



Supporting All Falsely Accused with Reference Information



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REBECCA HOWARD (20) has pleaded guilty to wasting police time after making a false allegation of rape. She has been given a four-month prison sentence, suspended for two years, and told to carry out 200 hours unpaid work. She must also pay £1,000 compensation to Kent Police and will be subject to a 12-month supervision order. Howard had originally claimed that two men had bundled her into a car and drove her to a car park before one of the men raped her. A major police investigation eventually proved that the offence had never happened.

PHILIP BUGG (37), a PE teacher at Sewell Park College in Norwich, has been cleared at trial of raping and sexually assaulting a young girl, after Judge Paul Downes decided it would be "dangerous" to let the case go any further. Philip wanted to thank his defence team including barrister Richard Wood, and also his family, friends, colleagues, pupils and former pupils for their "unswerving support". A Facebook group set up for him had been "liked" by nearly 750 people and described him as a "legend" and a "kind and helpful teacher". During the trial, the court heard how the girl, whose name is protected for legal reasons, had made the allegations of sexual and physical abuse to police after she spoke to a counsellor.

VICTORIA HAIGH (41) coached her 7-year-old daughter to make fake claims that her father was a paedophile, as part of a custody battle. She also launched a public campaign against her wholly innocent ex-partner David Tune, a senior High Court judge has said. After a series of private hearings, Sir Nicholas Wall decided to make his judgment public yesterday because "scandalous allegations" were put in the public domain "via email and the internet". He added: "The first judge found that allegations of sexual abuse made against the father of a young child were not just untrue but manufactured by the child's mother, who then caused her daughter to repeat them. Because the mother was wholly incapable of fostering a relationship between her daughter and the child's father, she refused to accept the judge's findings and continued to assert that the father was a paedophile, a second judge found that her mother had caused the child significant harm." The judge went on to say, "The father is entitled to tell the world, and the world is entitled to know, that he is not a paedophile, that he has not sexually abused his daughter and that the allegations made against him are false." The girl now lives with her father.

CLARIFICATION: 'Hearsay Evidence'. A few readers have misunderstood the true meaning of this term, so we're clarifying it here. Hearsay Evidence is evidence offered by a witness, about what someone else has told him or her. It is not simply when someone makes a false statement. Hearsay evidence is only evidence as to 'what was said, and by whom', and not as to the truth of what was said. Kate saying, "Peter told me he committed the crime" is evidence that Peter said this, but not as evidence that Peter actually committed the crime. An accuser stating "Mike did this to me!" (even if they are lying) is 'evidence' (despite not being corroborated) and is NOT 'hearsay'.

THE MAJORITY OF SAFARI READERS not in prison are now on our eMailing list but many are still receiving paper versions by post. Paper newsletters cost more and take much longer to arrive so if you're still receiving a paper copy and have web access, please eMail us on safari_editor@yahoo.co.uk.

ARE YOU INNOCENT AND IN PRISON? If so, your prison records are inaccurate; almost definitely. This is because they are written by people who have to work on the wrongful assumption that if you were *found* guilty, you must *be* guilty. There's little you can do about comments which state your convictions are correct, but you can ask for errors based on anything *following* the conviction to be corrected. For example, if your report states things like "Mr X *believes* that rules don't apply to him" or "Ms H refuses to accept that victims need to be protected" etc., put in a written application to have these statements either corrected or have your own comments added which point out the errors.

CORRECT POSTAGE NEEDED! Please note that we do not receive readers' letters if the postage paid is below the correct amount. The Post Office simply returns those letters a few weeks later.

THE GOVERNMENT WORKS FOR *YOU* so if you ever receive a letter from them stating "The Government has no plans to..." or "The Government is satisfied that the law provides satisfactory safeguards..." after you've asked them to take action, we strongly recommend you write back (gently and politely) *reminding* them that they are in office to *serve* the people, not to be *masters* of the people, and ask that they take action. Then forward any replies to SAFARI for our records; we'll use those replies to help formulate more effective future communications we have with the Government.

