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No Justice for Tahir Aziz: Leave to Appeal Against Conviction and Sentence Refused.

[For background to this case, see 'Inside Out' 649 Or Web https://is.gd/2k4mEg]

Determination by Single Judge under Section 31 Criminal Appeal Act 19681 SJ (Criminal Procedure Rules, r36.5(2)). Reasons For Decision: I have considered the papers in your case and your grounds of appeal

Ground 1: the applicant's conviction is unsafe because the convictions of the first two applicants are unsafe. This ground fails because, in my judgment, the convictions of the first two applicants are safe for the reasons I have set out when dealing with their applications.

Ground 2: the judge's decision not to discharge the jury following the Westminster terrorist attack (and indeed other later terrorist attacks). 1. Following the Westminster attack, the judge took the sensible precaution of adjourning the case for a few days. He then heard argument that the jury should be discharged. He gave careful reasons for rejecting that argument and then gave a clear direction to the jury urging them to try the case according to the evidence and to guard against dangers of prejudice. He was quite entitled to bear in mind the general experience is that the trial process tends to direct the jury's focus inwards towards the evidence which bears directly upon the issues that they must decide rather than outwards towards entirely extraneous matters. He was best placed to decide whether it was necessary to discharge the jury. When, as here, the judge has so carefully considered the matter, the Court of Appeal will be exceedingly reluctant to interfere. In my judgement, the judge was quite entitled to come to the conclusion that he did and there is no reason whatsoever to think that the jury did not follow his direction. 2. Furthermore, it seems to me that there is a very clear reason of public policy why judges r¬should not generally accede to such submissions, otherwise those who share the defendants' jihadist ideology would have a clear incentive to commit some other outrage during the currency of their trial intending to disrupt or even to sabotage it. In my opinion, there is nothing in this ground of appeal and I refuse leave. Ground 3: the judge's decision not to discharge the jury following the juror's remark that she found OS Chambers 'attractive'.

1. It is said that the judge should have discharged the whole jury following one juror ('A') telling another juror ('8') that she found the officer in the case (DS Chambers) 'attractive', and that juror 8 then asked the usher to find out if he (OS Chambers) was single. I point out that although it was not alleged that OS Chambers had himself planted the bag, he was an important witness and a number of serious allegations had been made against him.

2. The judge heard submissions on the point. He then caused the jurors A and B to be separated and asked a series of short questions (which he had canvassed with counsel); as a result, he concluded that juror A had said that she found OS Cambers to be attractive, that she had said it jokingly but had satisfied the judge that she did not thereby demonstrate any partiality towards him, or his evidence or to the prosecution; that she could still be relied upon to give a true verdict according to the evidence and that there was no need in the circumstances to discharge her. However, he found that juror B had asked the usher whether OS Chambers was single, that was in contravention of the direction that the judge gave at the beginning of the case; juror B gave less than candid answers, untruthfully denying having asked the question to the usher; in the circumstances, it was necessary to discharge B, as he did.

3. He did not discharge the other jurors, nor did he ask them whether they knew any of these facts; he did however remind them in the most emphatic terms of their duties and responsibilities.

4. There is no reason whatsoever to think that there were any further irregularities.

5. I note that following the judge's investigation, counsel for the applicants then withdrew their application to discharge the jury. I also note the respondents' telling point that nothing has changed since then except the applicant's conviction.

6. In my judgement, the judge's investigation of this complaint was that a model of its kind; he was best placed to gauge the attitude of the jury; he considered that the remaining 11 were conscientious, taking their responsibilities very seriously. The Court of Appeal will not interfere with a decision of such an experienced trial judge reached in these circumstances. I therefore refuse to grant leave to appeal the conviction on this ground.

Conclusion: Although he was not a member of the heavily encrypted 'Three Musketeers' telegram a group account, there was abundant other evidence of the applicant's extreme Jihadist beliefs, to the effect that it was his duty to attack those whom he considered to be 'unbelievers' in this country. His message of 15 August supporting Jihardi causes complained that he was getting left behind. All this, together with his meeting with the others in Stoke on 21 August, could lead to the reasonable inference that he also was plotting an imminent attack. Furthermore, a Jihardi style sword was found in his possession at the time of his arrest. He answered no questions in interview and did not give evidence to give any explanation for the many incriminating pieces of evidence against him. In my judgement, the evidence against him was very strong and is application for leave to appeal against conviction is accordingly refused.

Application for leave to appeal against sentence refused.

Determination by Single Judge under Section 31 Criminal Appeal Act 1968 (Criminal Procedure Rules, r36.5(2)) Reasons For Decision: I have considered the papers in your case and your grounds of appeal

1. The judge found that the offenders imminently intended to detonate an improvised explosive device, with the intent to kill and injure. Since this was an attack motivated by terrorism, the starting point, pursuant to the guidance given by the Court of Appeal in Kahar [2016]2 Cr App R (S) 32 was life imprisonment.

2. Furthermore, it is well recognised that an offender who is possessed by extreme views is likely to pose a serious risk for an indefinite period, since it cannot be predicted when, if ever, he will have abandoned those views. The judge heard this trial over many months and he was therefore well placed to assess the applicant's 'terrorist mindset' and the extent to which he had been radicalised. He found that the applicant had particularly extreme jihadist views. In the circumstances, the applicant was plainly dangerous, a finding which he does not challenge.

3. In the circumstances, it seems to me that an extended sentence was inappropriate, since there is no means of knowing when, if ever, the danger which the applicant poses will have passed; the discretionary life sentence therefore seems to me to have been inevitable.

4. In my judgement, the judge was quite entitled to put the applicant's offending somewhere in the region of the lower end of Level 2 and the upper end of Level 3; therefore, a minimum term of 15 years is well within the appropriate range of sentences, and cannot properly be argued to be manifestly excessive

Accordingly, the application for leave to appeal against sentence is refused.

