

## **Fabricated & Withheld Evidence**

### **Witness Skerrit**

Solicitor Paul Honke recorded a rather strange set of circumstances in his shorthand notes at court proving Spackman perverted the course of Justice; this is what is recorded:

“Catch Spackman re. Skerrit & Rossiter & Grummits addresses or Sgt Yelxley”

“Proceeded to court, waylaid by DS Spackman. Unused witnesses Skerrit and Rossiter do not wish to be involved and therefore whereabouts could not be divulged”

Mr Rossiter has since been located and made it abundantly clear that he was always willing to give evidence for either the prosecution or the defence who ever called him; and that he had not requested his details to be withheld as Spackman informed Paul Honke.

### **Disclosure of Mr Brown’s Note SFB1**

Mr Brown witnessed the murder; the exhibit reference Kevin’s solicitor was given by Spackman for Mr Browns Note was SFB1 and was originally requested by Solicitor Thomas Brownlow on the 21st August 1995; to date it still has not been disclosed to Kevin’s solicitors. The original note was obtained in 1999, only this time the original has a different exhibit reference; SMB/1?

Mr Brown’s original note SMB1 reads:

- a) One skinhead type about 25yrs, dark, sturdy.
- b) One slimmer, long hair, with shotgun, 30yrs.
- c) It is important to bear in mind the note handed to Mr Brown when he gave his evidence; (originated from Mr Spackman the officer in court) and has no resemblance to the original he made at the scene of the murder. The descriptions had now been altered to the following; as recorded in court
- d) Man with gun, light, medium build, dark brown hair, and casual clothes, brownish complexion, rather than white, weather beaten/outdoor.
- e) **Man 2, I thought slightly taller in height + heavier in build. Round build. White in complexion.**

- f) You will notice the Dark/Weather beaten/outdoor description has now been altered from fitting Vincent to Kevin. Vincent was almost bald after the murder until he had a hair transplant.
- g) Angela Chapman confirms in her statement seeing Vincent at the airport on the 26/09/94 returning from what she thought to be a Holiday in Tenerife, Extremely Sun Tanned and Sun Burned.
- h) Vincent's journey to Tenerife was arranged by S & P Travel after his girlfriend had been arrested and detained in Gran Canaria. Confirmed by the English Embassy. Mr Spackman was aware of these details and decided to proceed with the theory; that Vincent travelled to Tenerife to hire Kevin, withholding evidence that undermined the prosecution case.
- i) Magill was murdered on the 13/10/94; Kevin returned to England on the 29/09/94 from Tenerife, this allowed the jury to consider Kevin matched the description handed to Mr Brown by Mr Spackman during Mr Brown's evidence.
- j) Mr Spackman's history for fraud is well documented, there is no escaping from the suspicious nature concerning Mr Brown's note.

### **Discussions with Solicitor Paul Honke**

After the first trial Mr Spackman spoke to Solicitor Paul Honke representing Kevin. He was able to tell Mr Honke the split (guilty/not guilty) in the jury which was discharged having been unable to reach a verdict. The only persons who have access to a note from the jury numbers voting for and against conviction are the Judge and the clerk.

- a) The CCRC dismissed this point and shows (with all due respect) an ignorance of the system; such notes are highly confidential and the fact an officer in the case claims to know all about them would be very significant in showing a malevolent role at trial.
- b) Mr Spackman rather strangely visited Paul Honke's office on the 28th February 1995 to serve further evidence, whereby he engaged in discussing the case, Spackman once again informed Paul Honke the exact split of the jury 8: 4, he further expressed that should we have a second hung jury this time around, the Crown will opt for a third trial.
- c) Mr Spackman advised that police presently had officers in Tenerife pursuing enquiries, but authorities out there were not being very helpful, he did not know if enquiries would produce any admissible evidence in time for the re-trial or At All.
- d) Mr Spackman claimed that one of the biggest problems Kevin would have would be proving he had been a high earner, where as Mr Spackman felt he would prove otherwise and we suspect withhold.
- e) Mr Spackman's behaviour and suggestions above lend support to the ill intention towards Kevin.

