



JUDICIARY OF
ENGLAND AND WALES

SOUTHWARK CROWN COURT SITTING AT LEWES CROWN COURT

MR JUSTICE SAUNDERS

R

-v-

MARGARET MORAN

27 APRIL 2012

JUDGMENT ON WHETHER DEFENDANT IS UNDER A DISABILITY

1. It is asserted on behalf of the Defendant that she is unfit to plead and therefore under a disability.
2. By virtue of s. 4 of the Criminal Procedure (Insanity) Act 1964 as amended, that decision is to be made by me on the basis of evidence given by registered medical practitioners.
3. In this case, I have considered reports from Dr. Kelly and Dr. Joseph instructed by the Defence and reports from Dr. Chesterman instructed by the Prosecution. In addition Dr. Joseph has given evidence in front of me. It has not been necessary for Dr. Chesterman to give evidence because, while there is a difference of emphasis between the reports, there is agreement on the question which the court has to determine.
4. The issue that I have to decide is whether the Defendant is sufficiently able to participate in the proceedings to make a proper defence. That requires her to be able to instruct her lawyers as to her case, to understand the evidence and to give evidence. These are the relevant parts of the legal test established in the case of Pritchard in 1836. It is and has been the law of this country for a very long time that a person shall not be required to plead to allegations which they are not fit to consider or answer.
5. Because it is the Defence that have raised the issue it is for them to prove it on the balance of probabilities. The prosecution however accept that the Defendant is unfit to plead and the evidence from all the psychiatrists supports that conclusion.
6. All the psychiatrists who have examined the Defendant agree that she is suffering from a depressive illness which is properly described as a mental illness. It is not to be confused with what is colloquially called depression which many of us feel when things are going badly and we are feeling down.

Dr. Joseph in his reports describes the depressive illness suffered by Mrs. Moran as severe. Dr. Kelly, who is the Defendant's treating psychiatrist, agrees. Dr. Chesterman's opinion is that the depressive illness is more properly described as moderate.

7. Dr Joseph in his evidence to me described the Defendant as 'a broken woman' who is a real threat to herself and whose condition has deteriorated significantly with the threat of court proceedings.
8. It is not surprising that these proceedings and the end of her parliamentary career would cause considerable upset to Mrs Moran. However the psychiatrists have concluded that, at the time, she was mentally fragile because of her genetic history and episodes in her past which she had been able to keep submerged while she lived a busy and exciting life as a MP but had now come to the surface. It was the effect of these events combined with the underlying mental fragility which has caused Mrs Moran to suffer a mental illness from which she has been unable to recover despite out patient treatment for a considerable period of time. She is likely always to remain susceptible to relapse and the symptoms she presently has are unlikely to resolve for some considerable period of time after these proceedings are concluded.
9. All the psychiatrists are agreed that the Defendant is not in a fit state to follow the proceedings, instruct her lawyers or to give evidence on her own behalf. Dr. Joseph has attempted to discuss the allegations with her and is satisfied that she is not able to give proper instructions. He recorded her as saying 'I just want to plead guilty and be punished' but in his view and my judgement that is unlikely to have been a response reached after a proper consideration of the allegations and is simply an attempt to get the matter over with and assuage feelings of guilt which may relate to other matters.
10. In those circumstances, as the evidence is all one way, and the application is not opposed I find on the balance of probabilities that the Defendant is under a disability and is unfit to plead.
11. While it may be that this result will be viewed with scepticism by some, it should be understood that courts act on evidence. In this case all the experts are well aware of their duty to the court to give objective and unbiased evidence and reports have been obtained by both sides and are in broad agreement. While there has not been complete agreement on every detail as I have indicated, all the experts agree that the Defendant is unfit to plead.
12. The case will now be adjourned for a jury to determine whether the Defendant did the acts alleged by the prosecution.