Tahir Aziz: A8301DV, HMP Whitemoor, Long Hill Road, March, PE15 0PR

High Court Orders UK Government to Hand Over Police File on Libya Torture

Scottish Legal News: The High Court has ordered the UK government to hand over a suppressed Metropolitan Police file that recommended charges against a senior MI6 officer for his role in the illegal rendition and torture of opponents of Libyan dictator Colonel Gaddafi. The 400-page report was the result of a four-year investigation codenamed Operation Lydd. UK government lawyers have been resisting its disclosure in the ongoing legal claim by Abdul Hakim Belhaj and his wife Fatima Boudchar who were kidnapped, tortured by the CIA, and rendered to Libya with the knowledge and assistance of MI6 in 2004. Fatima was pregnant at the time. The investigating officers recommended Sir Mark Allen, a former top MI6 officer, was charged with misconduct in public office but the Crown Prosecution Service refused to follow that advice. The decision not to charge Sir Mark is subject to a separate legal challenge. Along with the report, the government has also been ordered to hand over evidence given by 75 witnesses, mostly other government officials interviewed by the police. Cori Crider, attorney for Mr Belhaj and Ms Boudchar at Reprieve, said: “Piece by piece the government’s wall of secrecy is crumbling. Ministers have fought for years to deny Abdul-Hakim and Fatima justice by using every legal trick in the book. "This categorical police report makes a mockery of their refusal to admit the role of MI6 and Sir Mark Allen in illegal torture and rendition. There is surely only so much longer they can waste taxpayer’s money on this fruitless resistance.”

Freedom to Report on the Courts is Vital for a Modern Democracy

Scottish Legal News: When the criminal trial of Paddy Jackson, Stuart Olding, Rory Harrison and Blane McIlroy ended in verdicts of not guilty, a number of reporting restrictions remained in force. Courts have powers to restrict coverage of certain aspects of trials, including the ability to postpone media reporting for a defined time. Following the acquittals in this case, the media carefully considered the law and its obligation to inform the public. We concluded that any previous legal restrictions were no longer required and any perceived actual or real prejudice to the administration of justice had disappeared. Everyone in this country who appears before the court to stand trial — whatever the charge — is entitled to, and must receive, a fair trial. That is a birthright. But an equally precious principle is the freedom of the media to act as the eyes and ears of the public at large, and, among their other responsibilities, to observe and report on the criminal proceedings. The principle of open justice requires that the administration of justice must be done and be seen to be done in public. This safeguards objective impartiality, and publicity ensures that trials are properly conducted. It is a valuable check on the criminal process.

People do not fill the courts to the rafters like bygone days, but they must remain open to the public. For their part, the legal profession must do everything reasonably practical to enable them to have access to see what is going on, provided that it does not interfere with the trial process. The media have always played a fundamental role in reporting what goes on in the courts, and, with the fall-off in public attendance, press reporting is even more important to open justice today. Full reporting of criminal trials also promotes public confidence in the administration of justice; it promotes the values of the rule of law and ensures the public fully understand the law they must respect. Equally, any restriction on reporting is an interference with Article 10 of the European Convention of Human Rights — which enshrines the press’s right to freedom of expression — but also the public’s right to receive information. On this basis, the media applied to the court claiming that any order to restrict reporting about any aspect of the proceedings involving Paddy Jackson, Stuart Olding, Rory Harrison and Blane McIlroy should now be rescinded. This would enable the media to fully inform the public about the criminal process as a whole.

On Wednesday 11/04/2018, after legal argument, the court agreed and those restrictions were lifted. One of the impacts of this landmark ruling was to enable the public to be fully informed as to the operation of the criminal justice system and to promote understanding about the operation of the rule of law. To deny a fair trial or to preclude the public from enjoying open justice and the media’s freedom of expression is crucially important to any modern democracy. One of the functions of open justice is to guard against repression. Carrying out justice in the light of day ensures that courts do not become, or be perceived to be, political courts like the 15th century Star Chambers. The media’s legal challenge was upheld to ensure that justice was open and that the public were fully informed. The public have the right to understand and hear what goes on in our courts through the eyes and ears of the media. The importance of the principle of open justice and of the media’s right to report criminal proceedings cannot be underestimated in any modern democracy.

South Carolina Prison Riot Leaves Seven Inmates Dead

Seven prisoners have been killed and at least 17 others injured in a riot at a maximum security prison in the US state of South Carolina, officials say. Violence erupted at the prison facility on Sunday evening and was brought under control in the early hours of Monday. "This was all about territory, this was about contraband," the South Carolina Department of Corrections said. The deaths were the result of stabbings. All prison guards and law enforcement staff were said to be safe. "These folks are fighting over real money and real territory while they are incarcerated," said Bryan Stirling, director of the South Carolina Department of Corrections.

Over a period of almost eight hours, there were "multiple altercations" at three housing units at the Lee Correctional Institution, the department tweeted on Monday. "The incident at Lee CI resulted in 17 inmates requiring outside medical attention and seven inmates were killed," the department added. Several inmates were stabbed or slashed with homemade knives, while the remainder appeared to have been beaten, Lee County Coroner Larry Logan told the Associated Press. The department said that all staff at the institution in Bishopville were later "accounted for" and that an investigation was under way.

3rd Sector Orgs Not Playing Expected Central Role in Reformed Probation Services

Probation reforms have failed to deliver the aim of ensuring that voluntary and third sector organisations play a central role in providing specialist support to offenders, according to Dame Glenys Stacey, HM Chief Inspector of Probation. A new report presents a “bleak and exasperating” picture. Where the third sector is involved, the inspection found the quality of work reasonable overall, but the sector is “less involved than ever in probation services”, despite the eagerness of many dedicated people to work with offenders. Government contractual arrangements for the involvement of third sector organisations in probation have been burdensome, disproportionate and “off-putting for all,” inspectors found. Some small, local organisations which worked with pre-reform probation trusts have lost the work.

Transforming Rehabilitation (TR) reforms in 2014 created 21 Community Rehabilitation Companies (CRCs) to supervise medium and low-risk offenders, the bulk of more than 260,000 people supervised in the community in England and Wales. The HMI Probation report notes that Ministry of Justice statements at the time of reform “gave the impression that there would be a wide array of organisations involved in the delivery of probation services.”

However, in the thematic inspection – Probation Supply Chains - inspectors noted that CRC

operating contracts “do not require CRCs to commission specialist services from the third sector or from others, even in those cases where CRCs expressed in bids their intentions to do that. Instead, they contain varied and somewhat vague statements of intent about CRCs developing their supply chains. CRCs who originally expected to use third-sector organisations have told us that they had hoped to have more comprehensive supply chains in place by now, almost four years on.”

