

IN THE CARDIFF COUNTY COURT

Case Number 7CF07345

BETWEEN

MAURICE JOHN KIRK

Claimant

AND

THE CHIEF CONSTABLE OF THE SOUTH WALES CONSTABULARY

Defendant

PARTICULARS OF CLAIM

Introduction

1. The Defendant is and was at all material times the Chief Officer of Police of the South Wales police area. Save where is otherwise indicated, the police officers referred to hereinafter were officers of the South Wales police and were at all material times acting under her direction and control in the performance or purported performance of their functions which, inter alia, included a duty and power to stop and arrest any person that they reasonably suspected to have committed a criminal offence and a duty to fully and diligently investigate any complaint from the general public in respect of any suspected criminal offence.
2. At all material times The Claimant was a veterinary surgeon practising in the Llantwit Major, Barry and Cardiff areas of South Wales. This claim relates to the systematic failure by The Defendant to investigate no less than twenty four (24) complaints by The Claimant of criminal offences against property and person. In consequence The Claimant avers there was a laissez-faire policy by The Defendant with regard to The Claimant as victim of crime which amounted to misfeasance in the public office of Police constable in ignoring The Claimant's entitlement to protection under the law.

In consequence The Claimant avers that individuals within the locale in which he lived and worked anticipated that police responses to reported crimes against The Claimant were ones of inertia and perceived The Claimant safer to target. This laissez-faire inertia augmented The Claimant's losses as any crime against his property was more likely to go undetected. In consequence The Claimant suffered loss and damage thereby.

3. This claim also relates to the false imprisonment and malicious prosecution of The Claimant for the alleged common assault and witness intimidation of one Mark Davenport in July 2013 by The Defendant and the tortious conversion of certain antique and licensed guns on or about 22nd June 2009 (events sequential to Claim 1CF03361). This claim also relates to acts of misfeasance in the office of constable and malicious prosecution of The Claimant for driving without reasonable consideration for other road users, common assaults, failing to prevent the deposit of controlled waste, and failing to provide a specimen of breath at the road-side in consequence of which The Royal College of Veterinary Surgeons declared The Claimant as unfit to practise veterinary surgery thereby depriving The Claimant of his livelihood. In consequence The Claimant suffered loss and damage. The Claimant avers that in all matters aforesaid The Defendant was motivated by bad faith as, at all material times, The Claimant was a litigant in person and had conduct of a number of civil actions against the South Wales police and Gwent Constabulary. Any action or inaction by The Defendant as hereinafter set out was motivated by an 'animus' towards The Claimant in consequence of the said civil actions.

The Material Events With Regard to The Defendant's Failure to Investigate

Crimes

The following incidents were all reported as crimes by The Claimant to The Defendant:-

- (i) On a date unknown in 1993 persons known to The Defendant occupied 52 Tynewydd Road, Barry, the property of The Claimant, without permission. They set fire to a World War II U.S. army aircraft, a Piper Cub, and spares exceeding £15,000.0p in value. A library containing over two hundred (200) veterinary books was also destroyed with a value exceeding £11,000.0p. The Claimant was held for questioning by The Defendant's police officers in lieu of the said known individuals whom The Defendant might reasonably have suspected of committing the aforementioned unlawful acts on the basis of certain public statements they made at the time. The Defendant failed to carry out any, or any proper investigation.
- (ii) In consequence The Claimant's Barry property was again burgled and damaged on the 30th day of June 1993. The Claimant suffered loss and damage. The Defendant failed to carry out any, or any sufficient investigation.
- (iii) On the 10th day of February 1994 a road traffic accident occurred when, due to the excessive speed of another motor vehicle on the dual carriageway between Port Road and Barry docks, The Claimant's oncoming motor vehicle left the road thereby causing The Claimant's vehicle £700.0p in damage. The Defendant failed to carry out any, or any sufficient investigation. The Claimant complained at the local police station in writing.
- (iv) Between a date unknown in 1994 and the 30th day of August 1995 The Claimant's Surgery in Llantwit Major was burgled on no less than three occasions. The Defendant failed to carry out any, or any sufficient investigation. At Cardiff Crown Court on the 22nd day of March 1996 The Defendant's servant, a Sergeant Rundles, denied on oath that any such burglary had occurred.
- (v) On or about June 1995 The Claimant's motorcycle was stolen from outside his surgery in Barry. The Defendant failed to carry out any, or any sufficient investigation.

