

## Abigail Bright



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### Profile

#### Recent plaudits

*'[T]he case [...] has been attractively, realistically and transparently put by Ms Bright on behalf of the Respondent. She emphasises the realism which she says the Respondent has about the circumstances of the case.'* – The Honourable Mr Justice Fordham in Spanish Judicial Authority v. Keith Anthony Duff, Queen's Bench Division, Administrative Court [2021] EWHC 3436 (Admin), 17th December 2021

*'We are grateful to Mr Wormald and Miss Bright for their notably helpful submissions'* – The Vice President of the Court of Appeal, Criminal Division, granting leave to appeal a terrorism sentence; Richard Wormald Q.C. and Abigail were instructed directly by the Registrar of Criminal Appeals: Bel (Oliver) v. The Queen (considering a special custodial sentence for an offender of particular concern where a young autistic man was found in possession of material likely to be useful to a person committing or preparing an act of terrorism) [2021] EWCA Crim 1461, 27th August 2021

*'As it is put by Ms Bright, the central issue in this extradition case – so far as the US alleged crime of international kidnapping is concerned – is whether there was maternal agreement in*

*2017 to the child's removal by the Applicant to India. These points provide the essence of the case [...]. I am quite satisfied that it has been clearly thoroughly and comprehensively put forward by Ms Bright in written submissions which she has adopted. [...] the attractive way in which the points have been advanced [...]* – The Honourable Mr Justice Fordham in AKP (Applicant) v. The Government of the United States of America, the State of New Jersey (Respondent), Queen's Bench Division, Administrative Court [2021] EWHC 2375 (Admin), 24th August 2021

'Strategic': Solicitor, legal department of the British Medical Association; Abigail was instructed by the legal department to advise and defend the British Medical Association at a statutory failure trial; the parties convened for trial on 16th July 2021; the prosecution of the British Medical Association was abortive.

*[...] the very carefully presented submissions of Miss Bright [...]* – The Honourable Mr Justice Supperstone, Judge in Charge of the Administrative Court, in HA (Applicant) v. The Government of the United States of America, the State of New York (Respondent), [2019] EWHC 3838 (Admin), 24th October 2019

### **Legal 500: 'A leading individual'**

Abigail is a leading barrister. She is routinely instructed in several of chambers' many practice areas, whether public, civil or criminal. Abigail has particular expertise in special jurisdiction (terrorism, extradition, exceptionally high value fraud). She frequently advises doctors on how to engage with their insurance companies and professional regulators and appears before coroners sitting with juries at Article 2 inquests. Abigail successfully represented the British Medical Association at a statutory failure trial, having been instructed by its legal department. Abigail has successfully defended Bar school students accused of dishonesty, material failures to disclose and other types of misconduct before conduct committees. She presents and defends environmental health prosecutions.

Abigail was Counsel to the Inquiry for the Independent Inquiry into Child Sexual Abuse. On 20th October 2022, the Inquiry published its final statutory report, which was presented to Parliament pursuant to section 26 of the Inquiries Act 2005. In accordance with the Inquiry's Terms of Reference, the report sets out the main findings about the extent to which state and non-state institutions failed in their duty of care to protect children from sexual abuse and exploitation and makes recommendations for reform. The final report concludes seven years of work by the Inquiry. It draws on the Inquiry's 15 investigations and 19 related investigation reports, and the Inquiry's earlier Interim Report. The Inquiry has made 20 recommendations in this final report, which can be read [here](#).

In September 2022, Abigail presented two papers over two days on psychiatric issues and expert witness evidence in extradition cases at the annual Grange medicolegal conference.

In September 2022, Abigail appeared in the High Court for several defendants facing applications by various local authorities to commit persons to prison for contempt of orders of Judges of the High Court.

Between 2021 and 2022, Abigail defended as sole counsel in three American extradition requests (one originating in New York; one in New Jersey, one in Pennsylvania) and she advised on Moldovan, Indian, Australian, Albanian and Norwegian requests. For five years, Abigail has advised an Indian national, living at his home in the UK, on how to engage with his embassy in London; he faces an Indian extradition request for the murder of a serving police officer in India.

In January and February 2023, Abigail will defend the first defendant in indictment order at the fifth trial in a series of linked trials of law firm employees indicted with counts of conspiracy to defraud the public purse. Abigail defended at earlier trials in 2022 and 2021. At the forthcoming fifth trial in 2023, the prosecution alleges that claims made for payments were fraudulent – count one specifies £8,683,277 (inclusive of VAT) and count two specifies £159,294 (inclusive of VAT).

