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(PLEASE NOTE: We cannot assist readers with their own cases)



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Convicting the innocent does nothing either to reduce crime or to protect victims. It simply creates more victims.

ALEC SMITH, who was 75 years old at the time of his conviction in 2017, has had that conviction for a historic indecent assault quashed by the Court of Appeal. He had consistently denied assaulting his accuser in the late 1960s, maintaining that all he had done was patted her on the leg. The Court of Appeal ruled the conviction was "unsafe" and based on "highly prejudicial evidence".

This highly prejudicial evidence consisted of what is known as "multiple hearsay", which was not admissible in evidence by any route. The prosecution had failed to provide any hearsay application before the trial, in breach of criminal procedure rule 20.2 (2); the consequence of this was that there was no considered or detailed written response from the defence. The absence of notice and response led to an unstructured and ill-thought-through discussion of the first hearsay statement on the first day of the trial. The judge was therefore given no adequate submissions on the admissibility of this hearsay evidence, and he never ruled on the issue, although he had indicated that he considered it to be "triple hearsay", and that on first principles he would not admit the triple hearsay evidence. No formal ruling was given as requested, the Judge merely saying: "I - well I'm going to but I mean - I want to press on with the case."

The prosecution then adduced the triple hearsay evidence anyway, both from the accuser and another witness.

The triple hearsay evidence consisted of the accuser saying, in effect, that Person A had told them that Person B had told Person A that Alec had told Person B that he had admitted the offence at the time. The second witness's evidence about the alleged confession was no more than her reporting that the accuser had previously told her this triple hearsay evidence (at which point it technically becomes quadruple hearsay). In this instance, Person A was now dead and could not be questioned, but Person B was still alive and had provided a recent statement saying that there had been no confession of an offence.

However, the jury had heard two accounts, from two separate individuals, that there had been an admission.

In speaking to the jury about this triple hearsay evidence, the judge did not direct them to place no reliance on the content of the alleged confession. Indeed, he gave them no formal directions at all on the point. In telling the jury that the reason why they had been permitted to hear the confession evidence was to assess whether or not the accuser had been consistent, the judge confused the analysis. In his second warning to the jury, the judge told them that if they found that the confession had been made and was not "limited to touching her leg", they could place weight upon it. The jury was then left to choose which to believe: the first-hand witness account of the appellant's former wife (Person B), and the multiple hearsay (which they should never have heard at all and therefore on which no weight could be placed).

The Court of Appeal ruled: "It is for those reasons that we have come to the conclusion that the conviction is indeed unsafe. This was highly prejudicial evidence and, in the context in which it fell to be considered, had the capacity to act as confirmation of the guilt of the appellant. It should not have been admitted, and the warnings given by the learned judge were, in our view, insufficient to remove the important prejudicial effect." The Provisions of the Sexual Offences (Amendment) Act 1992 apply to this case so we have not reported anything in the case which is likely to lead to the public identification of the victim. [R v Alec Smith [2020] EWCA Crim 777 – Case: 201900881]

THE CROWN PROSECUTION SERVICE'S job is to send your case to court for trial if there is a "realistic prospect of conviction" (See section 4.6 of The Code for Crown Prosecutors at <http://tinyurl.com/SAFARI38>). It is not based on whether you are likely to be guilty, and they will do everything they can to convince the jury that you are. When communicating with them, be open and honest but only provide the information they ask about, and information which helps to prove your innocence. Otherwise, despite being innocent, you might inadvertently provide them with additional information which they consider could sway the jury towards deciding you are guilty.

ARE YOU A PRISONER MAINTAINING INNOCENCE who has achieved Enhanced status? Please let us know how you achieved this, (ideally along with the type of offence you were accused of) as we'd like to share this information (anonymously of course) with other readers.

COVID-19 MAKES IT MORE DIFFICULT to keep in touch with your loved ones. However, Purple Visits and Prison Voicemail can help. Purple Visits are secure video calls that can take the place of prison visits and allow your 'visitor' to see and chat to their loved one via their smartphone or tablet (but not computer). See <https://tinyurl.com/safari-76> for more details. Prison Voicemail allows you to leave a prisoner a voicemail message. They can dial into collect that message and even leave a reply for you. See <https://tinyurl.com/safari-77>.

