

From: JOSEPHINE WARD [josephinewardsolicitor@gmail.com]

Sent: 10 August 2013 12:23

To: Lorraine Cordell; michael@michaelcarrollandco.com

Subject: Regina v. Simon Cordell for plea and case management hearing on 4th September 2013 at Woolwich Crown Court

Dear Lorraine / Simon

Thank you for your telephone call today.

I am copying Michael Carroll into this email as he is now overseeing and monitoring all the work that I undertake in this case to ensure that I am preparing your case properly and to your satisfaction and complying with your instructions.

I set out below the main content of our conversation but if I have left anything out please come back to me as soon as possible.

INSTRUCTIONS:

Simon you confirmed that your benefits had been suspended and you did not have the funds to attend the police station every day. You stated that Edmonton Police Station is a 2 mile walk from where you currently live. You have asked me to make an application to remove this bail condition.

Secondly, you have asked that your curfew be suspended for an up and coming festival in Enfield.

Thirdly, you have asked me to consider the merits of making an application to dismiss the charges against you based on the fact that you entered a building that was being squatted in and therefore you were not a trespasser.

Fourthly you stated that the photographs sent to you were of poor quality and were in black and white.

Fifth, you complained that the barrister did not present your case properly.

Six, you requested your case papers from the Winchester case.

I will deal with each of the points that you have raised and the agreed action.

Point (1) I can make this application to remove the reporting the condition. I can source a map from the internet to show the distance and I can also show bus prices on an Oyster card £2.80 per day in fares as I assume only one bus is required. If I am wrong in this assumption can you please confirm by email the number of buses and the routes that the buses take at your earliest convenience. Can you also please ask your mother to email over the letters that you have sent to the Benefits Agency appealing and requesting the re-instatement of your benefits as this will assist my application.

Point (2) Again I can make an application to suspend your curfew on the dates of the festival but again I need the documentation from the Council regarding this to support your application.

Point (3) I will have to consider this point in more detail but if I can illustrate an analogy to you which I believe that the Judge will also use. Your case is that you were not a trespasser when you entered the building due to notices on both buildings which confirmed they were legal squats. You may well be right.

The law on burglary consists of entry to a building or part of a building, as a trespasser with intent to

either steal item, cause GBH or doing unlawful damage or actually does any of the aforementioned.

I will deal with the trespass point firstly. The notices in relation to the legal squat may well highlight that you were not a trespasser when you entered. (I confess that I need to research this point) I think that we can also agree that the squatters were not the owners of the building and had not made any claim for adverse possession. I have included some information on adverse possession for your ease of reference at the end of this email. Even if we can establish that you had a right to be in the building it does not follow that you had a right to any of the contents. These would still remain the property of the owner, unless you can provide me with the relevant section / legislation / case law. There are a number of instances when a person can enter premises initially by invitation but once they do an act contrary to the right of entry they then become a trespasser. i.e. a customer in a shop reaching over the counter and taking a sales assistant's purse / phone. This is burglary because the person has stolen property (a) that was not for sale (b) that was in a part of the building where the public did not have access.

The other stumbling block to an application to dismiss is your police interview. You accept presence and you accept purchasing items of garden furniture from a male called Mohammed. You state that you have a receipt. This is a trial point and one to be left to the jury as to whether you believed that Mohammed was lawfully entitled to sell the goods to you. Whilst considering this please bear in mind that although the notices allowed entry once Mohammed assumed the rights of the owner by disposing of the property and selling it he then arguably became a trespasser.

I am not concerned about the damage caused to the building as you state that this was caused on a previous occasion so I should be able to establish this from the CPS in my disclosure requests in your defence case statement.

Point (4) I can easily remedy this issue by bringing the photographs with me when I attend your mother's address near the end of next week. I will confirm the day closer to the time and I am grateful for your consideration and understanding that I cannot at this stage give you a fixed appointment. As you are no doubt aware my diary varies from day to day and emergencies do arise.

Point (5) Unfortunately I am only made aware of problems when clients tell me they are unhappy. I forwarded the correspondence bundle to your mother which demonstrated how much work I have actually undertaken in your case to date, both during social and unsocial house and even when I have been on annual leave.

Point (6) I will email the case papers over on the Winchester case under separate email as this is a separate case.

NEXT ACTION REQUIRED BY YOU:

1. Emails to Benefits Agency re appealing and requesting reinstatement of your Benefits
2. Documentation re negotiations with Enfield Council and confirmation of date when festival will take place.
3. Receipt from Focus confirming that the gazebo in the back garden of your property was not stolen.
4. List of witnesses present when you purchased the garden furniture
5. Receipt for the garden furniture

I hope that this email clarifies the information that I require.

NEXT ACTION BY MICHAEL CARROLL & CO.

Once I receive the above information I will email the Crown Court and the CPS and I will request an urgent application to remove the reporting conditions on the grounds of financial hardship.

I will confirm a visit nearer the end of next week in order that you can see the colour photographs. I will confirm with the barrister that they are happy to use black and white pictures and if this is the case I will give you the colour set.

Should you have any further questions then please email me back so that I can assist you further.

Regards

Josephine

PS Below I have attached some information regarding the law of adverse possession

The new regime – a brief overview

Prior to the coming into force of the LRA 2002, a squatter could acquire the right to be registered as proprietor of a registered estate if they had been in adverse possession of the land for a minimum of 12 years. However, the doctrine of adverse possession did not fit easily with the concept of indefeasibility of title that underlies the system of land registration. Nor could it be justified by the uncertainties as to ownership which can arise where land is unregistered; the legal estate is vested in the registered proprietor and they are identified in the register.

The LRA 2002 has created a new regime that applies only to registered land. This new regime is set out in Schedule 6 to the Act. It makes it more likely that a registered proprietor will be able to prevent an application for adverse possession of their land being completed. The following paragraphs provide a brief overview of the new regime; the remaining sections of this guide discuss it in more detail.

- Adverse possession of registered land for 12 years of itself will no longer affect the registered proprietor's title.
- After 10 years' adverse possession, the squatter will be entitled to apply to be registered as proprietor in place of the registered proprietor of the land.
- On such an application being made the registered proprietor (and certain other persons interested in the land) will be notified and given the opportunity to oppose the application.
- If the application is not opposed¹, the squatter will be registered as proprietor in place of the registered proprietor of the land.
- If the application is opposed, it will be rejected unless either:
 - it would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the squatter and the squatter ought in the circumstances to be registered as proprietor
 - the squatter is for some other reason entitled to be registered as proprietor, or
 - the squatter has been in adverse possession of land adjacent to their own under the mistaken but reasonable belief that they are the owner of it, the exact line of the boundary with this adjacent land has not been determined and the estate to which the application relates was registered more than a year prior to the date of the application.
- In the event that the application is rejected but the squatter remains in adverse possession for a further two years, they will then be able, subject to certain exceptions, to reapply to be registered as proprietor and this time will be so registered whether or not anyone opposes the

application.

¹ By 'opposed' we mean that a counter notice is served; see section 8 *Giving counter notice to the registrar in response to notice*. Instead, or at the same time, the registered proprietor may object to the application on the ground that there has not been the necessary 10 years' adverse possession; see section 7 *Objecting to the squatter's application* for the implications of such an objection.