

QUEEN'S BENCH DIVISION

CARDIFF DISTRICT REGISTRY

MAURICE JOHN KIRK BVSc

Claimant

- and -

SECRETARY OF STATE FOR JUSTICE

1st Defendant

NATIONAL PROBATION SERVICE

2nd Defendant

THE CHIEF CONSTABLE OF SOUTH WALES POLICE

3rd Defendant

RESPONSE TO FURTHER INFORMATION BY THE 1st DEFENDANT

Of the Particulars of Claim as a whole

1. It is not possible to state the names of the officials who committed each and every act, whether by *misfeasance* or otherwise, until after disclosure and exchange of witness statements, as all of the forms that the Claimant was served with either were not signed, or had squiggle signatures but no name on them.
2. In so far as the acts are concerned, these are perfectly and adequately already set out in the Particulars of Claim relating to the issue of the licence and its subsequent revocation and the Claimant's further detention in HMP Swansea until his release therefrom.
3. It is not necessary to set out details of any evidence, as the Claimant is only required to plead the facts on which his claim is based, and Particulars of Claim are not witness statements *in lieu*.
4. Further, the Claimant is not currently in possession of the relevant documents and information to give the requested information at the present moment, as these are held by the 1st Defendant.
5. In so far as the Convention Rights on which the Claimant relies are concerned, again these are fully set out in the Particulars of Claim relating to breaches of article 8(1) ECHR and article 10(1) ECHR.
6. Article 8(1) is engaged on the basis that the conditions imposed on the original Parole licence, along with its revocation were an infringement of the Claimant's right to privacy and family life.

7. Article 10(1) is engaged on the basis that the conditions imposed on the original Parole licence, along with its revocation were an infringement of the Claimant's right to "freedom of expression" regarding publication of matters not covered by any restraint orders in force in respect of the Claimant.
8. In so far as the publication of the other inmates' photographs and details at Swansea were concerned, which was one of the reasons for the purported revocation of the Claimant's Parole Licence, the inmates fully concurred and agreed to the publications in question.

Of Paragraph 2, "The Claimant firstly contends that the licence was not lawfully signed by a person authorised to sign it by the Secretary of State and did not have lawfully delegated authority."

1. No actual signature is displayed on the Claimant's licence, and it is in fact at the present time not known on what basis the person who issued the licence had for issuing it until after Disclosure and exchange of witness statements.
2. Further, the Claimant is not currently in possession of the relevant documents and information to give the requested information at the present moment, as these are held by the 1st Defendant.

Of Paragraph 3, "The Claimant secondly contends that the conditions of that licence were not in accordance with either the "standard conditions" or the regulations laid down by the Secretary of State in section 250(1)(a)(b) of the Criminal Justice Act 2003..."

1. The regulations concerned are the Criminal Justice (Sentencing) (Licence Conditions) Order 2005 No. 648.
2. The conditions of the Parole Licence differed from that required by the regulations in that:
 - (a) He was forbidden from travelling outside the UK unless otherwise directed, as the conditions in regulation 2 provide that a person may travel with permission. (condition vi)
 - (b) An unduly restrictive curfew was imposed at the hostel where the Claimant was required to reside, not authorised by regulation 2. (condition vii)
 - (c) To report to staff at hourly intervals, designed to be unduly and deliberately restrictive. (condition ix)
 - (d) Not to seek to approach or communicate with Kirsty Kirk or Genevieve Kirk. (condition x)
 - (e) Not to enter the area defined by the attached map to the licence without the approval of the supervising officer. (condition xi)
 - (f) (To notify his supervising officer of any developing intimate relations with women. (condition xii)

Of paragraph 9, "The conditions imposed had not been imposed on the Claimant at either of his sentence appearances and went way beyond the "standard conditions" normally imposed on released inmates under section 250(2)(a)(ii) and 4(a) of [the Criminal Justice Act 2003] or on the regulations prescribed by the Secretary of State under section 250(2)(b)(ii) and 4(b)(i) of that Act."

1. The Claimant has already answered how the conditions of the Parole Licence went way beyond those authorised by Criminal Justice (Sentencing) (Licence Conditions) Order 2005.

Of paragraph 11, "The Claimant firstly contends that the revocation of his licence was not lawful as signed by a person authorised to sign it by the Secretary of State and did not have lawfully delegated authority/".

1. No actual signature is displayed on the revocation of the Claimant's licence, and it is in fact at the present time not known on what basis the person who revoked the licence had for revoking it until after Disclosure and exchange of witness statements.
2. Further, the Claimant is not currently in possession of the relevant documents and information to give the requested information at the present moment, as these are held by the 1st Defendant.

Of paragraph 12, "The Claimant's licence was in any event unlawfully revoked under section 254(1) and/or section 255(1)(b) of the Criminal Justice Act 2003....".

1. The basis for the revocation of the Claimant's licence is already fully set out in the Particulars of Claim.
2. There were however, no valid grounds for revoking the Claimant's licence.
3. If it is relied upon that the Claimant published details of other inmates on his web site, this was not a valid ground for revoking his licence, and was an unjustified interference with his right of "freedom of expression" under article 10(1) ECHR.
4. Furthermore, if it is relied on that the Claimant caused a disturbance at the Kingsway Medical Centre on 9th July 2014, or threatening any members of the reception staff thereat, this is again totally denied and unsubstantiated.

Of paragraph 22, "Finally, the Claimant contends that any "reasons" that he has been served with either in the licence revocation notification or the further details of the "reasons" purportedly under section 254(2)(b) and section 255(2)(b) of the Criminal Justice Act 2003, which ever provision is applicable in Applicant's case, aren't legally valid and should be totally ignored by the Board. (sic).

1. Two names are mentioned on the recall information. Firstly, Sally Powell, secondly Joanne McSwiney and thirdly, Peter Thomas, all of the Probation Service, so far as is known.

2. It is not known from the form which of these persons was in overall charge of the recall or the providing of the reasons.
3. Further, the Claimant is not currently in possession of the relevant documents and information to give the requested information at the present moment, as these are held by the 1st Defendant.
4. The reasons why the reasons were not valid, were that the allegations relating to the alleged disturbance at the Kingsway Medical Centre on 9th July 2014 was completely unsubstantiated, and hearsay and not based on any hard or credible witness statements or evidence.
5. Secondly, the publications on the Claimant's web site were perfectly lawful and the revocation of the Claimant's licence as a result was an infringement of the Claimant's right of "freedom of expression" under article 10(1) ECHR.
6. The allegations of *paranoia* relating to the taking of *surveillance* photos of the Claimant is further completely unsubstantiated.

Maurice J Kirk BVSc

Dated: 12th July 2017

I believe) that the facts stated in this Response for Further Information are true.

Signed

A handwritten signature in blue ink, appearing to read "Maurice J Kirk BVSc". The signature is somewhat stylized and cursive.

Maurice John Kirk BVSc

Claimant