In June and July 2023, Abigail will defend the first defendant in indictment order in a Terrorism List trial. Abigail defended the same defendant at a Terrorism List trial in 2022.

Abigail relishes complex questions to do with jurisdiction, civil and criminal.

In February 2022, The Times' Register reported as of major public significance Abigail's case of *Cleeland v. Criminal Cases Review Commission* [2022] 4 WLR 8. Abigail was led by Edward Fitzgerald KC. The result is that the Court of Appeal, Civil Division, recognised new rights of appeal in judicial review claims of CCRC decisions. In so doing, the Court corrected the prior misstatement of the jurisdiction. A series of cases - wrongly - had decided that a judicial review of a decision by the CCRC was a 'criminal cause or matter'. That meant that, for decades, the only remedy for an adverse decision from the High Court was to seek a certificate [to determine that the case involved a 'point of law of general public importance' and, consequently, an application for leave to the Supreme Court. The result and practical impact of the ruling is (newly) to empower a claimant in that position who, on the papers, has been refused leave to apply for judicial review by the High Court. A person in that position now may renew an application to the Court of Appeal, Civil Division. A person in that position is now recognised as having a right of appeal against adverse substantive decisions by the High Court to the Court of Appeal, Civil Division, rather than forcing such a claimant to seek to obtain a certificate of a 'point of law of general public importance' and, of course, then asking the Supreme Court, exceptionally, for leave to appeal.

In May 2021, Abigail successfully argued that the Criminal Procedure Rules 2015, by means of Rule 50.27, admit exceptional jurisdiction to entertain an application to re-open a Single Judge's decision to refuse permission: *Oleantu-Ursache v. Romania; Majewski v. Poland* [2021] A.C.D. 90. Abigail's lay client was discharged from extradition proceedings by means of a consequential order before a substantive hearing.

In August 2020, in the very first extradition case concerning the UK leaving the European Union, Abigail's lay client, a German national, was granted permission to appeal, relying on Germany's constitutional non-reciprocity [nationality] bar. Abigail was led by Edward Fitzgerald Q.C. and instructed by Karen Todner.

Abigail was Counsel to the Inquiry in four major public inquiries (instructed by the Department of Health and Treasury Solicitor's Department). Abigail holds Developed Vetting, sponsored by the Home Office.

In both 2020 and 2021, Abigail taught advocacy for the Inns of Court College of Advocacy, South Africa international advocacy programme. In September 2019, she represented Middle Temple as an advocacy trainer at the University of North Carolina and accompanied the Inn's student mooters at several moot rounds held in various courts in North Carolina.

Abigail presently acts for a Turkish academic, journalist and writer and drafted his application to the European Court of Human Rights re violations of Articles 2, 3, 5, 6, 8, 10 and 14 (in conjunction with Article 5) of the European Convention on Human Rights. The application was filed on 30th April 2020. On 23rd November 2021, the President of the Second Section of the European Court of Human Rights determined that the claim is admissible, applying articles 34 and 35 of the Convention: *Altayli v. Turkey*, re application no. 18733/10. The President of the Second Section of the European Court acceded to the application pursuant to the Rules of Court, Rule 54 (2) (b), and ordered that the Government of Turkey must submit a statement of facts on the admissibility and merits of the complaint. The case has been joined to 242 other such cases against Turkey.

In September 2019, Abigail was a standing member of the teaching faculty hosted at the CEELI Institute for the Rule of Law in Prague at a conference funded by the National Center for State Courts, US Department of Justice. Abigail assisted a delegation of judges drawn from several jurisdictions to formulate media guidelines for an international Bench Book, *Bench Book for the Effective Adjudication of Terrorism, Money Laundering, and Cybercrime Trials*.

## **Education**

Coroners and Inquests, KCL short course, 2017

Law, War, and Human Rights, LSE short course, 2015

Dip.F.M.S. (Diploma in Forensic Medical Sciences), Barts and The London School of Medicine, 2010

Bachelor of Civil Law (BCL), Distinction, Balliol College, University of Oxford, 2008

Law with Advanced Studies, First Class Hons., UCL, 2002-2006

### **Related practice areas**

Criminal Law

Business Crime

Extradition

Data Protection and Information Law

### **Academic background and interests**

Abigail has a Distinction in the Bachelor of Civil Law, BCL, from Balliol College, Oxford, in jurisprudence.

