

MITIGATION- HMA-V-SHERIDAN 26TH JANUARY 2011

PREPARED BY MR SHERIDAN AND HIS SOLICITOR, AAMER ANWAR

YOUR LORDSHIP WILL NOTE THAT I WAS CONVICTED FOLLOWING TRIAL AND YOUR LORDSHIP HAS MY POSITION IN RELATION TO THIS.

SENTENCE WAS DEFERRED FOR SOCIAL ENQUIRY REPORTS WHICH I ASSUME YOUR LORDSHIP WILL HAVE HAD AN OPPORTUNITY TO CONSIDER?

IN ADDITION MY SOLICITOR MR ANWAR HAS FORWARDED TO YOUR LORDSHIPS CLERK YESTERDAY COPIES OF CRIMINAL LAW REVIEW 2003 ARTICLE ON PERJURY BY SUSAN EDWARDS

ALONG WITH CASE LAW WHICH I WILL REFER YOUR LORDSHIP TO LATER IN MY MITIGATION.

THERE ARE ALSO A NUMBER OF REFERENCES WHICH HAVE BEEN PROVIDED AT A LATE STAGE FOR YOUR LORDSHIP AND I WOULD WISH TO LODGE THESE FOR YOUR CONSIDERATION.

FOR THE PURPOSES OF SENTENCING I RECOGNISE THAT THE JURY CONVICTED ME OF CHARGE 2 PARAGRAPHS A, B,C, M AND O WITH DELETION

STANDING MY SUBMISSIONS MADE TO THE JURY I RECOGNISE THAT THEY CARRIED OUT A DIFFICULT TASK AND APPLIED THEMSELVES IN WHAT WAS AN INTENSE, COMPLEX AND ARDOUS TRIAL LASTING 12 WEEKS.

THE JURY WERE OUT OVERNIGHT AND I UNDERSTAND THAT THE COURT WILL BE AWARE THROUGH FAIR MEANS OR FOUL THAT IT WAS THE NARROWEST OF MAJORITIES .

I DO APPRECIATE HOWEVER THAT YOUR LORDSHIP CANNOT LOOK BEHIND THAT.

I RECOGNISE THAT WHEN YOUR LORDSHIP DEALS WITH SENTENCING OVER PERJURY THAT IT IS CONSIDERED A SERIOUS CRIME BECAUSE IT IS A CRIME THAT IS CONSIDERED TO STRIKE AT THE HEART OF THE ADMINISTRATION OF JUSTICE.

BUT I WOULD ASK YOUR LORDSHIP TO LOOK AT THE CONTEXT IN WHICH THIS CASE CAME TO PASS

THIS CASE AROSE INITIALLY OUT OF THE NEWS OF THE WORLD RUNNING AN ARTICLE ON THE 14TH OF NOVEMBER 2004 THAT WAS GROSSLY OFFENSIVE AND DEFAMATORY.

AS YOUR LORDSHIP WILL BE AWARE FROM THE TRIAL EVIDENCE THIS 5 PAGE ARTICLE- STATED THAT I HAD A FOUR YEAR AFFAIR WITH A FORMER ESCORT GIRL BY THE NAME OF FIONA MCGUIRE.

THESE ALLEGATIONS WERE ENTIRELY UNTRUE; THEY WERE WITHOUT A SHRED OF FOUNDATION AND LED TO MY ISSUING INSTRUCTIONS TO MY SOLICITORS AND THE FIRST LETTER FOR PROCEEDINGS BEING ISSUED BY THEM AGAINST THE NEWS OF THE WORLD ON THE 15TH NOVEMBER 2004.

OF COURSE FOLLOWING THIS INITIAL LEGAL ACTION A NUMBER OF OTHER MATTERS BECAME INTERTWINED WITH MY LIBEL CASE.

BUT I WOULD SUBMIT IT IS RECOGNISED THAT THE FIONA MCGUIRE STORY WAS A FALSE STORY.

IT WAS COMPLETELY UNTRUE.

IT WAS A PAID FOR PACK OF HURTFUL LIES.

I WOULD ASK YOUR LORDSHIP TO PAUSE AND REFLECT ON ONE OF THE MESSAGES THIS WHOLE CASE MAY REGRETFULLY COMMUNICATE TO THE PUBLIC

THAT NEWSPAPERS WITH LARGE CHEQUE BOOKS CAN PAY LARGE SUMS OF MONEY FOR FALSE STORIES WITH THE PARTICIPANTS IN THESE FALSEHOODS SAFE IN THE KNOWLEDGE THEY WILL NEVER FACE PROSECUTION FOR THEIR DISHONESTY.

I WOULD ALSO SUBMIT MY LORD THAT THERE ARE NUMBER OF OTHERS THAT COULD CLEARLY BE FACING CHARGES OF PERJURY BUT HAVE NOT.

OTHERS HAVE COME INTO THIS COURT AND ACCEPTED THEY LIED IN COURT ON A PREVIOUS OCCASION OR DURING THE COURSE OF THIS TRIAL.

ON A CHARITABLE VIEW A NUMBER OF WITNESSES GAVE DIFFERENT TESTIMONIES IN 2006 IN EDINBURGH TO THOSE THEY GAVE IN 2010 IN GLASGOW

I ACCEPT THAT YOUR LORDSHIP IS DEALING WITH MY CONVICTION OF PERJURY AND NOT THE OTHERS.

HOWEVER I SIMPLY RAISE THESE MATTERS ON THE BASIS

THAT YOUR LORDSHIP CANNOT IGNORE THE CONTEXT IN WHICH THIS TOOK PLACE.

I WOULD ALSO ASK YOUR LORDSHIP WHEN CONSIDERING HIS DISPOSAL TO PUT INTO PERSPECTIVE WHAT I HAVE BEEN CONVICTED OF.

I WOULD SUBMIT THAT IN SCOTTISH COURTS WERE ONE TO LIE IN A CRIMINAL TRIAL WHICH LED TO THE CONVICTION OF AN INNOCENT MAN ON THE CHARGE OF MURDER THEN IT IS LIKELY THAT THE MAXIMUM SENTENCE THAT WOULD BE IMPOSED WOULD BE ONE OF 5 YEARS.

