

Jon Whitfield KC



Call: 1985

Silk: 2010

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Profile

Jon advises in medical disciplinary proceedings and sits as a legal assessor on GMC cases, he also sits as a Judge on Mental Health Tribunals. Jon has worked with consistent success in some of the most high profile cases of recent times. He is very much a "team-player", willing to do whatever is necessary to prepare and present a case and lead a team throughout this process. He responds well to the pressures of work putting in long hours to assimilate the large amounts of information needed to successfully defend cases of this gravity. His style in court is robust and combative which compliments his intellectual ability to reduce complex evidence to an essential core for the jury. Twenty five years of successful work as a junior were rewarded by his taking Silk in 2010.

Education

BA: Hons Law 2.1 (London Metropolitan)

St. Mary's College, Southampton

Middle Temple Scholar

Related practice areas

Professional Discipline and Regulation

Other relevant experience

Jon has lectured and/or advised on:

- Blood Pattern Analysis & Transfer (Lecture)
- Mental Ill Health in the Criminal Justice System (Lecture)
- Security and the Legal Domain (Working Party)
- Pro-Bono legal advisor on Sky Legal Channel (2008 – 2010)

For many years Jon has been a competitive yachtsman at local and national level. The physical and mental requirements of competitive team-sailing events are commitment, the ability to make good decisions quickly (& justify them), move with events and make good tactical decisions. Exactly the same qualities as are required in dealing with serious and complex crime.

Jon has considerable business experience creating pension, financial, managerial and welfare systems for two large London chambers and running much of these structures. This gives him first-hand knowledge of the frameworks within which companies must operate.

Homicide and Related Grave Offences

Jon has appeared in numerous cases of homicide and related crimes over many years. In the recent case of R v B - Reading C.C Jon successfully defended a senior BA pilot accused of murdering his wife by bludgeoning her to death and hiding her body in a purpose-dug grave in Windsor Great Park. The Crown alleged this to be a carefully planned execution during an acrimonious divorce. Jon argued that B suffered from diminished responsibility caused by an adjustment disorder. B was acquitted of murder and only convicted of manslaughter. This is the first time this disorder has been successfully relied upon in this way and it was plain in the subsequent court of appeal hearing on sentence that efforts will be made to limit its application.

In R v MK (trial & retrial) - CCC Jon secured MK's acquittal on charges of murder and manslaughter arising from a brutal killing on Halloween. MK was acquitted of murder after a five week cut-throat trial. Case issues included close analysis of forensic and medical evidence to contradict the witnesses and co-defendants' description of events. MK was

retried on manslaughter and again acquitted despite witnesses clearly being well rehearsed in their evidence. In both trials there was clear evidence of defence witnesses being threatened by prosecution witnesses.

In *R v K & Others* - CCC & Court of Appeal - K was acquitted of a double murder and conspiracy to cause GBH during a pre-planned gang fight. At the height of the trial Jon uncovered the gravest example of witness interference ever experienced at the Court. The four principal prosecution witnesses had been coached and intimidated by family/friends of the deceased over several months. Jon successfully argued that the trial was an abuse of process and thereafter resisted the Crown's appeal in the Court of Appeal. All defendants were acquitted and Jon's argument resulted in several convictions from an earlier trial being quashed.

Other examples of his case-work include: *R v R* - Reading C.C. in which R was acquitted of murder when she stabbed her partner. R who was a trans-sexual blamed the lodger/live-in lover who was the principal prosecution witness. R's mental state was at the forefront of the case, as were issues of similar fact and analysis of the crime-scene. This case required particularly sensitive advocacy and client-care. Jon subsequently represented R in a copycat offence of causing grievous bodily harm with intent. R was acquitted. *R v O* - Kingston C.C. – O acquitted of a pub-killing using pool-cues and beer bottles following Jon's frame by frame analysis of the CCTV. *R v N* - CCC - N acquitted of a 'one-punch manslaughter' allegation against his uncle who attempted to stop a fight between N and his younger brother. *R v C* - Stafford C.C. - C acquitted of murder after he stabbed a man alleged to have stolen funds from a working man's club. *R v K* – a brutal stamping case in a wife incited a gang of men to kill her estranged husband. Jon dealt with all aspects of the medical evidence and hospital procedures. In *R v W* - Cambridge C.C. – Jon acted for a defendant with a very violent personality disorder who pleaded guilty to knocking out the deceased and leaving him to freeze to death. W's mental instability led to extreme difficulty in the preparation of the case and the safety of those involved (including Jon and his instructing solicitor).

In addition Jon has successfully defended many cases involving murder or grievous bodily harm using knives, clubs, in gang fights, cut-throat cases and cases involving mental ill-health.

