

In The Crown Court at Cardiff

REGINA

V

MAURICE KIRK

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**DEFENCE STATEMENT PURSUANT TO SECTIONS 5 & 6 CRIMINAL PROCEDURE AND
INVESTIGATIONS ACT 1996 & THE CRIMINAL PROCEDURE RULES**

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To The Prosecutor:	Crown Prosecution Service Cardiff
To The Court:	Cardiff Crown Court
Charge:	Breach of Restraining Order
Date:	21st ^h March 2017

If called upon to establish a defence at trial the following statement is served in accordance with
The Criminal Procedure and Investigations Act 1996

THE NATURE OF THE ACCUSED'S DEFENCE

The Accused relies on Section 5 (4A) (5) of The Protection from Harassment Act 1997 namely that
he had a reasonable excuse for his actions on the 27th February 2017.

In 2010 the Accused was famously acquitted of the Possession of a Lewis Machine Gun at Cardiff
Crown Court. He was a litigant in person who had been prosecuted 33 times by South Wales Police
through their Chief Constable Barbara Wilding and each prosecution had been concluded in his
favour. This formed the basis of a civil case at Cardiff Civil Justice Centre for 33 malicious
prosecutions and/or false arrests. Three of these actions have been concluded in The Accused's
favour. The Accused had purchased a veteran aircraft fitted with a decommissioned machine gun
which was sold on to a collector. In the course of The Accused's remand in custody procured by the
police Dr. Tegwyn Williams published to the court a psychiatric report stating in it The Accused **had**

significant brain damage in an area of the brain specifically related to self-awareness, judgment, decision making, self regulation of behaviour and control of emotions' It further stated The Accused **presents symptoms consistent with Paranoid Delusional Disorder**. The Accused was remanded in custody and very nearly detained as a mental patient in Ashworth High Security Hospital. The report was deliberately false and misleading and even went so far as to suggest The Accused had a brain tumour. It is The Accused's case that Dr. Williams was put up to making a report outside his field of expertise by the police so as halt the costly civil litigation pursued by The Accused.

Over the years The Accused has devoted his entire life to fighting perceived police corruption and sought to name and shame Dr. Tegwyn Williams firstly on his web-site and secondly by civil action for malicious falsehood and misfeasance in a public office aimed at Dr. Williams and South Wales Police. The Accused will rely on Civil Actions **1CF 03361, BS 614159 and 7CF07345 plus a stayed action against Dr. Williams himself (1CF03546)** as to the truth of the aforesaid assertions.

On the 28th November 2013 a CT scan of The Accused's head took place under the auspices of Dr. Rose Marnell. In a letter dated the 3rd day of March 2014 Dr. Marnell stated the outcome of the scan showed **there is no evidence The Accused suffers from Paranoid Delusional Disorder, there is no evidence to indicate he suffers from significant brain damage and there is no evidence he has cancer.'**

In order to protect his position Dr. Tegwyn Williams reported The Accused for harassment and the Restraining Order subject of these proceedings was applied for. The Accused avers Dr. Williams fled to New Zealand to avoid imminent civil action and because his report on The Accused had made his position as Director of The Caswell Clinic, Bridgend, untenable.

A Copy of The Restraining Order was not served on The Accused when it was first made.

Throughout successive years since the above events The Accused has crusaded ceaselessly and through all lawful avenues in the Magistrates' and County Courts, the Court of Appeal and by

reference to The Criminal Cases Review Commission to fight what he honestly perceives is a travesty of justice.

He obtained successful judgments of malicious prosecution against South Wales Police on no less than three occasions as hereinbefore set out.

Following an unsuccessful lawful application to quash the aforesaid restraining order in the magistrates' courts at Cardiff on the 20th February 2017 the Accused uploaded a diary entry which consisted of a film he made of himself onto his Maurice Kirk website, a film made on the 27th February 2017.

