Neutral Citation Number: [2022] K.U.C.F Crim 666
No: 2015/00748C2
2015/05343C2
2016/04268 C2
IN THE COURT OF PUBLIC OPINION AND SCRUNTINY
CRIMINAL DIVISION – APPEAL SECTION

Royal Courts of Injustice
The Strand
London, WC2A 2LL

02/02/2022

B e f o r e:

THE HIGH LORD CHIEF JUSTICE OF RUNNYMEADE
(Lord_Dayadhvam)

THE VICE PRESIDENT OF THE INJUSTICE DIVISION
(Lord Damyata)

THE VICE, VICE, PRESIDENT OF NULLA BONA
(Lord Datta)

GIOVANNI DI STEFANO

-V-

R E G I N A

The Appellant Appeared in Pro Per

Mr. D. Mendacitie QC, Appeared for The Crown

J U D G E M E N T
(Handed Down 22.02.2022)
(As Approved by the Court)

THE HIGH LORD CHIEF JUSTICE OF RUNNYMEADE (Lord Dayadhvam):

1. This matter has been referred to us by a retired High Court Judge in accordance with the criteria and mandate afforded to us when reviewing cases that are considered to be potentially a miscarriage of justice, and troubling to the judiciary who participated in the trial and or appeal.

2. The Appellant requires an appeal and scrutiny on conviction, sentence, and confiscation.

3. The Appellant adhered before us and presented the case in an extremely interesting manner. Mr. D. Mendacitie QC was offered the opportunity to respond but declined to do so in a manner commensurate to his namesake. This Court pressed Mr. Mendacitie QC but fortunately he remained silent.

4. The Appellant raised an interesting matter of law before dealing with the main issues and I ask my Lord Datta to summarise.

LORD THE VICE, VICE, PRESIDENT OF NULLA BONA (Lord Datta):

5. The Appellant raised an issue of Constitutional Compatibility, in short, the Appellant stated that all criminal trials and appeals with the title Regina/Rex -v- (named person) a nullity.

6. In making this submission the Appellant advanced a historical lesson in law that should be of interest to all jurists.

7. The Appellant verbatim stated as follows:

> "When William the Conqueror invaded England in 1066, he took over the most efficiently governed Kingdom in Europe, but he soon grasped the need to reinforce its system of government and law. This meant trying to provide some central system of justice over which the King had control, for William understood that it was only by making laws which had to be obeyed and could be enforced throughout the land that he could exercise real power and control over all his subjects. For centuries English monarchs had governed the outer reaches of their Kingdoms through Sheriffs, but to secure their authority they would need to travel the country, taking their Court and Couriers with them. When Williams Court progressed, he and the most powerful Courtiers attached to his Curia Regis would listen to those who came to them with their grievances, complaints, or accusations and they would give Judgement. All the main Courts today can be traced back to Williams Curia Regis. The King would literally sit on a bench to hear cases in his own Court. That is why

> today we have the Queen's Bench Division/Kings Bench Division. However, not every monarch made a good Judge, or for that matter was particularly interested in his system of justice. In the years that followed Kings delegated their work in the Courts to others. They and their advisors in the Kings Counsel establish Royal Courts, appointing men who became known as Judges to sit in them, and leaving it to them to decide many cases which might previously have been tried by the King himself, those Judges sat on behalf of the monarch. They sat ex officio the monarch."

8. The Appellant reminds us that we sit in judgment on behalf of the reigning monarch currently Queen Elizabeth II. There can be no doubt in that position.

9. The Appellant, therefore, takes umbrage at the fact that it is "Regina" that prosecutes him, and Regina (us sitting on behalf of the monarch) who decide his case.

10. The Appellant told us that appearing before any Court where Regina prosecutes and Judges sitting on the monarch's behalf adjudicate, is tantamount to having a Judge, jury, and executioner, all in one.

11. The Appellant reminds us that in Scotland prosecutions are not in the name of "Regina/Rex" but in the name of the Lord Advocate.

12. The Appellant, therefore, advances the argument that he is being prosecuted and adjudicated by the same judicial entity and, therefore, that constitutes an incompatibility.

13. The Appellant goes further and says that it is the Crown Prosecution Service, a creature of Statute, that should be in the title and not "Regina."

14. There is some force to this argument which if the Appellant is correct will effectively invalidate all trials in this jurisdiction where the title has been Regina/Rex versus whomsoever.

15. We will deal with our conclusions on this at the end, and the High Lord Chief Justice of Runnymede will outline the submissions on the question of conviction, sentence, and confiscation.

THE HIGH LORD CHIEF JUSTICE OF RUNNYMEADE (Lord Dayadhvam):

16. I deal first and foremost with the question of sentence which has caused us some considerable trepidation.

17. The Appellant was sentenced on the 28 March 2013 to a term of fourteen years imprisonment.

18. The Learned Judge made available the sentence remarks for the public and for the media and we note that in para 1.51 the Learned Judge states the following:

> "I have taken account of and given appropriate weight to the fact that this is the fourth time you have been convicted of offences of fraud."

19. We were told by the Appellant that when giving evidence he was presented with a Police National Computer (PNC) showing a number of convictions for fraud which he disputed at trial.

20. The whole question of bad character evidence "regretfully" came to fruition only a few days before the Appellant gave evidence.

21. This is indeed unusual especially as the Appellant was on bail for almost two years and this matter could have been resolved in the proper manner.

22. We were also concerned to discover that the whole question of bad character was raised in Court at a time when the Appellant was not present. The Appellant told us that it was the day of his hospital appointment, and rather than waste a Court Day the Judge allowed the argument on bad character whilst the Appellant was absent.

23. Whether this was the correct approach is a matter of concern and may well have caused the subsequent grievance from the Appellant.