She taught European Union constitutional and competition law whilst reading for the BCL.

Abigail won a Balliol College graduate scholarship based on her performances at her undergraduate examinations. Abigail was Called to the Bar by Middle Temple in July 2010 and awarded a Queen Mother Scholarship for her full Bar vocational course fees and accommodation at the Inn for her Bar school year.

Abigail won the Middle Temple Speed Moots competition at a knock-out moots weekend in 2010.

Abigail won both rounds of the United Nations Model Debates, competing in Istanbul, in 2010.

Before reading for the Bar, Abigail was engaged as a solicitors' agent for six months at a multi-handed mass cocaine importation trial conducted before the Resident Judge at Oxford Crown Court. Abigail gained an early and comprehensive insight into high quality trial litigation. The solicitors' firm's client was acquitted.

Whilst reading for the Bar, Abigail taught criminal law, evidence and jurisprudence at UCL.

Abigail was a researcher in law for Professor Ashworth at All Souls College. Abigail won the Dean's Prize for the highest overall mark for her Law finals examinations. In the same year, she won the Jeremy Bentham Prize for Jurisprudence and Political Theory which led to her spending a paid year to edit her university's law journal. She went on to be appointed at UCL,

both as an honorary teaching fellow in law and an honorary researcher in law, starting first in the English department, then in History, and then in Law. Abigail worked on security-level research on judicial corruption among European national courts.

As a pupil, Abigail was instructed by solicitors at a City civil fraud department, acting for Commerzbank AG, for twelve weeks, to note a multi-handed fraud trial. She spent time with the homicide unit at the CPS.

Abigail has a strong academic background in jurisprudence and public international law. In 2016, Abigail gave a lecture on English law reform at All Souls College, University of Oxford, to a delegation of standing law commissioners from the Nordic countries. Between 2007 and 2009, Abigail was the secretary of the *Oxford Pro Bono Publico* (OPBP) whilst a graduate student. The programme is run by the Law Faculty of the University of Oxford: it assists solicitors and barristers and prepares reports for committees such as the Joint Committee of Human Rights. In 2008 Abigail was one of the OPBP Burma (Myanmar) research team consisting of a group of postgraduate law students whose **report was published in April 2008**.

Abigail kept wicket both for and against the Marylebone Cricket Club and kept wicket for three counties – Warwickshire, Worcestershire and Staffordshire.

Abigail serves as an elected committee member of the London Sailing Club and is the Club's data, privacy and communications officer. Abigail is a member of Greenwich Yacht Club and Rye Harbour Sailing Club.

Abigail runs the London Marathon for Middle Temple charities.

Abigail was educated at Newport Girls' High Court in Shropshire, a State school. She was the captain of her school's debating team and she regularly competed at the Oxford Union debates.

## Present instructions – 2022

Abigail has a busy practice as a trial advocate and advising on all aspects of special jurisdiction work.

**June to July 2022:** Abigail will defend G, the first in indictment order of two defendants, at a terrorism trial re sections 1 and 2 (1) (a) of the Terrorism Act 2006. Abigail will be led at the trial by Rupert Bowers Q.C., instructed by Akhtar Ahmad and Rishi Verma, both partners at ABV Solicitors.

**May 2022:** Abigail will defend R at a trial in the Youth Court, for conspiracy to supply heroin and cocaine. In 2021, R was indicted with attempted murder and pleaded guilty to grievous bodily harm with intent. R was sentenced to 6 years and 9 months' imprisonment. Abigail is an accredited Youth Court practitioner.

**December 2021 to present:** Abigail is advising a Croatian warlord on early release arrangements for prisoners serving in the UK. Abigail is led by Edward Fitzgerald Q.C., instructed by Giovanna Fiorentino.

