

EVIDENCE OF MR MICHAEL COLIN WILLIAMS

(12.10)

MR EVANS: Your Honour, could those be passed to the defendant?

JUDGE CURRAN: Yes.

MR EVANS: Forgive me, your Honour. (pause) There is a copy of the exhibits going to him now as well.

JUDGE CURRAN: May I have the witness sworn, please?

MICHAEL COLIN WILLIAMS, sworn

Examination-in-chief by MR GARETH EVANS

Q: Can I have your full name, please, sir?

A. Michael Colin Williams.

Q: Are you employed, Mr Williams?

A. Yes, I'm employed as a legal adviser by Her Majesty's Courts and Tribunals Service

Q: And where are you based?

A. Bridgend.

Q: Can I ask you to turn you mind back to 1st December of last year. Were you working that day?

A. I was. I was working as a legal adviser in Court 4 in Cardiff Magistrates' Court.

Q: The bench sitting on that day, was it magistrates or a judge?

A. It was a district judge.

Q: Do you know what his name was?

A. District Judge John Charles.

Q: And what was the learned judge dealing with on that day?

A A. He was dealing with an allegation against Mr Maurice John Kirk, umm, contrary to Section 2 of the Protection from Harassment Act of 1997.

Q: We do not need to go into the details of that, but what was the outcome of that matter?

B A. Umm, it was actually the third day of the trial and, err, at an appropriate time, the district judge retired and, err, when he came back into court to announce his verdict, umm, I asked for Mr Kirk to be produced from the cells and was told he didn't wish to be produced.

C Q: I see. Pause there, please. (pause) Thank you. So we are clear, the judge returned to give his verdict in court.

A. Yeah.

Q: And where was Mr Kirk when the judge returned?

D A. He was downstairs in the cell complex.

Q: How did you know that he refused to come to court?

E A. I spoke to a GEOAmev officer, err, by telephone from the courtroom, err, explained that the district judge was back in court and was about to announce his verdict and asked for Mr Kirk to be brought back to court.

Q: Did he come to court?

A. He didn't.

F Q: So what did the judge do as a result?

A: The judge announced, umm, his verdict, which was to convict Mr Kirk of the matter, and gave his reasons for doing so.

Q: Following conviction, was that the end of the case?

G A: It wasn't. The, err, prosecutor then made, err, several applications to District Judge Charles as part of the, err, ancillary orders in the case, one of which was an application for a Restraining Order.

H Q: So an application was made for a Restraining Order by the prosecutor; is that right?

A A: Yes.

Q: At that time was Mr Kirk in court?

A: He was not.

B Q: So what did the judge do then?

A: The district judge instructed me to contact the cells again and explain, through the officers, to Mr Kirk that there was to be an application for a Restraining Order, umm, and did he wish to attend in court to make representations about that Restraining Order and, indeed, for his

C sentence.

JUDGE CURRAN: Just a moment, please. (pause) And what was the response?

A: The response was given me by, err, umm, a GEOAmeY officer, umm, to the effect that

D he did not wish to attend at court. And, umm, because of certain further information, umm, I was requested to do something else later by the district judge.

MR EVANS: Let us stay with the chronological sequence of events.

A: Yes.

E Q: So the response is that Mr Kirk does not want to come into court to make representations about the Restraining Order?

A: Or for, or for his sentence.

F Q: Or for his sentence. I see. Just dealing with the Restraining Order ...

A: Yeah.

Q: ... what did the judge do about that application?

A: The judge then considered the application, err, and sentenced Mr Kirk for the offence

G and, err, as part of the sentence also made a Restraining Order.

Q: How did the district judge make it known that he had made a Restraining Order?

A: Well he announced the Restraining Order in open court and directed me to make sure

H that Mr Kirk was personally served with a copy of that order before Mr Kirk left the building.

A Q: Can I ask you to have a look at this document, please? Thank you very much.
A: Thank you. (pause) Yeah.
Q: Can you explain what that document is first, please?
B A: It is a Restraining Order.
Q: Made against whom?
A: Mr Maurice John Kirk.
Q: Concerning whom?
C A: Umm, concerning Dr Tegwyn Williams.
Q: The Restraining Order made by the judge that day, how does that relate to that document?
D A: That is the Restraining Order he announced in, in, in court.
Q: So having been tasked by the judge ...
JUDGE CURRAN: That is Exhibit 1, is it?
MR EVANS: Forgive me, your Honour, yes, please, Exhibit 1. Terribly sorry. Having been
E tasked by the judge to personally serve Mr Kirk, what did you do?
A: I had to wait for the Restraining Order to be prepared by, err, administrative colleagues downstairs. I had communicated both the sentence and the fact a Restraining Order had been
F made to GEOAmeey officers, and asked that Mr Kirk be informed. And at approximately 10 past 2 in the afternoon, I went to the cells complex.
Q: And when you arrived at the cell complex ...
A: Yeah.
G Q: ... who did you deal with?
A: Umm, I spoke to, umm, a, a GEOAmeey supervisor by the name of Lee.
Q: What name?
H A: Lee.

A **Q:** Lee. Do you know his surname?

A: Err, I'm sorry, I don't. It's in my statement but, err ...

Q: I see.

B **A:** Barker. I think it's Barker.

JUDGE CURRAN: You can refresh your memory from that if you need to.

A: It's Barker, I'm sorry, your Honour.

JUDGE CURRAN: Lee Barker.

C **A:** Yes.

MR EVANS: So having met with Mr Barker, what did you do?

D **A:** I requested permission from Mr Barker, err, to serve the document, together with another court form, personally on Mr Kirk. Umm, Mr Barker explained that Mr Kirk was presently in the toilet and that he would prefer to serve the documents so that Mr Kirk was not, err, antagonised by my presence.

Q: Did you consent to that arrangement?

E **A:** Umm, with the caveat that I would be able to personally observe the, err, handing over of the notices. And Mr Barker agreed to that.

Q: And how did it transpire then?

F **A:** Err, Mr Barker asked me to wait in an empty cell, umm, until such time as Mr Kirk came out of the toilet. Umm, I heard Mr Kirk, err, coming down the corridor and, umm, Mr Barker then used the words, "I've been asked to, err, serve these forms on you by the court," or, "hand these forms to you by the court."

G **Q:** And what happened to the forms?

A: Umm, I then looked out of the cell and both forms were handed by Mr Barker to Mr Kirk. **Q:** Did you see that directly?

H **A:** Yes, I did.

A Q: So we are absolutely clear, what were the forms?

A: One form was the Restraining Order, that I have a copy of in front of me, and the other form was a court document explaining the options for payment of £1,500 costs the district judge had ordered against Mr Kirk.

B Q: Did you interact with Mr Kirk at all?

A: Not at all. And I don't believe that he knew of my presence.

Q: What gave you that impression?

C A: Because when I looked out of the cell as he was dealing with Mr Barker, and, err, as soon as he'd handed over the forms, err, I, I retracted into the cell, at no time did I see Mr Kirk look in my direction.

D Q: So having witnessed the handover of the forms, what did you do then?

A: Left the cell area.

Q: Did you play any other role in the case?

E A: Umm, not directly with Mr Kirk. Obviously I was responsible for signing the commitment warrant and things of that nature, but that's all.

MR EVANS: Thank you, Mr Williams. If you stay there, please.

THE WITNESS: Thank you.

F (12.20)

(14.51)

G **THE DEFENDANT:** Would it assist if I asked for bail at this time and then this would not have to be ... then I might be able to get to my legal papers? In the light of Mr Williams being blocked and protected by the NHS (inaudible), err, could you not ... would a bail application at this point be appropriate?