Dame Glenys said: “It seems that the third sector is less involved than ever in probation services, despite its best efforts; yet, many under probation supervision need the sector’s specialist help, to turn their lives around.” It was envisaged that probation “supply chains” would deliver services including help with finding accommodation and training and education. Inspectors reached key conclusions: • The National Probation Service (NPS), responsible for high-risk offenders, “is not buying services from CRCs to anywhere near the extent expected” under Transforming Rehabilitation - for reasons including objecting to the price and doubting the quality. • All CRC owners inspected were concerned about the financial instability and viability of their own contracts with the MoJ. “Their own lack of stability was driving their relationship” with principal and smaller sub-contractors in the third sector and most were looking for further efficiencies and cutbacks. Supply chains delivering services within the community were “generally small scale, and non-existent in some local areas.” A “noticeable proportion” of pre-2014 contracts with third sector organisations had been discontinued. • The Ministry of Justice’s template contract for CRCs - ‘Industry Standard Partnering Agreements’ (ISPA) - was “burdensome, and disproportionate to the value of most” of the third sector services being contracted.

On a more positive note, while inspectors found few unusual, niche or innovative services, they commended a ‘restorative justice’ initiative in Thames Valley. And two CRCs in areas with devolved political powers (Wales and Greater Manchester) had developed models in which the CRCs and NPS “were both contributing knowledge, expertise and resources to influence strategically the provision of local services.” Overall, however, Dame Glenys said: “It is an exasperating situation. Third-sector providers remain eager to work in the sector, and we found the quality of their work reasonable overall. Many are providing a more expansive service to individuals than they are paid for. Supply chains are thin, however, and set to get thinner still, as CRCs continue to review and slim down provision. There is no open book policy: we cannot be certain to what extent financial pressures justify a paucity of provision, but it seems very likely that they are largely responsible. As things stand, the future looks bleak for some organisations, and particularly for those individuals who could benefit so much from the services they can provide.”

Stephen Lawrence: Officer Who Allegedly Spied on Family Named as David Hagan

Movement for Justice (MFJ) : On Tuesday 17th April, the Undercover Policing Inquiry finally released the cover name used by the most notorious of the police spies that infiltrated anti-racist organisations during the explosion of anger sparked by the murder of Stephen Lawrence, and at the time of the subsequent Stephen Lawrence Inquiry. This officer, referred to as N81 and part of the Special Demonstration Squad (SDS) operated under the name of 'Dave Hagan.' Movement for Justice (MFJ) was one of the organisations he was sent to infiltrate. He infiltrated other groups including the Socialist Workers party and the anarchist organisation Class War. For us, his partial exposure serves as a reminder of the fears of our enemies, and that racism is increasingly the most important tool of the rich and powerful.

The activities of 'Hagan' and the SDS can't be treated and 'apologised' for as part of a sad history - any more than the detention, deportation and attempted deportation of black British

people of the Windrush generation can be apologised for as 'mistakes' (as in Amber Rudd's forced 'apology' yesterday). They both shed a light on the brutal racism that still lies at the heat of the British state, on its ruthless cynicism and duplicity, and its fear of the struggles of the black, Asian, Muslim and immigrant communities for justice and equality.

Those have been the most dynamic and powerful struggles of the exploited and oppressed over the last four decades, and therefore the biggest threat to our oppressors. It has always been and remains quite clear to black & Asian people that racism is a constant part of day-to-day life in Britain: in the workplace, in the targeting of black youth by police, in the violent deaths of black people at the hands of the police, in the constantly expanding, racially-defined anti-immigrant laws etc. What is being exposed now, before a much wider audience, is the obsession of the state with trying to sabotage every justice campaign and anti-racist organisation that shines a light on police and state racism.

Stephen Lawrence was murdered by a racist gang in Eltham, south-east London twenty-five years ago this month. His murder was a massive flashpoint for action by the black community and for youth in the fight against racist & fascist attacks and against police racism and cover-up. It became the most famous case to highlight both those expressions of white racism, and the links between them. It followed a series of racist murders and attacks of which the most high-profile were the murders of Rolan Adams in Thamesmead and Rohit Dougal in Erith, and the savage attacks on Quddus Ali and Mukhtar Ahmed in Tower Hamlets - areas targeted by the fascist BNP at the time. A few weeks after Stephen's murder tens of thousands of youth joined an angry, militant demonstration, called by Youth Against Racism in Europe (YRE), that marched on the BNP head-quarters in Welling. In the following autumn a 60,000-strong national demonstration confronted the police in Welling.

From the start, the people involved in the struggle were the targets of police frame-ups (most notoriously of Duwayne Brooks, Stephen's friend and a victim of the same attack) and of infiltration by police spies and agents provocateurs. When four years later, in 1997, the newly elected Labour Government announced a public inquiry into the Stephen's murder, which began its public hearings the following year, the police campaign of obstruction, frame-up and infiltration went into overdrive. It was during that period that 'Dave Hagan' became involved in MFJ (disappearing 2 or 3 years later). Though we were not aware of his role then, our evidence before the Stephen Lawrence Inquiry at the time perfectly summed up the police motivation for his infiltration: "the police would not publicly acknowledge the racist nature of Stephen Lawrence's murder because they see racism as a 'public order' issue, as shown by their concern about the two massive anti-racist demonstrations in the area in the six months following the murder. That is to say, they see black and Asian people, and their response to racism, as the main public order 'problem'." From Oral testimony given to the Stephen Lawrence Inquiry in Tower Hamlets by Movement for Justice on 15/10/1998.

During the Lawrence Inquiry, on the first of two days when the five racist gang members who killed Stephen Lawrence were forced to give evidence, MFJ called and led a demonstration that reversed an attempt to reduce public access. An overflow room with video link was opened, and by day two more people came to watch every word. When the racists finally left they were subjected to an angry reception by many hundreds of mainly black youth fighting for justice. It was a crucial turning point in that inquiry.

Several years after the Inquiry, Peter Francis publicly exposed the role of the SDS, of which he had been part. Francis had briefly been an undercover officer in the Kingsway College Anti-Fascist Group (a forerunner of the MFJ) at the time of the second Welling demonstration,

and was then moved to infiltrate Militant Labour (now the Socialist Party) the organisation that established the YRE. While his speaking out began the systematic exposure of the operations of the SDS that led to the present Undercover Policing Inquiry, it has been the tireless determination of all the individuals and groups spied upon who have relentlessly held the police to account and demanded an end to the cover up.