AN INNOCENT MAN WAS FALSELY ACCUSED by a group called "**Scorpion Hunters**" of trying to have sexual contact with a child which led to him being forced to spend 36 hours in police custody over the Christmas 2019 period. The man was only cleared when police arrested the real paedophile, Stephen Price, some months later. Mr Price had been using the innocent man's profile picture on a dating site to avoid detection. Scorpion Hunters then made the matter worse by 'naming and shaming' the innocent man but had incomplete information which resulted in the wrong person being arrested. Mr Price had contacted someone who called herself "Talia", who was really a woman from the Scorpion Hunters group. "Talia" had said she was 14. Still, despite this, Price sent her explicit pictures and videos and asked for indecent images of her. The man who was entirely innocent and initially accused by Scorpion Hunters went through hell and back following the false allegation.

Recently, another 'Paedophile hunters' group known as **Edinburgh Exposure** incorrectly identified a car belonging to an alleged paedophile and then published details on the web. Vandals who saw the car's details scratched slurs into the door and smashed out windows. The owner of the car, a 49-year-old father of three, has no connection with the suspected paedophile who was the intended target of the attack.



In February 2019 two members of Edinburgh Exposure, Robert Scoular (now deceased) and Katrina Scoular, who ran the group's FaceBook page, were slapped with ASBOs (Anti-Social Behaviour Orders) for live-streaming an attack on an innocent man on that page, which showed them shoving open the door of his home and heckling him for 45 minutes. Sheriff Frank Crowe said: "This was done purely for entertainment." Extra police had to be drafted in to secure the court, and others who claimed they had been falsely accused by the Scoulars held a silent protest there while they arrived.

In January 2020, another "paedophile hunter" group (group name not known) live-streamed, to thousands of followers on FaceBook, the arrest of a totally innocent 55-year-old man in Ormskirk, Lancashire. A spokesman for Lancashire Police stated that they were satisfied that this was a case of mistaken identity. They said: "We are confident the man originally named by this group was not involved in any attempts to groom children or commit sex offences, and he has no previous convictions for such offences."

Furthermore, in January 2020, "paedophile hunter" group **Angels of Innocence** were responsible for a 'sting' on yet another innocent man in Middlesbrough, who was accused on social media of offences he had not committed. Cleveland Police said that the accusation had a "detrimental impact" on the innocent man's family, employment and personal life.

A recent article in the Journal of Law and Society (<https://doi.org/10.1111/jols.12235>), entitled: 'Paedophile Hunters', Criminal Procedure, and Fundamental Human Rights' concludes: "Unless paedophile hunting is constrained by a narrower and more robustly enforced regulatory regime, it should not be permitted, let alone encouraged, in contemporary liberal democracies. [...]."

"Where paedophile hunters commit criminal offences in the pursuit of their targets (such as encouraging the commission of the s. 15 offence), both hunter and target should be prosecuted so that the conduct of both is meaningfully deterred. The CPS should issue clearer guidance on the breadth of offences that these groups can – and often do – commit, and the courts should not allow paedophile hunters to operate outside the constraints of police-led covert investigations. The institutions of the state have been too placatory towards paedophile hunters, and this approach is being exposed for its shortcomings with each passing report of a paedophile-hunting investigation gone wrong. A new approach is needed to safeguard not only those subject to paedophile-hunting stings and their families, but also the core institutional values of the criminal justice system."