24. It is clear that when faced with an official document namely a PNC from the police, the jury chose to believe the document rather than the Appellant.

25. The Appellant candidly told us that if he had been on the jury, he also would have believed the PNC.

26. On the 31 August 2016 the Appellant filed an application to appeal sentence and conviction.

27. That document was made available to us consisting of some 92 paragraphs and paragraph 29 to 32 clearly stated that the PNC was incorrect, and that the only conviction that the Appellant had was in 1976 when he was under 21 years of age for a minor offence that was spent seven years later.

28. The Appellant complained that the sentence was manifestly excessive, that the Learned Judge incorrectly sentenced the Appellant on the basis of four previous convictions which was wholly inaccurate, that the Learned Judge drafted the sentence remarks prior to the jury returning verdicts, that the Learned Judge failed to sentence the Appellant in accordance with section 174 of the Criminal Justice Act 2003, that the Learned Judge handed the sentence remarks to the media prior to sentencing the Appellant not after, that the Learned Judge failed to deduct qualified curfew time, and

that the Learned Judge failed to consider the ramifications of the Criminal Justice Act 2003 section 142.

29. All of those arguments were properly set out and citing legal precedence.
30. On the 8 November 2016 the single Judge Sir Roderick Evans refused leave to appeal and reaffirmed that the previous convictions were an aggravating factor.

31. The Appellant told us that his legal research in grounds of appeal were carried out by himself, and he felt totally alone without any assistance from external lawyers at that time and the only assistance he received was from the Deputy Governor of HMP Swaleside, who brought him a laptop to be able to carry out his work.

32. He told us that Karen Todner, a Solicitor offered considerable assistance for which he was grateful.

33. In his grounds of appeal, the Appellant also questioned whether or not Sir Roderick Evans was entitled to sit as a single Judge as he had retired, but this matter was not properly responded by the Court that subsequently heard the said appeal.

34. On the 9 March 2017 the matter came before the Court of Appeal Criminal Division presided by Lady Justice Hallett, Mr Justice Goss, and Mr Justice Kerr.

35. We have read that Judgement which mysteriously has two Neutral Citation Numbers [2017] EWCA Crim 601, and [2013] EWCA Crim 601.

36. The Appellant told us that this was a running practice in what he described as an obfuscation of justice.

37. On occasions his name has been misspelt, and on other occasions the EWCA crim numbers are different which makes anyone searching for a Judgement difficult.

38. We note that in para 6 of the Judgement Lady Justice Hallett stated the following:

> "He was expressly asked if he wished to apply to make oral submissions to this Court and he declined to do so."

The Appellant told us this was not correct.

39. Para 39 of that Judgement dealt with the question of the Senior Courts Act 1981 section 9 (1) and section 9 (5) but failed to respond to the Appellants question with regard to evidence that Sir Roderick Evans was properly acting as a Judge of the High Court.

40. It is a matter of common knowledge that Sir Roderick Evans had indeed retired and went to a position elsewhere and was forced to resign from that position over a question of impropriety.

41. The Appellant had also complained that whilst giving evidence the Learned Judge intervened over 700 times. All in all, not only was the application refused but Lady Justice Hallett awarded the Appellant a fifty-six-day loss of time.

42. On the 18 July 2018 matters came to light evidencing absolutely categorically that the Appellants version of his previous convictions were correct.

43. Whilst at HMP Highpoint a Senior Officer wanted to send the Appellant to an open prison and did a PNC search and found that the Appellant was, in fact, convicted on the 25 June 1976 and that those offences were spent and that the sentence of imprisonment of 9 months were within the Rehabilitation of the Offenders Act (ROA).

44. The Appellant wrote to Master Michael Egan QC, and we have reviewed a copy of his letter and we highlight the following:

> "It follows that all preferred the version advanced by the Crown because they could support such with a PNC. I said that the PNC had been interfered with but of course, who would believe that the police and the Crown would be party to such?"

45. The Appellant went on to say:

> "What the police and the Crown did after my sentence on 28 March 2013, was that they awaited a short period of time to see whether I would appeal and then readjusted the PNC to reflect the correct position. The police and the Crown did not want to be caught falsifying documents to the Prison Service."

46. The Appellant went on to say further:

> "In essence the police and the Crown introduced in my trial false documents regarding antecedents."

47. In the course of these proceedings the Appellant exhibited to us a copy of a document from the Home Office file dated the 8 June 2013 under reference number ICD 1070EEA which confirm that the only criminal offence known to the Home Office were on the 26 June 1975 and that the said sentence was "spent."

48. This indeed is a disturbing element not so much that this Appellant received a sentence by far in excess of what should have been the case, but that the Learned Judge was clearly misled by someone with regard to the previous convictions.

49. It is now universally accepted that the Appellant has indeed only one previous conviction and more disturbing, that from 2018 onwards no effective action has been taken either to hear the matter or to take some form of investigation into the manipulation on the Police National Computer which justified the sentence imposed upon the Appellant.

50. It seems to us that clearly the Appellants grievances over what he calls obfuscation, stonewalling, and evasion, clearly justify an immediate review on this matter.

51. We have discussed the case clearly and concisely and we come to the conclusion that if this matter were to be dealt with as a matter of sentence alone, and with one previous conviction which clearly has been spent then it would be difficult to justify a sentence in excess of five years.

52. I now ask the Vice President of the Injustice Division to deal with the question of confiscation.

THE VICE PRESIDENT OF THE INJUSTICE DIVISION (Lord Damyata):

53. Shortly after conviction and in accordance with the usual practice the prosecution sought confiscation proceedings.

54. After the Proceeds of Crime Act 2002 section 16 and 17 were resolved the matter was listed at the Southwalk Crown Court before the Trial Judge for resolution.

