

MAURICE JOHN KIRK

Claimant

and

THE CHIEF CONSTABLE OF THE SOUTH WALES CONSTABULARY
Defendant

AMENDED PARTICULARS OF CLAIM

1. The Defendant is and was at all material times the Chief Officer of the South Wales Constabulary and the police officers hereinafter referred to were at all material times acting under the direction and control of the Defendant in the performance or purported performance of their functions.
- 2.1 On or about 9th February 1995 a police officer or officers laid an information against the Claimant at Barry Magistrates Court alleging that, whilst a pilot in command of a British registered aircraft, he had conducted a flight contrary to the provisions of the Prevention of Terrorism (Temporary Provisions) Act 1989.
- 2.2 A summons was issued against the Claimant and he appeared on a number of occasions before the Barry Magistrates Court to answer the charge.
- 2.3 On or about 12th May 1997 the prosecution was determined in the Claimant's favour at

Barry Magistrates' Court and he was found not guilty of the charge.

- 2.4 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

1. On the night before he made his flight from Cardiff to Weston near Dublin in about January 1995 the Claimant informed a special branch officer by telephone of his intended flight and was given clearance therefor.
 2. The Claimant filed a flight-plan in the course of his flight to Ireland.
 3. On his return from Ireland the following day the Claimant informed a special branch officer at the Cardiff airfield of his return.
 4. There was no evidence that the Claimant had committed the offence with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.
- 3.1 On or about 12th May 1996 a police officer or officers laid an information against the Claimant at Barry Magistrates Court alleging a number of traffic offences, including that he had crossed a barrier line, driven on a public road without due care and attention and without proper insurance cover.
- 3.2 As a result summonses were issued against the Claimant. He pleaded guilty to the charge of crossing a barrier line, but contested the other two charges.
- 3.3 On the basis of evidence from police officers on or about 21st January 1997 the magistrates at Barry convicted the Claimant on all charges and suspended his driving licence.
- 3.3 On or about 6th February 1998 the prosecution was determined in the Claimant's favour

when his appeal to the Cardiff Crown Court was allowed.

- 3.4 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

Apart from the offence to which the Claimant pleaded guilty, there was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in his guilt.

- 4.1 In about **January 1997** P.C. Roche stopped the Claimant as he was driving his Ford Orion on the Link Road in Barry, purportedly on the ground that he was not wearing a safety belt. Thereafter they laid an information against the Claimant at Barry Magistrates Court alleging a number of traffic offences, including that he had failed to wear a seatbelt; that his motor vehicle had defective rear lights, windscreen and bumper; that he was driving without insurance and without MoT certificate; and that he had failed to produce his driving licence, proof of insurance and proof of MoT certificate.
- 4.2 As a result summonses were issued against the Claimant. The charge of failing to wear a seatbelt was subsequently withdrawn.
- 4.3 On the basis of evidence from police officers the magistrates at Bridgend convicted the Claimant on all charges and imposed a six month ban on the Claimant.
- 4.3 The prosecution was determined in the Claimant's favour when his appeal to the Cardiff Crown Court was allowed.
- 4.4 The prosecution of the Claimant was instituted and continued by police officers

maliciously and without reasonable and probable cause.

Particulars

1. The police officers knew that the Claimant's vehicle was not defective as alleged and further knew that he had produced the relevant driving documents to the Duty Officer at Ely Police Station within seven days.
 2. There was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.
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- 5.1 In about **October 1997** the Claimant received a notice requiring him to identify the person driving his Escort van on a highway near St Nicholas, Vale of Glamorgan, which was allegedly exceeding the speed limit when photographed by a speed camera.
 - 5.2 The Claimant duly supplied the information required, including the name of the driver, one Kevin Fairman.
 - 5.3 Thereafter a police officer or officers laid an information against the Claimant at Barry Magistrates Court relating to the alleged traffic offence. As a result, the magistrates issued a summons against the Claimant.
 - 5.4 The prosecution was determined in the Claimant's favour when the summons was withdrawn at Barry Magistrates Court.
 - 5.5 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

1. The police officer or officers knew that the Claimant was not the driver of his car at the time of the alleged traffic offence.

2. There was no evidence that the Claimant had committed the offence with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.

6.1 On or about 16th March 1998 the Claimant was stopped by P.C. Holmes whilst driving in Southey Street, Barry and required to provide a breath sample.

6.2 Although the Claimant had not been drinking he was arrested at about 13.00 on the ground that the breath sample was positive. He was taken to Barry Police Station, where a further breath test was negative. He was released from custody at about midnight.

6.3 The arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to suspect that the Claimant was probably guilty of the offence for which he was arrested.

2. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.

7.1 On or about 4th July 1999 the Claimant was a passenger in his light aircraft, which was being piloted by Andrew Ashe and flying towards his airstrip at St Donats.