H

A **JUDGE CURRAN:** No. We are dealing with the question of whether or not you have any questions of Mr Williams, the witness, Mr Kirk, please. You can speak to your McKenzie friend if you want to, but the questions have to be directed to the witness by you and they must be confined to the issues that the jury have to decide in this case, please.

B

Cross-examination by MR KIRK

Q: Mr Williams, you have seen me more than once in court.

A: I have, Mr Kirk, yes, sir.

C

Q: Could you tell the jury your view of my character?

A: I am sorry, in what way?

D

Q: Could you give your opinion to the jury, of the time you have seen me that might be able to allow you ... Do not signal to him. Your view, based on the limited knowledge of you seeing me in court, on how many occasions?

A: In relation to these proceedings?

Q: Of any proceeding you like. No ...

E

A: I think ...

Q: ... total.

A: I think in, in total, four.

F

Q: Four.

A: Yeah.

Q: And they were all to do with this or was there ...

A: No.

G

Q: ... some other incident?

A: Three, three were to do with this.

Q: Right. So what was the other incident about?

H

A A: Other matter, many, many years ago. Umm, don't know if you want me to mention it. It was, err, a matter in Bridgend Magistrates' Court about 20 years ago.

Q: Sorry?

B A: About 20 years ago.

Q: Yes. When it all started. Yes. That's when it started. Which case was it, the motoring case?

A: It was.

C Q: Yes. A 90, 90 per cent success wasn't it, in those days?

A: Sorry, for who, Mr Kirk?

Q: For Maurice.

D A: The matter ...

Q: I was in your courts for ... like a yo-yo in those days, wasn't it?

A: I only dealt with you on one occasion and those matters were discontinued.

Q: Discontinued with a fair amount of complaint, wasn't there?

E A: Not against me. I had nothing more to do with it.

Q: No, not against you.

A: No.

F Q: Against the police ...

A: I, I wouldn't know.

Q: ... for bringing it in the first place.

A: I, I wouldn't know.

G Q: Yes, but you must remember.

JUDGE CURRAN: Mr Kirk, your question is not directed to the issues that the jury have to decide in this case, which is: were you given the Restraining Order?

H **THE DEFENDANT:** Mr Williams ...

A **JUDGE CURRAN:** That is the central point in the case.

THE DEFENDANT: At the moment, I'm being promised Dr Tegwyn Williams as my character witness, but should things unfold in this trial where the judge decides it's too dangerous to allow him to be, to be cross-examined, could you please tell the jury of your 20 years of experience of directly, not hearsay, not gossip, of your personal handling of me as an accused party in magistrates that might assist the jury on the aspect of who's telling the truth later on when we hear the evidence of the next witness ...

B
C **A:** I'm not sure if you're mixing me up with somebody else, Mr Kirk. I've only dealt with you once, 20 years ago, and these proceedings.

Q: Yes. Right. On those, on all those proceedings, can you give an indication of what you feel about my veracity, my, umm, demeanour, my, the safety of evidence I give?

D **A:** Well, with respect, I think that was a matter for the district judge, not, not myself.

JUDGE CURRAN: Mr Williams's opinion about a witness's veracity is not evidence, Mr Kirk. He is not entitled to express an opinion about anybody's veracity. The question of the veracity of witnesses is for the jury. The matter that you need to concentrate upon is that this witness has said that after the district judge issued the Restraining Order, he took it down to the cells at the Magistrates' Court, handed it to Mr Barker, the supervisor, and saw Mr Barker, the supervisor, serve the notice of the order upon you. That is the central issue in the case. Are there any questions you want to ask him about that feature of his evidence?

E **THE DEFENDANT:** Were there any juries in the cases that you've dealt with before this one?

F **A:** Juries. No.

G **Q:** No. So, did you hear anything or believe anything to suggest that I had been lying at any point, on anything?

A: Umm, my position was simply as the legal adviser. It wasn't for me to decide on the veracity of your evidence.

H

A **Q:** No. I'm asking you as my character witness, if I don't get Dr Tegwyn Williams.

MR EVANS: Your Honour, it seems to me that you have already ruled on this point.

B **JUDGE CURRAN:** Mr Kirk, this witness is not entitled to give character evidence or to express an opinion about whether or not anybody is telling the truth. The factual issues upon which he has given evidence are to the effect that he took the order to the cells and that he saw it handed to you by Mr Lee Barker. That is the matter upon which you need to concentrate, and your questions should be directed to that issue.

C **THE DEFENDANT:** When will he be eligible to be my character witness? You say at this stage he is not eligible to be my character witness. What circumstances have to change in order that I can call him as my character witness?

D **JUDGE CURRAN:** If you intend to call evidence yourself, that will have to be at the appropriate stage of the trial. At the moment, the prosecution are giving their evidence first. That is the normal practice in a trial. Your opportunity of asking questions of the witnesses, if you challenge anything that they are saying, is now. You will have the opportunity later, at the appropriate stage, of giving evidence yourself and of calling witnesses if you want to.

E **THE DEFENDANT:** The strength of an evidence from a prosecution witness on matters of character carry far more weight than if I bribe Dr Tegwyn Williams a couple of grand to come and say what a wonderful chap I am and a model patient in his Caswell Clinic prison. Now, I'm saying, I believe, I've never read any law on it, but he is entitled to answer my question as to whether ... has he been a witness in a court of law, where I have found to be disbelieved. That is the expression, sorry, 'disbelieved'.

F **JUDGE CURRAN:** That is not a matter that this witness can answer, Mr Kirk.

G **THE DEFENDANT:** (inaudible) Have you any knowledge of any criminal record that might support the prosecution's case? Now don't you ... He's signalling to you. You look at me. Sorry, look at the jury when you reply.

H

A **A:** I, I, I hesitate to answer that at this stage, Mr Kirk, umm ...

Q: Is there any history of any dishonesty?

A: I, I don't know, is the answer to that.

B **Q:** Ah. So where are the notes that you took of the evidence of the witnesses?

A: Umm, the notes will be in the Magistrates' Court in Bridgend.

Q: So what's the title for that, in order for me to make an application overnight to get those here this ... tomorrow?

C **A:** Umm, I understood that you'd made an application and that it'd been dealt with by a legal manager at Cardiff Court.

Q: Well let me read you what it says. You've just given it to me.

D **UNKNOWN SPEAKER:** (inaudible)

THE DEFENDANT: I had a reply from the, err, the Chief Legal Adviser, didn't I?

A: I believe it was the Legal Manager.

Q: I'm sorry, you're quite right; the word was 'manager'. And it's in this bundle that's just been given to me, fortunately. (pause) (inaudible) just now. (pause) This is last week. They're not in date order. (pause) No. (pause) (inaudible) just now. It's not in date order. (pause)

E **JUDGE CURRAN:** Are you disputing, Mr Kirk, that you were given a copy of the Restraining Order in the cells of the Cardiff Magistrates' Court?

F **THE DEFENDANT:** I was given a defence statement. I was interviewed under caution. I was a little incorrect with that wording but basically it was correct. (inaudible) the police officer, I want the female police officer.

G **JUDGE CURRAN:** Are you disputing that you were given a copy of the order?

THE DEFENDANT: Found it. I found it, your Honour. 26th of March, and it's signed by Legal Manager, Mr S Lewis. "I'm in receipt of your letter of 7th March 2012, and enclose

H

A herewith a memorandum of conviction as requested.” That’s how long it took for me to be able to even get that, wasn’t it?

A: Umm, I wasn’t the author of this letter. I only became aware of it three days ago, and I can’t answer for it.

B Q: Who creates the memorandum of conviction?

A: The memorandum of conviction is, is computer-generated, umm, it’s input by administrative staff.

C Q: Yes. Just as soon as the evidence is ... as soon as the verdict is ...

A: Well, within 24 hours.

Q: Within 24 hours.

A: Yeah.