MFJ bases itself on the real, historic importance of the struggle against racism in Britain, on its inspiring character for new generations of youth, and on the social power of black, Asian, Muslim and immigrant communities. Peter Francis, 'Dave Hagan,' and various other provocateurs we have dealt with since then have not been capable of diminishing that fight.

Momen Motasim The Crown Prosecution Service and Another

1. These proceedings concern a claim brought by Momen Motasim, the respondent in respect of his continued detention in custody during the course of criminal proceedings. The respondent seeks damages for alleged breaches of Art.5(1)(c) and 5.3 rights under sch.1 of the Human Rights Act, 1998. His claim is brought against the Crown Prosecution Service and The Commission of Police of the Metropolis, "the Appellants".

2. The proceedings were issued on 6th October 2016 in response to which the appellants made an application to strike out the statement of case pursuant to CPR 3.4(2)(a). The appellants contended that the statement of case disclosed no reasonable grounds for bringing the claim. The appellants filed no evidence and served no defence before issuing the application.

3. On 15th August 2017, the application was heard before Master Davison who dismissed the application and made orders as to costs. The appellants issued an application to this court for leave to appeal, permission having been refused by the Master. The application for leave was served out of time, however, an extension of time was granted by the court with permission to appeal. The appellants, therefore, seek to appeal the order of Master Davison who dismissed the application under CPR 3.4(2)(a).

4. Further, after issuing the application for leave to appeal but before it was granted, the appellant's made an application under CPR 24 for summary judgment against the respondent. The appellants wish the court to determine the Part 24 application immediately after determining the appeal should it be necessary. Subject to any further order of this court it has been the intention of the appellants for the Part 24 hearing to take place should the appeal be unsuccessful. The respondents objects to such a course.

Background: 5. The respondent is aged twenty-four. On 24th September 2014 when he was aged twenty one, he was arrested with other men upon suspicion of possession of firearms. At the time of his arrest, the respondent was inside a flat where a prohibited firearm, a silencer and ammunition were present. When the police arrived executing a search warrant, it was observed that the firearm, silencer and ammunition were thrown separately from an upstairs bedroom window. The respondent who was inside the bedroom was seen to look from the window through which the items had been thrown.

6. Subsequently, on 13th October 2013, the respondent was re-arrested for terrorism offences. On 27th October 2014, he appeared before the Central Criminal Court upon a preliminary hearing and a further hearing on 30th January 2015. Together with four other men, he appeared on a seventeen-count indictment upon which he was charged with conspiracy to murder, contrary to s.1(1) of the Criminal Law Act, 1977 and preparation of terrorist acts contrary to s.5(1) of the Terrorism Act 2006. A further three counts relating to firearms also appeared on the indictment.

7. The respondent through his legal representatives made an application to dismiss the proceedings against him on the basis that there was insufficient evidence for a reasonable jury to convict him. The hearing date for the application was dated 15th May 2014. Shortly before that date, the first appellant, the Crown Prosecution Service, identified material in the possession of third-party agencies which had not been disclosed to the defence. This material concerned only the respondent and not his co-accused. It was said by the first appellant that this material had not been within its possession or control or that of the second appellant before its discovery in May 2015. Due to the nature of the material and its sensitivity, the prosecution satisfied itself that the material was disclosable but made a claim before the trial judge of public interest immunity so as to withhold its disclosure.

8. This decision as to the need to disclose subject to the claimed immunity, was in compliance with the duty of the prosecution under s.1 and s.7(a) of the Criminal Procedure and Investigations Act, 1996. Section 3 provides as follows: "The prosecutor must – (a) disclose to the accused any prosecution material which has not previously been disclosed to the accused and which might reasonably be considered capable of undermining the case for the prosecution against the accused or of assisting the case for the accused or (b) give to the accused a written statement that there is no material for the description mentioned in para.(a)." Section 7(a) provides a continuing duty on the prosecutor to disclose material following the same test as under s.3 of the Act.

9. The application was heard by the trial judge on 9th June 2015, after a ministerial certificate confirming that the material was highly sensitive, had been signed on 4th June 2015. The trial judge nevertheless directed that the material could be disclosed, failing which the prosecution would have to consider its position against the respondent. The following day, 10th June 2015, the prosecution offered no further evidence against the respondent and he was released from custody in which he had been detained since his arrest over a nine-month period earlier. The trial against the co-accused continued and all were convicted either by their plea of guilty or by a jury and were sentenced to significant terms of imprisonment. The respondent gave notice of the intention to make a claim against the appellants on 21st September 2015 and subsequently commenced these proceedings.

The Claim: 10. The respondent makes his claim for damages and other relief based upon a breach of his Art.5 rights under sch.1 of the Human Rights Act, 1998. In particular, he claims that the appellants, as public authorities, have acted in a way which is incompatible with his convention rights under Art.5.1(c) and 5.3 under sch.1 of the 1998 Act. They provide as follows: "The right to liberty and security. 1. Everyone has a right to liberty and security of person, no one shall be deprived of his liberty, save in the following cases and in accordance with a procedure pressured by law. (c) The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so… 3. Everyone arrested or detained in accordance with the provisions of para.1(c) of this article shall be brought promptly before a court or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial…everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation."

11. The main thrust of the claim is that if not before, then on discovery of the sensitive material which gave rise to the prosecution offering no further evidence against the respondent, the

appellants no longer had a reasonable suspicion that the respondent had committed an offence or offences. He argues that this is a necessary inference from the cessation of proceedings against him. He also claims that the appellants should have discovered this information sooner, which would have led to his earlier release from custody. It is, of course, significant in these proceedings that the respondents nor his legal representatives have any knowledge of the contents of the material that was not disclosed by the prosecution in criminal proceedings.

The Appellants' Case: 12. Whilst the appellants have not yet served a defence to the Particulars of Claim, their claim may be shortly stated. The statutory duty of disclosure within the 1996 Act is for any material which may undermine the prosecution case or assist the defence. This does not mean that such material is necessarily of such significance or importance as to negate a reasonable suspicion of a criminal offence by the respondent, nor of the remaining reasonable prospect of conviction at trial. The reason for the immunity claim cannot be revealed, still less the contents of the material. The appellants argue therefore, that the respondent is required to speculate as to the significance of the material. Beyond that, it has some relevance in undermining at least part of the prosecution's case or of assisting in some way the defendant's case.