OR AGAIN IF ONE WERE TO LIE TO ESCAPE A CHARGE OF MURDER BY PERJURY DURING THE COURSE OF A CRIMINAL TRIAL THEN THE SAME SENTENCE WOULD ARISE

THERE HAS BEEN MUCH HYPE, MUCH PUBLICITY- BEFORE, DURING AND AFTER MY TRIAL.

I WOULD FULLY EXPECT HIS LORDSHIP TO PUT THESE MATTERS OUT OF HIS MIND

BUT BEFORE SENTENCING I WOULD ASK YOUR LORDSHIP TO PAUSE AND REFLECT

THIS IS NOT A MURDER TRIAL, NOBODY HAS BEEN KILLED, NOR HAS AN INNOCENT PARTY BEEN IMPRISONED

I SAY THIS HOWEVER WITH THE CAVEAT THAT I AM AWARE YOUR LORDSHIP WILL BE VIEWING PERJURY AS AN EXTREMELY SERIOUS OFFENCE WHICH STRIKES AT THE ADMINISTRATION OF JUSTICE,

BUT IN MITIGATION I WOULD STATE THAT I RAISE THE EXAMPLE OF A MURDER TRIAL AS THE MOST SERIOUS OFFENCES OF PERJURY WHICH ARE LIKELY TO ATTRACT THE UPPER CEILING SENTENCES OF 5 YEARS.

IN PREPARATION FOR MY MITIGATION I WAS ADVISED THAT THE CRIME OF PERJURY IS RARELY PROSECUTED IN SCOTLAND.

AND THAT THIS IS IN FACT THE FIRST CASE OF ITS KIND ARISING FROM CIVIL PROCEEDINGS.

THUS IN APPROACHING THE QUESTION OF SENTENCING I HAVE HAD TO CONSIDER WHAT HAS HAPPENED IN ENGLAND.

I AM AWARE THAT IS NOT BINDING ON YOUR LORDSHIP BUT WOULD REFER YOUR LORDSHIP TO A NUMBER OF CASES.

A NUMBER OF HIGH PROFILE CASES HAVE BEEN FLAGGED UP WHICH INCLUDE THOSE OF JEFFREY AITKEN

WHO ON PLEADING GUILTY RECEIVED A SENTENCE OF 18 MONTHS FOR SUBORNING HIS DAUGHTER AS A WITNESS IN CIVIL PROCEEDINGS

I REFER YOUR LORDSHIP FIRSTLY TO THE CASE OF JEFFREY ARCHER- IN THIS CASE

WHICH HAS BEEN WIDELY PUBLICISED AS A COMPARATOR TO MINE I WOULD ADVISE YOUR LORDSHIP THAT

IN THIS CASE - WHICH IS IN THE BUNDLE BEFORE YOUR LORDSHIP AT **INDEX TWO**- IS AN APPEAL WHICH WAS LODGED AT THE COURT OF APPEAL CRIMINAL DIVISION

REFERENCE IS REGINA-V-JEFFREY HOWARD ARCHER 2002 EWCA CRIM 1996

IN THIS CASE MR ARCHER WAS CONVICTED FOLLOWING A SEVEN WEEK TRIAL IN JULY 2001 ON 4 COUNTS IN THE INDICTMENT

COUNT 1 AS YOUR LORDSHIP WILL SEE IN THE RUBRIC IN PARAGRAPH ONE ON PAGE 1 PERVERTING THE COURSE OF JUSTICE FOR WHICH HE WAS SENTENCED TO 2 YEARS.

COUNT 3 AGAIN WAS INTENT TO PERVERT THE COURSE OF JUSTICE FOR WHICH HE WAS SENTENCED TO 4 YEARS

COUNT 5 WAS PERJURY SENTENCED TO 3 YEARS

COUNT 6 WAS FOR PERJURY IN RELATION TO WHEN HE WAS GIVING EVIDENCE AND FOR THIS HE WAS SENTENCED TO 4 YEARS.

ALL THESE SENTENCES WERE ORDERED TO RUN CONCURRENTLY.

IN MY SUBMISSION I AM NOT REFERRING TO THE MERITS OF THE APPEAL WHICH WAS DISMISSED

BUT MERELY TO THE SENTENCE THAT WAS IMPOSED ON THE BASIS THAT THERE HAS BEEN MUCH TALK OF COMPARING THE ARCHER CASE TO MINE.

BUT I WOULD SUBMIT, MY LORD, THAT ARCHER WAS NOT SIMPLY ONE CHARGE OF PERJURY, BUT IN FACT TWO CHARGES OF PERJURY AND TWO OF PERVERTING THE COURSE OF JUSTICE.

THERE WAS ALSO A NUMBER OF AGGRAVATING FACTORS WHICH WOULD HAVE INCLUDED THE NUMBER OF OFFENCES COMMITTED WHICH LED TO A SENTENCE OF 4 YEARS

AND AS A RESULT THE APPEAL COURT DID NOT CONSIDER IT TO BE MANIFESTLY EXCESSIVE.

BUT IN MITIGATION I WOULD SUBMIT THERE WAS MULTIPLE CHARGES OF WHICH JEFFERY ARCHER WAS CONVICTED

INCLUDING SERIOUS ATTEMPTS TO PERVERT THE COURSE OF JUSTICE

INCLUDING AN EXCHANGE OF MONEY

THE UPPER SENTENCE IMPOSED DESPITE THESE AGGRAVATING FACTORS WAS STILL ONLY ONE OF 4 YEARS.

I WOULD ALSO REFER YOUR LORDSHIP TO CASE AT INDEX 3- THAT OF REGINA-V JOSEPH FELDMAN A COURT OF APPEAL CASE CITATION 1981 3 CRIMINAL APPEAL REGINA (S.) 20

IN THIS CASE WHILST IT IS NOT NECESSARILY SIMILAR IN CIRCUMSTANCES TO MY CONVICTIONS-

WHAT I DRAW YOUR LORDSHIPS ATTENTION TO IS

THAT THIS WAS THE CASE OF A 55 YEAR OLD MAN OF PREVIOUS GOOD CHARACTER

WHO HAD PLEAD GUILTY TO 2 COUNTS OF ACTING AS A DIRECTOR WHILST AN UNDISCHARGED BANKRUPT,

ONE OF TAKING PART IN THE MANAGEMENT OF THE COMPANY WHILE AN UNDISCHARGED BANKRUPT

AND THREE COUNTS OF PERJURY; FOR ALL OF THIS HE RECEIVED 9 MONTHS

THAT WAS REDUCED ON APPEAL TO 3 MONTHS IN VIEW OF THE APPELLANTS AGE AND GOOD CHARACTER.

