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IN THE CROWN COURT
AT CARDIFF

Indictment No: B20090055

The Law Courts
Cathays Park
Cardiff
CF10 3PG

25th June 2009

Before:

HIS HONOUR JUDGE T M HUGHES QC

REGINA

- v -

MAURICE JOHN KIRK

MR R ACE appeared for the Prosecution.

The Defendant appeared in person.

RULING

Tape transcription by **Mendip-Wordwave**
(Official Court Reporters to the Court)
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RULING

(12.16pm)

JUDGE HUGHES: This is a prosecutor's appeal against the decision of the justices sitting at Barry on the 24th June 2009, by which on that day the defendant was released on bail.

On the 23rd June 2007 the defendant, Mr Maurice John Kirk, was charged with two offences, namely the possession and the sale of a prohibited weapon contrary to Section 5 (1a) of The Firearms Act 1968. The court has jurisdiction in this matter, given that the defendant was also sent to this crown court for a preliminary hearing. In addition, this being an offence which carries a maximum sentence of more than five years, this court has jurisdiction to hear the appeal if the prosecution made representations at the lower court that bail should not be granted and that such representations were made before bail was granted. I am satisfied that those conditions have been met in this case and that this court has jurisdiction to entertain the appeal.

Further, the appropriate oral and written notices were served and that the Justices, in accordance with Authority, were required then, as they did, to remand Mr Kirk in custody in order to appear at this hearing today.

Mr Kirk is acting in person and is thus entitled to be present at the hearing which now takes place, as required, within 48 hours of the decision appealed against. He has made to the court both oral and written submissions which the court has taken into account. These proceedings are expressly stated, in The Bail Amendment Act 1993, to be a rehearing, which has now taken place, and the court has power to remand the defendant in custody or to release him on bail on such conditions as it thinks fit.

The prosecution argue that bail should be refused because, it is asserted, there are substantial grounds for believing that if bail were granted the defendant will, firstly, fail to

A surrender to custody; secondly, interfere with witnesses; and, thirdly, commit a further offence
whilst on bail.

B The facts of the alleged offence are said to be as follows. On the 29th May 2009 a police
officer accessed a website operated by the defendant. The officer noted certain images which
included Mr Kirk holding what is alleged to have been a Lewis machine gun. In addition, there
are comments noted in the following terms, and I quote. “Dressed for court. Cardiff court. And
a level playing field.” In addition, there are references to the following, I quote. “Glorious 12th.
C Crooked lawyer shoot.” There are also references to the breakdown of law and order.

D Police officers then made further enquiries and discovered a Utube clip showing the
defendant, it is said, with the same machine gun. There are references in that clip to the loss of
his private pilot’s licence following an incident when he was arrested for flying a private
aeroplane close to the home of President Bush. The moving images show the defendant at his
home address holding the machine gun in an allegedly dishevelled state and there are further
references to the incident which I have mentioned, when the gun is raised. There are other
E moving images showing him complaining about British bureaucracy and how he was able to
enter, on one occasion, the United Kingdom without a passport and that he had also, on another
occasion, been able to take a large knife and ammunition into the United States without being
stopped.

F A further investigation of his website indicated that Mr Kirk was offering the Lewis
machine gun and ammunition for sale in the sum of £4,000. There are other references which
include the following, that he offers a financial reward of up to £10,000 for information with
G regard to the current Chief Constable of the South Wales Police and representatives of the
Crown Prosecution Service. There is a reward, it is said, which is offered for information as to
the whereabouts of a number of named individuals, not only those individuals but of their
H families and even of the schools which their families may attend.

A There is evidence, the crown assert, that in 2008 the defendant sold a vintage aeroplane
to an individual, namely Mr Ronald Cooper. It had a capacity for a Lewis machine gun to be
mounted on the aeroplane and then to be operated. Very shortly thereafter Mr Cooper had
B purchased the aeroplane, he purchased the Lewis machine gun from Mr Kirk, which he, Mr
Cooper, believed had been deactivated.

 Police officers were able to recover the weapon from Mr Cooper on the 22nd June. There
is evidence, the crown assert, that the weapon had not, in fact, been deactivated. There was,
C however, no ammunition recovered at the same time. A covert police officer contacted the
defendant and, it is asserted, Mr Kirk told that officer that the firearm in question had been in
working condition.

 On the 22nd June Mr Kirk was arrested and interviewed under caution. He provided a
D prepared written statement which included references to a number of other matters, of
allegations made against, amongst others, the Judiciary, the Bar, solicitors and others involved in
the administration of criminal and civil justice.

 Mr Kirk denies the offence. At this stage it appears that there are two main issues.
E Firstly, whether he ever was in possession of the gun and, therefore, was the seller of it. And,
secondly, whether the gun was a prohibited firearm within the meaning of the Act.

 I have listened carefully to the oral submissions made by Mr Kirk. He invited the court
F to read two witness statements which had been made to the police and a lengthy document
setting out the history of a number of civil and criminal proceedings in which he has been
involved. In his oral submissions he indicated that his arrest for these matters was in connection
G with those civil proceedings for harassment which have been ongoing for some 15 years. It is
asserted by Mr Kirk that there was a direction made by His Honour Judge Seys-Llewellyn for the
exchange of documents by 4pm on the 19th June. Mr Kirk asserts that he was told he was
H arrested because a suggestion had been made that a file should be delivered to the solicitors for

A the police through a window attached to a brick. This, Mr Kirk asserts, led to a complaint made
by a Mr Oliver, a solicitor, which caused the police to instigate an attempted arrest on the
Sunday, the 21st June. However, no such arrest took place but on the following day, the Monday
B the 26th June, Mr Kirk was arrested and he prepared a statement of explanation as to what this
case is all about. Mr Kirk made a number of other references with regard to the civil
proceedings. They are set out in greater detail in the document, a lengthy document, which I
have had the advantage of reading.