D Q: You mean the Restraining Order ...

A: No. No, no.

Q: ... was made on the same day?

E A: The Restraining Order’s done immediately, the entry into the computer, which creates the register, within 24 hours.

Q: So what time, on your computer, was the Restraining Order made?

F A: I, I don’t ... I can only tell you that I had it in my possession by two o’clock, umm, which was about an hour after the case finished.

Q: Right. You mean the case had concluded at one o’clock?

A: Shortly before one o’clock, yeah.

G Q: Are you sure about that?

A: I’m sure it was completed before one o’clock. Umm, I believe it would’ve been between half past twelve and one o’clock.

H Q: How is it recorded that it was concluded before one o’clock?

A: It isn't.

Q: What do you mean?

A: It isn't recorded it was finished before one o'clock, that's what I'm saying, from my memory.

Q: But it would be on a tape-recording if there was a tape-recording brought by the defence?

A: I can't comment on that. Umm ...

Q: Yeah. You mean it was verbally told, the court were made aware, that it was over before one o'clock?

A: My recollection is that the district judge had concluded the case before one o'clock and had retired. I had to wait in the courtroom to sort out the Restraining Order.

Q: So how long was he out before he came back?

A: He didn't come back.

Q: You mean he never came back?

A: No, he concluded the case before one o'clock.

Q: Oh, I'm sorry, you mean he'd ... I'm sorry. Sorry. You had no further contact with the judge. At some point prior to one o'clock, he'd gone, you cleared up ...

A: Oh, I'm sorry; I said he didn't come back into the courtroom, umm, after one o'clock. I did have contact with him because I had to check the Restraining Order was correct, but that was not in the ...

Q: His, his Restraining Order?

A: Of course his Restraining Order.

Q: But you said earlier it was the CPS.

A: I certainly didn't.

Q: How many witnesses have we had so far? We've only had one witness. You're the first witness.

A A: Yes.

Q: Ah, no, it was the opening, opening by the CPS. The CPS drafted, drafted a Restraining Order.

B A: Well, umm, the practice is that the CPS can make representations to the district judge. And, err, that's what happened.

Q: That's where I'm confused.

A: Yeah.

C Q: By representation doesn't mean they created anything.

A: Umm, whether anything was written down or not, umm, representations were made, I think, orally to the district judge and he created the Restraining Order as he, as he saw fit.

D Q: Orally in open court?

A: If any reps, representation was made, the Crown Prosecution Service would've been made in Open Court.

Q: Loud enough for it to be picked up on a tape?

E A: I wasn't aware that any tape-recording took place, but if ... I can't answer that question at all.

Q: Loud enough for four people to have heard it if it had happened?

A: Certainly. Yeah.

F Q: So, the conversation then, you are saying was with the CPS to the judge before he retired, after he had concluded a conviction?

A: Yes.

G Q: Are you sure it wasn't before the conviction?

A: The district judge, umm, only entertained ancillary applications after he had convicted you in your absence and before sentence.

H

A Q: And it specifies on the memorandum of understanding, does it not, that had I not been convicted, you could not have served the Restraining Order?

A: I'm sorry. The memorandum of conviction. What, what are you, what are you referring to? I, I haven't actually looked at the memorandum of conviction.

B Q: Well, I haven't got it 'cause I'm not allowed any in my legal papers, but you've got it. Does it not ...?

A: (inaudible)

C Q: Does it not say towards the end of the paragraph that it is dependent upon a conviction? The Restraining Order is dependent upon a conviction.

A: It simply says this order is made on conviction.

D Q: Thank you. It's an ancillary order. It is, therefore, made after a conviction is, is, is achieved by the Mafia(?)

A: Well without being too technical, it can be imposed upon an acquittal, but in this case it was on a conviction.

E Q: Exactly.

A: Yeah.

Q: That is why it was being drafted before the conviction was made, wasn't it?

F A: No. The only representations I heard were after the district judge had convicted in your absence.

Q: You mean the CPS already knew there was a conviction and had already drafted it.

A: No, I don't mean that at all. I, I'm saying the only representations I heard were after you were convicted in your absence.

G Q: So what was drafted?

A: In terms of what proposal?

H Q: Yeah. Who put things onto pieces of paper?

A **A:** The only, the only piece of paper in the file is the district judge's notes in relation to the Restraining Order that he proposed to make.

Q: Are those the only bits of paper that were created that day?

B **A:** As far as I ... There's certainly nothing else in the file. I can't remember anything else being written down. I do remember oral representations, of which you were given notice were going to take place.

C **Q:** And can you confirm that that bundle you have just given me is only a hand-written summary of the final document?

A: No. I think that is, effectively, the terms of the final document.

D **Q:** Right. So if I say to you there are witnesses that saw some other documents relating to a Restraining Order in preparation, you will say you are not aware of them?

A: I am not aware of any other document.

Q: No. So if you're not aware of it, and it's not on the court record, who was likely to have had it?

E **A:** I, I imagine the Crown prosecutor, if anybody, may have drafted something in writing for him to address the district judge with.

Q: Right.

F **A:** At no time was I handed anything in writing.

Q: So, as I've already asked for clearance of that, could the CPS person(?), who happened to be the very same barrister on 1st December, hand those documents to you now?

A: Could you honestly hand them to me now?

G **Q:** No. He's going to hand over the documents to which I refer and I'm putting ... suggest to you you already know about. (inaudible)

MR EVANS: Your Honour, of course I am not a witness. I am not a witness, of course.

H **JUDGE CURRAN:** Pardon?

A **MR EVANS:** I am, of course, not a witness, so I am not prepared to hand anything over at this stage.

JUDGE CURRAN: I cannot hear you.

B **MR EVANS:** Forgive me. I am, of course, not a witness, and I am not going to hand over anything at this stage at the request of Mr Kirk. That is what he is inviting me to do.

JUDGE CURRAN: Sorry, you have to say it again. I cannot hear ...

MR EVANS: I am terribly sorry.

C **JUDGE CURRAN:** I am sorry. My hearing is not very good, and these things drive me crazy.

MR EVANS: Mr Kirk has just invited me to hand documents ...

JUDGE CURRAN: Yes.

D **MR EVANS:** ... to the witness, your Honour. I am not a witness in the case, obviously, and I am not prepared to hand any documents, save for any case-related documents, to this witness.

THE DEFENDANT: Your Honour, he could at least give them to me then I could hand them to him. I've been asking for those documents for months.

E **JUDGE CURRAN:** Which document is he referring to?

MR EVANS: I believe he is referring to a draft Restraining Order that I drafted before the case even started, as part of my preparation for the case.

F **JUDGE CURRAN:** And when was that? Before the Magistrates' Court case?

MR EVANS: Yes.

JUDGE CURRAN: Where is that document?

MR EVANS: That document? Your Honour, I wonder whether this should be done ...

G **JUDGE CURRAN:** No.

MR EVANS: ... with the retirement of the jury?

THE DEFENDANT: It's the heart of the matter, your Honour.

H **JUDGE CURRAN:** Yes. Do not interrupt, Mr Kirk, please.

A **THE DEFENDANT:** I'm sorry.

JUDGE CURRAN: Where is the document?

MR EVANS: The document will be on the original case file for the originating conviction that gave rise to this. This is an entirely separate proceedings, of course.

B **JUDGE CURRAN:** Yes. Well where is the case file?

MR EVANS: (inaudible) back, please?

UNKNOWN SPEAKER: (inaudible) storage.

C **MR EVANS:** Probably in storage, your Honour.

JUDGE CURRAN: Which is where?

MR EVANS: In Merthyr Tydfil.

D **JUDGE CURRAN:** Can that document be got here by tomorrow? I am not going to ask the witness to come back tomorrow because I intend to ask that unless you are going to re ... Have you finished your cross-examination of the witness?