IT WAS HELD IN THIS CASE THAT PERJURY MUST BE PUNISHED BY IMPRISONMENT SAVE IN VERY EXCEPTIONAL CIRCUMSTANCES, WHICH DID NOT EXIST IN THAT CASE OR IN MINE.

BUT IT WAS STATED IN THE COMMENTARY IN THE SECOND PARAGRAPH ON PAGE 1-

THAT THE APPELLANT WAS A MAN WHO WAS UNLIKELY TO OFFEND AGAIN, AND FOR WHOM THE MERE FACT OF IMPRISONMENT WAS THE REAL PUNISHMENT:

WHAT IS RELEVANT TO MY CASE I WOULD SUBMIT MY LORD IS THE LAST PARAGRAPH

“IN THE JUDGEMENT OF THIS COURT PERJURY MUST BE PUNISHED BY IMPRISONMENT, SAVE IN VERY EXCEPTIONAL CIRCUMSTANCES, WHICH DO NOT EXIST HERE. ONCE ONE HAS SAID THAT, HERE ONE HAS A MAN OF 55, WHO IS EXTREMELY UNLIKELY TO OFFEND AGAIN.

IN THE VIEW OF THIS COURT THIS IS A CASE WHERE THE MERE FACT OF IMPRISONMENT, THE CLANG OF PRISON GATES, IS THE REAL PUNISHMENT.....”

IN IMPOSING SENTENCE IN THE PRESENT CASE MY LORD

I WOULD SUBMIT THAT IF YOUR LORDSHIP IS CONSIDERING IMPOSING A DETERRENT SENTENCE THEN THE VERY ISSUE OF CUSTODY IS A DETERRENT ITSELF,

THE SOCIAL INQUIRY REPORT ASSESSES ME AS BEING AT A LOW RISK OF POTENTIAL RECONVICTION AND IMPORTANTLY ASSESSED AT A LOW RISK OF CAUSING HARM TO THE PUBLIC IN EVENT OF REOFFENDING.

I WOULD ASK YOUR LORDSHIP TO TAKE INTO ACCOUNT THAT SINCE BEING CHARGED IN DECEMBER 2007 I HAVE BEEN OF GOOD BEHAVIOUR

THE WHOLE IMPACT OF THE CLANG OF THE PRISON GATES IS THE REAL PUNISHMENT WHICH I WILL RETURN TO AGAIN IN MORE DETAIL.

I ACCEPT CUSTODY IS INEVITABLE AND WILL NOT TRY TO DISSUADE YOUR LORDSHIP FROM THAT

BUT I WOULD SUBMIT THE LENGTH OF THE SENTENCE IS VERY MUCH A MATTER OF SERIOUS DEBATE.

IN IMPOSING SENTENCE YOUR LORDSHIP CAN DRAW COMFORT FROM THE DICTA IN THE ENGLISH CASES THAT I REFER YOUR LORDSHIP TO.

I WOULD SUBMIT THAT THE PUNISHMENT IS THE CONVICTION ITSELF AND THE IMPACT THAT IT WILL HAVE ON THE REST OF MY LIFE AND MY FAMILY.

I WOULD ASK YOUR LORDSHIP NOT TO BE INFLUENCED, NOR DO I EXPECT YOU TO BE, BY WHAT HAS BEEN DISCUSSED OPENLY BY ARMCHAIR LAWYERS AND THE VINDICTIVE MEDIA WHEN DISCUSSING A SENTENCE OF 4 TO 5 YEARS.

ON SOME READING OF MEDIA REPORTS IT WOULD APPEAR THAT

THERE IS NO POINT IN MY ADDRESSING YOUR LORDSHIP AT ALL

IN MITIGATION AS YOUR MIND HAS ALREADY BEEN MADE UP

AND I AM TO BE SENT DOWN FOR 4 TO 5 YEARS.

THESE BACKROOM LAWYERS AND JOURNALISTS WITH AGENDAS HAVE ALREADY DECIDED AND ANNOUNCED MY FATE

HOWEVER MY SOLICITOR MR ANWAR IN ASSISTING ME IN

PREPARATION FOR TODAY'S MITIGATION HAS ASSURED ME THAT

YOUR LORDSHIP IS ABOVE SUCH SPECULATION AND IS NOT INFLUENCED BY SUCH BIASED AND SUBJECTIVE COMMENTS

AND THAT YOU WILL DECIDE MY SENTENCE ON THE BASIS OF THE FACTS AND MITIGATION PLACED BEFORE YOU TODAY.

OF COURSE MY LORD THE CIRCUMSTANCES IN WHICH PERJURY CAN BE COMMITTED ARE INFINITE.

SOMETIMES THE EFFECT UPON OTHERS IS DEVASTATING

FOR EXAMPLE WHERE, AS A RESULT OF PERJURY, A DEFENDANT IS WRONGLY CONVICTED IN A CRIMINAL TRIAL AND SUFFERS IMPRISONMENT.

THAT MY LORD I WOULD SUBMIT IS NOT A FEATURE HERE

YOUR LORDSHIP MAY WELL CONSIDER THAT THE EFFECT OF CIVIL PROCEEDINGS WAS TO CAUSE FINANCIAL LOSS TO NEWS INTERNATIONAL AND TO ALLOW ME TO GAIN FINANCIALLY.

