

Issue
55

SAFARI

Supporting All Falsely Accused with Reference Information

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June
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"The only thing necessary for the triumph of evil is for good men to do nothing." (Edmund Burke)

SEAN FAGAN SENTENCED to only six months, suspended, after making a false allegation. A 15-year-old boy was arrested and spent five hours in police custody, after being falsely accused by Fagan of a brutal assault. Fagan, who knew the boy, claimed he had been punched twice and then thrown to the floor during the beating, cutting his arm on a piece of glass when he fell to the ground. The boy, who cannot be named for legal reasons, was charged (after hours of questioning) with assault occasioning actual bodily harm. He was then released on bail and had to wait another five weeks before Fagan finally contacted detectives to admit he had lied, saying he had been involved in an altercation with the boy on the day in question, but admitting he had not been punched or thrown to the floor. He also admitted that he had inflicted the injury to his arm on himself, and pleaded guilty to perverting the course of justice at his first appearance in court. Judge Graham White said: 'It is a very serious matter to accuse someone else of a crime, and you did it deliberately. A sentence of imprisonment has to be imposed to recognise how serious it is and send a message out to people that you can't do this sort of thing.'

SAFARI feel that a six-month sentence, suspended for two years hardly reflects the trauma inflicted on Fagan's victim. If Fagan *himself* had kidnapped the boy and subjected him, while falsely imprisoned, to hours of pressure to comply with the kidnapper's demands ('confess'), and then further subjected him to five weeks of psychological suspense, the sentence would have been much more severe. How much worse it is when your kidnapper uses the instruments of the state to inflict his emotional brutality on you, leaving you with no-one to turn to! Fagan's barrister, Stephen Clayton, told the court that Fagan had been 'verbally abused' by the teenager on previous occasions. Fagan will also have to complete a six-month alcohol treatment requirement to tackle his alcohol problems. Big deal!

BABER HUSSAIN AND ASHAD PERVEZ have been cleared by a jury after being accused of causing a child under 16 (in this case 14) to engage in sexual activity. Baber had also been charged with raping the girl's 12-year-old friend. The court heard how the girls had lied about their ages; Baber & Ashad had had sexual contact with them but believed them to be 16 & 17. Neither man gave evidence during the trial, but the jury heard extracts from police interviews in which they stated that the girls had 'come on to them' and had not been forced to do anything. Judge Alistair McCallum threw out the case, directing the jury to return not guilty verdicts.

SUZANNE HOLDSWORTH, who had been convicted for the murder of her neighbour's two-year-old son, Kyle, has had her conviction quashed, and a retrial ordered. Suzanne had been accused of repeatedly banging Kyle's head against a wooden banister but she consistently denied injuring the child, claiming that he had suffered a fit as they sat watching television. At appeal, Suzanne's lawyer, Henry Blaxland, told the judges that the doctors who gave evidence at trial "got it wrong" and "collectively failed to diagnose" that the child had a "highly unusual brain", with abnormalities that predisposed him to epilepsy. Mr Blaxland argued that fresh evidence established that there was a reasonable possibility that the child suffered a prolonged epileptic seizure. Overturning her conviction, Lord Justice Toulson said it was the Court's view that if the fresh medical evidence had been given at her trial it might reasonably have affected the jury's decision to convict.

A 20-YEAR-OLD WOMAN has been issued with a fixed penalty notice after making a false allegation of rape. The woman (whose name has not been supplied) eventually admitted that the allegation was false and no attack had taken place, after an investigation revealed a number of inconsistencies in her account.

ZARA MCKENNING (21) has been jailed for two years for falsely claiming she'd been raped by a man she seduced in a pub. She made the false claim against the man when her jailed boyfriend's friends caught them together and threatened to tell him. The judge in the case branded her "wicked".

STRATHCLYDE POLICE OFFICERS Neil Jones (35) and Andrew MacRobert (28) face losing their careers after being convicted of falsely accusing law student William Reid and his friend Callum McCaig of a breach of the peace. The charge against Jones and MacRobert stated that they had falsely accused Mr McCaig and Mr Reid of conducting themselves in a disorderly, abusive and drunken manner and shouting and swearing.

The charge added: "The truth being as you well knew that all of the said allegations were fabricated by you and you did by said false allegations render said William Reid and Callum McCaig liable to suspicion, investigation and prosecution in respect of the crime of breach of the peace."

Law student William Reid launched a complaint, and a sheriff agreed that the charges had been made up. Jones and MacRobert continued to deny bringing false charges against the 22-year-olds. In court, their defence lawyers asked for leniency. Sentencing the pair, Sheriff Rae Small did not believe a custodial sentence was in the interests of the public and instead gave them both a fine.

Solicitor Nicholas Scullion, who worked alongside William Reid, said: "It's very unusual for people to go against what the police have said, especially when it's two against one. The message this sends out is when something happens like this, when you're accused falsely of doing something by the police, you should report it. You should follow it up. He was under a lot of pressure to drop this case, but he didn't, and he pursued it, and ultimately he's been found to be correct. I think it sends out a very positive message."

