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

FRANK JOYNSON has had his conviction (for sexual assaults and buggery against children in the 1960s and 1970s) quashed, after the Court of Appeal ruled that his convictions were unsafe [Case 2008/00373/D4].

In a landmark ruling, the Court of Appeal has confirmed that, where documents which could have affected the credibility of prosecution witnesses are missing, it may well result in a situation where *no fair trial was possible* ... and therefore a successful appeal. Frank was originally sentenced to 13 years, in November 2007, based on the word of five former pupils at the school where he had worked. The original trial judge gave a direction to the jury that the evidence of one complainant, *if believed*, could support that of another.

One of the complainants (PF), gave evidence that while he was at the school he was worried by being placed on a teacher's lap and that he had told his mother about this. PF's mother confirmed in her own statement that her son *had* complained about having to sit on a teacher's lap but she was definite that his complaint was *about a different teacher*. The matter was referred to Social Services at the time, but Social Services' records of this complaint were unavailable, making it impossible for Frank to challenge the allegation.

PF also gave evidence that Frank used to make lewd sexual remarks in the shower room about another boy (DC). However, Frank's defence was that he had left the school *before DC went there*, so PF's allegation could not be true. Frank's employment records – which could well have supported his evidence – were also unavailable. Medical records of another complainant (KC) could also have supported Frank's defence – but again were no longer available.

Two of the remaining three complainants (twins) had lengthy criminal records, including convictions for dishonesty. The evidence of the last complainant (NE) conflicted with that of a police officer who had interviewed him seven years earlier.

The absence of records had a knock-on effect in relation to the whole case, as the prosecution relied on the credibility of PF and KC to support the credibility of the other complainants. Appeal judges said: "This court is always slow to allow an appeal ... where the case has been handled with care by an experienced judge and the jury has reached its conclusions of fact after hearing all the witnesses ... but we are troubled by the very great delay and its particular consequences in the context of the specific allegations in this case. We have reached the conclusion that we cannot regard these convictions as safe."

SEX OFFENDER LIFETIME REGISTRATION ILLEGAL. Lord Justice Latham, Mr Justice Underhill and Mr Justice Flaux have ruled, in the High Court in London, that requiring those, subject to the Sex Offenders' Register, to remain on that register indefinitely without the opportunity for review, is illegal and breach of Article 8 of the European Convention on Human Rights. The media (unsurprisingly) have misreported this in terms suggesting that offenders have the right to *removal*, rather than a right to *review*.

"The real question," Mr Justice Underhill said, "is whether an offender who can clearly demonstrate that he presents no risk, or no measurable risk of re-offending, should be precluded from obtaining a review of the notification requirements. His Article 8 rights, he submits, have clearly been disproportionately affected. ... The material we have suggests that it may well be very difficult for an offender to establish that he no longer presents any risk of re-offending. But I find it difficult to see how it could be justifiable in Article 8 terms to deny a person, who believes himself to be in that position, an opportunity to seek to establish it. ... I think, however, that as a matter of principle, an offender is entitled to have the question of whether or not the notification requirement continues to serve a legitimate purpose determined. As the statutory scheme does not make such provision, I conclude that he also is entitled to a declaration of incompatibility."

The ruling is great news for those who have been falsely accused and who find themselves unable to 'prove' their innocence, as it means there can be an end in sight to their suffering. SAFARI is in the process of clarifying exactly how this ruling will affect people currently on the Register, but our basic understanding at this point is this: the Register is not (yet) recognised as illegal in itself; only the requirement for those sentenced to two and a half years or more to remain on it for life without being given the chance to demonstrate that they are not currently a risk.

Of course, the authorities will, no doubt, simply try to argue that *all* those on the register are *still* a risk but they will find it hard to do this. In simple terms, as the current scheme does not allow people the *opportunity* to demonstrate that they are not a risk, it is incompatible with the Human Rights Act – *and therefore illegal*.

"DANGEROUS FANTASIST" MICHAELA BRITTON has been found guilty of perverting the course of justice after six months of bizarre false allegations.

Drama queen Britton claimed to have been raped, kidnapped and blackmailed. She even slashed herself with a blade and tied herself up to make her stories seem more credible, and arranged for her car to be shot at. She also asserted she was being blackmailed for £10,000 over a pornographic video which was made with an ex-boyfriend, said to be a Metropolitan Police anti-terrorist officer, which she alleged was stolen from her home. She even claimed that her line manager, at Churchill Insurance in Romford, put a gun to her head after she spurned his advances.

Jailing her for four years, Judge David Turner, at Chelmsford Crown Court told her: "You are a dangerous fantasist. Your conduct has been pathological and profoundly and protractedly wasteful of police resources." Britton wasted £316,000 of public money resulting from the investigations into her dramatic fantasies.

JUDGE IAN ALEXANDER QC, who heard a case at Northampton Crown Court, has been criticised by Lord Justice Latham in the Court of Appeal with regard to his handling of the case against Dean Cole. During the case, Ian Alexander sent a note to Dean's barrister, Kathryn Howarth, which read: "The Six Ps: Prior Planning Prevents P*** Poor Performance." Lord Justice Latham said that there was no indication as to whether or not the note was intended to be humorous, or whether it was "just plain rudeness", but said that in any event: "It was a wholly inappropriate note to be sent to counsel," and "seems to us to be a touchstone of the judge's attitude towards Miss Howarth." As a result, Mr Cole may not have felt "that he was getting a fair trial before this judge" and the Court of Appeal decided that the judge's conduct towards the Defence counsel resulted in the Appeal Court's having no confidence in the outcome of the case. Dean Cole had been fined £1,000 and banned from driving for two years following his conviction for dangerous driving. The conviction was overturned, and Dean will not have to face a retrial. Dean said: "This has restored my faith in the criminal justice system."

