

SAFARI

Supporting All Falsely Accused with Reference Information



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IN JUNE 2011, LOUIS WALSH, Westlife's manager and X-Factor judge, was falsely accused of sexually assaulting a 24 year old man, Leonard Watters. Watters later admitted in court that the allegations were false and he has now been arrested by Irish police on suspicion of knowingly making a false report. Louis has now consulted his lawyer over libel claims. As is the case with so many falsely accused people, Louis thought his life was over after the allegations were made. He confesses that he did wonder, at one point, knowing he was about to be falsely branded a sex attacker, whether to commit suicide. Following the case against him being dropped, he said: 'I don't think I'll ever complain about anything again in my life because nothing could be worse than what I went through. Nothing. If I was told I had cancer, it wouldn't be as bad as that.'

A 17 YEAR OLD GIRL HAS BEEN CONVICTED and sentenced to 12 months in a young offenders institute after admitting perverting the course of justice by making a false rape allegation against a taxi driver. The driver had taken the girl to her home when she admitted having no cash; he then agreed to retain her ring at the taxi base until the following day when the fare could be paid. The girl then told her mother that she had been raped by the driver.

AMBER MILLS (21) HAS BEEN JAILED for 16 months after admitting falsely accusing her ex-lover of raping her. Derby Crown Court heard it was not the first time Mills had conjured up fake allegations against the man. Explaining herself, she told police: "I suppose I was just being evil."

HERBIE HIDE, FORMER WORLD HEAVYWEIGHT boxing champion has been cleared following a false allegation of rape. The prosecution offered no evidence following a review of the allegation. Herbie now says he is considering civil action against the woman who accused him. He also said that he thought the system, which allows people accused of rape to be named publicly while victims remain anonymous, should be reviewed - this is something SAFARI strongly supports.

SAFARI readers often send us copies of letters they have received from MPs and that's great. One thing we've discovered from these letters is how many of them have been 'copied and pasted' from pre-worded documents'. This explains why so many replies appear not to answer the points you may have raised; often the reader second-guesses what you are asking and sends the standard reply. If this applies to you, write back to them!

TO CONTINUE TO CONFIRM that there are successful appeals against conviction month after month, here's a selection that were reported between 15th May 2011 and 15th July 2011:

R v WILLIAMS (JAMES) [2011] EWCA Crim 1739 – Speeding conviction - quashed because the Prosecution gave a closing speech despite the appellant legally representing himself at trial (it is often accepted that a professional prosecutor should not give a closing speech in such cases as the defendant does not have access to a professional to properly counter it) coupled with the fact that the judge failed to give the good character direction.

R v MCGARVIE (DENNIS) [2011] EWCA Crim 1414 – Indecent Assault – Quashed as judge made error in law to allow admission of previous convictions which took place too long ago (1977 & 1993).

R v WIDDOWS (DAVID RODGER) [2011] EWCA Crim 1500 – Harassment – Quashed due to incorrect terminology used to define 'harassment' and failure to sever this charge from other charges (of rape, which were not guilty verdicts in any event), as a jury "could not be expected rationally to address themselves to [harassment] issues if they were at the same time considering charges of rape."

RICHARD WEBSTER, distinguished author of *'The Secret of Bryn Estyn: The Making of a Modern Witch Hunt'* and *'The Great Children's Home Panic'* to name just a couple, has died at the age of 61. One of his most recent works, *'Casa Pia: The Making of a Modern European Witch Hunt'* is about the largest and the longest-lasting paedophile-ring scare there has ever been. Richard will be sadly missed by many.

FROM WEB SITE [HTTP://WWW.DIRECT.GOV.UK](http://WWW.DIRECT.GOV.UK): If you pleaded 'not guilty' at your trial, you can appeal against your conviction and/or your sentence. If you're appealing against your conviction, you normally need new evidence or facts. For example, you may have a witness who was not at the original trial who could help support your case. It may also be possible to appeal because something went 'wrong' at the trial. This normally means an important court procedure was not followed properly. If you pleaded 'guilty' at your trial, you can normally only appeal against your sentence. It may be possible to appeal against your conviction – you should get legal advice if you're thinking about doing this. If there's no new evidence, you can only appeal against your sentence.

DOLI INCAPAX. One reader recently asked us for more information about this Latin term. In a UK legal context it means 'Incapable of crime'. The following is from the Government's 'The age of criminal responsibility in England and Wales' (note SN/HA/3001): "The age of criminal responsibility was raised from eight years old to ten, in 1963.

