

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
CARDIFF DISTRICT REGISTRY

Case Number C90CF012

BETWEEN MAURICE JOHN KIRK

Claimant

-and-

THE SECRETARY OF STATE FOR JUSTICE

1st Defendant

-and-

THE NATIONAL PROBATION SERVICE

2nd Defendant

-and-

THE CHIEF CONSTABLE OF SOUTH WALES

3rd Defendant

AMENDED PARTICULARS OF CLAIM

1. At all material times The Claimant was a former member of The Royal College of Veterinary Surgeons living at 51-53 Tynewydd Road, Barry, Vale of Glamorgan CF 62 8Az. He was a litigant in person and had conduct of a number of civil claims against The South Wales Police and Gwent Constabulary.

On the 4th July 2014 he was sentenced to 16 months' custody by His Honour Judge

Rowlands at Cardiff Crown Court and to six weeks reduced to three on appeal by Cardiff Magistrates' Court on 12th December 2014. The Claimant was released on Licence on 4th July 2014 in very poor health. He was recalled within days.

2. The First Defendant is Her Majesty's Principal Secretary of State for Justice having responsibility for the rules, regulations and guidelines by which prisons are run.
3. The Second Defendant is The National Probation Service having responsibility for supervising persons serving prison sentences and helping with their rehabilitation after release.
4. The Third Defendant is and was, at all material times, the Chief officer of Police for The South Wales area. Save where it is otherwise indicated, all officers of The South Wales police were at all material times acting under her direction and control.
5. The Claimant's Licence Conditions hereinbefore referred to in paragraph 1 were unlawful and The Claimant's subsequent recall to prison amounted to false imprisonment.

Particulars of Unlawful Prison Licence Conditions

- (i) The licence was not lawfully signed by a person authorised to sign it by The Secretary of State. The licence was therefore invalid and was not lawfully issued.
- (ii) The Claimant secondly contends that the conditions of the licence were not in accordance either with 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 and were all consequently unlawful. The Claimant was forbidden from contacting various members of his own family without valid reasons and also with no apparent application or by way of consent from any of the family members named on the licence (see condition x of the said licence) and from publishing matters on his web site. This constituted a breach of The Claimant's right to family life and freedom of expression under Article 8 (1) and/or 10(1) ECHR as incorporated under schedule 1 of The Human

Rights Act 1998.

- (iii) The Claimant was further denied the right to travel outside the United Kingdom within the European Union without permission which the licence Stipulated would be given ***in exceptional circumstances only***. The Claimant was therefore denied freedom of movement within the European Union in breach of Articles 45 to 55 of The Treaty on The Functioning of The European Union and/or EU Directive 2004/38/E (see condition vi of the said licence).
- (iv) The Claimant was also the subject of onerous reporting restrictions relating to his residence at Quay House Approved Premises, 1 Strand Swansea SA1 2AW by having subjected upon him a condition attached to his curfew that he be required to report ***every hour*** outside the curfew thus making it impossible for The Claimant to see his family in clear breach of The Claimant's right to family life and/or privacy under Article 8(1) of the ECHR as incorporated (see conditions vii and ix of the said licence).
- (v) The aforesaid conditions had not been imposed on The Claimant whilst on remand pending sentence at Cardiff Crown Court and were *otiose* in contrast to 'the standard conditions' normally imposed on released prison inmates under sections 250(2)(a)(ii) and (4)(a) of The Criminal Justice Act 2003 or under regulations prescribed by The Secretary of State under section 250(2)(b)(ii) and 4(b)(i) of the said act.

In the premises the said conditions were unworkable and effectively 'set The Claimant up to fail' in clear breach of the statutory remit of The First and Second Defendants.

The Claimant's subsequent Recall pursuant to Malicious Arrest and subsequent False Imprisonment by The Third Defendant

6. On or about the 10th or 11th July 2014 The Claimant was recalled to serve

the unexpired remainder of the sentence referred to in paragraph 1 (above). Officers of The South Wales Constabulary acting under the authority of The Third Defendant arrested The Claimant for the following spurious reasons:

- (i) Taking photographs with the consent of all parties concerned of certain persons whom The Claimant met at the centre outlined in paragraph 5 (iv) above.

