act 1997 but no valid reasons were given.

5. This was in variation to the 10th November 11 Magistrates' ruling, by District Judge John Charles, when no prosecution witnesses at all, police included, could be cross examined by the Defendant. Again and more significantly, no reasons were given at all.

6. It is the Applicant's submission that this district judge, on seeing its effectiveness to ensure a guilty verdict when this same Applicant was last before him, refusing the right to cross examine anyone in the 2nd November 2009 Common Assault case, on Appeal in Bristol shortly, why not do it again? He quietly repeated the manoeuvre.

7. On 2nd November 2009, owing to neither the appointed lawyer nor district judge even questioning the prosecution witnesses following their evidence in chief the guilty verdict was assured.

8. Almost exactly the same tactics were repeated in the November/December 2011 hearings with the appointed court lawyer challenging none of the prosecution evidence. A copy of the tape recording of most of that summary hearing is available should any higher court, outside Wales, find it helpful.

9. But all this use and abuse of Section 36 was again turned upside down and countermanded, just a week later, at the 1st March 12 Magistrates Crown Court Appeal hearing, by Judge Hughes QC when no one, again, could be cross examined by the Applicant, again with the adjudicator of UK judicial proceedings refusing to 'state a case' as to why?

10. The Applicant was either unfit, as the doctor reports had maintained or he is not unfit, with 'significant irreversible brain damage' and possible brain tumour. The Crown cannot have their cake and eat it.

11. So when His Honour Judge Hugh Davies QC hurriedly presided, the Applicant once again given less than thirty minutes warning to attend via a prison video suite for he knew not what, just days before the 2nd May trial by jury, yet another fabricated bit of nonsense following the 'machine gun' trial, the Defendant was fearful of his life when offered a deal to be let out.

12. He was even more worried when the learned judge offered him the removal of this doctor as an 'absolute witness' prosecution witness. The CPS found no other reason why the Appellant should remain in custody as it was admitted Maurice had only been in gaol, all winter, in order not to interfere with this witness, the man who had previously recommended, before His Honour Judge Bidder QC on 2nd December 2009, that the Applicant be further sectioned under the 1983 Act and incarcerated in Ashworth High Security Psychiatric Prison, IPP.

13. But this offer, which the Appellant obviously declined, again meant he was denied his right to cross examine or call this doctor as his own witness, contrary to 22nd February Order 12 Order (Section 6) which allowed him to do just that. It is well documented on his web site that he feared, all winter, of being sectioned yet again for another psychiatric prison, but this time for life.

14. ***"Dr ********, again, is an absolute witness"*** (22nd February 2012 Transcript Section 6 page 5b) according also to His Honour Judge Curran but when HHJ Davies QC had removed this witness from the next week's May jury trial neither Cardiff judge would allow the Defendant to then call the Doctor as:

i. his own psychiatrist, backed with his MAPPA psychiatric reports, to confirm he was neither 'fit to plead' nor 'fit to cross examine',

ii. as an expert witness on brain scans

iii. or even as his 'character witness'.

15. No one in Cardiff Prison or from the Cardiff Crown Court offered the Defendant Legal Aid for, as the law stands, it would have meant, if granted, the Crown Prosecution and both courts would have to have carried out full disclosure of their records and that, for what they had in mind for the jury, would not have suited their evil agenda one iota.

16. Proper disclosure should have included the audit trail record of the 'CPS 'restraining order' drafts including those of the District Judge John Charles hand written on and seen by helpers in the public gallery. What the Applicant saw in his cell and 'ordered' to be produced by Judge Curran has all been hushed up with the police refusing, of course to properly investigate.

17. As they are now shredded, no doubt, while police continue to prevaricate, by refusing to take statements from the eight eye witnesses or simply examine the magistrates and CPS computers, their tame barrister, David Gareth Evans, mean time, has admitted before us he still has the document!

18. Yes, the very one he and the district judge had so earnestly scribbled on, last year and had sent down to the cells to 'serve' on the Appellant. The very one which the jury were so fooled to later deliberated upon. Oh yes, as usual in these Cardiff cabal fiascos that so often go pear shaped, both CPS and HM Court Service, especially the magistrates' staff, are now all sworn to secrecy while their Masonic masters sit around in MAPPA HQ and conspire.

19. So what new venture are they dreaming up now, to harass and bully the Applicant? Anything to further prejudice his civil claims for damages as their lucrative pensions are now at risk. This litigation must be into its twentieth year by now a modern version, perhaps, of Jarndyce v Jarndyce in Dickens' Bleak House.

20. During this March 12 Crown Court hearing he was refused his legal papers, his own witnesses, facilities to interview, right to cross examine any one or disclosure of relevant evidence in the control of either the Crown Prosecution Service or Cardiff courts.