HOWEVER MY LORD YOU WILL BE AWARE OF THE ORIGINAL UNTRUE STORY WHICH PROMPTED THE CIVIL LEGAL ACTION AND, DESPITE WHAT WAS SAID IN THIS CASE OR IN THE MEDIA,

I HAVE NEVER RECEIVED THE £200,000 WHICH THE JURY IN 2006 SPECIFICALLY DECIDED TO AWARD TO ME

YOU WILL APPRECIATE FROM MY HISTORY THAT MONEY OR FINANCIAL GAIN HAS NEVER BEEN A MOTIVATION FOR ME- IT IS A MATTER OF PUBLIC RECORD THAT WHILST AN MSP FOR 8 YEARS I GAVE HALF MY SALARY TO MY POLITICAL PARTY

AND MY LIFE HAS BEEN DEVOTED TO CHALLENGING INEQUALITY

THE SPECTRUM OF PERJURY IS VERY WIDE INDEED AND YOUR LORDSHIP MAY WELL CONSIDER THAT IN CASES OF THIS KIND THERE IS ONE VICTIM OF PERJURY AND THAT IS THE COURSE OF JUSTICE AND ITS PROPER ADMINISTRATION

AS A RESULT YOUR LORDSHIP WILL WISH NOT ONLY TO PUNISH ME BUT TO DETER OTHERS-

BUT I WOULD SUBMIT THAT SUCH A CASE IS UNLIKELY TO ARISE AGAIN AND IS UNIQUE IN ITS CIRCUMSTANCES

A SENTENCE OF IMPRISONMENT IS ALWAYS A HARSH BURDEN TO BEAR

BUT I WOULD SUBMIT THAT DOES NOT MEAN THAT YOUR LORDSHIP SHOULD IMPOSE A SENTENCE AT THE HIGHER LIMIT.

IT HAS BEEN A DIFFICULT EXERCISE TO FIND SENTENCING PRINCIPLES IN RELATION TO THE OFFENCE OF PERJURY IN SCOTLAND

SO I HAVE HAD TO CONSIDER THE PRINCIPLES ESTABLISHED BY THE ENGLISH COURT OF APPEAL.

ACCORDING TO RESEARCH CARRIED OUT BY A SUSAN EDWARDS FOR THE CRIMINAL LAW REVIEW 2003-

ENTITLED PERJURY AND PERVERTING THE COURSE OF JUSTICE CONSIDERED- THIS IS IN INDEX 1 OF THE BUNDLE-

IT IS CLEAR FROM THIS EMPIRICAL STUDY THAT WAS CARRIED OUT

THAT THE UPPER END OF THE TARIFF IS ONLY IMPOSED WERE

OFFENCES AGAINST JUSTICE WERE COMMITTED INVOLVING MURDER OR LARGE SCALE CRIMINAL CORRUPTION, WITH ONE OR TWO EXCEPTIONS.

I REFER YOUR LORDSHIP TO THIS REPORT FIRSTLY TO PAGE 2 OF THE REPORT WHICH DEALS WITH PROSECTIONS FOR PERJURY BETWEEN 1991-AND 2000.

THE TABLE IS ATTACHED IN A READABLE FORMAT AT THE BACK OF INDEX 1

FOR DEFENDANTS PROCEEDED AGAINST IN THE CROWN COURT FOR PERJURY BETWEEN 1991 -2000

THE TOTAL OVER A DECADE CONVICTED WAS 830

OF THESE 437 WERE SENTENCED TO IMPRISONMENT

OUT OF THAT 437 ONLY 1 RECEIVED A SENTENCE OF BETWEEN 5 AND UP TO 7 YEARS

OUT OF 437 ONLY 3 CASES RECEIVED SENTENCES OVER 4 YEARS AND UP TO 5 YEARS

AND OUT OF 437 CASES ONLY 3 RECEIVED SENTENCES OF OVER 3 AND UP TO 4 YEARS

WHEREAS THERE WHERE 11 CASES OF OVER 2 YEARS AND UP TO 3

AND SO ON MY LORD.

IF ONE TURNS TO PAGE 5 OF THE REPORT

IN THE PARAGRAPH ON GENERAL SENTENCING IT IS ACCEPTED THAT SUCH OFFENCES STRIKE AT THE HEART OF THE LEGAL PROCESS ITSELF

BUT IT THEN REFERS TO THE CASE OF RICHARD OAKENFULL AND SUSAN WALSH WHO WERE JAILED FOR 4 YEARS AND 18 MONTHS RESPECTIVELY FOR THEIR PART IN TRIAL FIXING INVOLVING BOTH PERJURY AND PERVERTING THE COURSE OF JUSTICE

BUT ACCORDING TO THE REFERENCE THIS TRIAL INVOLVED 30

DEFENDANTS IN 1991 WHO HAD LIED ON OATH TO PROTECT AN

ANTIQUES DEALER WHO HANDLED 1.25 MILLION POUNDS WORTH OF STOLEN ANTIQUES, OBTAINED AS A RESULT OF VIOLENT RAIDS ON COUNTRY HOMES.

IT THEN GOES ON TO REFER TO THE CASE OF DUNLOP WHICH IT STATES THAT THE

“GREATEST INDIVIDUAL HARM IS THE FALSE INCRIMINATION OF AN INNOCENT PERSON. THERE IS ALSO THE HARM TO VICTIMS AND THEIR FAMILIES THAT FLOWS FROM A DEFENDANT AVOIDING A CONVICTION FOR A SERIOUS OFFENCE.”

I REFER YOUR LORDSHIP TO THIS CASE AT INDEX 4

REGINA- V –WILLIAM VINCENT DUNLOP

2001 2 CRIMINAL APPEAL R S 27

HERE THE PERJURY WAS IN THE APPELLANTS OWN DEFENCE IN A MURDER TRIAL AND THEN REPEATED IN A RETRIAL.

IN THIS CASE A SENTENCE OF 6 YEARS WAS IMPOSED- HE WAS SENTENCED TO 6 YEARS FOR EACH COUNT OF PERJURY.

THIS WAS A CASE WHERE THE ACT OF PERJURY COMMITTED COULD HARDLY HAVE BEEN GRAVER.