13. The appellant's application under CPR 3.4(2)(a) was heard by Master Davison who gave a detailed ruling appearing in the appeal bundle at p.136-143. The application was refused on two grounds; that the appellants bore a burden whether legally or evidentially to justify the continued detention of the respondent because he was unable to prove his case of unlawful detention without knowing all of the evidence (para.22-23 of the ruling), separately, it was not possible to conclude that the claim would not succeed as disclosing no reasonable grounds (para.24-29).

The Appellants' Submissions on Appeal: 14 It is submitted by the appellants that the Master was wrong in law to extend the common law burden of proof in the case of alleged convention breaches, (ground one), further that the Master wrongly discounted the appellants' submissions that the claim is speculative when he was anticipated what the withheld material had been (ground two). In addition, the appellants raised a public policy observation, namely that permitting the claim in circumstances where the respondent is unable to establish the significance of undisclosed material in the case against him in criminal proceedings will open the flood gates for claims in all cases where the prosecution, after an unsuccessful application for public interest immunity, offered no further evidence.

Respondent's Submissions on Appeal: 15 It is argued by the respondent that the master correctly dismissed the application. The fact that the case was dropped against the respondent when this material was not disclosed must, by inference, mean it was significant to his defence or to the undermining of the prosecution's case against him. The respondent also argues that the delay in the criminal proceedings when the decision to offer no evidence could have been made earlier, extended the period of his detention in breach of his Art.5.3 rights.

Discussion and Conclusions: 16. This appeal is confined to whether the refusal by the Master to grant the application under CPR 3.4(2)(a) was wrong or unjust - See CPR 52.21. It was brought by the appellants before serving a defence. It does not involve an assessment of the evidence, but an examination of the respondents' statement of case. The power to strike out a statement of case is discretionary but may be done, "If it appears to the court (a) that the statement of case discloses no reasonable grounds for bringing…the claim." – CPR 3.4(s)(a)

17. This is a stricter test than that engaged in an application for summary judgment under CPR 24. Some assistance in identifying the sort of case where a strike out has or may be granted are contained in the Practice Direction 3A at para.1.4: "The following are examples of cases where the court may conclude that Particulars of Claim (whether contained in a claim form or filed separately) fall within r.3.4(2)(a) (i) those which set out no facts indicating what the claim is about, for example, 'money owed £5,000' (ii) those which are incoherent and make no sense (iii) those which contain a coherent set of facts but those facts, even if true, do not disclose any legally recognisable claim against the defendant."

18. The wording of CPR 3.4(2)(a) clearly involves an assessment of the pleaded claim without considering the evidence or inferences that might or might not be drawn from undisputed facts. It has been said in cases where the jurisprudence is developing that the claim should not be struck out unless the court is certain that the claim is bound to fail. See Hughes v Colin Richards & Co [2004] EWCA Civ 266. Whilst not a case whose facts are directly on point, the principle is clear when dealing with an application to strike out.

19. In this case, the respondent's pleaded case for damages due to an alleged breach of Art.5 rights is not unusual. But for the material that was withheld by the prosecution and which led to his acquittal and release from detention, the claim would be conventional. The respondent, however, does not know what the material is, nor its effect on the strength of the criminal case against him. Not unnaturally, he seeks to infer that it must have removed any prospects of a successful conviction, otherwise the case would have proceeded. However, this does not necessarily follow. All that can be said at this point is that the material must have undermined the prosecution case in some way and/or assist the defence case in some way.

20. The appellants' submission that this means that the respondent's case is based on pure speculation and therefore should be struck out, overstates the position. The information exists which may support or remove an essential ingredient of the case for the respondent. The withheld material in the possession or control of the appellants exists. It cannot be argued therefore that the respondent's case is based on speculation in the sense that it cannot be known, when it can be discovered relatively easily. Although the material is sensitive, the Civil Procedure Rules are apt to allow dealing with such information in the context of civil litigation. See for example, CPR 31.16 (Application for pre-action discovery), CPR 31.12 (Application for specific discovery) and CPR 31.19 (Application to withhold disclosure) and CPR 82 (Closed material proceedings).

21. Therefore, whilst the respondent does not know what the withheld material is and is seeking to infer its effect, it is not speculation when the rules provide a mechanism for him to obtain disclosure. The court will be able to examine the material and form an assessment, as occurred in the criminal proceedings as to whether it must be disclosed or not and what conclusion may be drawn in the context of these proceedings..

22 Accordingly, I do not find that the respondent's statement of case discloses no reasonable grounds. I am satisfied that the Master's decision on that ground was correct and, on that basis, this appeal fails. I do not consider that it is necessary for me to decide whether the Master was wrong in law when he found that a burden of proof falls onto the appellant in the circumstances of a convention-based claim for damages for deprivation of liberty. I see the force of the argument both ways, but it should be for another court to decide that point of law.

23. I turn now to the application under CPR 24 for summary judgment. Although the court directed that this application shall follow the appeal, this was subject to further order. I do not consider that it is appropriate in this case, although it might be so in other cases. In my judgment, any consideration of the merits of the claim needs to be based on knowledge by the court of the contents of the withheld material. It will be unrealistic to expect the court to make a ruling when the critical material is not known. Further, such an application would need submissions based on that material, whether it was disclosed or not. That stage has not yet arisen.

24. Accordingly, I shall adjourn the application under CPR 24 for determination by a Master. In the meantime, I will make directions for the service of applications under CPR 31.12 and CPR 31.16 relating to the withheld material. It will be necessary for further case management orders to be made to ensure that any closed material procedure can be followed before the CPR Part 24 application can be heard. I will allow the parties to draw up the order for the court's approval.

25. Finally, I consider that it is necessary to make it clear that in cases such as this where sensitive material may need to be disclosed and where that material is at the heart of the case, the claimant should make an application for pre-action disclosure under CPR 31.16 and not issue proceedings until that application has been concluded. In the event that limitation issues arise, then that can be preserved either by agreement or by application to the court.

26 Further, if proceedings are issued, then an application for specific disclosure should be made as soon as possible. This will allow the case to be dealt with fairly and expeditiously and consistent with the overriding objective of CPR Part 1.

