

Between

MAURICE JOHN KIRK

Claimant

and

THE CHIEF CONSTABLE OF THE SOUTH WALES CONSTABULARY

Defendant

**PERMISSION to APPEAL
the JUDGEMENT and DRAFT ORDER
of 30th November, 2010, by HHJ Seys Llewellyn QC**

Introduction

The Claimant seeks permission to appeal the judgment and draft Order on the grounds of seven aspects:

- A. Individual *Bullying Incidents* form, collectively, a Claim for “*Organisational Harassment*”
- B. Organisational Harassment *intensified* as Civil Actions for Punitive Damages progressed
- C. An Extreme Number of Bullying Incidents creates Unusual *Classes* of Cases
- D. The Non-Investigation of Crimes is a Case of *Bullying Tactics*
- E. Legal Outcomes of Individual Incidents are Irrelevant in this *Collateral Attack*
- F. Complaining to and Colluding with the *Royal College of Veterinary Surgeons* was part of Bullying
- G. Delaying Tactics of Court Proceedings and Interfering with them was part of “*Multi-Agency Harassment*”

For granting the permission to appeal, four reasons are given:

- A. An Extreme Number of Incidents means Evidence of Ongoing Harassment
- B. Including the 4th Action means Unusual Types of Harassment
- C. MAPPA meant Bullying Tactics for Indefinite Harassment and Political Asylum
- D. Withholding Medical Records is the Result of “*Multi-Agency Collusion*”.

The Seven Aspects for Appeal

A. Individual Bullying Incidents form, collectively, a Claim for “Organisational Harassment”

1. Just as the observation of financial market data consists of single ‘price incidents’, so they form *trends*, when seen together in context and over time. Similarly, the individual ‘incidents’ that the Claimant has experienced since 1992 due to the Defendant, must each be seen as ‘bullying cases’.
2. When seen together, individual bullying cases are the result of malicious intent and policy. This is not public policy, but the policy of South Wales Police as an organisation or agency. “Organisational policy” does not imply malicious intent of individual police officers who were only doing their job in the investigation and suppression of crime.
3. It appears, however, that, with respect to the Claimant, their job had become one of organisational harassment. This was spelled out in the leaked MAPPA report: see <http://bit.ly/fjR8GL>

“At the meeting it was reviewed that the police intend to take certain action which they anticipate will result in a remand into custody.”

B. Organisational Harassment intensified as Civil Actions for Punitive Damages progressed

4. When taking the long term view over all four legal actions that are addressed on this occasion, it becomes apparent that the Defendant has not only exercised harassment, but also intensified this treatment, as the civil actions for punitive damages were progressing.
5. Based on an initial number of nineteen bullying incidents, the **1st action** [BS6 14159] was filed by Bristol solicitors in 1996 for
“damages, exemplary damages, special damages, costs and interest.”
6. On 1st June 2002 Jonathan Watt-Pringle filed Particulars of Claims, covering some ten incidents of a **2nd action** [CF101741] for damages, aggravated and exemplary damages, interest as well as an
“Order that the Defendant shall not by himself or his servants or agents harass the Claimant, whether by stopping him without legal justification to provide breath samples or to produce documents or to attend at police stations and/or by arresting and detaining him without legal justification”.
7. On 24th June 2002, the Claimant filed the **3rd action** [CF204141] himself, covering six incidents, claiming again *damages, including exemplary and special damages, besides costs and interest.*
8. On 24th November 2007, the Claimant filed the **4th action** [7CF07345] regarding

“duty of care, abuse of process, failed disclosure and human right infringements.”

9. The Particulars of Claim of the 4th action mention

“failed disclosure by both the Defendant and the Royal College of Veterinary Surgeons, contrary to court orders, delay by HM Court Service to process current actions, interference by Crown Prosecution Service, HM Attorney General, Mr Justice Andrew Collins and other to hand down an Extended Civil Restraint Order or obtain a Vexatious Litigant Order.”

10. Furthermore requests for *Trial by Jury*, as violations of the European Convention of Human Rights and Fundamental Freedoms and the UK 1998 Human Rights Act, are among the claims of some or all of the actions.

11. In para 59, the 4th action refers to 41 crime reference numbers.

12. From the Claimant’s point of view, this amounts to

- an abuse of process by a number of authorities
- the omission of Article 13 of the EU Convention on Human Rights in the UK Human Rights Act 1998: *the right to an effective remedy before national authorities.*

13. Even more severely, in terms of abuse of process, the Claimant has been let down by the legal profession, HM Court Services and ten judges to progress this case for punitive damages.