Terrorism

Jon has defended in several of the recent Islamic-terror cases. He is currently instructed to defend INat Woolwich CC. IN is the principal defendant in an alleged conspiracy by Islamist-

terrorists to create and use back-pack explosives similar to those used in London on 7/7.

Jon's ability to deal with the most challenging clients and cases led to his acting for AA the first defendant and architect of the conspiracy to murder 2500 people by blowing-up trans-Atlantic aircraft using liquid explosives concealed in drink-bottles (R v AA & others – Woolwich CC). Jon dealt with all aspects of production, viability and effect of explosives in the initial trial and the re-trial. His work was adopted by all other defendants in the trial He also dealt with all aspects of audio and video monitoring.

Prior to the above Jon defended MA who was accused of supporting terrorism by stockpiling computerised material likely to be of use to terrorists (R v MA - CCC). Jon's case analysis showed that the material had been downloaded and retained by someone else and MA was acquitted. He also acted for SA in the ricin terrorist conspiracy (R v SA - CCC) which ended with SA's acquittal. In two separate cases, R v A (Southwark C.C) and R v K (CCC) Jon successfully defended men accused of funding terrorism, possession of terrorist material and, in respect of K, conspiring to poison foodstuffs. Non-disclosure and shifts in the prosecution case led to repeated legal argument and each was acquitted.

Regulatory and Financial Crime

In R v HR & Others – Kingston C.C. Jon successfully defended HR the first defendant in a £170m prosecution brought by the RCPO. Numerous companies owned by HR in a £1bn business empire were allegedly used to obtain £170m of VAT in a lengthy MTIC fraud. The case ran for five months and involved consideration of 120,000 pages of evidence. In Re: BCH (SFO) - Sheffield C.C. Jon led the prosecution of two company managers who used multiple bogus identities and companies to defraud an adult-education college and training company of £1m of public funds. They then laundered the money through the companies to offshore trust funds. Nearly £½m of public money was recovered following legal argument regarding jurisdiction and the pre-eminence of criminal law over foreign trusts.

In another SFO case Re: F (Insight) Jon advised on the theft of £1m of funds used to provide care for autistic children from local authorities and factoring companies. F fled the jurisdiction necessitating advice on extradition. He was returned to the UK to be confronted by Jon's case-analysis and pleaded guilty.

In Re: J – Southwark C.C. Jon defended a man accused of one of the earliest and longest-running alcohol & investment frauds. Investors were sold huge quantities of near worthless whisky and other alcoholic products as investments and pensions. When the company was

closed down, a phoenix-company was used to continue the fraud.

In Re: I & S & Others – Worcester C.C. multiple high-yield investment frauds were used to extract money from people in the UK, Switzerland and America. The case included cross-examination of some rather reluctant Swiss Bankers regarding their business practices and a solicitor implicated in the fraud. Jon represented the only defendant acquitted of any part of this case.

Other examples of Jon's work include Re: F (SFO), an alleged nationwide fraud by medical supply companies. Jon's review revealed that although profits were high, the service was better than the NHS and that the Government & NHS had acquiesced in the alleged offences. The case was therefore dropped. Jon has also acted in cases of corruption in the nuclear power industry, the railway industry and in local authority and housing. In the nuclear and railway cases public safety was compromised and in all three cases public funds were misused over many months.

Other Serious Criminal Offences

Jon has recently led in a multi-handed conspiracy to supply drugs; completed three cases of historic sexual abuse and manslaughter by a defendant suffering from severe mental health problems. Jon also receives instructions in cases involving death by dangerous driving, serious organised violence, arson, drug importation and crimes associated with their sale. He has appeared in many high profile cases relating to organised football and race-related violence throughout the country including those investigated and reported in TV documentaries by the BBC and other media channels. He has extensive experience of reconstructing events from CCTV and other recorded or digital media.

Jon has spent a considerable amount of time dealing with cases involving defendants with mental ill-health and sits as a 1st-Tier Tribunal Judge in mental health cases. Since 2007 he has acted as a Legal Assessor to the GMC. Both these positions compliment and enhance his knowledge-base in criminal proceedings.

Example cases include R v B - Portsmouth C.C. in which B was charged with beating someone almost to death causing permanent life-changing brain injury. The trial lasted two weeks. Despite strong eye witness evidence suggestive of kicking and stamping, following careful analysis of the medical and forensic material the jury were not persuaded of guilt. R v F - Harrow C.C. - Historic rape of child by gang of youths. R v V - Peterborough C.C. - V & others charged with GBH on a taxi driver. Cut-throat trial, issues of self-defence and, witness

collusion. In parallel proceedings V was also indicted as the mastermind behind a large drugs-conspiracy. V's trial followed the conviction of other conspirators placing V in an impossible position. Jon managed to secure a 2yr sentence (rather than 10yrs) and reduce confiscation from £2m to £300k.

