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Mr M. Kirk  
Barry Veterinary Hospital  
49-53 Tynewydd Road  
Barry  
Vale of Glamorgan  
CF62 8AZ

Our ref: NW/am/tape2

10<sup>th</sup> October 2001

Dear Sir,

A20010009 / A2000246 Appeals Maurice Kirk

I enclose a transcript of the hearing before His Honour Judge Jacobs on the 4<sup>th</sup> October 2001 together with a copy of the schedule prepared by the Judge.

Yours faithfully

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IN THE CROWN COURT  
AT CARDIFF

A20010009

The Law Courts  
Cathays Park  
Cardiff

Thursday 4th October 2001

Before:  
HIS HONOUR JUDGE P. JACOBS

R E G I N A

-v-

MAURICE J. KIRK

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From the Tape Recording of Harry Counsell & Co.  
1C The Court, Newport Road, Cardiff, CF24 1RH  
Official Court Reporters  
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Mr. G. THOMAS appeared on behalf of the Prosecution

The Defendant acted in person

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APPLICATION TO REINSTATE APPEAL  
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Thursday 4th October 2001

JUDGMENT

A JUDGE JACOBS: What I propose to do in this matter is to  
give a judgment based upon the application I have heard.  
The tape, the content of the tape and the tone of the  
B tape will reveal why I see little purpose in hearing any  
further argument in this matter.

C The situation is this. This matter was set down  
before me and is an application to reinstate an appeal  
by the Defendant Maurice Kirk. Attached to the  
transcript which I shall ask to be made of this judgment  
is a schedule which I have prepared headed "Table of  
D relevant motoring convictions" together with a detailed  
note of the proceedings at each stage. The matters  
concern two purported disqualifications by Cardiff  
Magistrates' Court on the 18th September of 2000 and the  
E Vale of Glamorgan Magistrates' Court on the 2nd January  
2001. Both of those matters related to offences of  
failing to provide a specimen of breath and in one case  
F a further offence of no insurance.

G The schedule I have prepared cuts matters short.  
It reveals that on the 27th July of 1999 Mr. Kirk  
received a fixed penalty of three points. That is not  
the subject of any appeal. On the 8th August of 1999  
Mr. Kirk was alleged to have committed an offence of  
driving whilst without insurance. He was dealt with at  
H Bridgend Magistrates' Court on the 22nd March of 2000.  
On the 8th September of 2000 his appeal was allowed. I  
cannot recollect now whether I was the Judge who allowed

A that appeal but I recollect that in the past I have  
allowed such an appeal in relation to Mr. Kirk and  
awarded him a small amount of costs. The problem was  
that on that occasion Bridgend Magistrates' Court  
purported to endorse his licence with seven penalty  
B points. That was on the 22nd March of 2000. On the 5th  
April of 2000, therefore a matter of two to three weeks  
later, Mr. Kirk was again reported for offences of no  
insurance and failing to provide a specimen of breath.  
C He appeared before Cardiff Magistrates' Court on the  
11th April. On that occasion it appears that they  
endorsed his licence with six points for the no  
D insurance and simply endorsed his licence for failing to  
provide a specimen of breath. That meant now, of  
course, that along with the Bridgend matters he would  
have seventeen points on his licence but when they did  
E that on the 11th April they were unaware of the Bridgend  
conviction. Hence, assuming that he had just nine  
penalty points, no action was taken in relation to his  
F licence.

G What becomes clear is then that during the  
procedures which followed, in sending up the licence to  
be endorsed, they discovered about the Bridgend matter  
and thus the matter was called back to Court on the 18th  
September and on that occasion Mr. Kirk was disqualified

A the 8th September of 2000 Mr. Kirk's appeal against his  
no insurance conviction had been allowed by Cardiff  
Crown Court. The result was, therefore, that Mr. Kirk  
had only nine penalty points and should not have been  
disqualified under Section 35.

B Unfortunately, the confusion does not end there  
because for an offence committed in December 1999 he  
finally ended up in front of the Vale of Glamorgan  
Magistrates' Court in January 2001. It was an offence  
C of failing to provide a specimen and, once again, for  
various reasons the Vale of Glamorgan Magistrates  
purported to disqualify him. The letter from the Vale  
D of Glamorgan Magistrates reveals, a letter written by  
explanation on the 2nd October 2001, the letter reveals  
that they believed that he was subject to the six  
E penalty points that had been passed on the 5th April  
along with the three fixed penalty points,  
making nine. So here, since he would have to be given a  
minimum of four points for fail to provide, that would  
F mean that he would be taken over the limit, he would  
have thirteen penalty points and, therefore, they  
disqualified him.