**September 2021 to present:** Abigail acts for a journalist, Enver Altayli in a claim concerning several violations of the European Convention on Human Rights, including articles 5 and 6. On 23rd November 2021, the President of the Second Section of the European Court of Human Rights determined that Enver Altayli's claim is admissible, applying articles 34 and 35 of the Convention: *Altayli v. Turkey*, re application no. 18733/10. The President of the Second Section of the European Court acceded to Enver Altayli's application, pursuant to the Rules of Court, Rule 54 (2) (b), by ordering that the Government of Turkey should submit a statement of facts on the admissibility and merits of Mr Altayli's complaint. Mr Altayli's case has been joined to 242 other such cases. Abigail is led by Kirsty Brimelow Q.C. Abigail and Kirsty are actively assisted in their preparation of the claim by Professor Jacques Hartmann at the University of Dundee, professor of public international law. Enver Altayli is a former intelligence officer at Turkey's National Intelligence Organization (MİT) and advisor to former Turkish prime ministers Turgut Özal and Süleyman Demirel. Mr Altayli was arrested in 2017 for alleged membership in the Gülen movement, a group critical of President Recep Tayyip Erdoğan. He was sentenced to 23 years' custody for terrorism.

## Forthcoming instructions – 2023

**January to February 2023:** Abigail is instructed to defend GK at Southwark Crown Court in the last of a series of linked fraud trials for alleged conspiracy amongst lawyers to defraud £12.6 million from the public purse (*re Operation Larkspur*). At the forthcoming trial, GK and AK are accused of fraudulently claiming nearly £9m in legal aid relating to two trials at the Old Bailey and Isleworth Crown Court in 2012. [From September to December 2021, Abigail defended GK, first in indictment order of seven, at a linked trial (*re Operation Larkspur*) at Southwark Crown Court. All fraud counts pertain to legal costs claimed by lawyers.]

## Visiting scholarship – 2022

Between 1st October and 1st December 2022, Abigail will take up a position as a Visiting Scholar at the rule of law institute at Onati, Bilbao. Abigail will use this time to finish writing a book, *Extradition: Appeals*.

## Appointments

Guest lecturer for psychiatry registrars, Institute of Psychiatry, Psychology and Neuroscience

**2021 to present:** Bar Council, elected representative, serving on the Bar Council's ethics committee

**2021 to present:** Middle Temple, deputy course director for pupillage advocacy training,

**2020 to present:** Advocacy trainer & pupil supervisor, accredited by the Inns of Court College of Advocacy; in December 2021, a pupil at the Crown Prosecution Service completed part of his pupillage with Abigail.

**2018 to present:** Kalisher Trust, a Bar charity, joint responsibility for presenting advocacy classes

**2018 to present:** committee member, Criminal Law Reform Now Network (CLRNN), established in 2017, funded by the Arts and Humanities Research Council, hosted by the universities of Oxford and Cambridge

**2017 to present:** Forensic Science Advisory Council, advisory committee, Forensic Science Regulator

**2017 to present:** Biometrics and Forensics Ethics Group, Home Office committee

**2017 to present:** Forensic Science Regulatory Committee, Home Office committee

**2017 to present:** Criminal Appeals Lawyers Association, Court of Appeal user group, committee member

**2017 to 2020:** Criminal Bar Association, elected representative for barristers under seven years' Call

**2016 to present:** trustee and board member, Chaos Theory, a charity funded by The National Lottery

## Books



Abigail is writing a book, *Extradition: Appeals*, intended for publication by Oxford University Press.

Abigail is a co-author of *The Drugs Offences Handbook*, first published by Bloomsbury Press in 2018.

## Lectures, papers and articles – 2021 to 2022

- September 2022, '*Psychiatric evidence for extradition proceedings*', **the annual Grange conference** for psychiatry and mental health professionals, organised by Professor Keith Rix
- '*Returning instructions: When may barristers do it?*' – Counsel Magazine, May 2022
- '*Challenging decisions of the Criminal Cases Review Commission (The Queen (on the application of Paul Cleeland) v Criminal Cases Review Commission)*' – LexisNexis, published on 7th February 2022, **click here**
- Inner Temple Students' Association: Human Rights and Public Law Panel, 14th January 2022
- Middle Temple: 'Emergency Preparation for Pupillage Interviews'. 21st and 28th February 2022
- Middle Temple, Sherrard conversation series, 'Practising in Extradition' – 24th May 2021

Abigail has written extensively on the American and Swedish extradition requests for Julian Assange.

In June 2019, Abigail and Giovanna Fiorentino wrote an article for LexisNexis Corporate Crime, 'Julian Assange – A Contest of Jurisdictions'. You can read the article if you **click here**.

That year, Abigail was invited by the Master Treasurer of Middle Temple to present the Inn's Grand Day Lecture. Abigail **presented a lecture** entitled 'The Case Against Julian Assange', on 24th October 2019.