C He also asserts that on an unspecified date, when he was at the Port Talbot police station,
he had been arrested for being in possession of ammunition. He indicated that he gave
information. Later, he explained that that information was given to his wife, as to where the
D police officers should dig. He did not explain the purpose of that digging but indicated that the
police officers then spent three days taking or removing papers which were in his possession and
which related to his civil action.

E Mr Kirk also said this, that they, being the police, also knew that he was in possession of
a number of other firearms, matters which Mr Kirk states the police are not at this stage
proceeding with. Mr Kirk states that this is a deliberate smokescreen to hinder him in the civil
proceedings and he expects the police to bring those other charges against himself in due course.
F He submits that the case against him is racist, that it is a conspiracy, that the evidence is flimsy
and that he denies the offence. He wishes to be remanded on bail so that he can have full access
to such papers as will enable him to prepare his case properly. He requires also a list of
witnesses and a number of documents to be returned to him. It is without question that Mr Kirk
G has convinced himself that the current charges are part of a conspiracy to prevent him from
pursuing his civil action. Whether that is or may be the case will be a matter for any jury who
will, in due course, decide all the relevant facts of the case.

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Decisions as to whether an unconvicted person should be released on bail pending trial raise questions of importance, both to the individual and to the community at large. There is a presumption in favour of bail unless one of the exceptions under Schedule 1 of The Bail Act 1976 are made out. If such an exception applies it remains within the discretion of the court, if it considers it appropriate, to grant bail.

The offence with which Mr Kirk is charged or, rather, both offences in respect of which he has been charged is one which, if convicted and in the absence of exceptional circumstances, carries a minimum sentence of five years' imprisonment. The prospect of conviction and sentence to a significant term is just one of the factors which the court must take into account but the seriousness of the offence is not to be treated as a conclusive reason for withholding bail. The nature and seriousness of the offence and the probable method of dealing with it is one consideration to which the court is bound to have regard.

Other matters to which the court must give consideration are the following. Namely, his character, antecedents and community ties. Mr Kirk has previous experience of the criminal justice system. His previous convictions include two convictions for battery, two convictions for assault occasioning actual bodily harm, four convictions against The Public Order Act, two convictions for assault on police, one conviction for resisting a police officer, one conviction for common assault, one conviction for criminal damage. He has also been convicted of an offence of driving whilst disqualified and also, on two occasions, with failing to provide a specimen of breath. There are a number of other convictions with regard to perhaps less serious offences but offences which indicate a disregard for statutory regulations.

Again, previous convictions alone are not an automatic reason for refusing bail but if there is a significance in the record and the nature of the charges the court should have regard to the protection of the public. In my judgment, his antecedent history, coupled with other matters set out on his website and in the document which he has asked the court to read, in the view of

A this court raises a substantial risk to the health and safety of a number of named and unnamed individuals.

B The court must also have regard to the accused's record as respects the fulfilment of his obligations under previous grants of bail. There is only one previous appearance for offences which were committed whilst on bail. That was on the 11th April 2000, when he appeared at Cardiff Magistrates' Court for three offences, namely failing to provide a specimen of his breath and two other Road Traffic Act offences. All those three were presumably committed, though, C on the same day.

D The court must also have regard to the strength of the evidence of his having committed the offences with which he is presently charged. I have considered that evidence. I have seen some of the material recovered and printed from the website. It appears to this court that at this stage there is clear evidence which passes the evidential test for a charge. That is not to say that this court expresses any view as to the overall merits of the defence case.

E In deciding whether there are substantial grounds for the beliefs which are advanced by the prosecution I must also act compatibly with Article 5 (3) of The European Convention on Human Rights, which limits pre-trial custody. I must take into account all relevant considerations, including those relating to his character, his morals, his home, his occupation, his assets, his family ties and all links with the community in England and Wales.

F Mr Kirk is 64 years of age. He is a former veterinary surgeon. He lives at an address in South Wales. At the present it is not clear whether he is still living with his wife and ten-year-old child but, clearly, he has close ties with his family, who are living also in South Wales. He G has another property in France. However, he has, unfortunately, come into contact with both the civil and criminal justice system on a number of occasions and, as I have said earlier, he has convinced himself that the current charges are part of a conspiracy to prevent him from pursuing H

A his civil action. That may or may not be the case. That is not a matter for this court today to
decide. That will be a matter for any jury who will be sworn in due course.

B Having considered all of those matters very carefully I have come to the very firm
conclusion that there are substantial grounds for believing that if he is released on bail Mr Kirk
will commit further offences whilst on bail, interfere with prosecution witnesses and also fail to
surrender to custody. Therefore, he is remanded in custody until the preliminary hearing, which
I believe has already been fixed. Mr Ace, would you tell me the date?

C **MR ACE:** 6th July.

JUDGE HUGHES: Till the 6th July. Thank you very much. He may go down.

D **(12.35pm)**

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A We hereby certify that the above is an accurate and complete record of the proceedings, or part thereof.

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Signed: Mendip-Wordwave Partnership

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