### **Spackman's visit to Tenerife after the first trial**

Kevin's activities whilst in Tenerife were an important part of the case. The Crown's suggestion was that the contract to kill the deceased may have been made shortly before the murder. It was Kevin's case at trial that he did, in fact, have money. At trial, Owen Cleary was called to say that he kept Kevin's money in his safe, and had on numerous occasions as well as the following two occasions, sent money to Kevin (once through Barclays Bank to a Mr Patel's bank in England, who then paid Kevin from businesses in Tenerife, and once through Thomas Cook) to the total of £13,000

However it came about, the important thing is this: it was true that Kevin had access to money (from England) before the murder and this undermines the inference invited by the Crown, that Kevin had received payment for carrying out the murder of Magill.

After the first trial, Mr Spackman arranged for the police to fly out to Tenerife and make inquiries about Kevin, his finances and life style. Further, he spoke on at least two occasions, concerning the financial transactions to the Patel's in Tenerife and to Michael Sillett. Despite these investigations, Mr Spackman failed to disclose anything to the defence. Additionally; there were no bank transfers to Kevin, alleged by the Police because they were lost, (there was an admission at trial to this effect).

However, through investigations we have learnt from Mr Sillett that he was indeed spoken to by Spackman, and he confirmed to him transactions, one to the sum of £4,000 to the Patel's that he arranged to be paid into the Patel's bank account in England. This evidence was given by Kevin during the course of the trial, Judge Dennison remarked in his summing up that there had been no proof of this transaction at page 30.

To be considered of course, are the facts which the jury are entitled to draw opinions from which they are sure about. It need hardly be said that if, in any situation the absence of information regarding events in Tenerife are that it precluded Kevin from providing the jury with material which would have proved he had sufficient funds.

Mr Spackman went to Tenerife to carry out investigations; therefore, he had disclosure obligations to fulfil. The fact that he was accompanied is also irrelevant. He managed to pursue a significant fraud without being detected for some time in the police force.

(Amber Darlington) Kevin says that he would have wanted Ms Darlington to give evidence to confirm in May of 1994, the week he flew to Tenerife, he was placed as was normal with comfortable amounts of money and life style to the same. He further says that Ms Darlington was witness to a friend bringing him a further £3,000 when his funds ran low, collected from Owen Cleary, demonstrating that Mr Cleary held Kevin's money at least six months before the inquiry, and whilst Kevin was in England.

Amber Darlington states in her statement a number of interesting facts; Ms Darlington said whilst Kevin was with her he did quite a lot of shopping in quite expensive shops,

and spent quite a lot of money. He was never mean with his money. Whenever he took Ms Darlington out he would always pay for everything, including her holiday to Tenerife, she never paid for anything at all. Kevin was obviously use to money; he had that kind of confidence that comes with money, without being over the top with it. He did not seem affected by it; he seemed genuine and down to earth.

Further, Ms Darlington goes on to say that a few months after Kevin was arrested the police went to her house to interview her. Ms Darlington felt suspicious of them; their line of questioning was strange. They kept saying something and she had to say no it's not like that, and she had to alter and initial parts of the statement.

Kevin's incarceration prevented him tracing the Patel's directly; however phone records from Kevin's home, list calls to a Barclays Bank in England, believed to be the Patel's bank, and also to Kevin in Tenerife immediately after the first call. These calls were made by Kevin's partner to confirm the money had deposited.

Kevin cannot understand why the CCRC are reluctant to investigate this area of the case, even more so when it would be relatively easy for them with the information supplied above.

Mr Spackman was the case disclosure officer, the officer in charge of the case and the day to day running of the same. Mr Spackman has deliberately withheld material in many areas of the prosecution case, denying Kevin the right to a fare trial.

It is worthy to take into consideration the Memorandum of Thomas Brownlow dated 06/03/95, supporting our suspicions material has been withheld on a number of witnesses, to name one; Amber Darlington. The CCRC have confirmed that the Surrey police interviewed Amber Darlington on the 22nd February 1995.

The CCRC would have seen Ms Darlington's evidence proving material has been withheld. Further it is not for the CCRC to place themselves in the domain of the jury and guess what the jury would have thought had Ms Darlington given evidence, or to the nature and line of her evidence had Kevin's defence been able to call her.

Kevin was asked if Amber Darlington was her real name. Kevin complains about this nature of questioning and argues it was wrong of the prosecution counsel to ask him this when the Crown was aware that Ms Darlington existed and had given a statement.

### **Tanya Born**

Kevin's trials were conducted on the basis that Mr Spackman was a man of good character and a clean officer. It can be observed in cross examination from David Jeffrey's QC as to his meeting with Tanya Born, that Mr Spackman denied questioning Tanya Born in connection to a BMW of which Mr Spackman asserted was in the possession of Noel Purcell before the murder. Our investigations before and after the trial have proved Mr Spackman lied in evidence given upon oath in connection to Tanya Born, and the questions he put to her.