GOING BACK TO THE CRIMINAL LAW REVIEW AT PAGE 6 AT THE FIRST PARAGRAPH IT STATES

THAT THE LONGEST PRISON SENTENCES PASSED IN CIVIL PERJURY HAVE BEEN PASSED IN THE CASE OF AITKEN (18 MONTHS) AND ARCHER (4 YEARS)

IN ARCHER, THE COURT OF APPEAL SEEMED TO AT ONE POINT TO ENDORSE THE VIEW THAT THE CIVIL PERJURY WAS PERHAPS LESS SERIOUS THAN CRIMINAL PERJURY.

“PERJURY ,MAY BE COMPARATIVELY TRIVIAL IN RELATION TO CRIMINAL PROCEEDINGS OR VERY SERIOUS IN RELATION TO CIVIL PROCEEDINGS. NO DOUBT WHETHER PROCEEDINGS WERE CIVIL OR CRIMINAL IS ONE OF THE FACTORS PROPER TO BE CONSIDERED.”

ALTHOUGH THEY DID GO ONTO SAY THIS DOES NOT NECESSARILY LEAD TO A DISTINCTION IN THE LEVEL OF SENTENCE.

BUT AT PAGE 6 OF THE LAW REVIEW THE MIDDLE SECTION DEALS WITH THE QUESTION OF PROPORTIONALITY.

THIS DEALS WITH PUNISHMENT BEING COMMENSURATE WITH THE GRAVITY OF THE INDEX OFFENCE- AND REFERS TO THE CASE OF DUNLOP

BUT ALSO THE CASE OF KEITH FOAD WHO RECEIVED A THREE YEAR

SENTENCE FOR PROVIDING A FALSE ALIBI FOR TRACEY ANDREWS

WHO WAS SUBSEQUENTLY CONVICTED OF THE MURDER OF HER BOYFRIEND.

I REFER YOUR LORDSHIP THEN TO THE SECOND TO LAST PARAGRAPH on –Page 6 of the review

WHICH STATES

THAT SENTENCING PRACTICE FOR PERJURY IS ALSO INFLUENCED BY AGGRAVATING AND MITIGATING FACTORS AND LISTS THESE

BUT IMPORTANTLY IT REFERS TO THE SCOTTISH CASE OF BILLY LOVE WHO RECEIVED A SIX YEAR SENTENCE FOR PERJURY- HIS LIES HAD RESULTED IN TC CAMPBELL SERVING 12 YEARS OF A LIFE SENTENCE FOR KILLING 6 MEMBERS OF THE DOYLE FAMILY.

JOE GRANGER RECEIVED A 5 YEAR PRISON SENTENCE FOR PERJURY FOR LYING ABOUT HIS PART IN THE KILLING OF THE DOYLE FAMILY.

OF COURSE YOUR LORDSHIP WILL CONSIDER THAT PUBLIC STANDING AND REPUTATION MAY OPERATE AS AN ADDITIONAL AGGRAVATING FACTOR RATHER THAN A MITIGATING FACTOR.

AND ON PAGE 7 OF THE LAW REVIEW IT REFERS AGAIN TO THE CASE OF JEFFREY ARCHER. IT STATES AT THE MIDDLE OF THE FIRST PARAGRAPH

“JEFFREY ARCHER’S PRISON SENTENCE IS THE LONGEST PASSED IN ANY CASE OF CIVIL PERJURY AND THE SENTENCE IS COMPARABLE TO PRISON SENTENCES PASSED IN THE GRAVEST CASES OF CRIMINAL PERJURY INCLUDING MURDER AND POLICE CORRUPTION

I WOULD SUBMIT IN MY CASE THAT IT COULD NOT BE DESCRIBED AS COMPARABLE TO THE GRAVEST CRIMINAL PERJURY OF MURDER CASES.

IN ADDITION MY LORD I WOULD SUBMIT THAT WHILST IT IS INEVITABLE THAT I FACE A CUSTODIAL SENTENCE

I WOULD ASK YOUR LORDSHIP TO TAKE INTO ACCOUNT THE LAW REVIEW ARTICLE 2ND PARAGRAPH ON PAGE 8

IT WAS NOT UNTIL 1971 THAT A SENTENCE OF OVER 4 YEARS AND UP TO 5 YEARS IMPRISONMENT WAS PASSED FOR PERJURY.

TODAY A SENTENCE OF THREE YEARS REMAINS AN EXCEPTIONAL COURSE.

FROM 1981-2000 ONLY 11 DEFENDANTS RECEIVED SENTENCES OVER 3 YEARS.

OF 7 CASES TRACKED 2 SUCCESSFULLY APPEALED SENTENCES TO BELOW 3 YEARS

THE REMAINING CASES APPEARED TO INVOLVE MURDER OR THE FALSE IMPRISONMENT OF A POLICEMAN FOR 17 YEARS

I WOULD REFER YOUR LORDSHIP TO THE CONCLUSION OF THE REPORT AT TOP OF PAGE 9 WHICH STATES:

THIS STUDY REVEALS THAT PRISON SENTENCES OF OVER THREE YEARS AND ABOVE FOR BOTH PERJURY AND PERVERTING THE COURSE OF JUSTICE, WITH ONE OR TWO NOTABLE EXCEPTIONS ARE IMPOSED IN CASES WHERE THE INDEX OFFENCE OR CIRCUMSTANCES IN WHICH THE OFFENCE AGAINST JUSTICE WAS COMMITTED IS VERY GRAVE INCLUDING MURDER OR LARGE SCALE CRIMINAL CORRUPTION"

I WOULD SUBMIT MY LORD THAT IN MY CASE THE OFFENCES OF WHICH I AM CONVICTED DO NOT INVOLVE VIOLENCE

AND

THEREFORE DO NOT INVOLVE HARM OR A RISK OF HARM WHICH IS BORNE OUT BY MY SOCIAL ENQUIRY REPORT.

I ONCE AGAIN REITERATE THAT YOUR LORDSHIP WILL CONSIDER THESE OFFENCES TO BE AGAINST JUSTICE

BUT IT IS ALSO TRUE THAT THERE IS A LACK OF CONSISTENCY IN THE CURRENT OPERATION OF THE LAW OF PERJURY.