THE DEFENDANT: I need at least six hours on this one.

E **JUDGE CURRAN:** Pardon?

THE DEFENDANT: I need at least six hours on this one. If I get, if I get proper disclosure, which I've been denied in the Magistrates' case, in the Crown Court case, I was not allowed to cross-examine anybody, I wasn't allowed pen and paper, I wasn't allowed any legal papers, I was in custody throughout, if you allow me to have some of those things, I only need one and a half hours for him.

F **JUDGE CURRAN:** I am afraid, Mr Kirk, I am going to impose a timetable on your cross-examination of the witness and I am certainly not going to allow you six hours. Another 15 minutes, yes, but no more. You direct your questions to the issues that arise in the case.

G **THE DEFENDANT:** Can I call this prosecutor as a witness, to obtain these documents? Can I recall this witness later, once we've got the document?

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A **JUDGE CURRAN:** You can make an application to recall a witness at a later stage, but whether or not it will be granted is ...

THE DEFENDANT: But I'm (inaudible) ...

B **JUDGE CURRAN:** ... another matter.

THE DEFENDANT: ... in advance, and I've sent it to you in advance. And I've smuggled this in, in a most unusual way, into this prison, because I'm searched naked before I come in here. In the machine-gun case it was stuffed up my arse, and I've had to repeat that three times now in order to get critical documents into my trials. I'm serving it on you, your Honour. It's there. With all due respect, I, I, I've already sent it to you, but you are not accepting that you've received it. But I've changed the date, and, your Honour, there it lies. I have, I believe, officially made an application for proper disclosure under Article 6, under Section 8 of the Disclosure Rules, CPR Rules, that these documents should be released before I ... and before arraignment(?) and before ... They have just given me pages and pages of exhibits which should be before the jury at the beginning of a trial, not at the end, 'cause then ...

E **JUDGE CURRAN:** Are you asking any more ...

THE DEFENDANT: ... they'll understand ...

JUDGE CURRAN: Are you asking any more questions of the witness, Mr Kirk?

F **THE DEFENDANT:** Yes. That I've applied for an application for the document to which I refer can be put to this witness, and if you wish to control everything, can I recall him, if and when I get those documents, at some later date in this trial? I'm ... Is that being ...? Am I appearing to be unreasonable on anything I've said, other than raise my voice?

G **JUDGE CURRAN:** I repeat, Mr Kirk, your cross-examination must be confined to the issues that the jury have to resolve in this case, and that is why I indicated five minutes ago that I would allow you another 15 minutes in which to complete your cross-examination of the witness. Are there any questions you want to ask him relating to what he has told the jury, which is to the

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A effect that he saw the Restraining Order being served on you in the cells? That is what the jury have to decide.

B **THE DEFENDANT:** My key questions are still locked up somewhere in the prison. You say, “Oh, you should’ve brought them with you.” You know, as well as I do, I’m not allowed to take anything out of the prison, and any new files that I managed to get whilst in custody, prison officer ...

JUDGE CURRAN: I am trying to assist ...

C **THE DEFENDANT:** ... 050 has said no more papers are allowed into the prison by me. Now, how do you think I’m to get this, this part of this public record into prison today? My rectum is stretched so much for me to get this pushed up. I’m not being flippant, your Honour. This is what I’ve had to suffer and my family’s had to suffer for years of police bullying.

D **JUDGE CURRAN:** Have you any other questions of this witness?

THE DEFENDANT: When did you last go down into the cells and conduct what you say you did?

E **A:** Yours is the only time in Cardiff Magistrates’ Court.

Q: And in your life?

A: I, I would estimate two or three occasions.

F **Q:** Two or three occasions you’ve gone down to the cells, hidden in a cell, poked your head out of a door. Is that what you’re ...?

A: Sorry, I thought you meant to serve court orders, I am sorry. Only once I’ve done that, umm, and that was on the instruction of the people in charge of the cells.

G **Q:** What, to hide in a cell and poke your head round the corner?

A: Effectively, yes. So that I wouldn’t antagonise you further.

Q: Antaga ... Ah. Right. So what was my demeanour at the time?

H **A:** I, I didn’t speak to you at the time, umm, in the cell complex.

A Q: Have you ever had to do that with a prisoner before?
A: No, I haven't.
Q: No. Have you ever heard of it being done by anybody else in HM Court Service,
B Cardiff?
A: I haven't personally heard of it, no.
Q: No. No. Can you show me anywhere on your records, where that procedure is
recorded?
C A: Err, no, it's my witness statement that records it.
Q: No, no.
A: No, there's nowhere, there's nowhere I (inaudible).
D Q: On the court record?
A: No, nowhere on the court record.
Q: Will it be on the other court record, that has been withheld in this case?
A: Sorry. What other court record?
E Q: All the notes I watched you taking on the first ...
A: Oh, my notes of evidence, I'm sorry. No, it won't be recorded on there.
Q: So why have I been denied that?
F A: (inaudible)
Q: Oh, that was the letter we were looking for.
A: Yeah.
Q: (inaudible)
G A: I've given it back to (inaudible).
Q: This one.
A: (inaudible)
H Q: (inaudible) now (inaudible).

A A: I think I can answer, if it helps, Mr Kirk. Umm, the first I was aware of your request for contemporaneous notes was about three days ago.

Q: You yourself?

B A: Yes.

Q: Well, in desperation I wrote to you, but you know I've written to a lot of other people.

A: You've only written once to me on a completely separate matter.

Q: And when was that?

C A: Umm, that was in relation to whether I'd be prepared to appear as a witness for you in your appeal and also asking for the return of some documents, which was a case that I had no involvement in whatsoever.

Q: And why did I want you in the appeal for this case?

D A: No, for the appeal?

Q: For the conviction that relates to this case.

A: Oh, sorry. You asked and, err ... You wrote and asked if I'd be prepared to appear as a

E witness for you without a witness summons. I wrote back and said, "Could you please clarify in what way you, you felt I could assist?" and you didn't come back to me.

Q: But I told you the reasons why I wanted you to be a witness.

A: Err, my recollection is that you just asked for me to be a witness.

F Q: Umm, if you look through that bundle ...

A: Yeah.

Q: ... it's about the, one, two, three, four, five, six, seven, about the seventh one in.

G A: Sorry.

Q: The seventh page in.

A: Oh, I'm sorry, they're not paginated. I didn't realise ...

H Q: Yes, I know.

A **A:** ... it was going to be an exhibit.

Q: They're out of date order. Umm, could you read out that letter of the 26th of March?

A: Yes. Umm, it's addressed to yourself at Cardiff Prison:

B "Dear Sir

Cardiff Magistrates Court Hearing, 1st December 2011

I am in receipt of your letter dated the 7th of March 2012 and enclose

herewith a memorandum of conviction as requested. The Magistrates'

C Court is not (inaudible) a record, and notes taken during the course of the

proceedings are for the use of the court only. I am, therefore, unable to

provide you with a copy of the notes as requested."

D And that's signed by S Lewis, who was a Legal Team Manager at Cardiff Magistrates' Court. I

was unaware of your request, and I had no input into that letter.

Q: Are you prepared to override that letter?

A: Umm, I ... There's no secret in my contemporaneous notes, Mr Kirk, err ...

E **Q:** No, no. Do you agree with the content of that letter?

A: Umm, I agree with it from a legalistic point of view. It's, it's the legal manager who's

written to you, but I, I had no personal request for, for my notes.

F **Q:** Umm, later in the trial, those very notes were handed to me by the governor of the prison

yesterday ...

A: My, my contemporaneous notes?

Q: No, another Magistrates' Court relating to this conviction. And they were handed over

G to me. So are you suggesting that that Magistrates' Court is in breach of some law?