MARGARET GARDENER, CEO of FASO UK (<http://www.false-allegations.org.uk/>) says: "How amazing that after the Henriques report into the Met's handling of the allegations against Cliff Richard and Paul Gambaccini, which was followed by the senior police officer's investigation into the validity of the report, a change in the re-training of police officers was made, all in the name of equality and fairness. Now that fewer accused are being sent to court and found guilty, or cases are dropped, there is an outcry that the accused are 'getting away with it'. How many of these are actually falsely accused? False allegations are buried by the media, government, police / CPS, the Victims' Commissioner, and the women's lobby, while there is no counter lobby for those being falsely accused - because if they try to raise their heads above the parapet, they are again vilified as society thinks 'there's no smoke without fire'. Women's groups argue that complainants' phones / computers being examined violates their human right to privacy. Sometimes the only evidence that can protect an innocent defendant is on those devices. People accused of offences will invariably have their phones/computer examined and their privacy compromised. The Liam Allan case demonstrates how important it is for the police to check the veracity of the complaint in this way in order to avoid miscarriages of justice. Police should be doing a thorough investigation into who is telling the truth, and digital evidence helps to show this. Those accused have never had the right to stop all their devices being seized - and the police have been doing so for the past 20 years, ever since I have been supporting in this field. What is equality here? The law is weighted on the side of those who shout the loudest and get the most media coverage, in order to browbeat the police / CPS, and the government who tend to give way to those creating such an outcry. It is about time the falsely accused and their supporters got together and started shouting with their evidence of the wrong being done against them, despite the pressures of being falsely accused a second time, as they have the temerity (it will be said) to tell the truth and shout out against the false accuser. Persecuting the falsely accused is the modern form of the witch hunt which ceased in the 1750's – you are damned if you stand up for the truth and forever after targeted, or when found not guilty, or there is no evidence against you. Justice needs to be that: JUSTICE – not support for those that can shout the loudest. To achieve justice, we need to find a balance for a failing system and work together to recognise those failings and redress the imbalance of these issues by discussion and debate. Genuine victims and the falsely accused need to be brought together in this so that all innocent individuals are supported fully."

ACCORDING TO THE HM CROWN PROSECUTION Service Inspectorate report "2019 rape inspection: A thematic review of rape cases" (see <https://tinyurl.com/safari-75>), they say "If 58,657 allegations of rape were made in the year ending March 2019 but only 1,925 successful prosecutions for the offence followed, something must be wrong. The National Criminal Justice Board has commissioned work to determine where exactly the justice system is failing victims." SAFARI is disappointed that, despite so many proved miscarriages of justice, the CPS still consider that a small number of convictions is bad news. As Margaret Gardener of FASO asks in this newsletter: "How many of these are actually falsely accused?" It is clearly entirely unacceptable to any intelligent and ethical person to increase the number of rape convictions by increasing the number of convictions of the innocent falsely-accused.

IN A LORDS DEBATE on 4th March 2020, Lord Campbell-Savours said: "My Lords, as the Carl Beech affair now draws to a close, is not the real scandal in its management the fact that decent, honourable people, who have and had given a lifetime of public service to their country, have had their reputations destroyed by the headline-grabbing accusations of ambitious self-publicists and irresponsible policemen, who believed and promoted the lies of a fantasist, and that the damage that these purveyors of untruth have done can never be mitigated? Surely the perpetrators of this huge injustice bear responsibility for what has subsequently happened and it rests on their conscience, and history will never forgive them." Baroness Williams of Trafford said: "I agree with much of what the noble Lord says. Once someone is falsely accused, that can never be undone and it can blight their entire life from that moment forward. There is some remedy in law - perverting the course of justice or perjury in court - but he is absolutely right that those allegations can never be reversed and can destroy lives for ever." Lord Paddick said: "My Lords, does the Minister not agree that complainants should always initially be cared for as genuine survivors of sexual offences but investigations should always be an objective search for the truth, and that there is no contradiction in such an approach?" Lord Grade of Yarmouth said: "My Lords, in view of the life-changing and career-ruining result of some of these accusations, is it not time that people were not named until charged? I wonder what the Government's attitude is to that. It would be a great remedy in future to protect public figures from ruination by glib accusations."

THE NEXT QUARTERLY SAFARI NEWSLETTER is due online on 1st Dec 2020. Postal copies are expected to arrive by 15th Dec 2020. The deadline for submissions for consideration is 6th Nov 2020.