55. The Appellant told us, and this is confirmed by the papers that at no time was the Appellant ever subject to a Restraint Order as would be expected and further, the prosecution specifically did not even mention any question of so-called Hidden Assets.

56. It is important to note that the prosecution advanced the case on the basis that the Appellant was effectively using one client's money to repay another if necessary, and that after over ten years of financial investigation there were no assets whatsoever to be found.

57. In fairness to the prosecution whilst the benefit of over three million was conceded, and accepted, to all intent and purposes they were expecting a one-pound order or one day's imprisonment.

58. Counsel for the Crown put it in this manner:

> "The Financial Investigation Unit at the City of London Police began their investigation in the year 2003. The Appellant provided investigators at the time and thereafter, with unhindered access to all accounts which either he held himself or to which he was a signatory both in this country and abroad, thereby saving considerable time and expense in obtaining Orders abroad."

59. The Prosecution went on to say:

> "Despite having thoroughly investigated the Appellants finances, the Crown having the intervening years found nothing to suggest the existence of any assets whatsoever, nor indeed ever having

> accumulated assets at any stage of his financial history, whether in this country or abroad."

60. On the 22 of December 2013 the Confiscation Proceedings took place at the Southwalk Crown Court.

61. The Appellant gave oral evidence for almost three hours.

62. It is important to note that at no stage was the Appellant ever challenged on the question of Hidden Assets, never challenged on any monies paid to him by his clients, and never challenged in his submission that he had no assets to pay any Confiscation Order whatsoever.

63. Neither the prosecution, the defence, nor the Judge challenged the Appellant on any of those matters.

64. The Appellant showed us an entry on his prison record dated the 22 November 2013 stating the following:

> "The Judge stated in open Court that he would deliver his Ruling before Christmas this year and that it would not be necessary for Mr Di Stefano to attend."

65. The Appellant told us that Christmas came and went and there was no sign whatsoever of any Ruling.

66. The Appellant told us that on the 7 January 2014 the Court of Appeal in Rome and the Italian Government converted and accepted that the Appellant would serve a sentence of fourteen years in Italy, and further that in accordance with the Council Framework Decision 2008/909/JHA he was expected to be transferred to Italy within the statutory period of thirty days.

67. The Appellant was quite candid to us in saying that he was fully aware that in Italy he would serve three quarters of his sentence of 14 years whereas in this jurisdiction he would only serve half and be removed thereafter back to Italy as a free person.

68. We pressed him as to why he would accept such a deal. Again, he candidly replied that he wanted to be in Italy so that his aged mother could visit him, and he was prepared to serve extra time to satisfy his mother's need to see her son.

69. In an unusual move which we are quite surprised the Secretary of State for Justice prevented the transfer despite that being a violation of the Council Framework Decision 2008/909/JHA.
70. January, February, and March 2014 arrived, and the Appellant still had no notification of the so-called Ruling.

71. On the 20 March 2014 some five months after the hearing the Ruling was handed down and the Trial Judge to our surprise found that the Appellant had slightly over

two million pounds in Hidden Assets, and further imposed a default sentence of eight and a half years if payment was not made within one second.

72. We will comment on this aspect of the matter in due course but save to say that the Appellant appealed the said decision, but first and foremost he was informed that unless the default sentence was activated, he would not be able to serve his sentence in Italy.

73. He was told by the Secretary of State for Justice that once that sentence was activated then he would be able to be repatriated to Italy to serve the full sentence.

74. The Appellant told us that he asked the Trial Judge to convert himself into a Magistrate (as he had already done before) and activate the sentence in order that he could then serve all of that sentence in Italy.

75. The Judge declined to do so saying that it was not the appropriate procedure, but he would contact the Westminster Magistrates Court and arrange a priority hearing.

76. On the 8 April 2014 the Appellant appeared before a Lay Bench and using all the skills of advocacy that he possessed convinced the Bench to activate the default sentence.

77. The Appellant confirmed to us that at no time did the Magistrates consider other options.

78. The Appellant was from that day onwards serving a sentence of twenty-two and a half years.

79. As stated, the Appellant in pro per appealed the Confiscation Order and to his surprise leave to appeal was granted by the single Judge.

80. In February 2016 the Appellant spoke to the Senior Casework Lawyer Sarah Counsell who told him that the Lord Chief Justice of England and Wales (Lord Thomas) had reserved this case to himself.

81. We were surprised by this since there was nothing specifically of importance that would attract the attention of the Lord Chief Justice himself but nevertheless, on the 19 April 2016 the said appeal was heard and without any request from the defence the Lord Chief Justice reduced the default period from eight and a half years to one of six years.

82. We have read that Judgement which again in somewhat usual fashion has two Neutral Citation Numbers.

83. The first is [2016] EWCA Crim 1606 which confirms that the Lord Chief Justice of England and Wales sat with Mr Justice Saunders and Mrs Justice Thirlwall and the

second one, is Neutral Citation Number [2016] EWCA Crim 1032 and this one only shows that the Lord Chief Justice of England and Wales sat alone.

84. We have already witnessed a similar incident in the sentence Judgement and the Appellants cries of "obfuscation" must now be heard and taken seriously.

85. We have never known separate Neutral Citation numbers and different constitution of the Court save in this case.

86. What is, however, common is that in para 28 of both Neutral Citation Number Judgements the Lord Chief Justice does not state that the default sentence is to be consecutive.

87. We were shown a Warrant of Committal by the Westminster Magistrates Court after that Appeal dated 07/02/17 which clearly confirms that the default sentence is not consecutive.

88. We have also seen a copy of a letter from the Confiscation Unit confirming that the said default sentence is concurrent.

89. The Appellant remains in custody even today, and his fight on numerous applications to the High Court it would appear that the Appellants cries of obfuscation, stone walling and invasion may well have some merit.