THANKS GO TO THE SAFARI READER who brought our attention to R v Steven Smith, Wayne Clarke, Bryan Hall & Jonathan Dodd [2011] EWCA Crim 1772 in which Judges Lord Justice Hughes, Mr Justice Maddison and Mr Justice Supperstone forced changes to Sexual Offences Prevention Orders ("SOPOs"). The ruling stated that certain blanket bans on activities were impermissible and therefore unlawful. So, for example, a blanket ban on Internet use was outlawed, being replaced by far more logical conditions such as only being allowed such access if the equipment had "the capacity to retain and display the history of internet use", that the device must be made available "on request for inspection by a police officer" and that the history should not be erased. In the same vein, a blanket ban on "possessing any device capable of storing digital images" was changed by adding "unless he makes it available on request for inspection by a police officer". These kinds of improvements are *much* more logical and fair, and allow the innocent access to sources they need to fight their appeal.

TO CONTINUE TO CONFIRM that there are successful appeals against conviction month after month, here's a selection that were reported between 15th July 2011 and 14th September 2011:

R V WAYNE PATRICK MALCOLM [2011] EWCA Crim 2069 – Theft – Quashed as the Recorder asked too many questions acting as an advocate and a second prosecutor.

R v AD [2011] EWCA Crim 2021 – Rape, indecent assault – Quashed as the Judge failed to direct the jury that they could only use one complainant's evidence to support the other's account if they were *sure* there was no collusion. (Judge's actual comment of "If ... you think that they may have got together and concocted a story, which is the defence case here, then that would perhaps point you in another direction", was not strong enough.)

R v JE [2011] EWCA Crim 2080 – Buggery & Indecent Assault - Very long delay between dates of alleged offences and the case being brought giving rise to an unfair trial.

Remember: other people's successful appeals set *precedents* which, if the circumstances are very similar in your own case, can help your legal team win *your* appeal. Precedents are like minor adjustments to the older laws, which have the effect of changing how the courts have to apply those laws.

Jim Fairlie's book, "Unbreakable Bonds" (ISBN: 1849630348) was reviewed by SAFARI in issue 79. Jim has been kind enough to provide SAFARI with the following article:

When I was confronted by my wife and family in October 1995 and accused of having sexually abused and raped my youngest daughter Katrina over many years, as well as running a paedophile ring and murdering a six year old girl, my world simply collapsed. My book "Unbreakable Bonds" details how, over the next eleven years, the entire family fought back to hold to account the psychiatrists who had subjected Katrina to Recovered Memory Therapy (RMT) thereby causing her to make the false allegations. Katrina eventually received an out of court settlement of £20,000 in 2007 but my attempt to sue those responsible was struck out in the Court of Session, on the grounds that none of the public officials owed me a duty of care.

When first confronted - my wife Kay explained what had happened to her the next day - Kay and I thought we were the only people in the world to which this had happened. It was several lonely months before we discovered the BFMS (British False Memories Society) and that I was only one of 400 who had contacted them. When I wrote a newspaper article in October 2003, the number of BFMS contacts had risen to 1,300 and the current figure is in excess of 2,500, despite the fact that RMT has been thoroughly discredited since the publication of the Brandon Commission in 1998.

There is every possibility that figure could have been greatly reduced - it has been in the USA where millions have been paid in compensation - if public officials could be held to account for their negligence and deliberate misdeeds. I am currently communicating with the SNP Scottish Government in Holyrood, in an effort to have the law of "Third Party Duty of Care" changed to provide the falsely accused access to natural justice. My early correspondence with the Justice Secretary Kenny MacAskill, as well as his Conservative and Labour Shadows has been encouraging in as much as they all concede there is an issue, which should be addressed. Unfortunately, they are currently relying on the 2005 House of Lords decision in the case of JD v East Berkshire Community Health NHS, which refused to grant a duty to wrongfully accused parents stating, "child abuse is a serious social problem... Uncompensated innocent parents pay the price, but that is a necessary price."

The unintended consequence of this refusal to grant a duty of care to falsely accused parents or others, is that psychiatrists et al can lie, destroy notes, fabricate files and whatever else is necessary in order to cover up their mistakes. My book provides reams of documentary evidence of all of that. In light of that, I have asked the Justice Secretary to say if the Scottish Government agree that public officials should be protected in this way and why; how many innocent families will be allowed to be victimised with no hope of redress, before the SNP Government changes the law?

We'd like to take this opportunity to thank Jim for supplying this article to SAFARI and wish him well in his efforts to improve the system.