But the law continued to presume that children under fourteen did not know the difference between right and wrong (*doli incapax*) unless the prosecution proved otherwise, until 1999. So the difference is that, since 1963 a child under ten may not be tried or punished for any criminal behaviour, and until 1999 a child under fourteen could not be convicted unless the court could be satisfied that he knew what he was doing was seriously wrong, not merely naughty or mischievous.

The presumption was abolished by the Crime and Disorder Act 1998. In the White Paper *No More Excuses: A New Approach to Tackling Youth Crime in England and Wales*, published in November 1997, the Government emphasised that it considered the notion of *doli incapax* to be contrary to common sense and said that the presumption of *doli incapax* should be abolished rather than reversed, reiterating its view expressed in the consultation paper *Tackling Youth Crime*, which was published in September 1997."

PUPILS WHO MAKE MALICIOUS accusations against their teachers could face criminal prosecution under new guidance on school discipline issued by the Government. The Education Bill was introduced into the House of Commons on Wednesday 26th January 2011 and is making its way through the numerous Governmental stages before becoming law.

The next hearing is due 14th September 2011 in the House of Lords. Figures show that as many as one in four school staff have been accused of wrongdoing, often claims of assault, by pupils during their careers.

The new guidance tells head teachers they have the right to exclude either temporarily or permanently any pupil who makes a false allegation. In extreme cases, it adds, they should inform the police if they believe a criminal offence has been committed.

If you were a falsely accused carer or teacher, we strongly recommend you contact the excellent support group: Falsely Accused Carers & Teachers (FACT) at The Oaklands, Stroat, Chepstow, NP16 7LR.

PLANNING FOR SUCCESS. When you're falsely accused of committing an offence, your world is turned upside down. All you want to do is scream & shout and make people see the truth.

But you need to stay calm. People *do* prove their innocence and can reverse much of the damage caused.

The last thing on your mind is planning, setting goals and generally getting organised etc. And yet these are the most important tasks you need to work on if you're going to put things right.

Remember that our flawed legal system revolves around trying to achieve convictions and then stopping those convictions being overturned. Guilt or innocence plays little part in this process. So don't spend your time trying to **convince** people of your innocence – just get on with fixing the problem.

We'd like to take this opportunity to give you some tips on getting organised.

First, put aside an hour or so to sit down somewhere quiet where you are unlikely to be disturbed, and think. Think about where you are in your life today and where you ultimately want to be. This is goal setting in its most basic form. Have you just been falsely accused and need to disprove the allegations? Have you been convicted and are looking to appeal?

Write down a list of the goals you want to achieve over the next few **days**. These are your **short-term** goals and could include visiting or writing to a solicitor or calling on help from friends and family. Remember, too, that you need to include in your short term goals non-accusation-related tasks such as ensuring bills are paid on time. It's sometimes hard to keep on top of things like this but failure to do so causes more problems later on.

Write down a list of the goals you want to achieve over the next few **weeks**. These are your **medium-term** goals and could include arranging appointments with key people who might be able to assist you or your family, putting in place a better system for filing letters and keeping track of important documents, etc.

Write down a list of the goals for the next few **months & years**. These are your **long-term** goals. These would generally be all about what you want to do **after** you've successfully proved your innocence such as moving to a better home, building better relationships, etc. Many people don't set long-term goals because it feels pointless planning for things that are so far in the future – especially when there seem to be so many more urgent things that need doing right now. This, though, is a major mistake. Failure to plan is planning to fail; in two years' time you'll end up with the same problems you have today ... unless you plan for change.

Never quit! No matter how many times you try to achieve something without success, you only ever fail if you quit trying. Otherwise it's just taking another step towards success. Here's a question: How long should a baby keep trying to walk, and fall over, before he achieves his goal? Babies are smart: they simply never quit until they are able to walk. No wonder most people in the world master walking!

Remember that the only way people fail to achieve their goals is if they quit trying. These kinds of people may have lots of temporary setbacks but that's all they are – setbacks – not failure.

It's not what **happens** to you that controls whether you succeed or fail but rather it's how you **respond** to what happens to you.

From now on, consider whether your reaction is more likely to help or hinder you. If it will hinder you, don't do it! Try only to react in ways that will help you in the long run. For example, if someone's solicitor says they've got no chance of winning an appeal, they can either choose to get into an argument with the solicitor about it (which wastes time and won't achieve much) or just ask *why* they feel that way, find solutions to counter the solicitor's concerns, and then, if they still won't help, change solicitor.