The Accused, who had experience of being repeatedly arrested for no more than the exercise of his lawful rights, had attended four police stations including Cardiff Bay police station for the purpose of his making a complaint that court and custody records had been altered concerning false assertions that he was ever served with the original restraining order in 2011. He was concerned to document his current whereabouts and the purpose of his visit. The Accused now suffers with short term memory loss and finds himself incapable of recall unless a record is made of important events. Under The Protection of Harassment Act 2007 section (3) (c) his conduct was reasonable. Pursuant to Section (4) (3) (a) of The Protection From Harassment Act 1997 all The Accused's actions with regard to the police and Dr. Williams were for the purpose of detecting the crime of misfeasance in a public office by Dr. Tegwyn Williams and South Wales police officers and designed to draw attention to The Accused's plight.

There was no harassment to Dr. Williams and there was no executory intent to harass Dr. Williams on The Accused's part.

The Accused did not know where Dr. Williams lived and has impressed that he did not want to know where Dr. Williams lived and he therefore had no realistic expectation that Dr. Williams would suffer harassment as a consequence of his actions on the 27th February 2017.

The Accused will rely upon correspondence between his legal representative and Dr. Williams

and his written application before Cardiff Magistrates' Court on the 20th February 2017 for proof of his amicable intent with regard to Dr. Williams whom he regarded as a man who was, himself, a victim of police Blackmail in making representations that could have procured The Accused's incarceration for life.

The film recording was not, of itself, capable of causing Dr. Williams, in whose favour the Restraining Order was made, distress within the definition under section 7 of The Protection from Harassment Act 1997 and as such was not improper, oppressive and unreasonable conduct targeted at Dr. Williams nor was it calculated by The Accused to produce the consequences in section 7.

The fact that the police found The Accused's campaign unattractive does not, by itself, constitute Harassment.

The Accused puts the Crown to strict proof that Dr. Williams was even aware of the aforesaid recording.

The Accused was exercising the individual's democratic right to protest and demonstrate about issues of public interest (see recent *Daily Mail* article about The Accused's recent air crash in The Sudan). As such The Accused invites the court and the jury to resist interpreting the statute too widely (See ***Blackstones 2017 page 298***). None of The Accused's assertions against Dr. Williams could be properly regarded by the reasonable man as either false or malicious as His Honour Judge Anthony Seys Llewellyn, QC, recently lifted a stay on the machine gun civil action which inferentially would not have been achievable had The Accused's pleadings been manifestly unreasonable.

The Accused takes issue with the prosecution with regard to the following:

The Restraining Order was, of itself, obsolete and oppressive.

It was never lawfully served.

The film recording on the 27th February 2017 was not calculated to harass Dr. Williams and was incapable of so doing. In support of an obsolete case of harassment The Crown rely on two

statements by Dr Williams dated 2010 and 2012 respectively.

Dr. Williams did not suffer in consequence of it.

The Accused is a victim of repeated police bullying and The Accused's actions in seeking to resist the said bullying through all lawful procedures was both proper, proportionate and reasonable and for the purpose of detecting an unlawful crime of conspiracy and/or misfeasance in the public office of constable.

The machine gun prosecution was an abuse of process **ab initio**.

The fact that the machine gun was decommissioned was well documented in the aircraft log books but this fact was not disclosed by the prosecuting authority.

This fourth alleged breach is an oppressive use of the executive power.

The first alleged breach was an alleged publication of the circumstances under which the original restraining order was made. It was at the time a fair comment.

The second alleged breach concerned a false assertion that the Accused was at the home of Dr. Williams with a can of petrol. This case was discontinued after enquiries caused the authorities to question the veracity of a statement of Dr. Williams. Dr. Tegwyn Williams's wife, Dr. Janis Hillier, is a witness to the fact that Maurice John Kirk did not threaten her home with a can of gasoline.

The Crown Prosecution Service discontinued the bogus complaint by Dr. Williams (the second alleged harassment) and despite CPS Tony Dicken promising disclosure of the file to The Accused's legal representative the same was never disclosed.

