



Gwasanaeth Llysoedd
a Thribiwnlysoedd EM
HM Courts &
Tribunals Service

HM COURTS & TRIBUNALS SERVICE
Cardiff County Court
Cardiff Civil Justice Centre
2 Park Street
Cardiff
CF10 1ET

Maurice John Kirk
Puits Aux Papillons
St Doha
22230 Merdrignac
France

**GWASANAETH LLYSOEDD A
THRIBIWNLYSOEDD EM
Llys Sirol Caerdydd**
2 Stryd Y Parc
Caerdydd
CF10 1ET

DX 99500 CARDIFF 6

T / Ffon 02920 376400

F / Ffacs 029 20376475

Minicom VII (Gateshead) 0191 4781476
(Helpline for the deaf and hard of hearing /
Llinell Gymorth ar gyfer y byddar a'r trwm
eu clyw)

www.hmcourts-service.gov.uk/wales

www.gwasanaeth-llysoeddem.gov.uk

Your ref/Eich cyf:

26 May 2011

Dear Sir

Re: Case Number: BS614159 Maurice John Kirk v South Wales Constabulary

Appeal No.s CF029/2011a & CF030/2011a

Please find enclosed the Notifications of Decision of Appeal Court refusing permission to appeal in relation to appeal numbers CF029/2011a and CF030/2011. Please note the paragraph at the bottom of the page.

Yours faithfully,


KEdmunds

K. Edmunds
Circuit Judge's Listing Section
Ext 6412



**NOTIFICATION OF DECISION OF APPEAL COURT
ON APPLICATION FOR PERMISSION TO APPEAL**

<u>Appeal Court Ref No</u> CF029/2011A <u>Appellant</u> Maurice John Kirk	<u>Respondent</u> South Wales Constabulary
<u>Name of Judge in lower court</u> His Honour Judge Seys Llewellyn, QC	<u>Date of Orders of lower court</u> 1.12.10 & 28.1.11
<u>Title of case in lower court</u> Maurice John Kirk -v- Chief Constable of South Wales Police	<u>Claim number in lower court</u> BS614159



Before the Honourable Mr Justice Kitchen sitting in the Cardiff Civil Justice Centre on 17th May, 2011.

The application for permission to appeal against the orders of HH Judge Seys Llewellyn, QC dated 1 December 2010 and 28 January 2011 is refused.

Reasons:

An appeal has no real prospect of success

In a long and careful judgment of 30 November 2010 the judge addressed the application by the defendant to strike out the claimant's claims in respect of a number of incidents.

In particular:

In action CF04141, the judge struck out an allegation in respect of the theft of cheques in that, as a matter of law, the defendant did not owe the claimant a privately actionable duty of care

In actions BS614159-MC65, CF101741 and CF204141, the judge struck out a series of allegations as being an abuse of process in that they amounted to collateral attacks on criminal convictions of the defendant or on conclusive findings which have been made against him in other proceedings.

The claimant now seeks permission to appeal on a number of grounds. There is nothing in any of them.

First the claimant contends that the proceedings took place without him being able to take part. This was plainly not the case. The judge explained in detail in paragraphs 3 and 4 of his judgment the careful steps he took to ensure that the claimant was not in any way disadvantaged and referred in paragraphs 3 to 6 to the extensive submissions from the claimant which he considered.

Second, the claimant says he was subjected to unfair pressure from the court and was unfairly disadvantaged.

So the contrary, it is apparent from the paragraphs of the judgment to which I have referred that the judge took all reasonable steps to ensure the claimant was not subjected to unfair pressure, nor disadvantaged.

Third, the claimant submits the court wrongly excluded evidence. I reject this contention. There was no material dispute of fact in relation to any of the allegations the judge struck out.

Fourth, it is said the judge failed to address key submissions. I do not accept this is so. The judge set out the claimant's case on each issue very clearly. Indeed the judge accepted a number of the claimant's submissions in refusing to strike out aspects of his case.

Fifth, the claimant contends the judge erred in law. In my judgment the defendant has not identified any proper ground in support of this allegation. The judge correctly identified the principle established in Hill v Chief Constable of West Yorkshire Police and his application of that principle to the facts alleged by the claimant cannot be faulted. The other claims were struck out upon the application of the well established principle that it is not permissible for a claimant to bring a claim which amounts to collateral attack on an earlier criminal conviction or a conclusive finding made against him in earlier proceedings.

Finally, the claimant asserts that the judge failed to protect the claimant against the defendant's mindset. This provides no basis for an appeal against the specific findings of the judge.

For all these reasons the judge was also right to refuse permission to appeal.

Dated: 26th May, 2011


Note to the Appellant You have the right to have this decision reconsidered at an oral hearing. This may be before the same Judge. Any request for the decision to be reconsidered must be filed at the Appeal Court (Cardiff Civil Justice Centre, 2 Park Street, Cardiff Cf10 1ET) and served on the Respondent within 7 days after service of this Notice. If no request is made for the decision to be reconsidered, it will become final after the time limit for making the request has expired.

A copy of this document will be sent to the Appellant and the Respondent



**NOTIFICATION OF DECISION OF APPEAL COURT
ON APPLICATION FOR PERMISSION TO APPEAL**

Appeal Court Ref No CF030/2011a	<u>Respondent</u> South Wales Constabulary
<u>Appellant</u> Maurice John Kirk	<u>Date of Order of lower court</u> 3 rd March, 2011
<u>Name of Judge in lower court</u> His Honour Judge Seys Llewellyn, QC	<u>Claim number in lower court</u> BS614159
<u>Title of case in lower court</u> Maurice John Kirk -v- Chief Constable of South Wales Police	



Before the Honourable Mr Justice Kitchin sitting in the Cardiff Civil Justice Centre on 17th May, 2011.

The application for permission to appeal against the order of HH Judge Seys Llewellyn, QC dated 3rd March 2011 is refused.

Reasons

This is a case management order. The judge declined to order all the cases to be consolidated. This was a perfectly reasonable decision, particularly since the cases are already being heard together.

There is no need for the cases to be transferred to the High Court. Nor has any justification been shown for having them transferred out of Wales.

An appeal has no real prospect of success.

Date : 26th May, 2011

Note to the Appellant You have the right to have this decision reconsidered at an oral hearing. This may be before the same Judge. Any request for the decision to be reconsidered must be filed at the Appeal Court (Cardiff Civil Justice Centre, 2 Park Street, Cardiff Cf10 1ET) and served on the Respondent within 7 days after service of this Notice. If no request is made for the decision to be reconsidered, it will become final after the time limit for making the request has expired.

A copy of this document will be sent to the Appellant and the Respondent