Never agree to 'admit guilt' for something you did not do, just to get a smaller sentence. Firstly, it's difficult to appeal if you've already falsely claimed to be guilty, and secondly, the 'smaller sentence' argument is flawed. For example, if you've been charged with alleged indecent assaults against three different people (typically friends of each other or family members), none of which you committed, and you pretend to be guilty, you might get two years concurrent for each ($3 \times 2 = 6$ years) and winning an appeal becomes virtually impossible. But fight your case, you might get one not guilty and two guilty verdicts, for which you might be given $2 \times 2\frac{1}{2} = 5$ years and you still have the option to appeal.

Under-promise but over-provide. This simply means promising people that you'll do less than you intend to do and then try to achieve **more** than you promised. This builds confidence and trust in you and often opens doors for you that previously were firmly locked. For example, if you think you can produce a written statement required by your solicitor within 3 days, promise it within 5 days (under-promise) and try to get it done in 2 (over-provide). This way, no matter whether it takes 1, 2, 3, 4 or 5 days, the solicitor will be happy and respect you.

Expect others to over-promise and under-provide. Don't rely on other people's promises to live up to expectations. That doesn't mean you shouldn't trust people; it simply means that your goals and plans should not be reliant on other people's promises. So if a friend tells you they'll pay you the money they owe on Wednesday, don't promise someone else that you'll pay them what you owe them the same day just in case your friend pays late.

Don't give too much information away to those who can harm you. Yes, you need to be polite and co-operative with those in authority (e.g. the police, social workers, prison officers, etc.) but you must remember that the job of many of these people is to do things that could have a side effect of harming you and your family. Police want a conviction. Social Services might want to limit your children's contact with you. And so on. So if you're working on your appeal, don't let these people know anything about new evidence you may have which will help you; otherwise you may find they'll use it themselves to weaken your appeal.

Make sure you stay on track. At the end of each day ask yourself "What did I do today that moves me closer to my goals? What am I going to do tomorrow that moves me closer to my goals?"

Be **positive** but not **naïve**; believe that you can achieve great things but realise you'll have to put a lot of work into doing it. It won't come easy, but being positive (i.e. looking at the ways that you *can* make it work) instead of negative (i.e. looking at all the obstacles in your way and deciding that you can't get over them) will make all the difference. Surround yourself with other positive people who want to achieve success and help you to do the same. Find people in the same kind of situation and support each other.

Be **assertive** but not **pushy**; don't be afraid to be forthright in your fight for justice. That's what gets things done. Just make sure you're not being **aggressive** – that's a sure-fire way to get on the wrong side of the very people who might be able to help you.

Be **proactive** and not **reactive**; this means creating or controlling a situation by causing something to happen rather than responding to it after it has happened. Don't wait for a deadline to pass and then have to try to find good excuses for why you missed it.

Be **polite** but not **condescending**; saying "thank you" with a scowl on your face is very different to saying "thank you" with a smile.

Get yourself a good solicitor; this is easier said than done. A 'good' solicitor is one with a good track record of winning trials / appeals and replying to your letters – not one that promises the earth but constantly fails to deliver. So don't be afraid to ask how they've been doing recently. Ask what kind of evidence has resulted in a successful trial or appeal for them.

If you're in prison for an alleged sexual offence, we recommend you ask to 'go on the rule'. This is a prison rule (Rule 45 [YOI Rule 49]) under which some prisoners are segregated for their own protection, especially if they have been convicted (innocent or guilty) of a sexual offence or an offence against children. You are kept separate from other non-rule prisoners and are kept with other 'rule' prisoners instead. This will mean you are surrounded by other people in the same boat – often innocent themselves. Yes it's true that you're with the **real** sex offenders too but rarely are they a risk to other prisoners. It means you're safer and can support, and be supported, by other innocent prisoners. Be a little wary though ... not all those who claim to be innocent actually are.

Find things that you can do which are calming and relaxing. If you're a prisoner, you can visit the library, go to the gym, visit the chapel, walk outside in the prison grounds (this may be limited depending on your status), take up education, learn an instrument, etc. Make good constructive use of your time.

Share your success – however small – with SAFARI! Whether you win your appeal, qualify for Enhanced Status or just win the right to have a typewriter for legal or educational work, let us know how you achieved it so we can share (anonymously) with other readers.