90. The Appellant told us and in fact, showed us the said Confiscation Order which was for an amount of £2,058,522.44. The Judge ordered that £1,363,852.93 be paid as compensation.

91. However, we have examined the Indictment with some care, and we find the following:

Count 1:	10,000 pounds
Count 2:	8,000 pounds
Count 3:	2,000 pounds
Count 4:	100,000 pounds
Count 7:	10,000 euros
Count 8:	5,000 pounds
Count 9:	1,000 pounds
Count 10:	2,000 pounds
Count 19:	476,000 pounds
Count 20:	12,000 pounds
Count 29:	150,000 pounds

92. That as a matter of a mathematical exercise does not amount to £1,363,825.93 and we are puzzled as to what magical formula the Judge used in this mathematical exercise.

93. Further, a finding of Hidden Assets where neither the Crown or any party sought such, and worse no questions were asked of the Appellant at the appropriate time or to date seems to us singularly particular.

94. The Appellant told us that had anyone asked him of the so-called one million pounds paid to him by a client by the name of John 'Goldfinger' Palmer he would have been able to explain it easily.

95. In his usual candid style, the Appellant told us and produced a 62-page bill of costs, which was deposited with the Taxing Master pursuant to a Defence Costs Order made by the Court of Appeal in favour of Mr Palmer.

96. The Appellant told us there was the so-called one million pounds that the Judge spoke of, and it was accepted fully by the Taxing Master and could not understand how the Judge had failed to ask him a question about the matter whilst penalising him for so-called Hidden Assets.

97. On the 25 September 2018 the Appellant wrote a detailed letter to the new Lord Chief Justice Sir Ian Burnett.

98. We have seen a copy of that letter and we cite this:

> "I believe also that, as myself, Your Lordship has read the Proceeds of Crime Act 2002, and your Lordship will agree that the words 'Hidden Assets' do not appear anywhere in the Act."

99. The said letter proceeds to outline the history of confiscation and the limitations on Judges creating law.

100. The Appellant clearly states that it is not the role of the judiciary to create a law such as Hidden Assets when it is not to be found in the proceeds of Crime Act 2002.

101. The Appellant has tried every which way possible to bring this matter to the attention of the Court, and it would appear to us that at all material times including an application for a Variation Order under section 23 of POCA 2002: an application for a Certificate of Inadequacy under the Criminal Justice Act 1988, and a number of Appeals to the High Court to review what can only be described as unjust technical defences by the Prosecution all to no avail.

102. The whole matter involving confiscation has been a tragic set of circumstances set in motion by the prosecuting authorities to ensure that this Appellant serves as long in prison as possible.

103. We asked the Appellant why the Crown or those prosecuting would do this.

104. In his usual candid style, the Appellant said this was "payback" for succeeding in the case of John 'Goldfinger' Palmer denying the Crown nearly forty million pounds in confiscation.

105. For our part and based upon on what we have seen and heard as a stand-alone application we would not hesitate in quashing the Order per se under numerous factors that simply make no sense.

106. I will ask The High Lord Chief Justice of Runnymede to deal with the question of Conviction

THE HIGH LORD CHIEF JUSTICE OF RUNNYMEADE (Lord Dayadhvam):

107. The Appellant has a number of grievances with regard to the trial process.

108. Now that this Court has found that the PNC used by the Trial Judge for sentence purposes was incorrect at best and falsified at worse, and that the Appellant has only a previous conviction in 1976 which is deemed spent. Then the Appellant told us today that had the jury been aware that he was telling the truth all along they may very well have acquitted.

109. In his usual candid style, the Appellant told us that had he been on the jury it would have been difficult to accept that somebody in authority had altered the PNC for onerous purposes.

110. Nevertheless, indeed the said PNC used by the Trial Court was not the correct one and for other reason there is some force in this argument.

111. The trial was about whether the Appellant was indeed a lawyer or not.

112. In unique circumstances some five months before the beginning of the trial in 2013, the Trial Judge took it upon himself to vary the Appellants condition of bail to include the following condition:

> "The defendant is prohibited from styling himself as a lawyer or giving legal advice to anybody."

113. Frankly we have never heard of any such term and the Appellant told us today if he had been a bricklayer, carpenter, or a clown in a circus, would the Trial Judge have imposed the condition that he could not refer to himself as any of those stated?

114. Quite correctly the Appellant took the matter to the Divisional Court under Reference CO/531/2012 and this was presided by Lady Justice Hallett.

115. In an absolutely correct manner Lady Justice Hallett declared before commencing the hearing that she was known to the Appellant and the Appellants Solicitor.

116. Neither the Crown nor the Appellant who appeared in pro per before her Ladyship objected. In fact, the Appellant told us that he was expecting no favours and probably a much harder time

117. Lady Justice Hallett ruled that the question of that onerous bail condition was referred back to the Southwalk Crown Court and that it should be resolved as soon as practical.

118. Unfortunately, the media reported on such, and the Appellant says this may well have prejudiced his case.

119. Lady Justice Hallett also ruled on the question of the Appellants status that was to be decided by the Crown Court and, if there were any anomalies it would be then subject to appeal.

120. The Appellant stated that a lawyer is a person "learned in the law." Whether a person attended University or not was irrelevant. The Appellant did not concede any territory and he cited a Supreme Court Justice in the United States of America (Justice Jackson) who was also the Chief Nuremburg prosecutor had never attended University and was not legally qualified but certainly learned in the law.

121. The Appellant told us that at his trial he referred to at least two people who had the title of avvocato but who were not registered in any of the Bar Counsels in Italy. He referred to Gianni Agnelli who was referred to by all as "avvocato" and Nancy Dell'Olio who the media, and all concerned, stated she was an avvocato. When the Appellant made that comment to the jury, and a witness for the prosecution was asked if it was correct the Learned Judge refused to allow the witness to answer the question thus, undermining the Appellant.