SCOTLAND YARD APOLOGISES! In our September 2008 newsletter we reported that Colin Stagg had been awarded £706,000 in compensation for wrongful arrest and prosecution. Assistant Commissioner at Scotland Yard, John Yates, has now offered Mr Stagg a full apology, saying: "mistakes were made". He said: "In August 1993 he was wrongly accused of Miss Nickell's murder. It is clear he is completely innocent of any involvement in this case, and I today apologise to him for the mistakes that were made in the early 1990s. We also recognise the huge and lasting impact this had on his life and, on behalf of the Metropolitan Police, I have today sent him a full written apology." Colin had been the target of a discredited police 'honey trap' operation, using an undercover woman police officer, and the result of a 'psychological profile', broadcast on Crimewatch, led to an innocent loner being wrongly suspected. Clearly the Police chose to believe that Mr Stagg was guilty, but their desire to convict him took priority over justice.

Sadly, this state of affairs is not that unusual. In some cases it's the media screaming for the offender to be caught which pressurises the Police into going for 'a result', rather than the *right* result, and in others it's just the old 'target driven reward' system at fault.

FAMILY COURTS TO BE OPENED UP TO scrutiny. Justice Minister, Jack Straw, has finally agreed to allow the media into Family Courts, in an effort to remove the secrecy surrounding cases held there. He made the announcement in an oral statement to the House of Commons on 16th December - alongside publication of the Government's responses to a recent consultation on the subject. Under the proposed rule changes, accredited media will be allowed to attend family proceedings, the judge will be able to exclude the media from specific proceedings where the welfare of children or the safety of the parties requires it, parties will be allowed to disclose information to advisers (such as MPs) during the course of proceedings, and consideration will also be given to allowing access to adoption proceedings.

He said: "It is critical that family courts make the right decisions, and the public have confidence they are doing so. A key part of building trust in the system is that people understand how it works. At the same time, we must protect the privacy of children and families involved in family court cases so they are not identified or stigmatised by their community or friends. These plans strike the right balance in providing a more open, transparent and accountable system while protecting children and families during a difficult and traumatic time in their lives."

SAFARI considers it a great shame that these points were not recognised earlier, as the ability for 'experts' to be peer-reviewed could have saved so many broken hearts and prevented so many tragedies. Social Services' wrongdoings in such cases will now also be able to be highlighted, and hopefully this will improve the standard of Social Services' 'intervention' and radically improve integrity and honesty in dealing with these cases.

However, the Association of Lawyers for Children are against the idea, saying: "This demonstrates a complete failure to appreciate what children themselves actually experience when they are involved in court proceedings or to comprehend how devastating any publicity would be for them on top of the trauma of the actual proceedings. ... We sincerely hope that the government will reconsider this retrograde step that will cause real suffering to large numbers of children already facing upheaval and suffering in their lives." SAFARI believes these are false arguments - there will be adequate protection of identities in the cases involved, so 'publicity' is unlikely to have any appreciable effect.

In addition, children rarely appear in the Family Courts themselves, being represented by Guardians ad Litem, and so are unlikely to suffer any more 'trauma' than they currently do. The proposed reduction of secrecy could well *protect* children from becoming victims of parental pressure (to make false accusations) and Social Services' wrongdoings (unnecessary and traumatic removals / adoption where the only actions required were support and help for the family).

CONCENTRATE YOUR EFFORTS in the right way! We sometimes hear from people saying something like "I've written to 300+ solicitors so far and nobody will help me." While we sympathise with these people, one needs to remember that the problem here is not that no solicitor will help, but rather that you're supplying them with the wrong ammunition! (Supply a solicitor with something they can *win* with and they'll jump at the chance to take the case!)

SUCCESSFUL APPEAL - WHAT'S NEEDED? Many people misunderstand what's actually required to overturn a wrongful conviction. Apart from appeals on the grounds of serious judicial errors, all you *need* to be able to prove is that *had the jury been aware of certain information at the time of trial then they may well have come to a different conclusion*. If the new evidence is unlikely to have made a difference then it won't work; e.g. if you *prove* that a prosecution witness lied about their income when making a Benefit claim, it doesn't *mean* they lied in the allegation they made against you.

SAFARI e-Petitions: Please get everyone you know with Internet access to sign our on-line Government ePetitions. 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.			
Figures for month of December 2008			
<i>Non-lifers:</i>			
All offences	3	of 45	6.7%
Rape	1	of 24	4.2%
Indecent Assault	0	of 3	0.0%
Other Sex	0	of 6	0.0%
Violence	1	of 3	33.3%
Property	0	of 0	n/a
Drugs	0	of 0	n/a
Others	1	of 9	11.1%
Total Sex	1	of 33	3.0%
Total Non Sex	2	of 12	16.7%
<i>Lifers only</i>			
	0	of 0	n/a
[No lifers were considered this month]			