G As Mr. Thomas concedes, it would mean that they had  
disqualified him on the wrong basis. The reality is  
that by then, of course, he had already been  
disqualified by Cardiff Magistrates' Court. The reality  
H is that had it not been for that disqualification they  
would, indeed, subject to any of Mr. Kirk's pending

appeals, be entitled to disqualify him but there are pending appeals and those, in themselves, have become complicated.

In relation to the offence of the 5th April 2000 Mr. Kirk has an appeal pending to this Crown Court and, pending that appeal, certainly his disqualification was suspended. The position about his six penalty points is less clear but his disqualification was suspended and, in any case, it is now known the disqualification cannot take effect.

In relation to his offence of fail provide, he again appealed to the Crown Court against conviction. The difficulty here is that there were hearings in front of the Recorder Mr. Seys-Llewellyn. It may or may not be that Mr. Kirk was medically unable to attend, I am pleased to see him here today, but the fact of the matter is that he did not attend and the appeal was dismissed. On that basis, strictly, the full penalty points should take effect and, of course, subject to the six points and the three points, that means that Mr. Kirk could be taken over the limit for totting up but, as I have already pointed out, it would seem that when the Magistrates exercised their powers of disqualification, they were doing so on a false basis and, in any case, we still have Mr. Kirk's appeal against the offences which were finalised on the 18th September.

There is a further complication. Mr. Kirk has

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resolved that he will go to the Divisional Court and in both of those cases the law, as I understand it, is very simple. When there are proceedings in the Divisional Court the appeals to the Crown Court cannot be finalised. So, as sympathetic as I am to Mr. Kirk's appeal against his disqualification in relation to the 18th September, an appeal which plainly must be allowed, I am not in a position to allow it, even if I want to, because the Crown Court proceedings are suspended whilst he goes to the Divisional Court.

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In relation to the proceedings on the 2nd January I am told again now that there are proceedings before the Divisional Court. The difficulty now is that unless I make some reinstatement of Mr. Kirk's application for leave to appeal against the conviction and sentence of the Vale of Glamorgan Magistrates' Court on the 2nd January, he will leave here as a disqualified driver and on all that I have heard that would be unjust. On the other hand, it is very difficult at the moment to see why precisely I should reinstate the appeal against conviction.

What I propose to do, therefore, in order to do the best justice I possibly can, is to say this. Any appeal against conviction automatically puts sentence at large,

I propose to do is to allow reinstatement of Mr.

Crown Court is seized of the matter to that extent, to suspend his disqualification. If I did not take that step today, whether he likes it or not, he would leave here a disqualified driver and be, therefore, subject to immediate arrest. So, I now allow him to have before the Crown Court an appeal against sentence and his suspension, therefore, is lifted. There is nothing further that I can do.

Mr. Kirk has raised before me the question of documentation in relation to his failure to provide a specimen of breath on the 5th April and, indeed, for the offence committed in December 1999. I am not further seized of these matters. I repeat again, if there is relevant material which the Crown Prosecution Service has, and it has to be relevant material - what I have in mind is the documentation relating to these two offences specifically. If Mr. Kirk does not have that, and I do not propose to go into lengthy debates about whether he has or not, then he must have it. Other than that, that is the best I can do in these circumstances.

I note, as I am sure the Divisional Court will note, from the record of its own proceedings, that Mr. Kirk is a man who constantly appears in these Courts. I

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throughout this part of the country. There is nothing further that I can or I am prepared to do in this matter and, therefore, I now propose to adjourn.

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A transcript of my remarks will be prepared and to it will be attached a copy of the schedule that I have prepared summarises much more succinctly than I have been able to say in my judgment what seem to me to be the salient facts of this matter. A copy of that transcript should be made available to Mr. Kirk, a copy to the Prosecution and a copy should be put in the Court file and the Prosecution and the Court should note that in any subsequent hearings it is essential that those documents are sent to the Divisional Court who, in fact, are well seized of Mr. Kirk because, if they look at the judgment dated the 13th March 2001 before Lord Justice Brook they will be well aware of the situation.

