

Thursday 7th October 2004, [REDACTED]

**BILL NO: 122/98**

**REGINA**

**-V-**

**JOHN HOBSON**

**BEFORE  
THE HONOURABLE LORD JUSTICE  
MCCOLLUM**

**ON**

**13 NOVEMBER 1998**

**AT**

**BELFAST CROWN COURT**

**TRANSCRIPT PROVIDED BY:**  
[REDACTED]

MR KERR: My Lord the second case for mention is Hobson.

Hobson is also in custody, but he has not been produced. My Lord will recall that there was an application by my learned friend, Mr [REDACTED], that he required further evidence. I'll let him deal with the position, but I understand he's still not involved. My instructions are again the Crown are ready to proceed with this trial when the Court can give us a date.

LORD JUSTICE McCOLLUM: Now Mr [REDACTED], it doesn't look as though you'll have to do too much explaining.

MR [REDACTED]: Though perhaps I could mention certain matters.

LORD JUSTICE McCOLLUM: Not that I'm not very happy to listen to what you have to say.

MR [REDACTED]: Being involved in one of the cases in this building, I take your Lordship's point about that position, but the position is, my Lord, that the two matters that were concerning us were as a result of the report which we obtained from Doctor [REDACTED], and on foot of his report his view was that we required a Neurosurgeon and Neuropathologist. Names have been furnished to us of two people who are willing and prepared to act, the second obviously from the mainland, and the position is that Doctor [REDACTED] has indicated that they would require to have the medical notes. This is a case where the assault occurred, and the death was some twelve days later.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: And the deceased was in two hospitals during that period.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: We made enquiries, or at least junior counsel made enquiries with counsel for the Central Services Agency. We were led to believe it would be informally disclosed to us.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: Someone has made the decision that should not happen, and that has just been furnished to us on Wednesday of this week. An affidavit and an ex parte application have been drafted and will be furnished to this Court with a view to us seeking to have it done through the Court.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: The second matter is that there's a situation, my Lord, during the remand period one of the matters (and again it's linked into the medical aspect) one of the matters that was canvassed by the Crown was that they were awaiting a report from England. Now as I understand it, the Crown do not have that report, but Professor Crane may have that report.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: So that, again, third party proceedings may well solve that matter.

The third matter is a matter which involves the Department, and the situation, my Lord, is that there were two persons who made statements to the police, who are referred to in documents as Witnesses 'A' and 'B' and insofar as they are concerned, matters which allegedly are in their statements were put to Hobson at interview.

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: By reason of the medical matters, we sought full statements. We're not concerned with the names or addresses or identity of the persons, in fact, from the disclosure we

have from other matters. We believe we know the identity, but we're not concerned that, but the situation is that we have sought the two original statements by those witnesses, and the Department's attitude is that:-

*There are two witnesses, 'A' and 'B'. They made statements identifying a number of people allegedly involved. A total of six were arrested and charged.*

*In a consultation with Crown Counsel those witness indicated to senior Crown Counsel they were not prepared to give evidence in court, and the Crown does not intend to rely on this evidence at the trial of your client.*

*The parts of the statements relevant to your client were put in interview, and your client was legally represented. The Crown consider that, therefore, the relevant passages of the statements have been disclosed to you. The Crown considers that the remaining portions of those statements are not relevant to an issue at the forthcoming trial and that, therefore, no duty of disclosure attaches".*

And one pauses to say: How can the Crown say, without knowing what our defence is, whether they are relevant or not relevant?

LORD JUSTICE McCOLLUM: Yes.

MR [REDACTED]: But one of the crucial issues concerns, they are two medical aspects. One concerns matters subsequent to his admission to hospital, but the initial matter which also concerns Doctor [REDACTED], concerns the injuries which he sustained and the cause of those injuries. And so we

consider that the statements of Witnesses 'A' and 'B' (not concerned about who they are) but we respectfully say that we are entitled to those. We have sought them and, as I say, that's the reply by the Department together with, adding on:- *It is considered that Counsel's notes have legal privilege.*

We never sought Counsel's notes; we simply sought the two original statements, with any identifications or names or whatever scored out or blackened out.

So that's the matter that concerns us in relation to those two witnesses, my Lord.

LORD JUSTICE McCOLLUM: Well are you intending to bring an application?

MR [REDACTED]: Well it may... I mean, if it had been a case, as I say, one thing - that the reasons are given. No case is made by the Crown that they are sensitive, so it's not a case that they have brought or intend to bring any ex parte application of their own.

LORD JUSTICE McCOLLUM: No, no.

MR [REDACTED]: So what we respectfully say is that perhaps those two statements could be provided to the judge who considers the ex parte in respect of the medical aspect of the case.

LORD JUSTICE McCOLLUM: Yes, I think you could make a combined application.

MR [REDACTED]: Yes, exactly.

LORD JUSTICE McCOLLUM: And if both sides were represented then, and everything was available to the judge, then he could rule on these matters.

MR [REDACTED]: Yes, indeed, that's what we're seeking.

LORD JUSTICE McCOLLUM: Yes.

MR KERR: If it's of assistance, I personally - although referred to as the person consulted - I personally have not considered the statements on the basis asked for, but I will consider them, and it may be we'll be able to resolve the difficulty. It may be.

LORD JUSTICE McCOLLUM: Yes, it may be, and I hesitate to suggest to counsel any time when the application should be made, but whatever suits counsel generally, because judges are available in the building here, but Friday morning, Friday morning we seem to have slipped into for dealing with these.

MR KERR: Yes my Lord, yes, indeed.

LORD JUSTICE McCOLLUM: Friday morning, I might be able to deal with it, or whatever judge, but Friday morning, and if you could give a bit of notice.

LORD JUSTICE McCOLLUM: Yes.

MR KERR: As your Lordship pleases. Could I say that it is clear from the evidence that my friend is entitled to collect, that it is highly technical evidence, and should it have fruit for my friend, it would require further consideration by the Crown. Accordingly, I would be anxious if the case was listed in the last week of this term, so that the case can be looked at, and the Crown can look at the evidence and get sight of it.

LORD JUSTICE McCOLLUM: Yes. Would you be happy to do that, yes.

MR KERR: Obligated, my Lord.