The conversation with Miss Borne is admissible as a previous inconsistent statement from Spackman and how to show his willingness to lie on oath. It is plainly admissible. It is enough that circumstances exist which raise concerns about the quality of the evidence against Kevin and, therefore, the safety of the conviction. Such a suggestion is rendered more credible when one realises that Mr Spackman has a propensity for deception

The CCRC failure to properly investigate Tanya Born has denied Kevin the benefit of that investigation.

### **Lasers Van Hire**

Spackman claimed to have followed a man driving a BMW car after observing him on his way to work at Watford Police Station, at 8.25 am on 15 February 1995. The significance of this vehicle registration no H347 XYT was that it was owned by Kevin.

Spackman claimed the man drove the vehicle into Laser Van hire and that he returned to the premises with WPC Johnson an hour later at 9.25am. Spackman added that the proprietor of Laser Van Hire, Mr Woodward confirmed he had been driving the vehicle when Spackman had followed him.

Mr Woodward refutes that he had been driving the vehicle and that he did not state to Spackman anything of the sort. Mr Woodward's denial is supported by photographs that were taken of the BMW on that date in the car warehouse of Laser Van Hire, that show the BMW boxed in behind several other damaged cars.

Mr Woodward states the BMW was positioned in this way to deter car thieves from stealing it should the premises be broken into. Mr Woodward's version of events concerning the morning of 15<sup>th</sup> February 1995 prior to the visit of Spackman and WPC Johnson and the police photographs clearly show that Spackman had been telling lies concerning this particular piece of evidence.

Spackman's evidence concerning alleged sighting of the BMW whilst on his way to work is remarkably similar to his evidence in the case of Khan and Bashir when he claimed to have observed Mr Bashir by chance in Watford on the 5<sup>th</sup> March 1998 and then proceeded to follow him by car for some three hours.

In his Advice on Appeal against conviction on behalf of Cameron Bashir, Mr R Evans identified a number of lies and inconsistencies in Spackman's evidence concerning the sighting and the following of the car.

Kevin believes that the evidence concerning the BMW at Laser Van Hire and Spackman's evidence in the case of Khan and Bashir concerning the events of the 5<sup>th</sup> March 1998 clearly show that Spackman will fabricate evidence when he feels the need to do so.

We submit that Mr Spackman's evidence about his sighting and finding of this vehicle is a clear indication that he was prepared to lie about even small details in order to support the smallest point in his case.

### **The Diary**

The issues' surrounding one of the allegations is that Mr Lane alleges that a diary seized from a shed in his mothers garden, was altered by police officers in his case. The allegation was made prior to Mr Spackman's imprisonment and formed part of Kevin's original representations to the CCRC in 1998. It is an area of concern that Spackman, although not involved in the seizure of the diary, did have possession of it during the course of the investigation.

Part of the dominating evidence in Spackman's case concerned Falsifying Forged and Fabricated documents and forcing them as a matter of truth.

The back grounds to the issues surrounding the diary are that it was introduced at trial some 30 minutes before the close of the prosecution case. The significance is that the prosecution claimed that it contained an entry under the name O'Riley with an accompanying telephone number.

The car believed to have been involved in the murder was sold by a Mr Tom's who claims he sold it to a man with an Irish accent who gave his name as O'Riley. The diary belonged to a Mr Paris who had run a business company for Kevin. Mr Paris could not be located by Kevin's defence team, which is unsurprising given the late introduction of the diary at trial. Fortunately Kevin's solicitor managed to trace at such late notice Mr Riley who was employed by Mr Paris and he gave evidence; he confirmed that it was his telephone number alongside the entry for the name O'Riley.

Mr Riley was not Irish.

DI Spackman delivered some photocopies of pages of the diary to Kevin's solicitor Paul Honke on the 28th February 1996 only days from trial. There was no copy for the page with O'Riley. Kevin believes that a rogue police officer prefixed a letter O before the original entry for Riley to make it read as O'Riley. There does not appear to be any logical explanation for Mr Paris to enter Mr Riley's name as O'Riley. Mr Riley was known to Mr Paris.

Included in the bundle of papers Mr Spackman served, it is observed, Paul Honke mentions photocopied pages of numbers and names that are not known to him, apart from Kevin's and Owen Cleary, he would have obviously recognised the name O'Riley if it had been served.