14. So he has to use his website as the only way to expose wrongdoings by the Defendant, their lawyers, the Judiciary and those agencies that were included due to his MAPPA categorisation, while the administration of justice is afraid of coming into disrepute. See paras 40 and 42 in the judgment.

C. An Extreme Number of Bullying Incidents creates Unusual Classes of Cases

15. The Claimant would not begin to claim harassment if there had only been the occasional odd incident. But it is the sheer *number* as well as the different kinds of *classes* and *types* of incidents that lead him to the current action.

16. The *number* of incidents has led not only to an unusual amount of legal actions but also to a high success rate of winning by the Claimant. However, in this action for punitive damages, they need to be considered, no matter what the legal outcome has been.

17. His Honour has identified three classes of incidents:

- The first class: whether there is privately actionable duty of care.
- The second class: Liability of the police as bailee of property and/or in negligence.
- The third class. Claims alleged to be an abuse of process. Legal Principle itself.

18. The Claimant wants to add a fourth class: claims that are due for compensation and damages after convictions have been pronounced. With the exception of the stolen cheques, this covers the five incidents to be struck out.

19. In addition, the Claimant suggests to consider the following classes of incidents:

- incidents belonging to more than one class
- incidents creating reasons for prosecutions by the way the Defendant treated the Claimant
- the non-recovery of stolen goods (e.g. the stolen cheques)
- the non-investigation of crimes
- the intensification of organisational harassment
- the involvement of other agencies (MAPPA)
- the delaying tactics of court processes and their interference
- the malicious intention of psychiatric incarceration for life (IPP)
- the ‘licence to kill’, as a leaked report about MAPPA involvement revealed:

*“South Wales Police have a **firearms response** which could mean that the MAPPA subject **would be shot.**”* See page 1 of <http://bit.ly/fjR8GL>

D. The Non-Investigation of Crimes is a Case of Bullying Tactics

20. The Claimant asks for permission to appeal the strike-out of those incidents that classify as the non-investigation of crime, as they add to the strain and pain experienced due to the Defendant’s behaviour.
21. In the overall context of the Claimant’s experience, this group is a totally different kind of harassment. The added frustration must be seen as compounding the mental, nervous, emotional and financial strain, pain and stress brought on by the Defendant since 1992.
22. In fact, a careful review of all incidents with appropriate classification is required to assess the damages in financial terms.

E. Legal Outcomes of Individual Incidents are Irrelevant in this Collateral Attack

23. The aspect of collateral attack needs to be clarified, as the individual incidents, when gathered together, do form new kinds of claim, independent of any prior legal outcomes and their court context.

“in a number of cases his claim amounts to a collateral attack on criminal convictions and court findings which the Defendant contends he is not entitled to re-open.” [Para 2]

24. The Claimant expresses the right to sue for damages for each and all of the incidents, in line with the Order of the 2nd action:

“Order that the Defendant shall not by himself or his servants or agents harass the Claimant, whether by stopping him without legal justification to provide breath samples or to produce documents or to attend at police stations and/or by arresting and detaining him without legal justification”.

F. Complaining to and Colluding with the Royal College of Veterinary Surgeons was part of Bullying

25. The aspect of collusion with the *Royal College of Veterinary Surgeons* needs to be clarified since the request for being struck off was originated by a complaint by South Wales Police. The complaint developed into fully fledged collusion between the two organisations.

G. Delaying Tactics of Court Proceedings and Interfering with them was part of “Multi-Agency Harassment”

26. There is a body of evidence relating to court proceedings and their interference by the Defendant or their “partners in collusion” that is waiting to be taken into account for the purpose of quantifying damages.
27. This aspect, especially of the 4th action, requires particularly careful examination, in principle by an independent body, to establish the different kinds of additional damages incurred.

Four Reasons for Granting the Permission to Appeal

A. An Extreme Number of Incidents means Evidence of Ongoing Harassment

28. The seven aspects above have different grounds for appeal. While His Honour has identified three classes of incidents, the Claimant contends that a “helicopter” and long term view entirely change the aspect of the case.
29. The helicopter view allows for grouping incidents into different classes. The long term view allows for questioning the human rights to life, quality of life and level of health that the Claimant has experienced as a consequence of the actions of the Defendant.
30. Just as a helicopter and long term view entirely change the aspect of the case, so do the frameworks of “organisational harassment” and “multi-agency harassment” provide new contexts that do not allow for any of the incidents to be struck out, but rely on them as substantive evidence.
31. As a matter of interpretation, individual incidents are either legal allegations, each in their own right or they are but samples of evidence in a chain of events that, together, form the basis for the current claim.