In September 2019, Counsel Magazine published Abigail's article on the Assange case. Please **click here**.

## Appeals

In **February 2022**, *The Times*' Register reported Abigail's case of *Cleeland v. Criminal Cases Review Commission*. Abigail was led by Edward Fitzgerald Q.C. and instructed by Aurora Lodhi Heath. Abigail appeared before the Court of Appeal, Civil Division, for Mr Cleeland, the applicant in *Cleeland v. Criminal Cases Review Commission*. The case gave rise to new rights of appeal in judicial review claims of CCRC decisions. Abigail was led by Edward Fitzgerald Q.C. and instructed by Aurora Lodhi Heath. The Court's preliminary ruling established an important point of jurisdiction concerning claims in judicial review brought against decisions of the CCRC. The Court agreed with the Applicant's principal submission and analysis – counsel for the CCRC having conceded the point to the Applicant – that a judicial review of a decision of the CCRC no longer should be considered a '**criminal cause or matter**' in the light of the decision of the Supreme Court in *re McGuinness* [2020] UKSC 6 (re judicial review of parole board decisions). The Supreme Court decision in *McGuinness* had overruled the decision in *R. (on the application of Saxon) v Criminal Cases Review Commission* [2001] EWCA Civ 1384 with the effect that the Court of Appeal, Civil Division, had jurisdiction to determine an application for permission to appeal against a CCRC Commission decision not to refer to the Criminal Division a conviction for murder.

Read Abigail's report on the case, for LexisNexis, published on 7th February 2022, **by clicking here**.

*The Queen (on the application of Paul Cleeland) (Applicant) v. Criminal Cases Review Commission (Respondent)*, C1/2021/1555/PTA, on appeal from a decision of the High Court of Justice, Queen's Bench Division, Administrative Court [CO/227/2020] – a significant decision for which there is permission to cite

In **February 2021**, the Registrar of Criminal Appeals instructed Abigail to appear at a two-day hearing and formulate submissions on a point of pure law before a special constitution of the Court of Appeal, Criminal Division. In *Patel and Others* [2021] 1 W.L.R. 2997, Dame Victoria Sharp PQBD, William Davis and Johnson JJ. considered the impact of, and anomalies created by, the coming into legal effect on 1st April 2020 of the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order applicable to terrorism, violence and sex sentences. Abigail formulated submissions of principle in the case of offenders who were convicted before 1st April 2020 of a violent or sexual offence, as specified in the Criminal Justice Act 2003 Sch.15 Pt 1 or Pt.2, and sentenced after that date to fixed-term custodial sentences of seven years or more. The Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020 applied with the result of changing such

prisoners' earliest point of release date with effect from half to two-thirds of their sentence.

The question for the Court was whether the fact of delay caused before such sentences had been delayed, in most cases because of the COVID-19 pandemic, was sufficient for them to be recognised as exceptional cases where it would be appropriate to take account of the early release provisions.

Abigail successfully applied for an exceptional type of order for appellate work – a solicitors' costs order – to fund preparatory work done by solicitors when contacting *Médecins sans Frontières* and other professionals to appeal against sentence, in Mildred Yesenia Terraza De Leon v. The Queen [2013] EWCA Crim 198.

On Abigail's first day in tenancy, led by Edward Fitzgerald Q.C., her lay client's appeal against a whole life order, which Edward and Abigail argued was wrong in principle, was allowed. A minimum term was fixed at 40 years. The Court was persuaded that the sentencing judge had wrongly sentenced on the basis that the applicant had 'killed before', evidence establishing the applicant's guilt of an offence charged on the indictment only having been deployed as similar fact evidence: Restivo v. The Queen [2013] Q.B. 979?. Edward and Abigail continue (to 2022) to defend in related extradition proceedings pertaining to the same applicant.

## Civil contempt of Court – High Court

Abigail appears in the Court of Appeal Civil Division to defend applications to commit to prison – whether for breaches of High Court all-assets restraint orders or insurance cash-for-cash frauds.

## Coroners' inquests

For ten years to present, Abigail has been a guest lecturer for psychiatry registrars at the Institute of Psychiatry, Psychology and Neuroscience, King's College London. Abigail has acted in several jury inquests for bereaved families of prisoners who have died in State custody whilst in prison or a prisoner in hospital.