122. Again, the Trial Judge heard submissions and what directions he would give to the jury on a day when the Appellant was not present in Court.

123. Those representing the Appellant cited the case: Neutral Citation Number (2002) EWHC 1965 Admin on the 23 September 2002 where Mr Justice Jackson ruled and made a finding of fact as follows:

> "Para 24: It is common ground that Mr Di Stefano is not a member of the English legal profession. He is neither a Solicitor nor a Barrister. The claimants evidence shows, and the defendant's evidence does not contradict, that Mr Di Stefano is an avvocato who is qualified to practice and does practice at the Italian Bar."

124. Mr Justice Jackson made a substantial Costs Order in favour of the Appellant and the Appellant continued to practice from time to time in accordance with that finding a fact.

125. The Appellant complains also, that as a consequence he informally registered with the Law Society.

126. A witness from the Law Society at trial denied that any such registration existed and that in any case, the file involving the Appellant was missing presumed burnt in a small fire at the society's offices. We have, however, been shown a copy of an email from the Law Society to the Appellant dated 19 September 2002 clearly showing that there was a registration.

127. The Trial Judge refused to admit a High Court finding of fact and law at the Appellants trial thereby, in the Appellants own words to us:

> "Condemning me to an inevitable finding of guilt."

128. We are indeed surprised, rightly, or wrongly, that a finding of fact from the High Court on such an important matter pivotal and central to the allegations the Appellant faced was excluded.

129. The Appellant further put it to us in this way.

130. He directed us to the Indictment that he faced.

131. Almost all of the Counts state that he:

> "Abused his position as legal advisor…."

132. That phrase is common to almost all Counts on the Indictment.

133. The Appellant then asks this rhetorical question:

> "The prosecution accept that I am a legal advisor and that I abuse my position so therefore I must be a lawyer. I cannot abuse a position I don't have."

134. It seems to us that the whole trial purpose was indeed a means of undermining almost anything the Appellant told the jury.

135. The Appellant also told us, and this was confirmed by the trial process, that the Trial Judge interrupted the Appellants evidence in the witness box over 700 times, over a four-day period.

136. This appears to us also a matter that should have attracted the attention of the Court of Appeal Criminal Division but sadly did not. In fact, Lady Justice Hallett who sat and preceded over the appeal on the 9 March 2017 under the two different Neutral Citation Numbers we have already commented upon merely stated, that it was not the amount of interruptions but the quality of the interruptions.

137. This caused the Appellant to tell us that he had once been told by an ex-Lord Chief Justice that the Court of Appeal apply the law for the masses and interpret such for their friends.

138. There is also the singularity peculiar incident involving the British Security Services in the middle of the trial attending the Trial Judge. This is indeed another unusual occurrence and without proper explanation.

139. The Appellant also brings to our attention that he faced nine complaints from his clients when he was carrying a client list of almost two hundred.

140. He told us in clear and explicit terms the short precis of those.

141. Paula Gregory Dade was the wife of a convicted murderer Paul Bush who the Appellant and Miss Dade both made clear in confirming that Mr Bush was completely innocent. The Appellant told this Court that although he was charged with not returning £100,0000 to Miss Dade, there was in fact a County Court Claim against her from the Appellant awarding the Appellant some £60,0000 in costs that Miss Dade had incurred. He told this Court and provided evidence of the County Court Claim and on the advice of his son returned to Miss Dade £40,0000 difference. There was a Consent Order in the Court and the Appellant told us that he was astounded that he could be charged for anything.

142. Laurent Penchef was a French National and a major drug dealer. He sought to be repatriated to France to serve his substantial sentence the Appellant told this Court that repatriation which lasted almost a year the bill was 10,000 euros, and it seems to us an extremely modest sum for such legal services. We have heard today that Mr Penchef was granted early release and a new identity, and roams the world authorised by the State to commit offences whilst being immune. Whilst giving evidence at Court the Secretary of State forgave the Deportation Order served against him, allowed him back into this country, and was housed in a five-star hotel.

143. Michael John Smith was a known sex offender who faced a trial at St Albans Crown Court. He was facing at least 8 years minimum imprisonment for the said offences. He instructed the Appellant to undertake the sentence hearing and the Appellant instructed Mr Trevor Burke QC. Leading Capital managed to obtain a prison sentence of 18 months a much better result that anyone could have anticipated. The fee involved was less that £10,000 and again no complaint was levied until the Appellant saw the Indictment. The Appellant quite rightly asks this Court to say what offence was committed when Leading Counsel was instructed who obtained a sentence of 18 months imprisonment instead of the expected 8 years.

144. Stafford William Freeborn was a career criminal caught in possession of several firearms; he sought the Appellants advice on an application to the Criminal Places Review Commission. The Appellant undertook some work over a time and gave written advice the sum was £5000. The Appellant told this Court that it seemed

absurd to him that a modest fee should be subject to an offence contrary to section 1 of the Fraud Act 2006.

145. Alberto and Linda Sgoluppi had received bad and negligent advice in the past over a property matter. The Appellant told us today that civil litigation was not his forte but because Alberto was an Italian citizen then the Appellant would accept the case on the basis that Alberto and Linda's son (who was a Solicitor) would act as agent. That was a firm called Hardman Solicitors and the case proceeded accordingly. Unfortunately, Alberto and Linda's son was struck off the role of Solicitors and in the Appellants own words "left me holding the hot potatoe." The Appellants quite appropriately asked why Alberto and Linda did not complain about the other three Solicitors who took money from them and achieved nothing? Why did they pick only on me?

146. Subhash Thakrar and his brother did not complain to the police. They had been convicted of fraud in the past but had in the Appellants own words "turned over a new leaf". They remitted to the Appellant £476,000 and told the Appellant before eyewitnesses in Rome, that the said sum was the Appellants fee to keep for advice on a substantial property matter in another jurisdiction. The Appellant told us that his son who was present at that meeting said to him "dad, is that how quick it is to earn almost half a million pounds."