The third alleged breach concerned an incident whereby the Accused had requested disclosure and the police knowingly postponed their response to a time when The Accused had been drinking. He uttered words to the effect that, as a hypothesis, their response would have been different had he threatened to burn Dr. Williams's home. There was no executory intent and yet the Accused was imprisoned for sixteen months.

By the time a third alleged restraining order breach was tried before His Honour Judge Rowlands (Case Number T20131144) The Crown say the Restraining Order containing the prohibition on placing any material on the internet about Dr Tegwyn Williams was in place. The Accused relies on the transcript of those proceedings as proof of his honest and sincere contention that he was never served with the said Restraining Order.

Further, The Accused relies on the transcript of the proceedings before His Honour Judge Rowlands dated 30th April 2014 involving Mr. Threlfall for The Crown and His Honour Judge Rowlands.

During that hearing Mr. Threlfall admits that unless a condition is added to the Restraining Order that The Accused takes down existing material already posted on a website the prosecution of The Accused is meaningless unless the 'offensive' material is taken off. When asked by His Honour Judge Rowlands if The Accused has been served with the amended Restraining Order subject to the present proceedings Mr. Threlfall replied ***'I am pretty certain he has'***. The Accused was not present and Mr. Threlfall goes on to talk about a letter being sent to The Accused at Cardiff prison informing him of the terms now relied upon by The Crown. In fact The Accused was transferred to HMP Bristol and no such letter was forwarded to him. The Accused will rely upon the duty placed upon Prisons to inform those released on licence the conditions upon which that licence depends which, of necessity, involves the reaffirmation of any known behaviour orders being communicated by the prison to The Accused. By a document entitled **Licence until 7/3/15** The Accused was told any prohibition was restricted to ***not to seek to approach or communicate with Kirsty Kirk, Genevieve Kirk or Dr Tegwyn Williams directly or indirectly without the prior approval of the supervising officer.*** The present allegations, of course, do not constitute any breach of those terms by The Accused.

The Accused asks that there be primary disclosure of the transcript of the entire proceedings in T20131144 and relies on the permission granted him in this regard by Her Honour Judge Eleri Rees, The Recorder of Cardiff. This, of necessity, must include the hearing following that on 30th April 2014

namely Friday the 2nd May 2014.

The Accused asks for the disclosure of the Clerk's notes comprising the proceedings leading to the unamended first restraining order dated 2011 together with the witness statement of Mr. Michael Williams, the then Legal Advisor.

The Accused asks for full disclosure of the CPS file on a discredited, discontinued 2012 complaint by Dr. Tegwyn Williams.

The Accused seeks disclosure of the names of the prison officers on duty on the 1st December 2011 with a Mr. Lee Barker who witnessed the fact that, because The Accused had been wrongly registered as MAPPA 3, Mr. Michael Williams was unable to get close enough to The Accused to serve him with the original Restraining Order in breach of Criminal Procedure Rule 4.3.


The Accused will aver that as he did not know the terms of any first Restraining Order proceedings for second and third alleged breaches were *ultra vires*. As such there was no *locus standi* to make the Restraining Order in the terms currently relied upon in this prosecution.

Further, and in the alternative, this prosecution interferes with The Accused's Freedom of Speech and constitutional right to appeal an unjust conviction.

The Accused additionally seeks a transcript of the evidence of the 2011 prosecutor in the matter of the first Restraining Order, Mr. David Gareth Evans, Barrister at Law, during The Accused's Bristol Crown Court Appeal against his alleged common assault of the said David Gareth Evans, in which Mr. Evans conceded The Accused may not have been served with the original Restraining Order but his own rough draft.

Further, and in the alternative, because The Accused was neither served with The Restraining Order in either its first draft or as allegedly amended, he was deprived of his rights pursuant to Criminal Procedure Rule 50 to make representations.

SIGNED

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a long horizontal stroke.

DATED

AL CORRECTED
18th Aug - 2017