The Six Incidents Struck out in the draft Order

Para 3 of Action CF204141

32. The failure to investigate the crime of **stolen cheques** does not deserve to be struck out, as the crime remains unresolved [Paras 19-21] and the stolen goods have still not been recovered, even though the Claimant recently saw the thief and described his whereabouts. The incident adds to the financial strain imposed by the Defendant on the Claimant over the years, thus contributing to *organisational harassment*.

Para 8.12 of Action BS614159-MC65

33. Similarly, the Barry **roundabout** incident [paras 53 and 61] adds to the overall intent of malice. On a Court day, the Claimant's receptionist overheard one of the Defendant's employees saying "*We will get that bastard Kirk.*"

Para 3 of Action CF101741

34. In the incident of crossing the single **white line**, due to a rally of cyclists [paras 67 and 71], the Claimant had wrongly pleaded guilty to a conviction that carried no penalty and that could not be appealed against. Instead, it was used to have the Claimant struck off the *Register of Veterinary Surgeons*. Other, more serious allegations were dismissed following cross-examination.

35. Taking the long-term point of view, regarding the full suite of bullying incidents, this one must not be struck out in a civil claim for damages for unrelated charges, arising from the same incident, that lead to the expensive but successful defence on more serious malicious prosecutions.

Para 9 of Action 101741

36. In the **Llantwit Major by pass** incident, today's trial judge has already refused to recuse himself when he dismissed the Crown Court appeal (refused road side breath test), by not accepting the Claimant's GP's medical evidence, in his absence, indicating he was recovering from an operation. Consultant's information was also not accepted by the Defendant, as would be expected in a bullying case. The Defendant lied at the RCVS hearing, altering substantial matters of fact. The Defendant tendered a far lesser charge, part heard, that of 'obstruction', that was discarded by the Claimant.

Para 11 in Action 101741

37. **Regarding the Newport Road incident:** a guilty plea due to the fear of the Claimant's life could only be appealed against, once the overhead road and custody videos were disclosed, the latter still remains undisclosed. This cannot be a reason for preventing civil redress, especially as the Defendant continues to fail to identify countless police officers in the hundred or so incidents. In this particular one, the Defendant produced only custody video with the tape obliterated from above waist level, preventing the Claimant from obtaining collar numbers or face detection of those who assaulted him in both Rumney and Roath police stations, Cardiff.

38. **The video issue**, para 100 onwards: the Claimant did not get the overhead video in time to put as argument and change his guilty plea. Interestingly, differently composed magistrates and clerks of the court refused to change the plea, as unequivocal, despite no evidence tendered by the Crown! Custody record is still undisclosed and part mutilated BECAUSE the Claimant was severely manhandled in both police stations. This incident is thus an essential link in the chain of bullying incidents.

39. The Defendant never gave evidence due to the guilty plea, obtained under duress and at the RCVS, years later, lied as to the facts (see transcript). For the trial judge not to allow this matter to go, to the strict proof thereof, is unfair, as, four other, some more serious allegations, were later withdrawn in court despite all carrying guilty pleas!