No complaint has ever been made to the police and no civil litigation by the Thakrar brothers throughout the period. The Appellant told us that it was inevitable that as they were convicted fraudsters in the past, they may well have been coerced into giving evidence which in any case was not of their own free will. He told this Court that if someone owes you half a million pounds you do something about it.

147. Tamara Zegarac was a Serbian National living in London with her husband and had an employment issue. The Appellant was approached by her and over a period of time the Appellant reached an agreement with Miss Zegarac's employers for some £12000 compensation. The employers remitted the amount on the instructions of Miss Zegarac's to the Appellant's firm's account. The Appellant told us quite candidly that this case was a serious error of Judgement on his part. The Appellant told us that the husband was seeking to leave his wife and that if she found out she would not distribute any of their assets equally. The husband asked the Appellant not to remit any money to his wife until they have resolved the matter. The Appellant told us in clear cut terms that he should not have exceeded to this, and simply should have "minded his own business on domestic matters" and remitted the money in accordance with the instructions of the Appellant's mandate. The Appellant also in his usual candid term said he made a major mistake and by the time he realised the mistake instead of correcting such, he compounded it further. He told us that a lawyer's role is not as a marriage guidance counsellor and out of all those that complained Miss Zegarac's had a point. The Appellant also told us, not wishing to excuse his conduct, that some good came out of all of this. When the Appellant told the trial Court what he told us today there was a happy reconciliation between Mr and

Mrs Zegarac. This was in no way to excuse a serious error of Judgement on the Appellants part which should have been dealt with in the civil Courts not criminal.

148. Grant Wilkinson was serving a life sentence as a result of him being a major importer of firearms. It was said the said importations accounted for over 50 murders in the United Kingdom.

149. Mr Wilkinson had heard of the Appellant and sought advice on the Minimum Tariff on is sentence. His family paid the applicants firm £20,0000 to review the case. The Appellant told us, and it was confirmed by the Court records that Mr Wilkinson was an unwilling witness. It took the Trial Judge a number of telephone calls himself to the governor of the prison where Wilkinson was held with certain assurances from the Trial Judge in order for Wilkinson to give evidence. When he did attend Court Wilkinson refused to come out of the Court cells to the Court room. The Trial Judge granted Legal Aid to a Barrister in the Court (Dock Brief) who took half a day to persuade Wilkinson to give evidence. The Judge stated in open Court that in return for giving evidence against the Appellant the Judge would write a recommendation to the Parole Board when it was time for Mr Wilkinson's release to be considered this he duly did. The Appellant quite correctly, in our view, stated that the intervention of the Trial Judge acted as a second prosecutor was ill advised.

150. Patricia Walsh-Smith complained first to the media that the Appellant cheated her out of $100,000 but then had to accept the reality that if there had been any misrepresentation by the Appellant it was less than £7,000, over a period of a year. We have also noted form the Court records that on one occasion Miss Walsh-Smith interrupted a witness at the trial and was inebriated causing even the Judge to ask for her removal from Court. The Appellant told us as he told the trial Court that when he once attended her house, he was shocked to find photographs of himself in various rooms of the house which led to him distancing himself especially, during the time he was on bail. The said photographs were file photographs from the media and any third-party Miss Walsh-Smiths property would come to an incorrect conclusion. The Appellant told this Court that Miss Walsh-Smith had a history of such, and he felt that throughout the time he represented her, the Appellant acted in her best interests. The Appellant told this Court that Miss Walsh-Smith had always been a publicity seeker and now because of her age consort to convert herself into a professional victim on the numerous men she had met in her life, including her ex-husband a multi-millionaire. The Appellant told us that since Miss Walsh-Smiths case involved divorce and settlement proceedings in hindsight this was not his speciality and should have declined the request for representation.

151. The Appellant sought to relist his appeal, and, on the 29 November 2019, the matter came before the Lord Chief Justice of England and Wales, together with the Vice President of the Court of Appeal, Lord Justice Fulford, sitting with Sir Henry Globe.

152. The Appellant had found a niche in the law and that when there were questions of relisting an appeal that had been determined the Appellant could invoke the Criminal Procedural rules 36.15.

153. The Appellant found that contained within CPR 36.15 the Registrar of Criminal Appeals was obliged at referring every request to the full Court.

154. Previously the Registrar had the powers to filter any application at discretion.

155. While the Appellant found was that a considerable amount of power previously vested in the Registrar disappeared. The Appellant told us quite candidly:

> "You can imagine the Registrar was not pleased with me. No one likes their power taken away from them."

156. At the appeal Neutral Citation Number [2019] EWCA Crim 2101 the full constitution of the Court has no choice but to accede to the Appellants application of the law which stripped the Registrar of the powers of referral. The Appellant told us in no uncertain terms:

> "After that they were not going to give me anything and my card was marked."

157. The Appellant told us that the grounds for relisting and grievances against the previous decisions were given no space whatsoever. In fact, only para 49 whilst conceding that the PNC was an "alleged forgery" the Court didn't have the time to deal with it.

158. That same Constitution of Court also failed to address the question of conviction and failed to address a number of grievances over confiscation.

159. We have read the said Judgement and we have to say that there are clearly inadequacies as to how this matter should have been dealt with. We remind ourselves that Judges must deal with the whole issues in the case. They cannot and must not circumvent matters, and when there is no time to deal with a specific grievance then a new hearing must be convened forthwith.

160. Whilst the Judgement of the Court on the 29 November 2019 in numerous paragraphs accepted the legal submissions of the Appellant on a complex issue of law in argue, he did not give sufficient attention to the substantive matter.

