

General Form of Judgment or Order

In the	Cardiff County Court
Claim Number	BS614159
Date	3 March 2011



MAURICE JOHN KIRK	1 st Claimant Ref
SOUTH WALES CONSTABULARY	1 st Defendant Ref APO.MS.SWP001-138

Before His Honour Judge Seys Llewellyn Q C sitting at Cardiff County Court, Cardiff Civil Justice Centre, 2 Park Street, Cardiff, CF10 1ET.

UNDER CASE NUMBERS BS614159, CF101741, CF204141 & 7CF07345

IT IS ORDERED THAT

1. On 28th January 2011 I refused permission to appeal my rulings on preliminary issues. Before doing so I considered in full both the initial submission by Mr Kirk for permission to appeal and that dated 22nd December 2010. I expressly recorded that I did not respond paragraph by paragraph to each argument raised, because it would not assist to do so. I remain of that view.

2. In a later communication Mr Kirk, or others on his behalf, asked whether I had seen and considered the submission on his behalf dated 22nd December 2010. It has been sent again to the court by e-mail, on a number of occasions. As set out above, I confirm that I had done so before declining permission to appeal. I shall ask for a copy of this Note to be placed on file and, if there has been application by Mr Kirk to the Court of Appeal for permission to appeal, to be placed on file with the Court of Appeal.

3. By e-mail of 14th February 2011 by or for Mr Kirk, I am asked to consider (i) consolidation of actions (ii) transfer out of Wales or to the High Court (iii) whether there may be advantage in mediation. I deal with those separately.

4. By application dated 14th February Mr Kirk formally applies that I should

“1. Consolidate all claims into one case, 1992 to ongoing where some claim forms and papers eg Lewis Machine gun case are pending.

2. Transfer casework into the High Court.

3. For the case to be transferred out of Wales”.

5. As to consolidation, three actions are already being heard together. Another is stayed because it appears to replicate allegations made in the earlier three actions. There is no advantage in consolidating the hearing of that action. I do not see advantage or in proportionate justice in this court seeking to consolidate subsequent actions with the three actions which are to be tried by the court. The first of the allegations in the three actions is of incident in 1992 and the last in May 2002. The allegations are numerous. It is not necessary to judicial resolution of those allegations that the court resolve the allegation of impropriety in the arrest and prosecution of 2009.

6. The addition of the allegations in respect of 2009 (and thereafter) would further add to the very considerable burden of time investigation and material to be considered in the three actions extant.

7. As to transfer into the High Court, it would be necessary and proportionate only if the County Court were unable properly to deal with the litigation. I do not consider that it is .

8. As to transfer out of Wales, there would be justification only if there was or reasonably appeared to be prejudice to Mr Kirk in the present actions being tried in courts sitting in Wales. Whilst I am aware of Mr Kirk's strong views on this subject I cannot identify the fact or objective reasonable appearance of prejudice.

9. As to the formal application dated 14th February 2011, I therefore decline it.

10. As to mediation, the costs of litigation both financial and personal in this case are already large and likely to be immense if taken to trial. If the parties saw benefit in mediation, I would strongly support them making efforts at least to attempt to engage in mediation. Unfortunately the gulf between the factual case of the Claimant and the Defendant is huge. It is not therefore a case in which I would impose a stay on the action brought by Mr Kirk for that purpose.

His Honour Judge Seys Llewellyn, QC

Dated 22 February 2011