I WOULD REFER YOU TO A RECENT CASE THAT IS NOT A CITED CASE BUT PROCEEDED TO TRIAL AT EDINBURGH SHERIFF COURT REFERRED TO IN A BBC REPORT AT INDEX 5

ON AUGUST 10TH LAST YEAR A TEACHER JOHN MANN WAS FOLLOWING TRIAL AT EDINBURGH SHERIFF COURT SENTENCED TO TWO YEARS

AFTER HAVING CLAIMED IN A TRIAL IN 2006 THAT HE HAD ACCIDENTALLY GLASSED SOMEONE IN A CITY CENTRE BAR,

CCTV LATER REVEALED THAT HE HAD DELIBERATELY GLASSED THE INDIVIDUAL IN THE FACE.

A JURY HAD ORGINALLY FOUND HIM NOT GUILTY AFTER HE SAID HE HAD BEEN REPEATEDLY HIT BY TWO PEOPLE AND THAT THE INJURIES HE INFLICTED ON MR ALLISON WERE ACCIDENTAL.

DESPITE HIS TESTIMONY, CCTV IMAGES OF THE INCIDENT LATER SHOWED MANN THRUSTING A GLASS INTO MR ALLISON'S FACE AS HE SAT DOWN, WITHOUT WARNING OR PROVOCATION.

THE ATTACK LEFT MR ALLISON PERMANENTLY DISFIGURED.

AGAIN MY LORD I WOULD SUBMIT THAT EVEN IN A CASE INVOLVING SERIOUS VIOLENCE AND PERMANENT DISFIGUREMENT IT WAS PROSECUTED AT SHERIFF AND JURY LEVEL

IT WAS THE PERJURY WHICH HAD ORIGINALLY RESULTED IN THE AVOIDANCE OF AS PRISON SENTENCE

SUBSEQUENTLY THAT INCIDENCE OF LED TO A SENTENCE OF TWO YEARS

I APPRECIATE THAT YOUR LORDSHIP IS LIKELY TO DEAL WITH MY MATTER ON THE BASIS IT PROCEEDED AT THE HIGH COURT RATHER THAN THE SHERIFF COURT.

BUT I AGAIN DRAW YOUR LORDSHIPS ATTENTION TO THE LACK OF CONSISTENCY

COURT OF APPEAL CASE OF R V QAYYUM 1967 CRIMINAL LAW REPORTS 597- WHICH IS AT INDEX 6

AGAIN THIS A OFFENCE OF PERJURY WHICH RESULTED IN 3 YEARS SENTENCE

AFTER THREE INDIVIDUALS WERE CONVICTED OF INFLICTING SERIOUS BODILY HARM

WHEN THEY HAD KIDNAPPED A YOUNG MAN AND BEAT HIM UNTIL HE GAVE CERTAIN INFORMATION.

THE INDIVIDUAL HAD NO PREVIOUS CONVICTIONS AND FOLLOWING TRIAL WAS SENTENCED TO 3 YEARS WHICH ON APPEAL WAS REDUCED TO TWO YEARS.

DEALING WITH THE PRESENT CASE MY LORD AND OF WHAT I AM CONVICTED

I WOULD SUBMIT MY LORD THAT THIS CASE WAS NOT DEALT WITH BY MY ME IN A FRIVOLOUS MANNER- I TOOK A SERIOUS AND ANXIOUS DECISION TO DISPENSE WITH COUNSEL

ASSISTED BY JUST MY SOLICITOR MR ANWAR

WE ENSURED THAT COURT TIME WAS NOT WASTED AND THE TRIAL WAS COMPLETED WITHIN THE TIMETABLE OF 12 WEEKS.

NOR I WOULD SUBMIT WAS THE DEFENCE A FRIVOLUS ONE-

IF ONE CONSIDERS THE INDICTMENT I FACED AT THE START IT WAS WITH CHARGE ONE OF WHICH I AM ACQUITTED

AND IN RELATION TO CHARGE TWO THESE WERE SEPERATED INTO 15 SEPARATE PARAGRAPHS.

I AM IN FACT CONVICTED OF CHARGE 2 PARAGRAPHS A, B , C WHICH RELATES TO ADMISSIONS AT THE SSP MEETING BUT IN ESSENCE THE SAME MEETING

AND CONVICTED OF PARA M OF ATTENDING CUPIDS

AND OF PARAGRAPH O OF A SEXUAL RELATIONSHIP WITH KATRINE TROLLE-

IN THE END I WAS ACQUITTED OF TWO THIRDS OF THE CHARGES THAT I ORIGINALLY FACED

IN ADDITION THE JURY FOUND ME NOT GUILTY OF THE CHARGE OF HAVING A SEXUAL RELATIONSHIP WITH ANVAR KHAN BETWEEN 1ST JANUARY 1994 AND 11TH AUGUST 2003-

THIS IS DESPITE HER FORMING A PIVOTAL ELEMENT OF THE PROSECUTION CASE AGAINST ME.

THIS REJECTION MEANS THE JURY DID NOT BELIEVE A SUBSTANTIAL PART OF HER EVIDENCE

AND IT IS ALSO THE CASE THAT THAT THE JURY DELETED ANY REFERENCE TO KATRINE TROLLE HAVING BEEN IN THE MARITAL HOME.

AGAIN I WOULD SUBMIT THAT THE JURY WILL HAVE REJECTED HER EVIDENCE IN RELATION TO THAT GRAVE AND FALSE CLAIM

DESPITE CLAIMING TO HAVE DRAWN A DIAGRAM OF MY HOME AND CLAIMING THERE WAS A SUNBED IN MY HOUSE.

SO IN ESSENCE MY LORD I WAS AQUITTED OF TWO THIRDS OF THE ORIGINAL CHARGES I FACED

AND MORE IMPORTANTLY MY WIFE GAIL WAS OF COURSE AQUITTED OF ALL CHARGES SHE FACED.

I WOULD ALSO ASK YOUR LORDSHIP

TO TAKE INTO ACCOUNT THAT THE NEWS OF THE WORLD HAD FOLLOWING THE RESULT OF THE LIBEL CASE RAISED AN APPEAL

THEY CISTED THEIR CIVIL APPEAL UNTIL THE CONCLUSION OF THESE PROCEEDINGS.