R v MA - CCC - D was arrested and prosecuted under terrorism provisions. Having been acquitted, he was prosecuted for possession of firearm. Despite prior authority, Jon successfully argued that the item was not a firearm and MA was acquitted. In R v H - Luton C.C. Jon successfully defended a man accused of the sexual abuse of his two stepchildren decades previously.

Mental Health and Court of Protection

As well as defending many criminal cases with mental-health issues Jon sits as a Tribunal Judge in mental health cases in which he deals with all degrees of mental disorder and disability. In R v L - Oxford C.C. Jon secured the acquittal of a paranoid schizophrenic man accused of arson. His confession was excluded as unreliable following legal argument on breaches of PACE. In R v H - Luton C.C. the defendant was acquitted of brandishing a loaded weapon at children following an inquiry into his fitness to stand trial and mental responsibility.

Professional Discipline & Regulation

For many years Jon has specialised in criminal cases involving experts in the fields of forensic-science, medicine, or mental-health. His interest in medical and mental-health matters led to his sitting as a judge in Mental Health Tribunals from 2002 and as a legal assessor in MPTS (GMC) disciplinary proceedings since 2007.

Jon has worked with consistent success in some of the most high profile cases of recent times. He responds well to the pressures of work putting in long hours to assimilate the large amounts of information needed to successfully argue cases of this gravity. His style is robust and combative which compliments his intellectual ability to reduce complex evidence to an essential core. His advisory work in MPTS hearings has been repeatedly described as "excellent, succinct and clear". In a recent case the Tribunal stated that his advice on evidence and law "undoubtedly saved the doctor's career."

Jon's knowledge of the law pertaining to disciplinary proceedings and, the frequent incursion of criminal law in matters of dishonesty, assault, sexual misconduct, hearsay and half-time submissions led to his being the author of the law chapter in Professional Discipline and Health Care Regulators: a Legal Handbook. He has also lectured and held seminars on regulatory proceedings including:- Introduction to FTP and IOP hearings; Preparing for FTP at the NMC; Challenging ECRC disclosure and DBS barring decisions

Examples of cases where he has advised or acted as a legal assessor include:

- BSB v B - a barrister who threatened to falsely report a single mother to social services with a view to persuading her to withdraw a negligence claim.
- T v GMC - the owner and principle clinician of a fertility clinic accused of deficient performance, bullying patients and overcharging for treatment. Keeping two warring silks and the press at bay made for an interesting month-long hearing. The panel had to be cautioned to ignore the attitude of defence counsel and on Jon's advice the case was stopped at half time.
- A v GMC - a GP facing allegations of negligence in misdiagnosing a patient who subsequently died from cancer. He was prosecuted despite the GMC expert advising that the GP could not be expected to make the differential diagnosis required. Jon advised there was no case to answer.
- B v GMC - a young GP accused of plagiarism in a joint publication.
- L v GMC - poor clinical judgement compromised patient safety but, with carefully drafted conditions this could be safeguarded.
- O v GMC – in which a GP's inability to cope with the progress in IT and his lack of management skills led to the compromise of patient records and safety.
- S & S v GMC - a father and son falsifying online research for profit. The defence did not assess their own character witnesses which required advising the panel to ignore half the bundle to be fair to the doctors.
- H v GMC - a GP who initially faced relatively minor allegations but whose advocate repeatedly gave personal (inaccurate) comment or, wholly misread the views of the panel and sought to minimise the conduct rather than answer it. This required very careful direction to the panel to keep their eyes on the evidence not the advocate.
- A v GMC - an unrepresented doctor faced with multiple allegations of dishonesty and clinical failings required constant assistance with the law, procedure and explanation of some of the evidence and terms used in the hearing.

Jon has also advised in numerous IOP hearings.

Examples of his criminal cases include:

- R v AA - the terrorist plot to blow up seven transatlantic airliners using liquid bombs in drink bottles. Jon acted for the principle defendant. His work in challenging the prosecution experts was adopted by all other defence teams.
- R v B - the BA pilot accused of murdering his wife and burying her in a pre-prepared grave in Windsor Great Park. Jon successfully argued diminished responsibility based on evidence that B suffered from an adjustment disorder. This was the first case under the new law and, the only one where adjustment disorder has been successfully argued.

MPTS/GMC Legal Assessor 2007

Tribunal Judge (Mental Health) 2002