Abigail has been led at jury inquests into prisoner deaths by Peter Carter Q.C. and Christopher Henley Q.C.

In July 2020, Abigail demonstrated to Inn students the role of counsel for a bereaved family in a mock coroners' inquest convened before Her Majesty's Senior Coroner for Inner West

London. The day was filmed to be used as an advocacy teaching aid. Abigail persuaded the Coroner that a finding of suicide would be unsafe and should not be made after a hanging where there had been no toxicology tests obtained to demonstrate whether the deceased had consumed cocaine, the family having balked at a finding of suicide.

## Public inquiries

Abigail served as counsel to four public inquiries between 2010 and 2019, non-statutory and statutory.

Eversheds LLP instructed Abigail for the Department of Health as noting counsel to the Mid Staffordshire General NHS Hospital Trust Inquiry, a non-statutory public inquiry, between 2010 and 2011.

Fieldfisher LLP instructed Abigail as counsel to the inquiry at the Independent Inquiry into Child Sexual Abuse in 2016. The Treasury Solicitor's Department instructed Abigail as counsel to the inquiry at the Undercover Policing Inquiry from 2016 to 2018, and as counsel to the inquiry at the Grenfell Tower Inquiry in 2019. Abigail has a proven grasp of the Inquiries Act 2005. She is well-placed to act for interested parties at public inquiries and for interested persons, including bereaved families, at coroners' inquests.

## Terrorism

In **June and July 2022**, Abigail will defend G at trial, the first in indictment order of two.

Abigail will be led by Rupert Bowers Q.C., instructed by Akhtar Ahmad and Rishi Verma, partners at ABV Solicitors. The question for the jury is whether G published statements intending to encourage terrorism. G's defence is that he broadcast podcasts, and so published statements, intending to encourage legitimate, nuanced debate.

In **August 2021**, the Registrar of Criminal Appeals appointed Abigail to defend B. B was aged 23 when he committed [a jury found, B having lost a trial] the offence of collecting information, contrary to **section 58 of the Terrorism Act 2000**, having in his possession a record of information, 'The Anarchist's Cookbook', which was likely to be useful to a person committing or preparing an act of terrorism. B was a mathematics graduate of Pembroke College, University of Cambridge, who had been diagnosed with Asperger's syndrome, an autistic spectrum disorder. He had twice been referred to the Prevent programme, designed to dissuade people from being drawn into extremism, after posting extreme views online

which defended Adolf Hitler and made racist comments about Jews. Police had held a series of meetings with him to seek to dissuade him from pursuing extreme ideology. B was found in possession of 'The Anarchist's Cookbook', which contained bomb-making instructions and other information useful to terrorists. Granting leave to appeal, and dismissing the appeal, the Vice President of the Court of Appeal, Criminal Division, held that special custodial sentence imposed on an offender of particular concern, of two years' imprisonment with an additional one-year licence period, was appropriate for a young man found in possession of material likely to be useful to a person committing or preparing an act of terrorism. B's Asperger's syndrome had not lessened his culpability and did not mean that he should have received a suspended sentence: *Bel (Oliver) v. The Queen* [2021] EWCA Crim 1461, 27th August 2021.

In **2019 and 2020**, Abigail led a junior barrister at a re-trial, defending a young autistic man accused of membership of a proscribed terrorist organisation (*Operation Cyclor I; Operation Cyclor II*).

In **2018**, Abigail's lay client was the sole one of five to be acquitted of terrorism-related offending after a trial of six weeks (*Operation Gorlois*). Abigail's lay client was the only defendant who did not give evidence.

In **May 2020**, Abigail's lay client secured a conditional discharge for a Schedule 7 Terrorism Act offence.

Abigail has advised on numerous such Schedule 7 Terrorism Act arrests.

## Murder

Abigail has defended in several murder trials. In her first year of tenancy, Abigail was led by Joe Stone Q.C. in four murder trials – one involving the rare psychiatric disorder of morbid jealousy, at the Central Criminal Court, which resolved with a guilty plea on the basis of diminished responsibility to death by strangulation.

## Extradition

In **August 2020**, in the very first case concerning the UK leaving the European Union, Abigail's lay client, a German national, was granted permission to appeal, relying on Germany's constitutional non-reciprocity, nationality, bar. Abigail was led by Edward

Fitzgerald Q.C. and instructed by Karen Todner.