THEY OF COURSE STILL HAVE A LEGAL REMEDY TO TRY AND HAVE THE DECISION OF THE JURY IN EDINBURGH OVERTURNED

THERE ARE OF COURSE ADDITIONAL POTENTIAL CONSEQUENCES OF THIS FOR ME AND MY FAMILY AS A PUBLIC STATEMENT WAS ISSUED BY THE NOTW

IN THAT THEY INTEND TO SUE ME AND TO POTENTIALLY BANKRUPT ME BY PURSUING ME FOR LEGAL COSTS IN THE PROCESS.

I WOULD ASK YOUR LORDSHIP TO TAKE INTO ACCOUNT

THESE PROCEEDINGS HAVE BEEN HANGING OVER BOTH ME AND MY WIFE FOR OVER THREE YEARS.

THERE WAS THE ADDED IMPACT OF THE NEWS OF THE WORLD WHO PURSUED ME IN WHAT THEY CLAIMED TO BE THE PUBLIC INTEREST IN 2004.

THIS PAPER IS PART OF AN ORGANISATION I HAVE SPENT MOST OF MY ADULT LIFE FIGHTING.

THEY HAVE THE POWER AND MONEY TO DESTROY PEOPLES LIVES WITH WHAT APPEARS TO BE TOTAL IMMUNITY FROM CRIMINAL INVESTIGATION FOR ILLEGAL ACTIVITIES THEY ENCOURAGE AND PAY FOR

EVIDENCE OF COURSE WAS PRODUCED OF GLENN MULCAIRE HAVING MY MOBILE PHONE NUMBER AND PERSONAL DETAILS BUT HE SUBMITTED A SICK NOTE AND DID NOT GIVE EVIDENCE IN MY TRIAL

SUBSEQUENTLY ANDREW COULSON HAS RESIGNED

AND IT MAY BE THAT ONE DAY WE WILL LEARN WHETHER THE TRUTH WAS TOLD BY THE NEWS OF THE WORLD IN RELATION TO HACKING OF MY MOBILE PHONE AND OF OTHERS.

OF COURSE THAT IS NOT A MATTER FOR YOUR LORDSHIP BUT FOR ANOTHER FORUM AND ANOTHER COURT

BUT IN ANY EVENT THE CONDUCT OF THE NEWS OF THE WORLD HAS HAD AS SERIOUS IMPACT ON MY FAMILYS LIFE.

MY WIFE AND I HAD TO SUFFER THE DISTRESS OF THESE PROCEEDINGS FOR THREE YEARS.

THE LENGTH OF THE TRIAL CAUSED SIGNIFICANT DISTRESS TO BOTH MY WIFE AND BUT ALSO MY FAMILY.

A 12 WEEK TRIAL TOOK ITS TOLL ON MY HEALTH AND ON MY PIECE OF MIND

BUT ESPECIALLY THAT OF GAIL, WHO DESPITE ENDURING THREE YEARS OF PROCEEDINGS, 12 WEEKS OF TRIAL HAD ALL CHARGES DROPPED.

I WOULD ASK YOUR LORDSHIP TO TAKE THESE MATTERS INTO ACCOUNT WHEN CONSIDERING THE PUNISHMENT ELEMENT OF SENTENCING.

IN ADDITION MY LORD I WOULD ALSO ASK YOU TO TAKE INTO ACCOUNT THE REFERENCES WHICH HAVE BEEN PROVIDED TO YOU.

I ACCEPT IN THE END THAT YOUR LORDSHIP WILL BE SENTENCING ME ON THE BASIS OF THE VERDICT OF THE JURY

AND I ACCEPT THAT VERDICT WAS ARRIVED AT AFTER CAREFUL CONSIDERATION BY 14 MEMBERS OF THE JURY.

BUT MY LORD IF I CAN NOW TURN TO THE SOCIAL ENQUIRY REPORT- I DO NOT INTEND TO REHEARSE ITS CONTENTS BUT DEALING WITH SPECIFIC MATTERS:

AS MENTIONED IT IS ACCEPTED BY THE WRITER OF THE REPORT AT PG 2 PARA 4B THAT I AM ASSESSED AS LOW RISK OF RE-OFFENDING AND OF CAUSING HARM TO THE PUBLIC IF TO RE-OFFEND

I REFER YOU TO PARA 5B- AT AGE OF 46

I STAND BEFORE YOU WITH NO ANALAGOUS OFFENCES.

I HAVE NO PREVIOUS CONVICTIONS FOR A SINGLE ACT OF DISHONESTY.

ANY OF THE OFFENCES COMMITTED PREVIOUSLY WERE IN RELATION TO POLITICAL PRINCIPLES.

AND DEFENDING THE COMMUNITY WHETHER THAT BE IN RELATION TO THE POLL TAX, PREVENTING WARRANT SALES OR PROTESTING AGAINST NUCLEAR WEAPONS.

PREVIOUS OFFENCES WERE DEALT WITH BY MEANS OF FINANCIAL PENALTIES OR A COMMUNITY SERVICE ORDER WHICH WAS COMPLETED IN FULL.

I CHOSE TO SERVE TWO CUSTODIAL SENTENCES AS ALTERNATIVES TO DEMONSTRATE A POLITICAL POINT IN RELATION TO THE ILLEGALITY OF POSSESSING NUCLEAR WEAPONS

WITH REGARDS TO MY PERSONAL CIRCUMSTANCES I RESIDE WITH MY 5 YEAR OLD DAUGHTER AND WIFE IN CARDONALD AND HAVE BEEN MARRIED SINCE 2000.

I HAVE A FATHER AGED 74 WHO SUFFERS MOBILITY PROBLEMS AND RELIES IN PART ON MYSELF TO ASSIST HIM, AND AM DESCRIBED IN THE REPORT AS HIS PRINCIPAL CARER

BUT I ALSO HAVE A CLOSE RELATIONSHIP WITH HIM AND MY MOTHER WHO WAS PRESENT FOR EVERY DAY OF THE TRIAL WHEN SHE COULD.