UK: Backlash After Man Becomes First Person Convicted Under Laws He Wanted Enforced

Companies House, the UK registry of companies, is widely known to be filled with fraudulent registration information about directors, addresses and ownership, and it's this willingness to tolerate fraud that has made the UK one of the first ports of call for criminals and looters looking to launder their fortunes. For years, an activist named Kevin Brewer tried to get Companies House to improve its fraud-monitoring. Companies House initiated a prosecution for fraudulent registration information. They prosecuted Brewer. He is the first person ever convicted for fraudulent company registration. Companies House has issued a triumphant press release, declaring their enforcement arm's relentless prowess. They don't mention whether they're going to prosecute any actual criminals, or whether they're confining all enforcement to whistleblowers who make fools of them.

Scottish Legal News: Kevin Brewer, has become the first person prosecuted in the UK for registering false company information after a stunt he organised to demonstrate the weakness of enforcement. Businessman Mr Brewer registered two companies, in 2013 and 2016, with government ministers listed as directors and shareholders - in a bid to show how easily false information can be registered. The first, John Vincent Cable Services Ltd, named the former Business Secretary Vince Cable as director and shareholder. The second, Cleverly Clogs Ltd, named Baroness Neville-Rolfe, the minister with responsibility for Companies House; James Cleverly MP; and an imaginary Israeli national, Ibrahim Aman, as directors and shareholders without their knowledge.

Mr Brewer notified the ministers and the press at the time of both company registrations in a bid to highlight how easily false company information can be registered with Companies House. However, he was instead charged with breaking section 1112 of the Companies Act 2006, which came into force in 2009. Mr Brewer pleaded guilty and has now been fined £1,602 and ordered to pay costs of £10,462.50 and a victim surcharge of £160.

In a government press release issued following the prosecution, Business Minister Andrew Griffiths claimed the outcome showed "the Government will come down hard on people who knowingly break the law and file false information on the company register". Mr Griffiths added: "Companies House works hard to protect and continually upgrade the company register, identifying potentially criminal activities and working closely with law enforcement bodies to help bring those perpetrators to justice." However, a viral Twitter thread highlighting Mr Brewer's campaign work has helped to precipitate a social media backlash against the prosecution and the government's "boastful press release".

Prisons (Substance Testing)

Bim Afolami, Conservative: Drugs in our prisons are a major problem, which we need to do more to tackle. A recent review by Her Majesty's inspectorate of prisons in 2015 showed that 52% of prisoners had used drugs in the two months before they went to prison. A survey from 2016-17 showed that 31% of female prisoners and 47% of male prisoners found it easy or very easy to get drugs in prisons. In 2016, there were almost 11,000 incidents of drug finds in prisons in England and Wales alone, with 225 kg of illicit drugs recovered.

Psychoactive drugs are a newer problem for our prisons system and for our society, but they are a growing and dangerous problem, and further action is needed. These drugs are often incorrectly termed "legal highs". Not only do they alter the mind in broadly similar ways to class A drugs, but they have particularly pernicious and damaging effects on mental health—on issues such as anxiety and depression. A recent Centre for Social Justice report in 2015 suggested that a majority of prisoners had tried Spice, a particularly famous psychoactive drug. Last July, the former prisons and probation ombudsman, Nigel Newcomen, said that 79 deaths were directly linked to psychoactive substances between June 2013 and September 2016.

So what does this Bill actually do? Currently, the Prison Service can test for prohibited drugs specified under the Misuse of Drugs Act 1971. In order to add a newly formed and manufactured psychoactive drug to this list of prohibited drugs, the Government need to manually add each and every psychoactive drug to it. As Members will fully appreciate, that can be cumbersome and time-consuming. It is relatively easy for drug manufacturers and chemical experts to get around the law. They do that by producing slightly different versions of these psychoactive drugs, which means that our Government and Prison Service are entirely reactive and slow. As a result of our legislative process, the Government can get a psychoactive drug added to the banned list only after it is already doing a huge amount of damage to our system.

The Bill is straightforward and simple. It allows a generalised definition of "psychoactive drugs", one provided by the Psychoactive Substances Act 2016, to be added to the statute book, which will allow the Prison Service to test prisoners for any and all psychoactive substances, now and in the future. This allows our Prison Service to be proactive, not reactive. As we go through the legislative process, I would hope to get cross-party and Government support—I can see the Minister of State, Ministry of Justice, the hon. Member for Penrith and The Border (Rory Stewart) in his place—to expand the powers of the Prison Service to test for the misuse of pharmaceutical drugs and to provide for generalised prevalence testing. That would allow prisons to have a better understanding of the drugs that are running through the system.

We spend lots of time in this House debating how to cut the reoffending rates of prisoners. I believe, as I suspect do many Members, that excising the cancer of drugs from our prisons would be one of the most significant things we could do to cut reoffending rates. We know that drugs are a problem, but the Government and the Prison Service are fighting this with one hand tied behind their backs. Let us untie that hand, and untie the hands of prisoners who become addicted to or stay addicted to drugs throughout their time in prison because there are, sadly, too many drugs in our prisons.

If hon. Members are serious about prisons being drug-free, they should support this Bill. If they are serious about rehabilitation of offenders, they should support this Bill. If they are serious about social mobility, by which I mean the ability of men and women to leave prison without the burden of drug addiction, so that they can get on and make the most of their lives, they should support this Bill. I commend it to the House.

'Far From Learning From Mistakes of the Past, the Met Is Embracing Them With Relish'

Michael Etienne, 'The Justice Gap': When Bernard Hogan-Howe stepped down as commissioner of the Metropolitan Police, relations between the Met and the Government could scarcely have been more strained. As Home Secretary, Theresa May publicly criticised the Met for being 'too White' and Hogan-Howe of a 'knee-jerk' response to knife crime. Relations with New Scotland Yard hardly improved when Theresa May marked her appointment as Prime Minister with a broadside against the injustices caused by continued racial disparities in the criminal justice system. It is surely no coincidence that Hogan-Howe went on to retire seven months early, albeit part-way through an extension of his initial five-year tenure. With her appointment as his successor, Cressida Dick virtually completed the set of senior policing appointments, often, as now, being the first woman to hold them. That included spells as a deputy and assistant commissioner. Her appointment, was broadly welcomed by the commentariat. One journalist, for example, described it as 'the most dramatic evidence so far of a transformational change in the sociology and direction of British policing'.