7.2 When the aircraft was about five miles from the airstrip a police helicopter flew up close behind it and moved from left to right and then above the aircraft.

7.3 The helicopter followed the aircraft in close formation until it landed and then hovered above it for some minutes.

7.4 There was no good reason for the police officers in the helicopter to have conducted

themselves in this manner.

8.1 At about 18.15 on 8th August 1999 the Claimant was stopped by police officers driving a marked police vehicle as he drove along the Pontyprydd Road in Barry. The reason given for stopping him by P.C. Abi Brown was that he had driven through a red traffic light.

8.2 P.C. Brown required the Claimant to provide a breath sample and then arrested him on suspicion of driving with excess alcohol.

8.3 The Claimant was taken to Barry Police Station, where a further breath test was negative, but he continued in detention until about an hour later.

8.4 The arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to suspect that the Claimant was probably guilty of the offence for which he was arrested.

2. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.

3. The Claimant was detained at Barry Police Station in breach of the Police and Criminal Evidence Act 1984 and for longer than was reasonably necessary.

8.5 P.C. Brown reported the Claimant for failing to produce his insurance and MoT certificates, driving without insurance and MoT, and failing to comply with a red traffic signal.

8.6 In consequence summonses were issued requiring the Claimant to attend at Barry Magistrates Court. At a subsequent trial at Bridgend Magistrates Court the Claimant was convicted.

8.7 The prosecution was determined in the Claimant's favour when the convictions were

overturned on appeal to the Cardiff Crown Court.

- 8.8 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

There was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.

- 9.1 At about 23.00 on 1st December 1999 as the Claimant was driving his BMW motor vehicle through Llantwit Major the Claimant was stopped by a vehicle occupied by PC Kihlberg and PC Humphreys.
- 9.2 One of the officers thereafter smashed the nearside rear window of the Claimant's car with his truncheon and arrested the Claimant for failing to provide a breath sample.
- 9.3 There was no good reason for the above police actions.
- 9.4 The Claimant was then taken to Fairweather Police Station, where two breath samples were negative. He was then served with a HORT1 form, requiring him to produce insurance and MoT certificates in respect of his car.
- 9.5 Following his release, the Claimant had to take a taxi to his car, some 20 miles away, at a cost of £20.
- 9.6 Upon his arrival at the scene of his arrest he discovered that his car had been removed. The Claimant reported to the police that his car was missing, but the police officers failed to inform him that it had been removed to a garage near Cowbridge on the instructions of the police.
- 9.7 Upon discovering the whereabouts of his car some weeks later, the Claimant informed

the police that he had recovered the car. No steps were taken to correct the information on the Police National Computer and, as a direct result thereof, the Claimant was arrested by officers of the Avon and Somerset Constabulary on or about 23rd January 2000 on suspicion of car theft.

- 9.8 Further, for a period of some six weeks the Claimant was deprived of the use of the car and became liable to pay removal and storage charges of £386.57.
- 10.1 On the night of 23rd January 2000 the Claimant was stopped as he drove along the A4050 by a police officer and required to provide a breath sample.
- 10.2 There was no good reason to stop the Claimant or to require him to provide a breath sample.
- 11.1 At about 11.00 on 5th April 2000, whilst the Claimant's car was stationary at the intersection of Newport Road and Albany Road in Cardiff, a police officer smashed the rear passenger window for no good reason. The Claimant was thereupon removed from the car and arrested for failing to give a breath sample.
- 11.2 The Claimant was taken to Roath Police Station and thereafter transferred to Rumney Police Station. There he was given two breath tests at about 12.04, which were both negative. Notwithstanding the negative breath tests the Claimant was detained in custody until about 14.02.
- 11.3 The arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to suspect that the Claimant was probably

guilty of an arrestable offence.

2. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.
 3. The detention of the Claimant beyond 12.05 was longer than was reasonably necessary and was in breach of the provisions of the Police and Criminal Act 1984.
- 11.4 The Claimant was charged with the offences of driving without valid insurance and MoT certificates, failing to wear a seatbelt and failing to provide a breath sample.
- 11.5 In May 2002 the prosecution on the first three offences was determined in the Claimant's favour in the Magistrates Court.
- 11.6 The prosecution of the Claimant on these three offences was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

There was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.

