JUDGEMENT BY DISTRICT JUDGE JANE GOODWIN IN THE CASE OF R –v- LINDIS PERCY: 20 April 2012

Judge Goodwin rehearsed the 3 charges against Lindis Percy. “I remind myself that I must consider each charge separately when considering the evidence.”

I have heard the prosecution case, which extended over three days and am considering the case of ‘no case to answer’. I have heard submissions from both parties as I am required to do in law. [Judge Goodwin then read extracts from R –v- Galbraith …

> (1) If there is no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case. (2) The difficulty arises where there is some evidence but it is of a tenuous character, for example because of inherent weakness or vagueness or because it is inconsistent with other evidence. (a) Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case.

Having heard the evidence over three days Judge Goodwin concluded that the case for ‘no case to answer’ in this instance fell within the second limb of ‘Galbraith’.

Judge Goodwin reminded herself that she must look at the evidence as a whole and had to look at all the positives and all the negatives whilst hearing evidence in this case. The prosecution case arises out of incidents that took place on 16 August 2011. There is a weekly demonstration at Menwith Hill. The prosecution presented the case in relation to PC Proud that on that day he was looking at a vehicle which had been …. The prosecution case is that PC Proud was obstructed ………. He said that Lindis Percy said that the occupants of the car didn’t have to answer him ……. and being warned about her conduct she refused to move. In relation to PC Mattiya the prosecution say that he attended and had taken the driver away from the vehicle. In the case of PC Shields it is said that she was between the officer and the driver.

I have heard nine prosecution witnesses. ……. I have seen CCTV evidence on a number of occasions. I accept there are some consistencies in the case, but they are too general. When tested in cross-examination it appears that those witnesses did not assist the Crown because they were vague.

It appears to me that in some of the witnesses’ cases there was a case of selective memory. Some inconsistencies were there ……. relating to when, what and how these events occurred. The CCTV was relied upon by the defence. Although it was not of the clearest quality it was sufficient for the witnesses to identify themselves and some but not all of the others present. It was indeed most helpful. However, when the witnesses were faced with the CCTV each of the witnesses stumbled in their evidence. They were unable, and sometimes in my view unwilling, to say what happened or what was said at what point and at which time. The general impression given was that most of the witnesses were reluctant to correlate their recollection with what they were shown on the CCTV. I have assessed what I have seen and it seems to be at odds with the prosecution’s case. I have also heard that it was the defence and not the prosecution which initially requested the CCTV and I find that decision puzzling.

I heard evidence from DC Briggs, who did not make any note of this incident.

Officer Shields made note on that occasion, but they related to the occupants of the car. There is no mention of the defendant or any matter of obstruction. I am also concerned that in the evidence of PC Shields there was a difficulty about two identical statements, one dated 2 September and the other 18 September, and that remains a mystery. The only explanation given was that it was an error.

I also take account of the failure of the officers to interview the occupants of the vehicle. Several witnesses said that these people were central to this case. Indeed it seems to me that the occupants of the vehicle may have been the only independent witnesses in this case. Unfortunately, for whatever reason, no evidence was obtained from those witnesses.

Given the admissions in this case, given the inconsistencies of the evidence and given the failure in recollection ……. grave doubts arise as to the reliability and the veracity of the evidence.

These doubts are so grave that I am of the view that no properly directed Jury could convict the accused of the charges. I find that the evidence is so weak and vague that no sensible person could rely on it. The case is dismissed.

Both parties are at risk in relation to costs. Neither party is blameless in this case. There have been delays that could have been avoided if the case had been properly prepared.

Mrs Percy allowed out of pocket expenses, but no other order for costs.

COMMENT BY LINDIS PERCY

This criticism of myself I felt was somewhat unfair. I was a litigant in person and had huge struggles to obtain CCTV footage – backwards and forwards to the court. I had to make an application for a hearing because the Prosecution had not abided by the District Judge's ruling. In her ruling the District Judge also found the fact that the Prosecution did not rely on the CCTV evidence 'puzzling'.

The DJ said, at the aborted trial in January that she would consider a 'wasted costs' order after strongly criticising Simon Ostler's (Prosecutor) management of the case and for ignoring of her Directions. All in all he had in fact ignored her rulings three times during the lead up to the trial in April. She said that it was 'wholly, wholly unacceptable'. The DJ also gave a strong hint to Simon Ostler to drop the case by raising the question "Have you considered whether this case is in the public interest"?

Please refer to catalogue of hearings on CAAB website: www.caab.org.uk then CAAB report no: 256 and http://www.indymedia.org.uk/en/2012/01/491395.html - at the end of the second trial the DJ dismissed the case – no case to answer.