SAFARI has just written this letter to the Prime Minister and Deputy Prime Minister:

Dear Mr Cameron / Mr Clegg,

Could you please seriously consider putting your support behind the following suggestions for changes to the Legal System? These suggestions are radical and are being made in an effort to help those affected by false accusations, but they also have a 'side-effect' of reducing crime, reducing prison numbers and saving the Government a great deal of money.

- (1) Introduce anonymity for all defendants until point of conviction (this is different to the Government's original flawed plan of doing this solely for alleged sex offenders as it doesn't give one type of crime priority over another and should therefore gain a far greater acceptance by the public). The innocent won't have their lives devastated by having their names published and there will be far fewer false allegations from people who target those in the news solely to help them make a wrongful claim to the Criminal Injuries Compensation Authority (CICA) whilst bolstering an already wrongful case.
- (2) Scrap the CICA; guaranteed financial payouts are the cause of many false allegations and wrongful convictions. Offenders simply check the CICA 'prize list' to decide which false allegation pays best (e.g. a false allegation of non-penetrative sexual indecent over clothing and against a child attracts £1,000, but a false claim of one under clothing pays you twice that).
- (3) Replace the CICA with a scheme designed to help people **recover** from what they actually suffered as a result of the crime. Only pay money if they lost money or the ability to earn it; otherwise offer free counselling, training, treatment, rehabilitation, and other forms of non-financial support.
- (4) Stop increasing overall prison capacity, which is expensive (roughly £40,000 per prisoner per year) and unnecessary; only imprison people who, left free, are likely to cause physical harm to others. In most cases, everyone else can serve time on licence with the threat of prison if they breach that licence, and earn or work to pay reparation for offences. (Financial reparation would need to be repaid in full if the person overturns their conviction.)
- (5) Prison harms prisoners' families far more than prisoners themselves. It's the innocent family which has to deal with the aftermath, the loss of income, and the high stress of prison visits (if these are even possible). It would be far better for the majority of prisoners to be out working, supporting their families, making reparation, doing community work etc., as well as attending any necessary courses to address any alleged offending behaviour. This also means that many more of the innocent (who were wrongfully 'found' guilty) will be able to work on their appeal - something that is phenomenally difficult to do from a prison cell - and multiplies the wrongful punishment enormously for the innocent.

- (6) Accept that **any** conviction overturned at appeal and not re-tried with a second conviction (which demonstrates that a conviction should not have occurred in the first place) should be grounds for compensation to assist the innocent in rebuilding what have often become shattered lives. Those who are wrongly imprisoned as a rule suffer far more long-term damage than the victims of violent crimes or psychological assault. Again, this should only compensate for what they actually suffered as a result of the false allegation. Lost income from employment or self-employment should result in financial compensation. Lost contact with loved ones should result in assistance to re-unite them. Loss of confidence as a result of the stress of conviction should result in free counselling, etc.
- (7) For those who **are** imprisoned, change the regime to have two basic prison types: Strict and Relaxed. All prisoners begin in a Strict prison and, after two weeks, any prisoner who behaves well and follows the rules is moved to a Relaxed regime; this can be in either a secure or open prison as appropriate. Failure to attend a course for which a prisoner is not eligible must **not** be included under the umbrella of 'misbehaviour'. Regular prisoner reviews take place and prisoners are moved between Strict and Relaxed regimes based on their **behaviour**; in most cases, prisoners will not need to be moved at all as their behaviour is unlikely to change on a regular basis. This will separate genuine troublemakers from those who either just want to do their time or work on proving their innocence. This will still provide incentives for good behaviour, and remove the 'extra punishment' for people wrongfully accused of sex offences who are 'required', but not 'allowed', to attend the Sex Offenders' Treatment Programme (SOTP).
- (8) Ensure that treatment of offenders on release is based on **actual statistical records of risk from research**. (For example, reoffending rates for sex offenders are actually very low.) It's amazing how many individual police officers, social workers and probation officers **think they know better** than what is shown by official Home Office research.

The results of our proposed changes are clear:

- a) Financial savings through reduced prison numbers and less wrongful CICA payouts.
- b) Reductions in false allegations as the financial incentive to make them disappears.
- c) Lower reoffending rates as prisoners will wish to remain in Relaxed prisons and generally make better use of their time in preparation for release.

If you think our ideas aren't feasible, we would appreciate an explanation of why you think that, and we'll come up with modified versions which address your concerns.

We look forward to hearing from you soon.