A: I, I'm not suggesting anything, I'm just reading out the letter you asked me to read out.

Q: You run a cartel here, do you not, within this Cardiff area, your courts, you're all one

H happy family and you have total disregard for Human Rights. That's correct, isn't it?

A: I simply don't know what you're talking about ...

Q: So, how ...

A: ... running a cartel

B Q: So how is it that a Magistrates' Court in London, due to my judicial review application, has sent, and it's been stamped by the prison as received on the 30th of April this year, the records of the Magistrate, the Clerk of the Court ...

A: Yeah.

C Q: ... in Haringey Magistrates' Court, to do with six snatched Nigerian children, which is what this is really about, isn't it?

A: I repeat, I've had no request from you for my contemporaneous notes, and I can't answer for the Legal Team Manager's reply.

D Q: But you agree with its content, that, that it's correct in law?

A: It, it may well be correct in law.

Q: You're a lawyer, are you?

E A: Yeah, it may well be correct in law. I'm just saying I've had no personal request.

Q: Is that why for the last 18, eight months, your, your building has refused to hand me any records at all, and to get this today is the first time I've got anything from you.

F A: I appreciate it's unsatisfactory from your point of Mr Kirk, but I don't work regularly in Cardiff Court. I can't comment for the building.

Q: But you see, the records of somebody else's Magistrates' Court contain very important information relating to this case 'cause they're all (inaudible) And the South Wales ... It's recorded that the South Wales Police deliberately did not tell them that I didn't turn up to court in London to do with a public order offence relating to trying to ... involved with these Nigerian children that've been snatched by Haringey, that the South Wales Police deliberately did not tip them off, "Oh, he didn't turn up to court because he's in prison up the road here." Now, that's

H

A all recorded in the court records. I only got it yesterday. I need that sergeant who's caused that perversion of justice to be one of my witnesses, but I want to show the jury how relevant and important contemporaneous record is in order to come to a safe decision. You would agree with that, in principle, wouldn't you?

B A: I don't know anything about the matter in London at all, Mr Kirk.

Q: No, no. Contemporaneous notes are very useful to help establishing the truth.

A: Well, they show a record of what evidence was heard in the court proceedings, yes.

C Q: Yes. Yes. Umm, another witness I need is a Sergeant Thomas from the South Wales Police. Umm, you were there, and I was refused bail, wasn't I, time and time again?

A: That's right.

D Q: Because I had a history of failing to attend.

A: That's what the district judge announced for his reason.

E Q: Yes. And they relied on the Haringey one of 28th November, when I was locked up in the prison across the road. And you used that against me – not you, sorry, the court, the magistrate, the prosecuting magistrate – for not allowing me to have bail. Do you remember, F, FSA. Failed to ... What is it called?

A: Fail to Surrender, I think, yeah.

F Q: Yes.

A: Yeah.

Q: Yes, that seems to be right. Umm, and then you say I was released before one o'clock.

A: No.

G Q: I was free to go.

A: No.

Q: His expression was, "He is free to go." You remember that?

H A: Whose expression, sorry?

A Q: The judge.

A: Err, the judge looked at the time that you'd been remanded in custody, err, and by a calculation we believed that you would have been time-served, umm, which would've meant ...

B But that's a matter really for GEOAmey and not ...

Q: Oh ...

A: ... for the court.

Q: Oh, so you calculated all that before one o'clock, did you?

C A: Yes.

Q: So, so you had me in custody from the 23rd of September, and your book of words, the (inaudible) one, the manual, says as long as I've posted something to Dr Williams or telephoned

D him, I could serve 18 weeks. Remember the document? It's a standard Home Office printed document.

A: I'm sorry, I, I ...

Q: Oh, oh, oh, the court ...

E A: I don't.

Q: ... will see it by the time I've finished with you.

A: Yeah.

F Q: And you calculated, did you, that, "Oh, it coincides with the date of the hearing."?

A: I, I had no part in the calculation, umm ...

Q: Yes, yes, but ...

A: ... (inaudible) that it's the district judge who sentences, not me.

G Q: Mmm. Is that why it was delayed for 18 weeks, when it could've been dealt with as quickly as this case is (inaudible) dealt with?

A: Umm, the delay is documented. The first, err, involvement I had with this case was as late as the 10th of November.

H

A **Q:** Yes.

A: I, I can't ...

Q: But, but, but, but this prosecutor for this case, for two months didn't even book a court,
B because he wanted me locked away 'cause his bosses, the police ...

JUDGE CURRAN: Mr Kirk, that ...

A: ... wanted me ...

JUDGE CURRAN: ... isn't a question.

C **Q:** ... wanted me locked away.

JUDGE CURRAN: If you want to give ...

Q: Is that a normal procedure? You are a clerk of the (inaudible). That is the relevance of
D my question. Sorry to point that out.

JUDGE CURRAN: It is not a question at the moment; it is something of a speech, Mr Kirk,
that you must not make.

THE DEFENDANT: No, I'm asking ...

E **JUDGE CURRAN:** You can address ...

THE DEFENDANT: ... him if that ...

JUDGE CURRAN: ... the jury at a later stage. Confine yourself at this stage to asking
F questions.

THE DEFENDANT: Umm, well without my notes, your Honour, I'm having difficulties. Err,
(pause) did you phone the prison, the, the cells, before you went down?

A: I did.

G **Q:** And who did you speak to?

A: I didn't take a name, I just asked if the sentence and the fact that a Restraining Order had
been made could be communicated to you and that I would be coming down with the
H Restraining Order in due course.

A Q: Right. What happens to somebody who says that he's going to not consider ... No, what does a prisoner ...? What normally happens to a prisoner who refuses to comply or agree to come to court to hear a Restraining Order?

B A: Umm, to the best of my knowledge and my personal experience, I've never come across it before, but I imagine that it's self-answering. You're sent ... I imagine it answers itself. You're, you're sentenced in absence, and, err, you're notified of the decision.

Q: No, no. That's not what I meant. What happens with a breach of the peace?

C A: A breach of ...

Q: If I disagree with a breach of the peace binding over, what does the law permit me to suffer?

D A: Again, you could be convicted in your absence.

Q: No, no.

A: I'm sorry. The matter could be found and proved in your absence.

E Q: I'm sorry, I, I didn't put that very well, as usual. In a breach of the peace – which is very similar to this, isn't it? – a breach of the peace, if a judge says, "If you agree to agree to this, that and the other, you walk."

A: Yeah.

F Q: Is that right, that's ...?

A: Well, a breach of the peace isn't a criminal offence and so it's not particularly similar to this.

G Q: Yes. Right. But if, if that prisoner does not agree to the breach of the peace binding over ...

A: Yeah.

Q: ... what happens to him, by law?

H A: He can be sent to prison.

A **Q:** Not can, he will be. Thank you. Now, applying it to the Restraining Order, are you saying you've had no previous experience of somebody not agreeing to a Restraining Order?

A: I've had no previous experience of somebody refusing to come to court when a Restraining Order is, is in, in the mind of a, of the judiciary.

B **Q:** Right. So dealing with the ones that have been in court who have not agreed with the Restraining Order, what is their fate?

A: Umm, I don't think it's a question of agreeing to the Restraining Order. The Restraining Order is made, and if you then fail to comply with the requirements you commit a further offence. **Q:** Sorry, if?

A: I don't think it's a question of consenting to a Restraining Order. The Restraining Order is made, and if you then fail to comply with the requirements you commit a further offence. I don't think it's quite in the same position as a breach of the peace.

Q: But I read, here in the notes, umm, the judge saying something about I need to be a party to the production, to the creation of the Restraining Order and was I going to openly agree to it, the terms ...

A: Yeah.

Q: ... were some of them unreasonable?

