



JUDICIARY OF  
ENGLAND AND WALES

**Judge Howard Riddle, Senior District Judge (Chief Magistrate)**

**In the Westminster Magistrates' Court**

**The Queen -v- E7**

**Wednesday 10<sup>th</sup> September 2014**

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This defendant, known as E7 on the charge but whose identity is known to the prosecution, has been charged with the murder of Azelle Rodney on 30 April 2005. Proceedings began, uniquely in my experience, by way of a written charge and requisition.

The defence ask that his anonymity be preserved. The application raises a number of fundamental points, and some unusual points. The most unusual point is that the defendant appears at liberty on an allegation of murder. It is also unusual that there has been a public inquiry in the course of which the inquiry chairman, Sir Christopher Holland made an anonymity order “for all purposes connected with this inquiry”. The law in relation to witnesses at an inquest or inquiry, and the tests to be applied are different, and the existing order was expressly confined to the purposes of the inquiry. I have heard the argument that the order made in the inquiry is binding until revoked by a ministerial order. It is argued that to permit the defendant to be identified in this court would drive a coach and horses through the order. While I can see that the anonymity order sits uncomfortably with the requirement that a defendant in criminal proceedings must be identified, I am confident that Sir

Christopher's order does not apply to these proceedings and was not meant to. There is also an application for screens.

There is no power to order screens for a defendant in the dock in a magistrates' court.

I must look at the application for anonymity in the light of the criminal law as it applies to defendants.

The following fundamental points may not need restatement, but are obviously at the forefront of the court's mind.

Equality before the law is of first importance. Every defendant will be treated equally, with the same rights and duties, whatever their background status or occupation.

Open justice is central to the administration of justice.

There is a presumption of innocence.

Human rights are in play, especially article 2.

In this case the defendant asks that he not give his name and address. In the event the arguments were not fully developed because it was agreed that other arrangements could protect the position pending full argument before another tribunal. Nevertheless I must reach my own decision for the purpose of this court and do so on general principals without the benefit of full argument.

I will briefly review the law. One case of particular relevance because it relates to police officers and is recent, 2010, is *Harper and Johncox*.

In *Harper and Johncox the Aldershot Magistrates' Court and The Press Association* [2010] EWHC 1319 the principles were considered in the light of the well known cases: *R v Evesham Justices* [1988] 1 QB 553; *R v Malvern Justices ex parte Evans* [1988] 1 All ER 371; *Attorney General v the Leveller Magazine* [1979] AC 440; *R v Trinity Mirror plc* [2008] EWCA Crim 50.

Section 11 of the Contempt of Court Act 1981 provides:

"In any case where a court (having power to do so) allows a name or other matter to be withheld from the public in proceedings before the court, the court may give such directions prohibiting the publication of that name or matter in connection with the proceedings as appear to the court to be necessary for the purposes for which it was so withheld."

In the *Leveller Magazine* case Lord Diplock confirmed an earlier principle that:

"As a general rule the English system of administering justice does require that it be done in public."

Lord Diplock identified the principles on which departure from the general rule is required:

"However, since the purpose of the general rule is to serve the ends of justice it may be necessary to depart from it where the nature or circumstances of the particular proceedings are such that the application of the general rule in its entirety would frustrate or render impracticable the administration of justice or would damage some other public interest for whose protection parliament has made some statutory derogation from the rule."

In the *Belfast Telegraph* case [1997] MI QBD 309 it was said:

"The use of the words "some other public interest" indicates that Lord Diplock had in mind the protection of the public interest in the administration of justice rather than the private welfare of those caught up in that administration."

In the *Evesham Justices* case Watkins LJ said:

"Section 11 was not enacted for the benefit of the comfort and feelings of defendants. The general rule ... may not be departed from save where the nature or the circumstances of proceedings are such that the application of the general rule in its entirety would frustrate or render impracticable the administration of justice."

In that case the defendant's claim was based on his having been harassed by his ex-wife at his previous address. There could be cases in which the claimant's "well-being" would overlap with the interests of the "administration of justice".

In the *Trinity Mirror* case Sir Igor Judge (as he then was) stated:

"It is impossible to over-emphasize the importance to be attached to the ability of the media to report criminal trials. In simple terms this represents the embodiment of the principle of open justice in a free country... from time to time occasions will arise where restrictions on this principle are considered appropriate, but they depend on express legislation, and, where the court is vested with a discretion to exercise such powers, on the absolute necessity for doing so in the individual case"

In *Harper and Johncox* the claimants asked that their home addresses should not be published because they were high-ranking police officers well known in the area. There was said to be a real danger that publication of their addresses would put them and their families at risk. Both officers had been involved in covert operations. One of the officers and his family had been placed in witness protection for 18 months following his involvement in the investigation and prosecution of serious crime. The application was refused.

Another, even more recent authority is *Guardian News and Media Ltd and AB CD* heard in the Court of Appeal on 12<sup>th</sup> June this year. That is a national security case. It was said:

"The Rule of Law is a priceless asset of our country and a foundation of our Constitution. One aspect of the Rule of Law – both a hallmark and a safeguard – is open justice, which includes criminal trials being held in public and the publication of the names of defendants. Open justice is both a fundamental principle of the common law and a means of ensuring public confidence in our legal system; exceptions are rare and must be justified on the facts. Any such exceptions must be necessary and proportionate. No more than the minimum departure from open justice will be countenanced".  
[per Gross LJ, para 2]

So is this a case where an exception to the usual rule is necessary and proportionate?

In my assessment, and bearing in mind that I have not heard full argument, the answer is no. I have seen the risk assessment. The point made about the identification of serving firearms officers is weighty but does not outweigh the general principle. I am satisfied that there is no risk to the administration of justice by identifying the defendant. I am also satisfied that there is no substantial or immediate risk to his life. Such risks as there may be are not exceptional in a case of this type and can be contained by the prison authorities. It is a matter for the judge hearing the bail application to consider whether custody is necessary or appropriate, or whether such risk as there is can be managed in the community.

Therefore my decision is to refuse anonymity.

It is common ground that this case must be sent to CCC under s51 of the Crime and Disorder Act 1998. By s115 a person charged with murder may not be granted bail except by order of a judge of the Crown Court. Because this court cannot grant bail, the case must be put before a judge at the Central Criminal Court within 48 hours. Arrangements are in place for that hearing to take place this afternoon.

In those circumstances, I am content that the administration of justice will not suffer if I require the defendant to provide his name (and his address to my legal adviser in writing). I make an order that the name and address be withheld from the public and the press at this stage. At the same time I will make an order under s11 Contempt of Court Act prohibiting the publication of the defendant's name, address or any other identification including description (other than E7) until the conclusion of the first hearing at the Central Criminal Court. That gives the defence the opportunity to challenge my decision, and the Press to make representations. I am conscious that if I am wrong to refuse anonymity, it will almost immediately be impossible to take the information out of the public domain. Whereas if I am right, details can be made available very soon.

A handwritten signature in black ink, appearing to read "Howard Riddle". The signature is written in a cursive style with a large initial 'H'.

**Howard Riddle**  
**Chief Magistrate**

**10<sup>th</sup> September 2014**