- (vi) On the 8th day of June 1995 The Claimant's Cardiff surgery was burgled with consequential criminal damage. The Defendant failed to carry out any, or any sufficient investigation.
- (vii) On a date unknown in 1995 The Claimant complained to The Defendant about criminal damage and theft to his property at 52, Tynewydd Road, Barry occasioned by a previous occupier. In preference to their holding an investigation into the said previous occupier's motives The Defendant preferred a prosecution against The Claimant culminating in his receiving a fine of £500.00 for common assault. The said conviction was another factor upon which The Royal College of Veterinary Surgeons determined The Claimant was unfit to practise as a veterinary surgeon.
- (viii) On the 14th day of September 1995 The Claimant was assaulted and had his premises severely damaged by fire by persons known to The Defendant. The Defendant failed to carry out any, or any proper investigation.
- (ix) On a date unknown in 1996 The Claimant's veterinary surgery in Barry was entered by the use of a JCB excavator to force open the said premises. Notwithstanding the fact that The Claimant reported his having caught the perpetrators The Defendant failed to carry out any, or any proper investigation.
- (x) At about midnight on the 17th day of October 1997 The Claimant was attending an emergency in a marked veterinary ambulance. In the presence of police officers who did nothing to assist The Claimant, drunken youths threatened assault and criminal damage against The Claimant and his property culminating in the windscreen of the ambulance being smashed and serious damage to its bodywork being caused. The defendant failed to carry out any, or any proper investigation.
- (xi) On or about January 1998 The Claimant apprehended a person attempting

to burgle his Barry premises. The Defendant failed to carry out any, or any proper investigation.

- (xii) On the 1st day of April 1998 The Claimant reported another burglary at his Llantwit Major surgery. The Defendant failed to carry out any, or any proper investigation.
- (xiii) On the 10th day of November 2000 The Claimant reported a burglary and consequential criminal damage to his surgery premises in Barry. The Defendant failed to carry out any, or any proper investigation.
- (xiv) On the 20th day of December 2000 a road traffic accident occurred causing damage to The Claimant's property in Cowbridge Road West when a vehicle collided with The Claimant's parked camper van. The Defendant failed to carry out any, or any proper investigation.
- (xv) On the 20th day of December 2000 a burglary took place at the premises named in the previous paragraph during which the theft of veterinary drugs occurred. The Defendant failed to carry out any, or any proper investigation.
- (xvi) On or about December 2000 The Claimant's Barry veterinary surgery was entered with the consequential theft of certain articles therein. The Defendant failed to carry out any, or any proper investigation.
- (xvii) On a date unknown in August 2001 The Claimant reported yet another theft at his property in Barry. The Defendant failed to carry out any, or any proper investigation.
- (xviii) In 2002, on a date unknown, The Claimant caught a person in the process of committing a burglary on his Barry veterinary hospital premises. The Defendant refused to identify the person to The Claimant, arrest or prosecute the said person notwithstanding his identity was known to The Defendant.
- (xix) On a day unknown in October 2002 The Claimant reported a criminal damage at his Llantwit Major surgery. He was able to identify the culprit to The

- Defendant. The Defendant failed to carry out any, or any proper investigation.
- (xx) On the 9th day of January 2003 The Claimant's motor vehicle was destroyed by arson. The Defendant failed to carry out any, or any proper investigation.
- (xxi) On the 22nd day of March 2003 The Claimant suffered acts of criminal damage to various properties estimated to be £1,500.0p in value. The Defendant failed to carry out any, or any proper investigation.
- (xxii) On the 9th day of September 2003 The Claimant apprehended a person in the act of entering his Cardiff surgery with intent to steal. The Defendant failed to carry out any, or any proper investigation.
- (xxiii) On a date unknown in June 1999 The Claimant was assaulted at The Vale of Glamorgan Show by a retired police officer. The Claimant remonstrated and was subject to a Complaint that he caused a Breach of The Peace. He was held in custody. The complaint was not prosecuted timeously and The Claimant was detained unlawfully because of an Abuse of Process. At Cardiff Crown Court on the 1st day of June, 1999, the same retired police officer again assaulted The Claimant having been called as a witness in a proceeding arising from the Cowbridge show incident. The Defendant failed to carry out any, or any proper investigation.
- (xxiv) In consequence of the events as set out hereinbefore in paragraph (iv) certain items of veterinary waste were found on waste ground. The probable motive for the aforesaid break-ins was the illicit use of the drug Ketamine. The Defendant failed to carry out any, or any proper investigation. In consequence The Claimant was convicted of 'failing to prevent the deposit of controlled waste' The Royal College of veterinary Surgeons rendered The Claimant unfit to to practise thereby depriving The Claimant of his livelihood.