F **JUDGE CURRAN:** No, Mr Kirk, you have misunderstood. The order prohibited you from publishing information on the internet about Dr Williams or being a party to information about Dr Williams being put onto the internet. That is what the order said. It is not a question of whether or not a defendant who is the subject of a Restraining Order agrees with it or not. If the order is made, unless it is overturned or dismissed on appeal, somebody who fails to comply or breaches a Restraining Order is guilty of a further offence under the Protection from Harassment Act.

H **THE DEFENDANT:** That was not the case on the day, was it?

A: It, it's always the case, as far as I'm, I'm concerned.

Q: It, it's written in here that I was invited to come back to be told what it was. And the next witness has put in his statement ...

A: Yeah.

Q: Do you remember what he ...?

A: I haven't seen the next witness's statement. I've no idea what he's got to say.

Q: Well it wouldn't have been you so it must've been him, saying that I was told there was a, a, a Restraining Order being made and that I was going to say two fingers to them, I was going to have nothing to do with it.

A: Yeah, that, that is in my statement. That's what I was ...

Q: It was your statement?

A: Yes. It's what I was told by the ...

Q: Ah ha, but told by whom? By Whom?

A: I was told by the GEOAmev officer who I spoke to on the phone ...

Q: Yes, but ...

A: ... from the courtroom.

Q: But was it the man coming in the door in a minute?

A: I don't, I don't know. I only took his name when I went down to see him personally.

Q: So what you mean then is that I would've been ... You're saying that you conveyed that information to somebody ...

A: Yeah.

Q: ... and that that would've been, that had to have been the first time I would've known about it?

A: Err, the first time you knew that the district judge was considering making a ...

Q: Yes.

A **A:** ... Restraining Order? I, I think that's right. Whether you knew or not from the prosecution, I don't know.

Q: Right. So the, the subject of a Restraining Order was never raised whilst I was in the courtroom?

B **A:** Err, not that I'm aware of. I, I, I can't ... I don't know whether it was raised in the opening, but I don't remember it.

Q: No. But during the time I was in the courtroom, the CPS was handing stuff to the district judge.

C **A:** The only thing I remember the Crown Prosecutor on the day handing to the district judge was an amended charge at the beginning of the trial.

D **Q:** Ah, thank you for reminding me of that. Very important. At the very end of the proceedings, the, the final conversation from the prosecution was him leaving his seat to get as far away from my witnesses in the gallery, but unfortunately he was right in front of me in, in the goldfish bowl, in all the bulletproof glass to protect me, right – he asked that judge, what?

E **A:** I'm, sorry, I, I ...

Q: It's an exhibit in this case.

A: I'm sorry, I don't know what the ...

F **Q:** Could you look at the exhibit, one picture of one poster, please?

A: I haven't got ...

Q: Could the exhibit be shown to this witness, please?

JUDGE CURRAN: What are you referring to, Mr Kirk?

G **THE DEFENDANT:** What I've just been handed. I've just been handed, err, new ...

JUDGE CURRAN: Is this ...

H

A **THE DEFENDANT:** ... err, err, umm, the exhibits. And in there I can see in this document that this barrister tried to switch exhibits in the Crown, in the magistrates' case, and this chap is prime witness for this to be proved. (inaudible)

B **JUDGE CURRAN:** Did you see anybody switching exhibits in the Magistrates' Court?

A: I did not.

JUDGE CURRAN: Thank you.

C **THE DEFENDANT:** Err, can you please look at the exhibit in this case, which is a poster which carries an extract of Dr Tegwyn Williams saying that I had a brain tumour ... sorry, significant brain damage, and paranoid delusional disorder, a fixated belief that I'm being persecuted by the South Wales Police. Could you please look at that exhibit, then I'll ask you a question about it.

D **MR EVANS:** Your Honour, Mr Kirk is referring to exhibits which have been served on him but have not been produced in the case yet.

JUDGE CURRAN: Referring to what?

E **MR EVANS:** An exhibit which has been served upon him but not exhibited in the case as yet, your Honour, because the officer exhibits ...

JUDGE CURRAN: Yes.

F **MR EVANS:** ... it. If you wish to just show this to the witness, then I have copies for the witness and for the jury.

UNKNOWN SPEAKER: For the witness.

A: Thank you.

G **MR EVANS:** Exhibit 2, please.

JUDGE CURRAN: Can I have a copy of it, please?

MR EVANS: I am terribly sorry.

H **UNKNOWN SPEAKER:** (inaudible)

A **UNKNOWN SPEAKER:** Yeah.

MR EVANS: There is a spare copy with court usher, (inaudible).

THE DEFENDANT: If you look at the very last page. (pause) That's what this case is all
B about, the wording of that document. Now, that was an exhibit in the magistrates' case, wasn't
it?

A: Whether that's the exact poster ...

Q: (inaudible)

C **A:** ... but something extremely similar to that, I remember reading, yes. Unfortunately, we
don't have the original exhibits in the court file.

Q: Yeah. And the original was coloured, wasn't it?

D **A:** I'm sorry, I just can't remember, Mr Kirk.

Q: And was it A3, A4 or A5?

A: I believe it was A4. Umm, as I say, it's a long time ago, I don't have the, err, the exhibits
but, err ...

E **Q:** Not for me.

A: ... that's my recollection.

Q: I've been in jail ever since ...

F **A:** Yeah.

Q: ... virtually. Now, the bit that you've reminded me, or I would've forgotten, and I'm
grateful to you reminding me, is that as the judge was rising, the CPS barrister moved from the
front of the gallery right up to the bench, right standing beside you, and said, "We wish to
G change this exhibit to be eligible for harassment" ...

A: Umm ...

Q: ... because, because it'd been introduced, and up until then you hadn't been able to find
H witnesses to indicate that there was any suggestion that this was a harassment-type document.

A **A:** Yeah. All I can say ...

Q: Nothing. Do you remember that?

A: All I can say, Mr Kirk, is that there was more than one, err, exhibit, and I do remember,
B umm, that there was an additional exhibit at some point during the trial.

Q: Yes.

A: I can't honestly say it was right at the end of the case.

Q: But this exhibit was for July the 5th when I went to the Central Police Station to make
C complaints of threats to kill me. Do you remember? That's when the exhibit was introduced.
And it was not considered by the judge. At the very end he was standing up to me, he
whispered, this gentleman here whispered across the bench, "We wish you to consider that this
D exhibit," which is now part of this case, "is part, is part of the harassment argument." I haven't
finished yet, just ... The punch line's coming. And then they ...

JUDGE CURRAN: Well ...

Q: ... introduced ...

E **JUDGE CURRAN:** ... is that what happened?

A: Your Honour, all I can say is that I do remember a second exhibit being, umm,
introduced at a later stage in the trial. I do not remember it being the very last thing before the
F district judge retired. I think I can safely say it wasn't at that point. But there certainly was a
second, err, poster produced at some stage.

MR EVANS: Your Honour, could I be very clear, please. This exhibit, which has not been,
obviously, exhibited in the case as yet, is not an exhibit from that original trial.

G **JUDGE CURRAN:** I understand that.

MR EVANS: Yes.

JUDGE CURRAN: This is what the prosecution say was published on the internet after the
H Restraining Order was made; is ...

A **MR EVANS:** (inaudible)

JUDGE CURRAN: ... that right? That is what the prosecution say amounts to the breach of the Restraining Order.

B **THE DEFENDANT:** That is why, in the absence of the jury at the opening of this trial, I asked that the original statement, err, exhibits, all the trials, be here to expose the fact that this, this, this CPS man switched the exhibits during the magistrates' case to introduce No 3 on the list of seven incidents ... Or was it number ...? Yes. That I had posted this to Dr Tegwyn Williams when, in fact, in the (inaudible) Crown Court case, I made them produce the envelope. And it wasn't even a ... it was a, it was a Post Office envelope, a re-directed envelope. All being new evidence. And that is why he wanted to withdraw this document.