Para 2 in Action CF204141

40. **Regarding the Cowbridge Show:** nefarious conduct displayed by Crown Prosecutors, on oath, their failure to disclose or properly inform the Claimant he need only be 'bound over to keep the peace', a 'conviction' expunged from his record after twelve months and so not affecting the RCVS, was the only reason for his arrest and detention overnight.
41. It cannot be discarded for substituted statutory charges of an earlier incident in the day, **NOT PART OF THE REASON FOR HIS ARREST**, that were drafted only months later. The Crown Prosecutor for the appeal admitted in writing to the RCVS, the first blow was given by a retired police inspector who struck the Claimant severely across the face, only for the Claimant to be knocked to the ground, from behind, by a heavier than him security guard who, in turn, many months later, claimed financial compensation.
42. A different Crown Prosecutor of a different court therefore pressed for a conviction on the Claimant for common assault! Again, an important link in the chain of bullying incidents called *organisational harassment*. This includes the falsification of the original police documents, four versions of the common law offence of 'breach of the peace' went before both crown prosecutors and clerks, but were withheld from both the magistrates and the Claimant.
43. The original prosecutor, Jackie Seal, much later, when facing examination by the Claimant in his Cardiff Crown Court application for Abuse of Process, refused to answer questions as she said "it may incriminate myself". The Defendant was well aware of the falsified and altered court records, as the arresting officer wrote them long hand and the fifth copy was even altered after his conviction.
44. The Barry case was mysteriously adjourned in a matter of a few seconds from opening, for no given reason, only for it to be withdrawn, months later in Bridgend, with new unrelated statutory offences, unbeknown to the Claimant. This followed the persuasion of the court clerk, over the lunch hour, that, should the Claimant defend it, he faced a mandatory prison sentence.
45. The three new statutory offences were then handed to the Claimant by the court clerk, the Claimant being denied time to understand or call witnesses and be heard immediately. This racially motivated example of malice, false imprisonment and organisational harassment, against a member of the public just trying to defend himself, should be allowed Remedy in a British court of law.
46. As with the 4th, 5th and 6th Actions all these above six incidents are 'fact sensitive' and should proceed to trial.
47. The transcripts, court and CPS contemporaneous files, covering all eight separate court hearings, proved before the then Recorder of Cardiff, HHJ Roderick Evans QC, that many were falsified documents and are exhibits in the case. Political expediency should not prejudice this application.

B. Including the 4th Action means Unusual Types of Harassment

48. The 4th action is more than a sample of evidence as it tries to respond to the intensified development of organisational harassment into multi-agency harassment.
49. In particular, the 4th action highlights how failed disclosure is part of the malicious intent, resulting in severe contraventions of the Claimant's human rights.
50. But as a sample of evidence, it is essential for finding facts for the basis of harassment, organisational harassment and multi-agency harassment. According to the malicious intent of the Defendant, the actions should have ended with either a corpse or imprisonment for life.
51. In the same pace as the types of harassment by the Defendant intensified, the civil actions in Court by the Claimant had to cover more and more complex and unusual issues, over a time that seems to be indefinite, unless it is ended by the Claimant's death.
52. Hence it is of paramount importance to adopt a holistic view and consider the cumulative effect of spiralling harassment, by taking into account the change of intensity and severity of claims that were formulated since the 1st action.

C. MAPPA meant Bullying Tactics for Indefinite Harassment and Political Asylum

53. It was the combination of the 'licence to kill'¹ of the leaked MAPPA document and the Warrant for Arrest issued on 2nd November 2010 that led the Claimant to go through the process of asylum applications in Alderney and France, instead of being near his families in the month before Christmas.
54. The MAPPA issue comprises the following aspects:
 - Seemingly arbitrary date setting for both start and finish
 - Arbitrary categorisation of the Claimant who never was an Offender in the first place
 - Non-compliance with supplying the rightful information to the Claimant
 - Hugely trumped up charges since the sale of the machine gun had been made public on the Claimant's website
 - Huge emotional over-reactions resulted in 'over the top' actions by the Defendant, such as an armed helicopter police raid
 - The collusion between various agencies resulted in the delay of court proceedings as well as their interference
 - The collusion also resulted in non-acceptance of individual responsibility, let alone liability for any compensation, a dangerous trend in legislation, of late, in recent governments.

¹ <http://bit.ly/fjR8GL>

D. Withholding Medical Records is the Result of “Multi-Agency Collusion”

55. The current action has already been severely affected by the worsening health condition of the Claimant.
56. However, instigated by the Defendant, MAPPa became the basis for a sequence of events that can only be described as one of malice and malicious intent by all players involved:
- Dr Tegwyn Williams, Director of Caswell Clinic claiming the Claimant had ‘significant brain damage’ but not releasing the evidence recommending to the court the Claimant be incarcerated in Broadmoor, IPP.
 - HM Prison Cardiff, under whose care the Claimant was, failed to disclose, contrary to court order, the audit trail of HM Court Service and prisoner correspondence proving good service of a £50,000 claim against the very same prison for a previous false imprisonment.
 - Dr. Sissling, the CEO of the NHS who does not respond to requests
 - The Crown Prosecution who has records but does not release them
 - The Defendant who has them, too, but does not release them.
57. The visible ageing and medical deterioration of the Claimant during this intensification of harassment strategies and tactics, that extended into his professional income as well as the progression of his civil actions, should encourage anybody reading this document also to adopt a helicopter and long-term view, in those legal terms that relate to life, quality of life, fundamental freedoms and human rights, before quantifying punitive damages for ruining a professional life of particular excellence.

“It is dangerous to be right in matters where established men are wrong”
Voltaire (1694 –1778)

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