Others had profound misgivings. Dick was the officer in command of the operation that led to the killing of Jean Charles de Menezes – an operation that was heavily criticised by an inquest jury. Unsurprisingly, for the de Menezes' family, the catastrophic failure of that operation rendered Dick unfit for promotion. They were not alone. Even before that, Dick had been a leading officer in the divisive Operation Trident, which for many, was predicated on the idea that people in Black communities were more likely to commit crime. That same operation was implicated in the killing of Mark Duggan, which sparked the London Riots in 2011. From this perspective, Dick's promotion was simply the substitution of one establishment face for another. They will not be reassured by the Commissioner's round of media and public appearances in recent weeks.

The Commissioner has been widely reported as favouring 'an Al Capone style' response to the serious violence sweeping the Capital. Targeting those thought to be responsible for serious violence for any criminal offence, just so long as it takes them off of the streets. Al Capone, of course being the prohibition-era kingpin, who was eventually imprisoned not for the countless, robberies, extortions or murders in which he was implicated but for tax evasion. According to The London Evening Standard, we can expect 'even more proactive' policing of so-called known 'hotspots' including 'intelligence-led stop-and-search and the use of specialists in covert tactics'. It is not immediately clear what politicians and police leaders mean when they talk of 'intelligence-led-stop-and-search'. It typically features in debates about the need to 'increase' stop and search. It might be said to be a nod to the systemic misuse of stop and search powers. But too often, the so-called intelligence base is a façade for racial profiling.

As if that wasn't bad enough, there is also a growing recognition within Government that stop and search has a negligible effect on reducing crime. That is a message that community organisations have been trying to have heard for decades. The Government's recently published Serious Crime Strategy for example acknowledged that: Some have questioned whether the reduction in the use of stop and search is driving the increase [in serious violence]. The data do not support such a conclusion. It is true that numbers of stop and searches have fallen as knife crime, gun crime and homicide have risen …but…stop and searches fell between 2010/11 and 2013/14 when knife crime was also falling.

Home Office research made similar findings in 2016, when it was reported that large scale increases in stop and search had: no statistically significant crime-reducing effect from the large increase in weapon searches during the course of Operation Blunt 2. This suggests that the greater use of weapons searches was not effective at the borough level for reducing crime.

The commissioner isn't convinced. For her, the evidence is 'conflicting'. Instead, she has defended a four-fold increase in the Met's use of the power of stop and search without the usual need for reasonable suspicion – Criminal Justice and Public Order Act 1994, section 60. Even where reasonable suspicion is required, a black person, for example, is either five or eight times more likely to be stopped than a white person, depending on which set of figures one is looking at. That pernicious problem balloons where there is no requirement for reasonable suspicion. Research by the Equality and Human Rights Commission found that black people have been 28 times more likely to be stopped under s.60 and Asian people twice as likely than someone who is white. It is difficult to see what evidence would have to be put forward before the commissioner (and others) for them to finally accept that simply 'increasing' stop and search is corrosive of community relations and achieves no significant benefits and counter-productive.

The increased use of s.60 is one of the legacies of Hogan-Howe. Late in 2015, he announced that he would make more use of s.60, linking a reduction in its use with a 25% increase in knife crime. It was this that Theresa May rightly criticised as a 'knee-jerk' reaction, premised on a 'false link' between 'reducing' stop and search and an increase in knife crime. It is notable that the Prime Minister has not repeated her criticism of the Commissioner. Talk is cheap. Also this week, the Commissioner appeared at a debate on policing and counter-terrorism arranged by the Human Rights Lawyers Association. Again, it was noted that Dick was the first Commissioner, ever to attend such a meeting. And again, any cause for optimism arising from that was quickly dispelled. In her opening remarks she described the force as 'more accountable', 'less secretive' and embracing of human rights obligations as a way of improving policing. The system, she said, 'isn't perfect but broadly works'. She went on wistfully to describe the institution that she joined in 1983. She described an institution which at its core was ethical and committed to serving the public but which lost its way later in the eighties and nineties.

1983 was the same year that Colin Roach died in Stoke Newington Police Station. It was said that he shot himself but friends and family immediately felt that the police account was suspicious. Those affected by his death are still asking 'Who Killed Colin Roach?'. As poet Benjamin Zephaniah recalled earlier this year, Roach's death was also emblematic of a wider sense of injustice about the use of sus laws against Black communities. These were powers that allowed officers to stop and arrest individuals acting 'suspiciously'.

The Commissioner went on to say that she was 'very proud' of the progress made by the Metropolitan Police since the turn of the century, including in areas such as community cohesion. She referred specifically to 'the considerable support of communities' for the way that her officers were now deploying, in particular, counter-terror policing strategies. That included the use of Schedule 7 to stop and detain people at ports and airports. She alluded in similar terms to support for the Government's Prevent programme and the use of stop and search powers.

The IOPC has just had its third recent rebrand, this time as the Independent Office for Police Conduct. The IOPC succeeded the Independent Police Complaints Commission , which had been the Police Complaints Authority. Ultimately, whatever its guise, the watchdog has never been able to command the trust of those who rely on it to hold forces like the Met to account. The Mitting Inquiry, setup to examine the practice of undercover officers, including a large number in the Metropolitan Police, forming intimate relationships so that they could spy on their partners and 'friends', is in disarray. The women who describe being tricked into essentially exploitative relationships no longer have faith in the inquiry because officers are being granted anonymity and allowed to provide piecemeal disclosure of heavily redacted documents, which makes it practically impossible to establish accountability for any wrong-

doing.

The commissioner's office has just lost a four-year legal battle (supported by the Home Office) in which the Met fought tooth and nail to overturn a finding that it owed human rights obligations that would improve the legal protection for victims of serious crime who are let down by seriously defective policing. Even as she spoke, communities across the capital were talking about their being abandoned by the State, including the police, except where there was an opportunity to demonise and criminalize them.

The concern over lack of accountability in policing is most starkly illustrated by the persistently disproportionate numbers of black people, particularly men, who die in state custody. The day after the Commissioner's address to the HRLA, the family of Kevin Clarke, who died in police custody following an apparent mental health crisis, coincidentally, asked: 'How many more black men have to die in order for something to be done?' That doesn't sound much like renewed confidence in policing. It does however, sound like the sort of question that too many families, in too many similar circumstances have been asking since at least as long ago as the halcyon days of WPC Dick.