The CCRC gave its reasons as reproduced below at paragraph 7, 14 of its Statement of Reasons for non-referral of Kevin's case on this point:

The Commission does not consider that the issue of the name Riley or O'Riley in the address book had any bearing on Mr Lane's conviction. It was clear to the jury from

the evidence given by Mr Riley that the entry in the address book bore no relationship to the man who had allegedly bought the murder BMW from Mr Toms.

The commission does not consider that there is any realistic prospect of proving who wrote the entry in question. It has not sought to examine why Mr Paris did not give evidence at trial. It does not consider that there is any realistic prospect of his being allowed to do so at any appeal given his evidence regarding the address book entry would afford a ground of appeal.

The CCRC should reconsider its decision on this issue, not least because the allegations and the response were made prior to Mr Spackman's imprisonment. The Commission should also be mindful of the factors stated at paragraph 4(a) and 14(d) of the Khan and Bashir case, for guidance of how the Crown and indeed the Court may view such allegations were referral of Kevin's case to be made to the C.O.A.

The CCRC addressed Kevin's representations in his previous application concerning the fabrication of evidence in his case by DC Spackman. The commission states at paragraph 47 of its PSOR:

"Mr Lane has suggested that Mr Spackman might have borne a grudge against him as the result of a previous case. In the absence of anything that Mr Spackman did anything to the affect the safety of Mr Lane's conviction, the Commission does not consider evidence as to his motivation to be relevant".

With respect the CCRC have completely missed the point here and should reconsider the significance and seriousness of the above forged page.

### **Mr Lane's concern about the statement made by Mr Timmins**

Kevin asserts that this statement (made a significant time after the events described therein) gives cause for concern. His statement is totally inconsistent to other statements made on the night describing Kevin. Mr Timmin's received a suspension for misconduct during his career. The CCRC is invited to look carefully at the circumstances in which his statement came to be made and consider the real possibility that it came about as a result of Mr Spackman's desire unfairly to bolster the case against Mr Lane.

### **WPC Atkinson**

Spackman had phoned Mr Honke (Kevin's solicitor) prior to Ms Atkinson giving her evidence and told him that should the defence decide to call Ms Atkinson then she was going to change her original statement and say that as she was getting changed after her shift she had suddenly remembered that Kevin was the driver of the car. Spackman's telephone call prompted Mr Honke to send an inquiry agent to interview Ms Atkinson who reiterated her original claim that Kevin was not the driver of the car. WPC Deirdre Atkinson gave evidence at Kevin's trial and reported that she had seen the subsequent getaway car being driven by an unknown driver from the public house on the 11th

October 1994 two days before Mr Magill's murder. She went on to say that Kevin was known to her and was not the driver of the car. WPC Atkinson's statement fits in with Kevin's explanation that he returned the car to his partner's uncle on the 10<sup>th</sup> October.

It appears that Spackman did not contact Ms Atkinson to change her statement but the fact remains that Mr Honke is adamant that Spackman threatened to get WPC Atkinson to change her statement and fabricate evidence against Kevin.

In the CCRC statement of reasons in the case of Khan and Bashir it states at paragraph 49 that Spackman had been instrumental in getting a witness to retract his statement due to his unprofessional conduct:

..."There was new evidence from the sales assistant (Mr Leslie) at the Sunglasses Hut, who claimed that it was not Mr Khan and Mr Bashir who had bought the sunglasses from him. Mr Leslie also stated that he had retracted his original statement owing to words being put in his mouth" by DS Spackman...."

The question that must be asked is who is to be believed concerning this matter, does it seem plausible that Mr Honke would concoct such a conversation with Mr Spackman.

### Perry

Unused Message A148, Confirms Perry N134 supplying information to the Police about the murder 4 weeks prior to Mr Magill being killed.

Unused Action, A814 Perry was arrested by Spackman for questioning, after Mr Magill's murder.

It has also been confirmed in Smith's interview that Perry who was arrested by Spackman, supplied information two days after Mr Magill was murdered naming Vincent and Smith as the gunmen.

Perry's statement has not been disclosed. Perry is known to assist police.

Smith's interviews were finally disclosed March 2007.

The CRC have said they are not in a position to disclose information regarding Informants.

### Conclusion

**The safety of Kevin's conviction when viewed through the eyes of the reasonable man (the impartial observer) in context**

**of all the extrapolating factors cannot be considered as anything other than unsafe.**