In *Cerci v. Slovakian Judicial Authority* [2020] EWHC 208 (Admin), Abigail's appeal against extradition to Slovakia was allowed: the extradition order was quashed and orders made for immediate discharge and release from prison, the Respondent judicial authority having applied to adjourn the hearing.

Between **March and July 2021**, Abigail successfully advised an Albanian man on how to resist an Italian-issued extradition arrest warrant. The proceedings resolved successfully in favour of Abigail's lay client when an Italian-based lawyer, acting on Abigail's advice, secured an 'in principle' type of sentence highly favourable to Abigail's lay client. Abigail's lay client consented. Abigail was instructed by Corker Binning.

In **July 2021**, Abigail successfully applied for bail in the Administrative Court for a Somalian national arrested on a conviction-type Greek-issued arrest warrant; the application for bail was opposed by the Greek prosecutor and there was no presumption in the applicant's favour of bail; the applicant, convicted of human trafficking, was liable to serve a sentence of six and a half years' imprisonment: *Omar (Rahima Abdi) v. Prosecutors' Office at the Appeal Court of Thessaloniki, Greece* at [2021] EWHC 2136 (Admin).

Between **2020 and 2021**, Abigail was instructed as sole counsel for two defendants facing American extradition requests, one originating in New York (accused of tens of conspiracies to commit banking ('wire') frauds and money-laundering) and one in New Jersey (accused of international child kidnap). In August 2020, the first defendant, a Nigerian citizen and a naturalised British citizen, sought by New York, became eligible for bail upon surrender to New York; this was due to extensive liaison between the British-based and New York-based instructed lawyers and the relevant Assistant United States Attorney. The New York prosecutor's opening note for the extradition hearing stated: *'More than \$2.3M was stolen and diverted to the accounts of this man and his co-conspirators by tricking the victim banks and corporate entities into thinking one of their vendors had changed suppliers'*.

## Very high value fraud

In **July 2021**, Abigail successfully defended in *Operation Gnathonize* at Southwark Crown Court, a National Crime Agency cross-border surveillance of a businessman re perverting the course of justice by breaching several freezing and disclosure orders made by the High Court. From December 2020, Abigail advised the same lay client on several further related civil proceedings re alleged breaches of an all-assets restraint order obtained by the National

Crime Agency re an application to commit to prison for contempt. In March 2021, at the committal hearing for contempt of a court order, proved by several breaches of the order, Abigail persuaded a judge at Southwark Crown Court not to imprison her lay client for contempt.

**September to December 2021**, Abigail defended GK, the first in indictment order of seven, at a linked trial (*re Operation Larkspur*) at Southwark Crown Court. The claims pertain to legal costs claimed by lawyers.

**January to February 2023**, alleged conspiracy amongst lawyers to defraud a total value of £12.6 million from the public purse (*re Operation Larkspur*) – Abigail is instructed to defend GK at Southwark Crown Court in the last of a series of linked fraud trials. GK and AK are accused of fraudulently claiming nearly £9m in legal aid relating to two trials at the Old Bailey and Isleworth Crown Court in 2012.

## Investigatory Powers Tribunal, search warrants and production orders

Abigail appeared before the Investigatory Powers Tribunal (IPT) for one of three claimant Members of Parliament in proceedings to enforce the meaning, effect and status of the so-called 'Harold Wilson doctrine' against respondent intelligence and security services (re whether interception of parliamentary communications complied with the ECHR art.8, art.9 and art.10): (1) Caroline Lucas MP, Baroness Jones of Moulsecoomb AM; (2) George Galloway v. Security Service, Secret Intelligence Service, Government Communications Headquarters, Secretary of State for The Home Department, Secretary of State for Foreign and Commonwealth Affairs.

Abigail was led by Rupert Bowers Q.C. for George Galloway before the IPT. **Click here for the judgment.**

Abigail has a busy practice challenging search warrants, production orders and asset freezing orders. She attends at business offices for HMRC searches and advises on interviews under caution by HMRC.

Abigail successfully advised a serving member of the Metropolitan Police Service on how to engage with the Metropolitan Police Service as an employer before several voluntary interviews under caution.