It cannot be that an officer of the commissioner's experience isn't aware of these critical issues. Presumably then they fall into the 'not perfect' part of the system. That demonstrates an astonishing level of complacency. At a time when we need nuanced, courageous thinking, in policing and beyond, we are trapped by a revisionist nostalgia. Rather than learning from the mistakes of the past, they are being embraced, with relish. The consequences of this are predictable. Far from changing, all the signs are that it is business as usual at New Scotland Yard.

HMP Humber – Significant Issues,Many Young Prisoners With Mental Health Needs

HMP Humber, a training prison holding 1,000 men, faced major challenges in supporting many among its young population with mental health problems and in maintaining security in its large rural site, prison inspectors found. Peter Clarke, HM Chief Inspector of Prisons, said there was "evidence of significant need among the comparatively young population. Many prisoners were serving short sentences and nearly 60% had been at the prison for less than six months. There was no doubt that the prison was managing considerable risks."

A report on the inspection in November and December 2017 noted that half of prisoners surveyed said they had mental health problems and 11% said they felt suicidal on arrival at the prison. Mr Clarke added that the extent of vulnerability in the population "was arguably reflected in the high levels of self-harm. Five prisoners had sadly taken their own lives since we last inspected, although all but one were before 2017." There had been 335 self-harm incidents by 115 prisoners in the six months prior to the inspection. Five men were responsible for 80 incidents. Inspectors noted, though, that prisoners at risk of self-harm felt supported by the prison.

While the "healthy prison assessments" by inspectors had changed only marginally since the previous inspection of Humber in 2015, Mr Clarke said: "We found a reasonably stable prison where there seemed to be a new-found and growing confidence about its future." Despite this optimism, though, Humber – a merger of a former borstal and a more modern jail in east Yorkshire – was still not safe enough, with high levels of victimisation, intimidation and violence, some of it serious, and use of force by staff. "The evidence suggested that much of the violence was underpinned by a pervasive drug culture. Nearly two-thirds of prisoners thought drugs were easy to obtain and 29% claimed to have acquired a drug problem while at the prison," Mr Clarke said. The rural setting, extended perimeter and geographical extent of the prison "presented real security vulnerabilities and supervisory challenges."

The prison had several initiatives, some more advanced than others, to combat violence and confront drugs. The report noted that in one initiative prisoners were only allowed photocopies of their post to prevent paper soaked in new psychoactive substances (NPS) from entering the prison. "There had been a reduction in NPS-related incidents after this measure was introduced and it had been a justifiable short-term response to a very serious NPS problem. However, this intrusive measure had caused much anger among prisoners, and needed to remain demonstrably proportionate and effective." Mr Clarke urged the prison to develop "more joined-up thinking with respect to the ongoing battle against drugs." Humber remained a reasonably respectful prison, inspectors found. Staff-prisoner relationships were good, the prison environment was generally decent and most cells were adequate, although too many were overcrowded. About a quarter of prisoners were sharing cells originally designed for one. Though the prison routine – its regime – was predictable, "a third of prisoners were locked up during the working day, which was very disappointing for a training prison." Some men could be locked up for 23 hours a day. Support for those being released was generally good.

Mr Clarke said: "Humber was a prison with significant issues to address. That said, we were confident that the new governor and her team were aware of the gaps and had the capability and confidence to continue their programme of improvement. They needed to sustain the progress of the preceding year and build on what they had achieved. The prison was, in our view, well led and the staff group appeared to us to be committed. There was good reason to be optimistic about what could be achieved at Humber." 20 recommendations from the last report had not been achieved and 19 only partly achieved. Inspectors made 55 new recommendations.

Disabled People Lose Legal Aid in 99% of Benefits Disputes

"The staggering fall in the numbers of disabled people challenging, if they believe their benefits have been wrongly removed, shows just how many vulnerable people are now denied access to justice because of the government's cruel legal aid cuts," The extent to which savage government cuts have deprived disabled people of legal aid in disputes over their benefit payments is revealed today by new official figures that show a 99% decline since 2011. The total number of disabled people granted legal aid in welfare cases has plummeted from 29,801 in 2011-12 to just 308 in 2016-17, cutting some of the most vulnerable people in society adrift without expert advice in often highly complex and distressing cases. MPs and charities representing disabled people reacted furiously to the figures, released in a parliamentary answer, saying they bore out their worst fears at the time ministers announced the cuts several years ago. They called on the government to speed up an ongoing review of the legal aid system and to end a Whitehall culture that, they say, too often views disabled people as easy targets for savings.

Hostages: Sally Challen, Naweed Ali, Khobaib Hussain, Mohibur Rahman, Tahir Aziz, Roger Khan, Wang Yam, Andrew Malkinson, Michael Ross, Mark Alexander, Anis Sardar, Jamie Green, Dan Payne, Zoran Dresic, Scott Birtwistle, Jon Beere, Chedwyn Evans, Darren Waterhouse, David Norris, Brendan McConville, John Paul Wooton, John Keelan, Mohammed Niaz Khan, Abid Ashiq Hussain, Sharaz Yaqub, David Ferguson, Anthony Parsons, James Cullinene, Stephen Marsh, Graham Coutts, Royston Moore, Duane King, Leon Chapman, Tony Marshall, Anthony Jackson, David Kent, Norman Grant, Ricardo Morrison, Alex Silva,Terry Smith, Hyrone Hart, Glen Cameron,Warren Slaney, Melvyn 'Adie' McLellan, Lyndon Coles, Robert Bradley, John Twomey, Thomas G. Bourke, David E. Ferguson, Lee Mockble, George Coleman, Neil Hurley, Jaslyn Ricardo Smith, James Dowsett, Kevan & Miran Thakrar, Jordan Towers, Patrick Docherty, Brendan Dixon, Paul Bush, Alex Black, Nicholas Rose, Kevin Nunn, Peter Carine, Paul Higginson, Thomas Petch, Vincent and Sean Bradish, John Allen, Jeremy Bamber, Kevin Lane, Michael Brown, Robert Knapp, William Kenealy, Glyn Razzell, Willie Gage, Kate Keaveney, Michael Stone, Michael Attwooll, John Roden, Nick Tucker, Karl Watson, Terry Allen, Richard Southern, Jamil Chowdhary, Jake Mawhinney, Peter Hannigan.