LUKE MITCHELL (19) has failed to have his conviction for murdering 14-year-old Jodi Jones overturned. Lawyers for Mitchell argued he did not get a fair trial and was the victim of a miscarriage of justice. Scotland's top judge, the Lord Justice General Lord Hamilton, ruled that the appeal against conviction must be refused, saying: "The Court is satisfied that there was sufficient evidence in law upon which a verdict of guilty could be returned." But the key evidence on which Luke was convicted was that of a witness who testified to seeing a male and a female at a crucial time on the day of Jodi's death. Lord Hamilton said: "Taken at its highest, [the] evidence amounted to an identification of the appellant (Mitchell) as that male and of Jodi Jones as possibly that female. Taken along with other evidence, it would have been open to the jury to conclude that it was indeed her." But if the jury had (as required by law) worked from a presumption of innocence, then such a tenuous identification as 'a male and a female' could not possibly have convinced any reasonable jury, acting reasonably and within the law, of the identities of either of the two people involved - alleged attacker or victim. It could have been any couple. For a jury to work from a presumption of innocence they must surely not 'take the evidence at its highest'.

KEMAL EREN has been cleared of charges of kidnap and sexual assault. A 16-year-old girl had told the jury that she got into Kemal's car in the early hours, thinking it was a taxi that her mother had arranged. She claimed Kemal took her home, but fondled her thigh on the way and asked if she would like to have sex with him. Kemal said that the girl made up her story. He told the court that she had got into his car while 'obviously drunk' and sat down. He had asked her to leave the vehicle but she refused, and then asked him to take her to his business premises for some food. Kemal said it was because he refused to do so that the allegations were made. He did no more than accidentally touch her arm.

DON'T SEND US RECORDED LETTERS! Readers occasionally send us letters using Royal Mail's Recorded Delivery service. Please note all letters to SAFARI go via our forwarding system and any tracking service only tracks to this point. If nobody is available to sign for the letter, it actually gets *delayed!* After mail is forwarded, no tracking takes place. Result: Recorded letters to us cost more, are not *fully* tracked and can be delayed. **DON'T USE THEM!**

HOW TO ACHIEVE TARGETS... MAKE DEFINITIONS AS VAGUE AS POSSIBLE! Section 15 of the Sexual Offences Act 2003 makes "Meeting a child following sexual grooming *etc.*" an offence. Yes, the 'etc.' is actually in the wording of the Act! (Etc. is short for the Latin 'et cetera', and means 'and the rest'.) It's tantamount to saying "make it up as you go along". The only apparent definition of 'Sexual grooming' is having '*met or communicated* with [them] on at least two earlier occasions'. Taking this 'at its highest', having said 'hello, lovely weather!' to someone twice can now be called 'sexual grooming'. Vague wording in laws like this make conviction easier - even if the accused person is innocent, and is partly responsible for the increase in falsely accused people being convicted. This particular law also uses the word 'intend' to get over the need to prove *anything at all*. Section 15 says that a person aged 18 or over commits an offence if they 'intend' to meet the child and then 'intend' to do anything during or after the meeting and in any part of the world, which if done will involve the commission of a sexual offence. So all the prosecution have to do is convince the jury that the defendant probably 'intended' to commit a sexual act against the child in question, having said 'hello, lovely weather!' on two earlier occasions. Society is so worried about sexual crime nowadays that we tend, as a nation, to accept laws that make it easier to convict the guilty, *even if it also means the innocent are caught in the same net*. It wouldn't be accepted for most other types of crimes. Imagine being convicted because you went to bank cash, but a jury were persuaded that as you had a pen and paper in your bag, you 'intended' to write a demand note in order to *rob* the bank!

You may remember Sally Cameron being arrested on 13th May 2005 under the Terrorism Act (under which you can be held without charge for 28 days) - for *walking* along a dedicated *cycle* path. It was OK to cycle along it but not walk on it. It was determined that she may, therefore, have been a terrorist!

It is, at present, totally impossible to say with any degree of certainty - let alone 'beyond reasonable doubt' - what someone's intentions are or were, unless they have specifically stated them. It's the Police and prosecution's word against the defendant's... and the Police and prosecution have targets to achieve.

HOW DO THEY DO THAT? One reader has referred to the numerous articles in SAFARI newsletters, which show that people have successfully overturned their convictions, and asked how this is achieved. In most cases convictions are successfully overturned either when the person making the false allegation eventually admits doing so (occasionally because of a sense of guilt; more often because new evidence points towards their allegation being untrue) or because the person being accused is able to provide evidence that they could not have committed the alleged offence (for example by proving they were elsewhere at the time).

The CCRC sometimes seem to require a very high standard of 'proof of innocence' - (e.g. "cogent **evidence of fabrication**") which is ludicrous in many ways, as the level of 'proof of guilt' needed to convict you is much lower! (If someone *says* you assaulted them, and the jury can be 'persuaded' to believe it, you can be convicted.) 'Precedents' (i.e. earlier cases where a trial collapsed or appeals were successful) are also useful. *If you've been convicted for an alleged crime when someone else's case was strikingly similar to yours, and their conviction was quashed at appeal, you can sometimes use the other case as a precedent to have your own conviction overturned.*

SAFARI E-PETITIONS: Please get everyone you know with Internet access to sign our on-line Government ePetitions. Please visit:
<http://safari-uk.org>

..to view all our ePetitions.

Thanks to Terry McCarthy (Parole Board for England and Wales) for supplying us with the statistics of those granted release on Parole despite maintaining innocence.			
Unusually, NOBODY got parole this month			
Figures for month of April 2008			
<i>Non-lifers:</i>			
All offences	0	of 13	0%
Rape	0	of 9	0%
Indecent Assault	0	of 2	0%
Other Sex	0	of 1	0%
Violence	0	of 0	0%
Property	0	of 0	0%
Drugs	0	of 0	0%
Others	0	of 1	0%
Total Sex	0	of 12	0%
Total Non Sex	0	of 1	0%
<i>Lifers only</i>	0	of 0	N/A
[There were no lifer applications this month]			