161. If the PNC of the Appellant was indeed forged, then the Court had a duty to release the Appellant forthwith.

162. The fact it did not do so has led the Appellant to further grievances and claims of obfuscation and evasion.

163. The Appellant was not to be beaten easily.

164. The Appellant sought to redetermine the findings of the said hearing on the 28 November 2019.

165. The Appellant made a number of submissions to Miss Sara Counsell at the Criminal Appeal Office and of course, in accordance with the Appellants own successful submissions previously the Registrar was duty bound to refer the matter to the full Court

166. On the 19 June 2020 the Criminal Appeal Office wrote to the Appellant and stated the following: "the full Court (Fulford LJ, and Magowan J) has considered your written application and all the submissions made on your behalf and has refused the application.

167. Fulford LJ, also directed a loss of time of 56 days

168. This is an incredible piece of miscalculation on the part of the Vice President of the Court of Appeal Criminal Division The prison service refused to honour such, and the Appellant wrote to the Court questioning the right of Fulford LJ at awarding a loss of time on someone who had competed there index sentence at least on the 21 May 2020, and who was protected by section 258 of the Criminal Justice Act 2003 namely, that as a civil detainee there can be no loss of time as the Secretary of State has a duty to release at the half way point.

169. The Appellant amusingly told us and told the Court that:

> "If the Vice President of the Court of Appeal does not know the law and makes an Order, he cannot make then surely someone must question whether he is a qualified Judge and lawyer?"

170. The Appellant was absolutely correct, and Lord Justice Fulford had to withdraw not only the loss of time Order but the substantive Ruling that he had made.

171. In fact, the Appellant told us that the full Court when dealing with conviction/sentence requires three High Court Judges and not two.

172. The Appellant wrote to the Registrar, asking the Registrar to verify where Fulford LJ, and McGowan J studied law because if they were not aware what a full Court meant and made Orders, they were not legally allowed to make then there is a serious question of what is a qualified Judge?

173. The media were informed of the matter, and it came to light that the Appellant many years ago had written an article about Fulford LJ which caused at that time the said Judge to be suspended for a while.

174. The Appellant questioned whether Fulford J should have sat on any hearing at all.

175. Throughout this case we have witnessed and seen an extraordinary set of circumstances that must be truly unique.

176. To date this Appellant has been in our view denied any form of justice and worse even the possibilities of a hearing.

177. Despite Fulford J withdrawing the redetermination of June 2020, the Court has failed in its duty to relist any application.

178. The Appellant reminded us that at the opening of the Royal Courts of Justice in 1882, the Lord Chancellor, Lord Selbourne, called a meeting of the Judges to discuss his address to Queen Victoria. When he read the phrase:

> "Your Majesty's Judges are deeply conscious of their own many short comings …",

the Master of The Rolls, Lord Jessel, objected strongly, saying:

> "I am not conscious of many short comings and if I were, I should not be fit to sit on the Bench."

179. The Appellant reminded us also that it appeared to him over the many years frequenting the Law Courts that the Court of Appeal, Criminal Division, has lost its way. The Appellant brought our attention to the fact that the Court of Appeal is creature of Statute in fact, it was included in the Criminal Appeal Act 1907. The Appellant told us that the public at the turn of last century were "sick and tired "of innocent men being subject to Capital Punishment. Thus, the creation of a Court of Appeal Criminal Division.

180. In a most interesting tale of legal history the Appellant it took almost 25 years before the first appeal was allowed. We are reminded of the Appellants phrase:

> "Nothing much has changed has it."

181. In 1964 a new Criminal Appeal Act came into force but quickly substituted for a Criminal Appeal Act of 1966 as a result of the abolishing of capital punishment. It was not until the Criminal Appeal Act of 1968 that the Court of Appeal truly became somewhat settled.

182. Disturbingly, however, the Appellant quite clearly stated that in the last twenty-five years the Court has become "intellectually dishonest," We do not comment on such.

183. The Appellant told us that when he was voluntarily extradited from Spain Mr Jeff Samuels QC, was appointed as his defence Counsel.

184. The Appellant told us of an incident at the Court of Appeal witness to Mr. Samuels QC who was then defending a serial killer. The Appellant said this.

> "The Court treated Mr Samuels almost like a criminal. They almost said to him how he could defend a serial killer. The Court was rude, and it was embarrassing for me to be a witness."

185. As a consequence, Mr Samuels QC, a leading member of the Bar became ill and left the Bar a few months before the Appellants trial. The Appellant tried in vain to adjourn the trial in order to instruct another Leading Counsel, but that application was refused. As it happened Mr Leonard Smith QC only had a very short period of time to consider all the papers.

186. The Appellant made no criticism of his defence team but questioned why it was not permitted for the trial to be adjourned for a few months. We have also considered this position and taking into account that the Appellant was on bail for almost two years we wonder whether the Trial Judge should have granted the said adjournment.

187. The Appellant also made clear that he considered his prosecution to be politically motivated. There is some circumstantial evidence to support this, which came in the form of evidence given by the investigating police officer in the case.

188. Counsel for the Prosecution asked the police officer the following question:

> "Was this prosecution guided by any political figure to your knowledge?"

Answer:

> "I don't think so. There was no supervision on this case at all. I had no help from anyone. No Detective Inspector wanted to touch this case. For years it just stagnated. Then suddenly in 2010 someone gave me the go-ahead to actively pursue this, and I met with the Leading Counsel for the Prosecution. Before that this case was going nowhere."

189. It is common knowledge that the Appellant sought the prosecution of the ex-Prime Minister Anthony Lynton Blair. The matter came before the Court under the title (R on the application of Tariq Aziz) The Attorney General and the said application was refused.

