

NOTE FOR FILE

**R v ATKINSON, ATKINSON AND HANVEY
CONSULTATION HELD IN THE DIRECTOR'S OFFICE AT 9 PM ON THURSDAY 26
FEBRUARY 2004**

Present: Director
Senior Assistant Director
Ivor Morrison
Gerry Simpson QC

The meeting considered whether and how the proceedings against Atkinson, Atkinson and Hanvey could be progressed in the light of difficult issues concerning the main witness, Andrea McKee.

The relevant facts were outlined as follows:-

1. Andrea McKee had been due to give evidence at Craigavon Court on 22 December 2003.
2. She telephoned police on 21 December saying that she could not travel because her child was ill with *inter alia* mumps.
3. On 22 December the defence, on being informed that Andrea McKee had been unable to travel because of her child's illness agreed to an adjournment of the proceedings subject to the Crown later producing satisfactory proof that the adjournment was necessary for the reason stated.
4. Andrea had subsequently told police and repeated to Christine Smyth and Ivor Morrison that on the evening of 19 December she and her partner had taken the child to an out of hours clinic in Wrexham. She described in detail telephone contact with and attendance at the clinic.
5. Police seeking documentary proof relating to the child's illness, despite extensive enquiries had been unable to uncover any confirmation of her contact with the clinic or her visit there. Interviews with doctors at the clinic, examination of records from the clinic and of telephone records strongly suggested that the contact and visit had not taken place.
6. Andrea continued to maintain that the visit had taken place as she alleged.

As a result of the above there was serious doubt about Andrea McKee's truthfulness regarding the alleged visit to the clinic. There is also concern about the significance of her receipt on

Tuesday 23 December of a threatening letter relating to her attendance as a witness in this case. It was also known that Andrea McKee had attended a medical examination on 23 December in connection with her admission to a nursing course and that her desire to attend this examination may have influenced her attitude towards attending court in Northern Ireland the previous day.

Mr Simpson expressed the view that Andrea McKee was not credible on the question of whether or not she attended the clinic on 19 December. While there was no reason to doubt that she was telling the truth about the main issue on which she was expected to give evidence for the Crown, her credibility as a Crown witness would nevertheless be damaged.

The Director said that he had to be sure that he had taken every proper step to advance the case and he expressed the view that in all the circumstances Andrea McKee may remain credible on the main issue. It was important that he should take an informed decision on how the case may be progressed in accordance with the directing test. He noted that Junior Counsel, Christine Smyth and Mr Morrison had conferred with the witness but that Senior Counsel, Mr Simpson had not yet seen the witness.

He requested that Mr Simpson now confer with the witness and provide written advices as to whether she can be presented as a credible witness.

He directed that a police officer should attend the consultation to record a statement as to what the witness had said. The consultation should take place as quickly as possible.

In the meantime the Court sitting in Craigavon on Friday 27 February should be requested to further adjourn the proceedings on the grounds that the Director had requested Senior Counsel to consult with the witness and provide him with written advices.

Mr Simpson agreed to confer with the witness for the purpose of advising on her credibility.

IVOR MORRISON
Assistant Director

DPP Ref: 238326

26 February 2004

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