Abigail successfully appeared for claimants in judicial reviews of the issue and execution of search warrants:

- *R. (on the application of Kouyoumjian) v. Hammersmith Magistrates' Court* [2014] EWHC 4028 (Admin); [2015] Crim. L.R. 455 – A search warrant was quashed, and seized property was returned, where the warrant had been issued and executed in relation to drug offences, but police then sought to retain the property in connection with fraud offences; police had given no information as to why and when the focus of the investigation had changed from drugs to fraud.
- *R. (on the application of, AB, CD) v. Huddersfield Magistrates' Court, The Chief Constable of West Yorkshire Police (re a costs decision)* [2014] EWHC 2179 (Admin) – At [10] and [11], the Court observed: ‘*Standing back once more, we consider that this level of costs is high but not disproportionate for a case of considerable importance to the Claimants in circumstances where the Defendants continued to describe their claim as being without merit to the end.*’ ‘*We therefore assess costs summarily in the sum of £63,508.17.*’
- *R. (on the application of AB and another) v. Huddersfield Magistrates' Court and another* [2015] 1 W.L.R. 4737 – A specific premises warrant issued by a magistrates' court was unlawful; police had failed to inform the court that the occupants of the premises were solicitors, a relevant consideration.
- *R. (S and others) v. Chief Constable of the British Transport Police and another, A Practice Note* [2014] 1 W.L.R. 1647 – Search warrants for excluded material and special procedure material at solicitors' premises were quashed for failure to comply with the requirements of the 1984 Act, s.9 and Sch.1.

## Rape and serious sex offences

Abigail defended Samson Makele, aged 28, whose trial for rape collapsed in January 2018. The Crown offered no evidence against Mr Makele after his legal representatives downloaded his mobile telephone and exposed photographs showing lipstick marks on his chest – wholly discrediting the complainant's account. The schedule of unused material prepared by police and the Crown had recorded that Mr Makele's mobile telephone would not be downloaded by police on the basis that it was not a reasonable line of inquiry. Mr Makele had said to police at an interview under caution that the complainant and he had consensual sexual intercourse and that he had taken photographs on his mobile telephone of the complainant kissing his chest. The complainant's allegation was of a violent rape in which she gave no consent to any intimacy at all.



Acting on Mr Makele's instructions about his defence case, Abigail's instructing solicitors applied for public funding to download and examine Mr Makele's mobile. The Crown offered no evidence within three days.

*The Times* reported Samson Makele's case [here](#), 'Cuddling photos clear man of rape', 16th January 2018.

**Danny Shaw**, Home affairs correspondent, BBC News, reported the case [here](#), 'Rape case collapses after 'cuddling' photos emerge', 15th January 2018

Owen Boycott, legal affairs correspondent for *The Guardian*, reported the case [here](#), 'London rape trial collapses after phone images undermine case: Photos showed defendant in bed with his alleged victim'.

*Re T and G*: Abigail advised two University of Cambridge medical undergraduate students accused of rape how to engage with police before each decided to undertake interviews under caution. No further action was taken against either man. Abigail was instructed by Gary Monks, partner at Hodge, Jones and Allen.

*Re HD*: after a six-day rape trial resulting in acquittal of Abigail's lay client of several rape offences, Abigail successfully applied for the very first reporting restriction to be granted to an acquitted rape defendant, an order made for an unlimited period ('for life'). Granting the application, the judge said '*It is rare, in practice, for the public interest not to be served by the press having freedom to publish (at a minimum) the fact of an acquittal and the name in which a defendant was indicted or otherwise known at a trial. Counsel has addressed the Court on exactly how two articles of the European Convention on Human Rights, articles 2 and 10, exceptionally, were engaged.*'

*Re TR*: Abigail persuaded the Crown not to proceed to try several rape allegations on the basis that the defendant accepted that his behaviour toward the complainant, his former intimate partner, was criminally controlling and coercive. Abigail secured her lay client's signed instructions that she should not seek to mitigate the seriousness of the admitted controlling and coercive behaviour counts in return for the Crown offering no evidence of rapes. The judge observed that the behaviour was 'of the worst sort of the offence of controlling and coercive behaviour'. The defendant was released from custody the same day, having been remanded in custody for months whilst awaiting his trial.

*Re BT*: Abigail resisted a life sentence being passed on her lay client for a rape committed at night on a canal towpath. The rape involved holding a knife to a young woman's throat and was **reported by the BBC**.

Re *KD*: Abigail resisted a finding of dangerousness after convictions for nine (9) rapes of three child victims. Abigail persuaded the Crown not to challenge the defendant's account – given at the point of pleading guilty – that he took no reasonable steps to found his belief that each child was aged sixteen or older.