190. We have also seen a Court record at the Westminster Magistrates Court where the Appellant sought leave to travel abroad in 2011, for a short period of time. We note from the Prosecution Counsel who opposed the application on the basis that:

> "The Defendant may well seek asylum in a friendly country that dislikes Tony Blair."

Although bail was varied, that objection is a matter of record and is of some concern

191. We also have concerns with regard to a document we have seen from the Prison Service which states that all of the Appellants files namely, Police, Magistrates Court, Crown Court, Crown Prosecution Service, and others, are all missing or not available.

192. In any one of the circumstances above would lead us to the conclusion that the Appellant did not receive anywhere near a fair rial. However, cumulatively there can be no other conclusion that any officious bystander looking at this case holistically and omnificently would say that this conviction is unsafe and must be quashed.

CONCLUSIONS

193. We have examined the constitutional incompatibility raised by the Appellant. We find there is some merit to this argument but that must be for another Court on another occasion.

194. The Appellant told this Court that one of the witnesses called by the Prosecution was Master Roger Venne, who was the Registrar of the Criminal Appeal Office. He attended Trial in order to produce a document that was contained in a file regarding a 1984 conviction that the Appellant disputed. Master Venne told the Court that there were no files on the Appellant, but he could find a single file with nothing in it but a transcript of a Court of Appeal Judgement in 1987, which supposedly dismissed the application for appeal, which was completely contrary, to what the Appellant had told the jury. He produced the said 'transcript' and we have examined such. Unfortunately, that document had already been published by the Scotsman. Newspaper in 1999, and further, it appeared to us that it had been typed on a manual typewriter.

195. It has been brought to our attention and verified that the Criminal Appeal Office changed all their typewriters to electric typewriters in 1981, and it follows that the document produced by Master Roger Venne to the Court is one that must carry some serious doubt. He further contested the Appellant, saying that the Court of Appeal never sit in private. We have been shown a practice direction which clearly contradicts this. The impact of the evidence of Master Venne was considerable, and it follows that the jury would surely have believed the erroneous information given by Master Venne, as opposed to a person facing them, and charged with 23 counts of fraud. It appears to us. That the prosecution should really have checked the source material before allowing anything to be adduced into evidence.

196. The Appellant also told us that the Criminal Case Review Commission sent a witness for the prosecution called a certain Mr Wagstaff. He was requested by the Prosecution as to how many applications had been filed by the Appellant and the Appellants firm, over a period of time. He told the Court that the Appellant had filed numerous applications on behalf of clients, and some had been referred to the Full Court, but the majority of them were simply refused.

197. It subsequently came to a pass after the Appellants conviction, that Mr. Wagstaff had been approaching those clients that had had their applications refused by the CCRC and referring them to the police to see whether they wanted to bring charges against the Appellant. This was completely contrary to any code of practice and should not have been permitted. What is perhaps more disturbing to us is, that the Appellant made an application in 2017 to the CCRC with regard to potentially reviewing the Confiscation Order. In a unique situation the CCRC refused to accept the application unless it had been first referred to them by a practicing Solicitor, which is again strange and contrary to the code of practice of the CCRC. We question the independence of many witnesses that had been called by the Crown and taking into account the number of clients that the Appellant had with his firm, complaints by eight does not seem to us to be anywhere near stage of concern.

198. The Appellant also told us that the Prison Service sent an employee to discuss the question of why the Governor of Her Majesty's Prison Belmarsh had refused the Appellant access to a client, in Belmarsh prison, and that the Appellant had successfully appealed that by way of judicial review. When asked by the Prosecution as to why that decision of judicial review had not been appealed, he replied that it was not necessary, because in any case, the person in prison was due to be sentenced shortly and it was not worth their while. Further, but more disturbingly, the witness told the Court, that they briefed the press in so far that the transcript showed, that the Appellant was not a qualified Solicitor or Barrister. The Prison Service chose only to release that aspect of the Judgement, but deliberately did not say the remainder that he was, however, and it was accepted by them, a qualified lawyer in a separate jurisdiction. The Appellant told us that this was a prime example of how Government Departments would "spin stories" and in fact, to the witness's credit he did tell the jury, that he had "embellished" his testimony. [See para 123]

199. As a standalone we find that the sentence of 14 years is manifestative excessive and not commensurate to the offences. We support that view with support from Lady Justice Hallett at the Appeal against Sentence Hearing dated the 9 March 2017 para 44:

> "A sentence of three years after credit for plea for a single offence was at the top of the range provided under the old guideline that applied but, in our Judgement, not excessive."

For that offence which was committed during the same timeframe as the others and taken into account that there would be a one third reduction in sentence, and according to the Trial Judge an offence that was "in a league of its own" any sentence above that of five years concurrent to all in our view should not be justified.

200. With regard to the confiscation there is no doubt in our mind that the Appellant as a standalone Appeal has suffered considerable injustice and unexplained delays. The Appellant in his usual candid self, spoke of the soliloquy of Hamlet where he referred to the "laws delay" and the Appellant firmly stated:

> "The insolence of office."

He also reminded us of Magna Carta 1215 Chapter 40 that:

> "To none shall we sell to none shall we deny or delay, right and justice."

It would appear to us that such have been ignored in this matter. Again, as a standalone Appeal we would reduce the confiscation order available assets of £1- or one-day imprisonment.

201. However, when dealing with the question of conviction there is no doubt in our mind that as a consequence of all of the above, the said conviction is unsafe and unsatisfactory, and it passes the test both de jure and de facto that the said conviction must be quashed.

THE VICE PRESIDENT OF THE INJUSTICE DIVISION (Lord Damyata): I agree

THE VICE, VICE, PRESIDENT OF NULLA BONA (Lord Datta): I agree

ORDER

The said conviction at the Southwark Crown Court of the Appellant Giovanni Di Stefano on the 27 March 2013 is quashed.

The 2 February 2022