21. He was refused identification and production of the seven police officers who had originally advised him over the apparent legality and distribution of 'Wanted Dead or Alive' and 'Wanted' posters, the latter quoting from the psychiatrist's 2009 reports that the Applicant was very dangerous.

22. He was refused his glasses and medication from the cells beneath the court deliberately kept behind bullet proof glass so he could hardly hear just like the 'machine gun trial.

23. The CPS switched the exhibits from those used in the lower court and failed to explain how, in the 3rd listed allegation (Section 13), for example, involving the purported 'posted letter' by the Applicant to the complainant doctor, why the envelope was sent in a post office re direction envelope in someone else's hand writing and why was the poster so crumpled?

24. 1st Dec 2011 Cardiff Magistrates, 2nd March 2012 Crown Court and 4th May 2012 Cardiff Crown Court all refused disclosure of the magistrates court log and full custody records and CCTV footage from GEOamey Custody Services with the custody manager, Barker, on 2nd May, stating he had no record of the service of a 'Restraining Order' on the Applicant as it would have been recorded in the magistrates court log.

25. Cardiff Magistrates continue to refuse to disclose contemporaneous record of the hearings using the excuse because I was a Litigant in Person (LiP) and not on Legal Aid.

26. Section 2 contains an example of His Honour Judge Lambert, in Bristol, successfully obtaining for the Appellant, three weeks AFTER the May 12 trial, magistrate's clerk notes for the November 2010 common assault hearing in the applicant's absence, that had been specifically refused by the Cardiff legal advisor, Hugh Morgan, it being contemporaneous record but with no evidence as to why cross examination by any one, of the prosecution witnesses, was refused.

27. Subsequent attempts to obtain the court log for the jury trial has been frustrating but inadvertently caused the release at the public counter of a purported true copy of the original 1st December 11 dated Restraining Order suggesting it was in fact first printed on 2nd December11. In any event it was over stamped as 9th December 1211, as Exhibit One, in the May jury trial. An external police force should immediately investigate.

28. Subsequent attempts, also, to obtain copy of the 1st Application to 'state a case', from the Crown Court Manager, lodged from prison within 21 days, the judge having refused to 'state a case', has, while going to print, been unsuccessful.

29. Protection of Harassment Act 1997 indicates and discussed with numerous police officers BEFORE the distribution of posters occurred:

*(3) Subsection (1) does not apply to a course of conduct if the person who pursued it shows—*

*(a) that it was pursued for the purpose of preventing or detecting crime,*
*(b) that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or*
*(c) that in the particular circumstances the pursuit of the course of conduct was reasonable.*

**30. 1st March 2012 Transcript** Samples of many

**5C** indicates the false psychiatric report in linked JR CO/3970/2012
**7A, B, E** Defendant refused any of his legal papers in court
**8A** promised witnesses but later refused Dr Gaynor Jones etc in rebuttal to false psychiatric reports so seriously affecting the Applicant's private life
**9F** same court appointed lawyer, as in magistrates, again refused to challenge by cross examine the main prosecution witnesses on the issues relevant to the Applicant's innocence or guilt.
**10A** this lawyer had no idea of defences as he had not been instructed and specifically asked not to act on his behalf with Defendant then expelled from court for no valid reason
**11A** Defendant NEVER told of invitation to return to court
**12F** 'poster' exhibit switched from the different 'poster' used on same witness at magistrates
**55A** extract from false medical report read out not on the poster used at magistrates
**62E** Complaint that this appeal 'leap frogged' an outstanding appeal from 2nd November 2010, 'common assault' , destined to be heard outside Wales, to safeguard court officials as witnesses but all knowing the Appeal Court judge elsewhere would scrap any restrictions by the YJCE Act
**66B** prosecution switch poster
**67E** REPEAT requests refused to get all of the Defendant's legal papers and exhibits off the custody staff and interview potential witnesses over lunch break
**69C** defence relied on section (3) (a) and (c) of Harassment Act not allowed to give evidence on it and mental state of prisoner considered unfit due to medical reports and prison records, as of that time
**76D & 2nd March 8F transcript of Defendant's cut short evidence riddled with too many examples to list**

31. Further enquiry, since the Applicant was released from Cardiff prison over this latest conspiracy, indicates there are a significant number of other victims in South Wales with similar accounts to tell, explaining just why this doctor continues to enjoy immunity as an 'absolute witness', an expression to be milked, no doubt, in Cardiff, in the next few years, during judicial melt down when he need only to be 'cross examined' by HM Partnership's Cardiff court very own appointed lawyer!

32. Enclosed are few extracts and copy from a few other JR Applications (Sections 14 and 15) all conceived in South Wales' unique environment. They all relate to this 'absolute witness' a forensic psychiatrist for the South Wales Police and who, all alone, recommended and obtained the protracted incarceration of Maurice John Kirk under Section 35 of 1983 Mental Health Act.

This list is far from being exhaustive.