No statements of complaint were taken and no identifiable crime established.

- (ii) Two incidents when The Claimant had allegedly attended the surgery of his GP and allegedly argued with a trainee receptionist. No statements of complaint were ever taken and no identifiable crime established.

- 7. The arrest of The Claimant and subsequent recall to prison constituted a false imprisonment in that:

- (a) The Third Defendant and her arresting officers did not honestly believe The Claimant had committed any offence with regard to the matters as hereinbefore set out in paragraphs 6 (i) and 6 (ii). The police presented highly exaggerated accounts to The Secretary of State (The First Defendant) knowing them to be false and not believing them to be true in the certainty of the knowledge that the cumulative effect of the aforesaid accounts would be the immediate incarceration of The Claimant for the unexpired term of his prison sentences as hereinbefore set out. At all material times The Second Defendants acquiesced in the flawed process in breach of their statutory duty to The

Claimant. As a consequence The Claimant suffered unlawful imprisonment until his eventual release on 28th March 2015.

The Claimant's Unlawful Detention Without a Parole Hearing Being Arranged

8. The Claimant's return to prison was unlawful in that the licence revocation notification contained nebulous reasons unsupported by cogent evidence.
9. In the premises The Claimant sought his immediate release as required by Section 254(2)(b) and Section 255(2)(b) of The Criminal Justice Act 2003.
10. The Claimant repeatedly requested an oral hearing to both HM Governor and The Parole Board to cross-examine any witnesses against him and was refused.
11. The Claimant was continued to be denied a parole hearing without any justification or reason. The Claimant was as a result unlawfully detained in custody in breach of Article 5 of the ECHR as incorporated under schedule 1 of The Human Rights Act 1998 until his final release from HMP Swansea on 28th March 2015.

The Third Defendant's Continued Complicity in The Claimant's False Imprisonment

12. The principal stated reason for refusing The Claimant's repeated requests for a parole hearing was the lack of an available forensic psychiatrist. On 11th July 2014 an OASys Assessment of The Claimant relied on spurious police information that The Claimant constituted, inter alia, a risk to Dr. Tegwyn Williams and to Barbara Wilding, ex Chief Constable, together with members of the public and The Claimant's own family. The information was provided maliciously and without proper foundation and relied upon The Third Defendant's obtaining a MAPPA 3 certification of The Claimant. The First Defendant was complicit in that a prison evaluation by Dr. Rose Marnell dated 3rd March 2014 proved the lie to The Third Defendant's misleading contention

that The Claimant suffered Paranoid Delusional Disorder and brain damage.

Loss and Damage

13. As a result of the matters complained of The Claimant suffered eight months of unlawful imprisonment and detention in breach of article 5 ECHR.

PARTICULARS OF BASIC DAMAGES

- (a) The Claimant was unlawfully arrested and then unlawfully detained for over eight months and or detained in breach of article 5 ECHR of the Human Rights Act 1998.
- (b) The Claimant was refused the right to a Doctor/ a wheelchair and/or adequate medical attention. His physical health deteriorated.
- (c) The Claimant was left feeling anxious, distressed and frightened.

PARTICULARS OF SPECIAL DAMAGES

14. Further, by reason of the matters set out aforesaid, the claimant claims Aggravated and/or Exemplary damages and damages under section 8(1) of the Human Rights Act 1998. In particular he relies upon:
- (a) The features set out above in so far as they are not fully compensated for by an award of basic damages and the arbitrary and/or unconstitutional conduct of all of the Defendants.
 - (b) The damage to The Claimant's health given his age and infirmity.

AND THE CLAIMANT CLAIMS:

- 1. DAMAGES INCLUDING AGGRAVATED AND/OR EXEMPLARY DAMAGES AND/OR DAMAGES UNDER SECTION 8(1) OF THE HUMAN RIGHTS ACT 1998
- 2. INTEREST PURSUANT TO SECTION 35A OF THE SENIOR COURTS ACT 1981

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

Signed

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke.

Dated

7th SEPT. 2016.