May I, Mr. Gareth Thomas, raise one other matter. When the Crown Prosecution Service at any level get material involving Mr. Kirk they know what is coming by now. One of the problems that has happened, both in Cardiff Magistrates' Court and in the Vale of Glamorgan Magistrates' Court, is that the Magistrates had

I would have thought by now that was as plain as a  
pikestaff and if that had been done then we would have  
not had the problem in Cardiff Magistrates' Court later  
on. They would have known. The CPS, after all, knew  
there had been a successful appeal and they should have  
jolly well told Cardiff Magistrates' Court. Certainly  
the CPS knew that there had been a successful appeal  
and there were other problems with Cardiff Magistrates'  
Court. They should have told Barry Magistrates' Court.  
It is just no point now, rightly or wrongly, in turning  
up and just treating Mr. Kirk as any other individual.  
I appreciate the problems. To a great extent he is the  
author of his own misfortune because of this  
proliferation of court cases. Mr. Kirk once sat there  
in front of me and told me he had about thirty running  
at the same time. The CPS know the difficulty and they  
please must address it and then we will avoid hearings  
like this.

So, under those circumstances, this Court is now  
closed and I will adjourn.

Mr. KIRK: Application for costs.

JUDGE JACOBS: Well, I cannot give any costs in this matter,

coming into the building. That is why I was late.

A JUDGE JACOBS: I am not talking about that. I am talking  
about your non-appearances in front of Recorder Seys-  
B llewellyn. What I have done now is the best I can do  
justice for you, to ensure that you leave here entitled  
to drive. I have done that for you.

C Mr. KIRK: Chicken feed, absolute chicken feed, as to the  
truth of the matter. You are helping to cover up  
corruption, corruption in your own Court. You ordered  
D disclosure and this disclosure has yet again been  
ignored by this Court. With one breath you say the  
Judicial Committee up in London have power of these  
cases and the next breath you decide to take over and  
change my sentence, without my consent, without my  
E imparting any information other than by writing. I  
write everything in advance now to make sure that you  
lot cannot, as you all eat out from the same trough,  
cover up each other's corruption and distortion of  
F truth. I have the names of each barrister who acts for  
the CPS. I don't accept that it is the CPS's fault. It  
is sometimes but it is not the way that has been put by  
this Judge. Lawyers acting as barristers boast that

occasions and I have seen your letters in which you  
impugn the integrity of a large number of people who are  
known personally to me. I make no other comment than  
this, that I just wish you would think before you speak.  
A lot of these people, all of these people, to the best  
of my knowledge are thoroughly decent people, they do  
their job as best as they can, they have their own wives  
and families, their own reputations and their own  
personal lives.

Mr. KIRK: But they lie and cheat and pervert the course  
of justice.

JUDGE JACOBS: I will just add one other thing to you, Mr.  
Kirk. In order to sort out your case today the Court  
Manager, I know, has spent about two days on it. I have  
spent about two and a half to three hours---

Mr. KIRK: I spent eight years of harassment by the local  
police.

JUDGE JACOBS: Mr. Kirk, you will listen to me.

Mr. KIRK: And I have watched a string of judges knuckle  
under to the corruption.

JUDGE JACOBS: Mr Kirk as I have told you before has

children when they have to come as injured parties.

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Table of relevant motoring convictions – M Kirk

	Date of Offence	Date of Court	Court	Offence	Result	Date of Any Appeal
1	27 7 1999		Fixed penalty		3	
2	8 8 1999	22 3 2000	Bridgend	No Ins	7	8 9 2000
3	5 4 2000	11 4 2000 & 18 9 2000	Cardiff M C	Fail provide spec No insurance	L/E 6 Disq s35	Pending
4	12 1999	2 1 2001	Vale of Glam	Fail provide	L/E Disq s35	Application fo reinstatement

Please read in conjunction with transcript of ruling

**Note –**

1. The fixed penalty 27 7 1999 3 points is not the subject of any appeal
2. The Bridgend M C 7 points was the subject of a successful appeal on 8 9 2000
3. On 11 4 2000 Cardiff Magistrates endorsed the licence 6 points – they were unaware of the 7 points awarded later became aware and disqualified for 6 months under s35 on 18 9 2000. They did not know that the point appeal against conviction on 8 9 2000. Thus the disqualification is incorrect. The defendant has appealed Court but the defendant has also appealed to the Divisional Court and Crown Court cannot therefore finalise disqualification.
4. On 2 1 2001 Vale of Glamorgan Magistrates endorsed the defendants licence and disqualified him under s35 specimen – they disqualified him for 6 months under s35. The problem is that it was on a false basis although disqualify him had they known the real facts. They relied on the 6 points imposed on 5 April. See letter Cardiff Magistrates Court had already disqualified him on 18 9 2001 having revised the sentence albeit written now of an appeal to the Divisional Court. The defendant also seeks leave from the Crown Court to reinstate dismissed through his non attendance.