- 12.1 At about 22.35 on 16th August 2000 P.C. Rewbridge stopped the Claimant as he drove his Ford Escort on the A473.
- 12.2 The Claimant was required to produce a breath sample and was then arrested and taken to Bridgend Police Station.
- 12.3 Two breath samples taken at the Police Station were negative and the Claimant was released at about 23.29.
- 12.4 The arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to suspect that the Claimant was probably guilty of the offence for which he was arrested.
 2. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.
- 12.5 The Claimant was served with a HORT1 form requiring him to produce insurance and MoT certificates.
- 12.6 The Claimant was subsequently charged with dangerous driving and failing to produce a valid insurance document.
- 12.7 On 11th July 2001 the prosecution was determined in the Claimant's favour at the Cardiff Crown Court when the Judge directed the jury to acquit the Claimant on all charges.
- 12.8 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

- There was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.
- 13.1 At about 19.28 on 8th September 2000 P.C. Kihlberg arrested the Claimant in Church Street, Llantwit Major for "public order".
- 13.2 The Claimant was handcuffed and taken to Barry Police Station where he was detained in custody for a number of hours.

13.3 The arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to believe that the Claimant was probably guilty of the offence for which he was arrested.
 2. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.
 3. The Claimant was detained at Barry Police Station for longer than was reasonably necessary and in breach of the provisions of the Police and Criminal Evidence Act 1984.
- 13.4 The Claimant was charged with an offence under Section 5 of the Public Order Act 1986 and he appeared at Barry Magistrates Court on a number of occasions.
- 13.5 The prosecution was determined in the Claimant's favour when the Crown Prosecution Service decided that it was not in the public interest for the prosecution to proceed.
- 13.6 The prosecution of the Claimant was instituted and continued by police officers maliciously and without reasonable and probable cause.

Particulars

1. There was no evidence that the Claimant had committed the offences with which he was charged and the police officers had no reasonable and probable cause for belief in the Claimant's guilt.
 2. P.C. Kihlberg did not honestly believe that the Claimant had committed the offence for which he arrested and reported him and he was activated by spite in taking those steps.
- 14.1 On 13th December 2000 the Claimant was arrested by a police officer outside the

Cardiff County Court and taken to Fairweather Police Station where he was detained for about a further hour.

14.2 ~~The~~ arrest and detention of the Claimant were unlawful.

Particulars

1. There were no reasonable grounds to believe that the Claimant was probably guilty of an arrestable offence for which he was arrested.
 2. The arresting officer did not state the grounds on which the Claimant was arrested.
 3. The decisions to arrest and detain the Claimant were such as no reasonable police officer would have reached.
- 14.3 On or about 20th December 2000 police officers attended the Claimant's surgery in Cowbridge Road and required him to provide a breath sample. There was no good reason for this action and the breath sample was negative.
15. The Claimant relies upon the repeated instances of unjustified police action against him, which date at least from January 1993 and which are set out in the Particulars of Claim in Case No BS 614149-MC65 and above, as evidence of malice and the absence of reasonable and probable cause.
16. Further, the actions of police officers set out above constitute harassment within the meaning of section 1 of the Protection from Harassment Act 1997 and misfeasance in public office.

17. Unless restrained by the Court police officers will continue to harass the Claimant.

18. By reason of the matters aforesaid, the Claimant has suffered loss, damage, distress, anxiety, damage to his reputation and was deprived of his liberty.

Particulars

1. Travelling costs to attend court
- b. Loss of earnings and the cost of employing replacement staff when the Claimant was required to attend court
3. Court fees and other legal costs incurred in defending charges
4. Damage to motor vehicles

The Claimant is unable to provide precise particulars of his losses and expenses until such time as his former solicitors have returned his papers.

16. Further, by reason of the matters aforesaid the Claimant is entitled to aggravated damages.

17. Further, the actions of the said police officers were arbitrary, oppressive and unconstitutional and the Claimant claims exemplary damages.

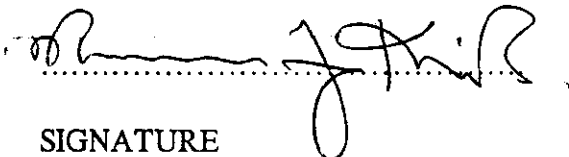
18. Further, the Claimant claims interest pursuant to Section 69 of the County Courts Act 1984 on such damages as he may recover, at such rate and for such period as the Court may deem fit.

AND the Claimant claims:

1. Damages, including aggravated and exemplary damages;
2. Interest thereon; and
3. An order that the Defendant shall not by himself or his servants or agents harass the Claimant whether by stopping him without legal justification whilst he drives on public roads or by requiring him without legal justification to provide breath samples or to produce documents or to attend at police stations and/or by arresting and detaining him without legal justification.

JONATHAN WATT-PRINGLE

The Claimant believes that the facts stated in this Amended Particulars of Claim are true.



SIGNATURE

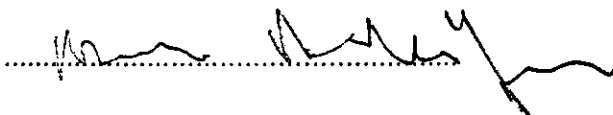
MAURICE J. KIRK

NAME

DATED this 1st day of June 2002

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DATED this 6 day of June 2002



Mark Auden Young