MY MOTHER WHO IS 74 HAS BEEN DIAGNOSED WITH CANCER TWICE AND HAS HAD A LUMPECTOMY AS WELL AS A MASECTOMY PRIOR TO THE START OF THE TRIAL

THE WRITER OF THE REPORT REFERS TO MY FAMILY AND SOCIAL CONTACTS OF A STRONG COMMUNITY NETWORK IN PRO SOCIAL TERMS

WITH REFERENCE TO ACADEMIA I HAVE AN HONOURS DEGREE IN ECONOMICS AND POLITICS GRADUATING IN 1985

I THEN WORKED FOR SOCIAL WORK BEFORE WORKING FOR THE ANTI POLL TAX FEDERATION.

WHILST IN CUSTODY IN RELATION TO OPPOSING A POLL TAX WARRANT SALE AGAINST A LONE PARENT I WAS ELECTED AS A CITY COUNCILLOR FOR THE POLLOK WARD OF GLASGOW IN 1992

I WORKED IN THIS CAPACITY UNTIL 1999 WHEN I WAS ELECTED AS A MEMBER OF THE SCOTTISH PARLIAMENT AND SERVED UNTIL 2007

I RETAINED SHORT TERM EMPLOYMENT AS A RADIO PRESENTER UNTIL MARCH 2008

AND THEN COMPLETED MY MASTERS DEGREE IN SOCIAL RESEARCH AT STRATHCLYDE UNIVERSITY IN 2008, TEACHING SOCIOLOGY PART-TIME TO OFF-SET THE COURSE FEES

I BEGAN AN ACCELERATED COURSE IN LAW IN 2009 BUT DEFERRED THIS DUE TO THE PENDING COURT CASE.

I HOPE TO RESUME MY STUDIES WHEN POSSIBLE.

THE WRITER REFERS TO FUTURE EMPLOYMENT PROSPECTS MY LORD I WOULD SUBMIT THAT I AM FULLY AWARE HOW DIFFICULT IT WILL BE FOR ME TO FIND EMPLOYMENT IN AREAS THAT I AM INTERESTED

BUT I HAVE NEVER BEEN WORKSHY AND AS WAS CLEAR FROM THE TRIAL HAVE DEVOTED MYSELF MOST OF MY ADULT LIFE TO ASSISTING THE COMMUNITY, OFTEN TO MY OWN COST

I AM PRESENTLY UNEMPLOYED AND HAVE A NUMBER OF OUTSTANDING DEBTS AND FACE SEVERE FINANCIAL PROBLEMS

THERE ARE NO MATTERS ARISING WITH REGARD TO ALCOHOL OR DRUG USE WHICH I DO NOT PARTAKE IN

IN CONCLUSION MY LORD THE REPORT CAN SEE AGAIN NO RISK OF HARM TO THE PUBLIC OR PUBLIC PROTECTION ISSUES.

I AM CONSCIOUS THAT THE REPORT REFLECTS IN CONSIDERING DISPOSALS THAT I ADVISED THE WRITER THAT I FULLY EXPECTED A CUSTODIAL SENTENCE

BUT IN IMPOSING THAT I ASK YOU TO TAKE INTO ACCOUNT THE IMPACT OF A LENGTHY PRISON SENTENCE UPON MY WIFE

MY 5 YEAR OLD DAUGHTER

AND

MY ELDERLY PARENTS.

I EXPECT TO DEAL WITH CUSTODY BUT MY PRIMARY CONCERN IS THE DEVASTATING IMPACT IT WILL HAVE UPON MY FAMILY

THAT CONCLUDES MATTERS IN RELATION TO MY S.E.R.

MY LORD I WOULD ALSO ASK YOU TO TAKE INTO ACCOUNT THE AGE OF THE OFFENCES CARRIED OUT IN 2006 AND SOME MATTERS THAT ARE SUPPOSED TO HAVE OCCURED NEARLY A DECADE AGO.

IN ADDITION BOTH ME AND MY WIFE HAVE SINCE 2004 BEEN SUBJECTED TO A DAILY VILLIFICATION BY THE MEDIA

AND THIS HAS CONTINUED EVERY DAY SINCE CONVICTION.

WHY EVEN THE RELIANCE VAN THAT WILL TAKE ME TO PRISON TODAY WAS DESCRIBED AS A "TOMMY'S STRETCH LIMO" ON THE FRONT PAGE OF MONDAY'S DAILY RECORD

OVER THE COURSE OF CHRISTMAS I HAD TO ENDURE NEWS INTERNATIONAL PHOTOGRAPHERS ENCAMPED FOR SEVERAL DAYS OUTSIDE MY FAMILY HOME AND ATTEMPTING TO TAKE PICTURES.

THEY CONTINUE IN THEIR ACTIVITIES TO HARRASS ME AND MY FAMILY

AS STATED IN MY SUMMATION SPEECH THE JURY HAVE DONE WHAT I FEARED MORE THAN ANYTHING IN THE WORLD

I WILL BE SEPERATED FROM WIFE AND YOUNG DAUGHTER.

I REMAIN A PASSIONATE SOCIALIST AND AM DETERMINED TO PUT TO POSITIVE USE MY TIME IN CUSTODY

AND ON MY RELEASE TO RETURN TO THE FIGHT FOR JUSTICE, EQUALITY AND PEACE

IN PASSING SENTENCE I WOULD ASK YOUR LORDSHIP TO BE PROPORTIONATE AND REASONABLE AND INVITE YOUR LORDSHIP TO RESTRICT MY SENTENCE.

AND TO TAKE INTO ACCOUNT THE UNUSUAL FACTS OF THIS CASE AND THE VARIOUS MITIGATING FACTORS.

YOUR LORDSHIP MAY BE TEMPTED TO IMPOSE A DETERRENT SENTENCE AND TO MAKE AN EXAMPLE OF ME

BUT AS ALREADY STATED: THE VERY FACT OF CUSTODY AND TARNISHING OF MY PUBLIC
STANDING IS A DETERRENT IN ITSELF

AND BY THE PROCESS OF PROSECUTION AN EXAMPLE HAS ALREADY BEEN MADE OF ME .

ON THAT BASIS MY LORD I WOULD ASK YOUR LORDSHIP TO BE AS LENIENT AS POSSIBLE
UNDER THE CIRCUMSTANCES.

THANK YOU MY LORD UNLESS I CAN ASSIST YOU FURTHER.