C **JUDGE CURRAN:** You have now run ten minutes past the time that I gave you to complete your cross-examination of Mr Williams. Mr Williams has told the jury that he saw the supervisor, Mr Lee Barker I think the name was, hand you the copy of the Restraining Order in the cells. I will give you the opportunity of asking a further question about that and then your cross-examination must finish.

D **THE DEFENDANT:** Well, that is unlawful and unfair - whichever order you like to take it in. I will now ask the question. So you come down to the cells, and what reason did he give for you not to simply give me the paper(?)?

E **A:** Err, Mr Barker said he would prefer ... I wanted to serve it personally on you, Mr Barker said he would prefer to do it himself so that I didn't further antagonise you.

F **Q:** What does that mean? What did he mean by that?

G **A:** Well, I took that to mean that, umm, the trial had been somewhat fraught when you were in the courtroom, umm, and I had assumed that, err, you may have had issues with me. I, I don't know.

H **Q:** I was under heavy medication. You know that, don't you?

A A: I, I knew ... I know that you were feeling unwell in, in, in the court, yeah.

Q: Yes. And there was a long medical history on that.

A: I'm not aware of your medical history.

B Q: So, that happened, what, just beside the office?

A: I'm sorry, (inaudible)?

Q: Just beside their office, the conversation took place?

A: First of all, the conversation took place with me outside the cell complex and the officer

C inside. I explained why I was there and asked permission to come in and to serve you with the document.

Q: You then hid in a cell.

A: Well hid, perhaps yes. I, I was asked to wait in a cell.

D Q: Something you'd never done before.

A: No, that's right.

Q: Yes. Can you remember the number of the cell?

E A: No, I don't, I'm sorry. No. It was an empty cell.

Q: Did it have a camera in?

A: I've no idea, I'm sorry. I wasn't looking for that.

F Q: The corridor has a camera, doesn't it?

A: I, I only ever been to the cells once, Mr Kirk, and that was straight in and out. I, I don't know if there was a camera.

Q: You, you're aware that I've asked for, umm, err, the video of ...

G A: I'm not aware of that ...

Q: ... (inaudible) of April?

A: I'm not aware of that, no.

H

A Q: Well it's on file that even this ... When I got beaten up, err, I asked for the video immediately.

A: I'm not aware of any of that, I'm sorry.

B Q: (inaudible) Who would I call as a defence witness to confirm that that has happened, my application for the video? Who, in your system, in the building, is control ...? Who controls the videos?

C A: I didn't even know there was a video camera down there, Mr Kirk, so I, I can't answer your question ...

Q: No.

A: ... I'm sorry.

D Q: Who controls the video for the 4th of April, just gone ...

A: I, I don't know.

Q: ... and for the 1st of December when this apparently happened in full view of the two video machines?

E A: I don't know.

Q: Would be the manager who'd deal with it, won't he, if I write to him?

A: Err, may well do.

F Q: Do you know what they've done? They've directed it to GEOAmev.

A: Well they are in charge of the cell complex.

Q: Yes. They're in charge of their own video machines. It's not. It's a public record, it's a public building. Now, are you aware ...

G **JUDGE CURRAN:** These are questions ...

THE DEFENDANT: ... that I have asked ...

H **JUDGE CURRAN:** ... if you want to ask them, Mr Kirk, which should be directed to the next witness, who actually is, or was, an employee of the security firm in the cells.

A **THE DEFENDANT:** I, I've found that if you ask the same questions with more than one person, you run the risk of getting a different answer sometimes.

JUDGE CURRAN: Mr Williams has said that he was not even aware that there was a video camera in the cells.

B **THE DEFENDANT:** So did you hear anything said?

A: Yes. I heard Mr Barker say to you, "The court has asked that these forms be handed to you."

C **Q:** Could you write that down? Can you write that down? Can you say that again slowly?

A: "The court has asked that these forms be handed to you."

Q: Well how many?

D **A:** Two.

Q: I was on crutches.

A: I, I, I think I do remember you on crutches, umm, coming down the corridor, Mr Kirk, yes.

E **Q:** I've now found another doctor as a witness. I'll give you the name afterwards. Umm, nearly finished. It's all right. (inaudible). So you then, you then had nothing more to do with it.

F **A:** Once I'd observed Mr Barker hand you the forms and, and you had them in your hands, I, I had nothing more to do with it, no.

Q: Oh, I know what I wanted to ask you. He's not going to agree with you on this.

A: I don't know what he's going to say.

G **Q:** Well, your(?) statement. Can I show it to you? Well I'll read it to you. 'Cause, because he doesn't, he doesn't seem to go with what you've just said. Umm, (pause) (inaudible) Barker, isn't it?

A: Yeah.

H

A Q: There it is. Oh. Let me (inaudible). I know what it said. He says he gave me the, the, the – whatever he said he gave me – inside the cell.

A: He said the cell complex, but it was in the corridor. You'd just come out of the toilet and walked down the corridor.

B Q: Which way do the doors open?

A: Which doors, sorry?

Q: The cell doors?

C A The, the cell that I went into, the door was already open, Mr Kirk. I, I really don't know. Umm, I believe they open inwards, but I, that's just from recollection. There was no door obstructing my view so I can only presume that it opened inwards.

Q: No door, and it opened inwards. What colour was the door?

D A: Oh, I've no idea.

Q: They're all different colours.

A: I'm sorry, I've no idea. I only went in one cell.

E Q: Where have the papers gone, of the preparation of this alleged purported Restraining Order? Where, where are they, the documents that caused its creation? Where are they ...

A: It's in ...

F Q: ... now?

A: It's in the file. Umm, the district judge has hand-written ...

Q: In, in, in Merthyr Tydfil?

A: No, it's in this file.

G Q: No, it was a hand-written one by the judge, wasn't it?

A: Yes. And that's the, that's the document which, umm, the type-written one is then created from and it's shown to the district judge to agree.

H

A **Q:** So (inaudible) ones in existence, you had nothing to do with it, it was all to do with the CPS?

A: Absolutely, yes. I've got nothing else. I wouldn't have any reason to, err, to become involved in the creation of, err, of a Restraining Order.

B **Q:** Well in the absence of my notes, I ask that I be able to recall him once the, if there is matters arising from the cross-examination of the police and the next witness. And it's easy for him to be recalled, he lives locally ... works locally.

C **JUDGE CURRAN:** Is this the draft of the order which was written up by the district judge?

A: Yes, it is, your Honour.

JUDGE CURRAN: Yes.

D **THE DEFENDANT:** Oh, sorry, it didn't really clarify it. When was the Restraining Order made? What time ...

A: As I say, it would've been half past twelve and one o'clock. I can't be more accurate than that.

E **Q:** How was that done? Who typed it?

A: It's typed by administrative officers in the Magistrates' Court in Cardiff.

Q: Right. Can I see the exhib .. Oh, I've been given a copy. (inaudible) umm, can you explain why there are, there's writing on it?

F **A:** Umm, do you mean the, the numbers across the top?

Q: Well there's a line down the middle of it, for a start.

A: Well I, I presume that's something to do with the photocopying or, or something. I don't know.

G **Q:** Right. And the hand-written stuff on it?

A: Umm, well it's obviously some sort of reference number, but it doesn't mean anything to me. Umm ...