Malicious Prosecution

4) The Claimant was maliciously prosecuted in respect of the three matters referred to above in paragraphs (vii), (xx111) and (xxiv).

5) The Claimant was, at all material times, the lawful tenant of land at 175, Cowbridge Road, Ely in Cardiff owned by The Claimant's daughter, Ms Belinda Kirk. Mark Davenport illegally occupied the aforesaid property, changing the locks to prevent the quiet enjoyment of the land by The Claimant. In an endeavour to persuade the said Mr. Davenport to abide by the provisions of the laws of ownership The Claimant spoke with him on the 10th day of July 2013. Mr. Davenport made the malicious and self-serving accusation that The Claimant pushed him to the chest thereby amounting to a common assault. The Claimant was put before the court following charge and granted bail. On the 31st day of July 2013 Mark Davenport made another malicious complaint that knowing he Davenport was a witness in criminal proceedings against him and with intent to intimidate him The Claimant made the gesture of drawing his own finger across his throat so as to cause fright to Mr. Davenport. Notwithstanding evidence that no such gesture took place The Claimant was remanded into custody based upon objections by the police to his having bail. The case was successfully concluded in The Claimant's favour on or about October 2013 but not before His Honour Judge Neil Bidder, Queen's Counsel, expressed the view the charges had no merit. The proceedings terminated in The Claimant's favour.

6) The Defendant did not honestly believe The Claimant had engaged in such behaviour as Mr. Davenport had a self-serving agenda in opposing

steps to encourage his lawful removal from the said premises and had assaulted a bailiff in this regard. Accordingly, the prosecution of The Claimant was brought maliciously and without reasonable and probable cause.

Trespass to Goods

- 7) In 2009 The Claimant was maliciously prosecuted for the possession of a firearm namely a Lewis gun (see 1CF03361). At all material times The Claimant was in lawful possession of antique and licensed guns. With no lawful basis The Defendant had the said guns removed on the 22nd day of June 2009. Notwithstanding the prosecution of the possession of the firearm terminating in The Claimant's favour The Defendant has refused to return the said goods notwithstanding numerous requests in writing by The Claimant.

Loss and Damage

- 8) As a result of the matters complained about The Claimant suffered loss of liberty, injury, anxiety, distress and inconvenience and loss and damage.

False Imprisonment

- 9) In June 2013 at the same premises as hereinbefore set out in Paragraph 5 The Defendant's agents arrested The Claimant for driving a motor

vehicle whilst unfit without administering any road side breath test. The Claimant was held for an hour at Cardiff Bay police station only to be released having provided a negative sample of breath.

- 10) On a day unknown in 2001 The Claimant attended the Cardiff Civil Justice Centre to obtain a copy of a file labelled 'Maurice Kirk: Potential Vexatious Litigant'. He refused to leave until he was provided with a copy of the said file. A police officer, encountering no resistance from The Claimant, applied the handcuffs in breach of Home Office protocol as tightly as physically possible. They were kept on for at least half an hour unnecessarily whilst The Claimant was held in a cell. The Claimant was released without charge.
- 11) On or about March 2010 The Defendant's servants and/or agents arrested The Claimant at his Barry address for a racially aggravated Breach of The Peace. The Complainant had had occasion to complain of criminal damage at his Marriott House address. The Claimant had stood in front of a person's vehicle whom The Claimant reasonably suspected of having committed a criminal offence. The Claimant was charged with assault and released on bail. The proceedings were terminated in The Claimant's favour.

PARTICULARS OF BASIC DAMAGES

- (a) The Claimant was unlawfully arrested and then unlawfully detained for a period of over six months.
- (b) The Claimant was charged with five offences, as detailed above, on the basis of false and malicious accounts.

- (c) The incidents left The Claimant feeling anxious, distressed and frightened.

PARTICULARS OF SPECIAL DAMAGE

See the accompanying Schedule of Loss (to follow).

AND THE CLAIMANT CLAIMS:

1. DAMAGES
2. INTEREST PURSUANT TO SECTION 69 OF THE COUNTY COURTS ACT 1984.

David Jonathan Leathley

I believe the contents of this, my claim, are true

Signed

A handwritten signature in dark ink, appearing to read 'David Jonathan Leathley', written over a horizontal line.

Dated

A handwritten date '12th July 2016' in dark ink, written below the signature.