H

A Q: Hang on. You're a clerk (inaudible)?
A: Yes.
Q: Are you telling me you don't know what those, those, those numbers are?
B A: They're somebody's reference number, but they don't mean anything to me.
Q: All right then, there's a stamped date on there, 9th of December. Oh(?) 2011. What does that mean?
A: I can't, sorry ... I'm not responsible for that going on there either.
C Q: When was this really created? What time of day and on which day?
A: It was created between one and two o'clock.
Q: How can you prove that?
D A: Because I sent the documentation downstairs for it to be typed. Nobody knew downstairs what the documentation was until then. And it came back up to me at two o'clock. I actually, I actually had to lose my lunch hour waiting for it to be prepared, so I know it was prepared then.
E Q: So, so I'm the ownership of the, of the original then. Is that right?
A: The only ... ownership of one of the documents created from the Libra computer system.
F Q: Yes. So, so you're saying that I actually got given an original.
A: You (inaudible) ...
Q: You came down and you saw somebody give it to me.
A: I, I ... Yes, a copy of the Restraining Order is the only way I would describe it. Whether
G it was the first one out, whether it was a photography of it, I don't know. As you will see, they don't need to be signed so there's little difference between it being the first one out of the computer ...
H Q: How, how do you know the papers he gave me were exactly the ones you, you gave ...?

A **A:** Because I was talking to Mr Barker until you started your exit from the toilet. And as soon as you started your exit from the toilet, Mr Barker remained in the corridor with my two pieces of paper.

B **Q:** Did you have to go through any gates to do this?

A: No. I believe there was a gate between me and Mr Barker which was open, some sort of sliding bar. I'm not 100 per cent certain.

Q: Well I put it to you you're wrong.

C **A:** Well I may be wrong. Umm, my recollection ...

Q: I, I, I put it to you I have no memory of this whatsoever.

A: Right. I can't comment on your memory. I satisfied myself you were handed these two documents in my presence and in my sight.

D **Q:** At that time?

A: At approximately 10 past 2 in the afternoon of this, of the date it was made.

Q: Who's put you up to this?

E **A:** Don't intend to answer that question, Mr Kirk. I've given my evidence on oath. I was acting on the direction of a district judge and I've given the evidence before a jury.

Q: Can I put it to you in this way: has anybody put you up to this?

F **A:** Certainly not, your Honour.

Q: The whole procedure is totally irregular, wasn't it?

A: Err, the way that the case unfolded was unusual and it's ...

Q: Have you ever had a case where a prisoner has been refused his legal papers?

G **A:** Umm, the district ...

JUDGE CURRAN: That is not a question that is relevant to an issue in this case.

THE DEFENDANT: Right. Answer the one that you were answering.

H

A A: I was simply going to say that the district judge made a direction early in the proceedings
that if you wished to rely on any legal papers, umm, you should let the Crown prosecutors and
the court know on what you intended to rely. Err, my understanding is, err, that that was never
B done, and so any papers which were brought to the court, umm, I think weren't, err, weren't
before you. Umm ...

Q: Why does the record there of GEOAMEY say that I didn't leave the building till four
hours later?

C A: Umm, your actual release from the court building is nothing to do with me; it's to do
with the people who were in charge of your custody.

D Q: But I've been told during the break just now, that they heard the judge say, "He is free to
go," and that was before one o'clock, by your evidence, once he'd decided the verdict of
imprisonment was equal to the time that I'd been in prison since September.

A: Yeah. I think that ...

Q: Isn't that right?

E A: I think as far as the court is concerned, umm, you were due for release because of time
served.

Q: A free man.

F A: I don't know whether there was any other documentation in GEOAmey's possession
preventing your realise. I, I don't know.

Q: But I demanded the documentation relating to whatever had gone on upstairs and I was
refusing to leave. It says so on the record.

G A: I don't know anything about that, Mr Kirk.

Q: Look at the record.

A: Well ...

H Q: You must ...

A **A:** I can't comment ...

Q: Did they not, did they not come up and ask, "Mr Kirk is refusing to leave."? Are you
saying you were not aware that I was, I refused to leave for four hours? I said, "I'm not leaving.
B I've had too much of this nonsense time and time again. I wish to have the documentation that
has been created by the verdict and sentencing of this ..."

A: I was totally unaware of that.

Q: Where would the record be in the magistrate system whereby a prisoner refuses to leave
C downstairs, other than on the GEOAmev record?

A: I don't think there would be one because the people who control the cells are isolated
from the Magistrates' Court. It's, it's not something that would, in any shape or form, affect the
D court record.

Q: It's smack in the middle of the building. It's all videoed. I was thrown out on the
crutches, and my papers. I'd been in custody for months. And I left the building in a
wheelchair ...

E **A:** I don't know.

Q: ... in handcuffs.

A: I don't know any of that, Mr Kirk.

F **Q:** Are you saying you don't know anything about that in your own site(?), your own
building?

A: Absolutely not. I know nothing ...

G **JUDGE CURRAN:** These are no longer questions, Mr Kirk; you are now either making a
speech or trying to give evidence. You will have an opportunity of giving evidence before the
jury at the appropriate time, which is at the conclusion of the prosecution case. I am now going
to prevent you, or stop the cross-examination, because it seems to me you have covered all the
H

A relevant issues in the case concerning the service of the document, which you clearly dispute
was given to you.

THE DEFENDANT: I am entitled to show selective amnesia in the way that he wishes to
remember what is suitable for the prosecution, but as to other matters which must have been
B within his cognizance ...

JUDGE CURRAN: I gave ...

THE DEFENDANT: ... I've been ...

JUDGE CURRAN: I gave you a reasonable time limit, Mr Kirk; you have already gone
C something like 45 minutes over it. There are now to be no more questions of this witness,
please.

MR EVANS: There is no re-examination

JUDGE CURRAN: Just for the avoidance of any doubt, is the situation this, that at the
D conclusion of the case, as I understand it, the district judge, having announced his finding, which
was to say he convicted Mr Kirk of the offence under Section 2, he then went on to make the
Restraining Order? Was a draft of the Restraining Order shown to him by the Crown
E Prosecution Service?

A: I don't personally remember that, your Honour. I believe representation, oral
F representations were made, but I don't remember being handed a document.

JUDGE CURRAN: And was the order that was made, an order that was made by the district
judge and drafted by the district judge?

A: The document in the bundle is the district judge's hand-writing.

JUDGE CURRAN: Yes.

A: And, err, she agreed ...

JUDGE CURRAN: That is the document the jury have got here, which is headed 'Restraining
H Order, Maurice Kirk,' and it has got the date of 1st(?) December ...

A **A:** Yes.

JUDGE CURRAN: ... on it.

A: The, the writing on top is mine, your Honour, the rest of it is the district judge's.

B **JUDGE CURRAN:** So, the writing on the top, the Restraining Order and Maurice Kirk Cardiff MC, that is in Mr Williams's writing, the rest of it is in the writing of the district judge. Is that right?

C **MR EVANS:** The jury do not have those papers, your Honour, only Mr Kirk, yourself and the Crown.

JUDGE CURRAN: Thank you very much. Well, a copy of that, in view of the way in which the cross-examination has been conducted, should be made available for the jury tomorrow. Thank you very much Mr Williams.

D **THE DEFENDANT:** Your Honour, the re-examination by you causes me to raise the matter further on that.

JUDGE CURRAN: Allow what?

E **THE DEFENDANT:** With respect, you have emphasised to the jury things that I want them to consider, for which I am grateful, but the, the documents that are in Merthyr Tydfil were written by the judge.

F **JUDGE CURRAN:** The document that is in Merthyr Tydfil, as I understand it, was not written by the judge at all.

THE DEFENDANT: Okay. You ...

G **JUDGE CURRAN:** This is a photocopy of the draft order that was written out by District Judge Charles.

THE DEFENDANT: (inaudible)

JUDGE CURRAN: Thank you very much, Mr Kirk. Thank you, Mr Williams.

H (15.57)

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(Witness released)

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

Signed: Mendip-Wordwave Partnership

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