IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2023] EWCA Crim 976

No. 202202404 B5

Royal Courts of Justice

Tuesday, 20 June 2023

Before:

LORD JUSTICE EDIS
MR JUSTICE JAY
MR JUSTICE BUTCHER

REX
V
KURAN GILL

[Post judgment Note: REPORTING RESTRICTIONS:
THE PROVISIONS OF SECTION 82 OF THE CRIMINAL JUSTICE ACT 2003 NO LONGER APPLY IN VIEW OF THE CONCLUSION OF THE RE-TRIAL ON 11 JULY 2023]

Computer-aided Transcript prepared from the Stenographic Notes of
Opus 2 International Ltd.
Official Court Reporters and Audio Transcribers
5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
CACD.ACO@opus2.digital

Mr. A. J. Smith appeared on behalf of the Defendant.
Mr. J. Bide-Thomas appeared on behalf of the Crown.

.

J U D G M E N T

LORD JUSTICE EDIS:

The issue

1 This is an application by the prosecution for leave to arraign the defendant out of time in accordance with section 8(1) and 8 (1B) of the Criminal Appeal Act 1968 and in accordance with rule 39.14 of the Criminal Procedure Rules. The application is opposed and the defendant makes a counter application under the same provisions for an order setting aside the order for retrial and for the entry of a judgment and verdict of acquittal.

2 The sole issue is whether the prosecution has behaved with all due expedition or not. The retrial, subject to this application, is listed for 3 July 2023. Mr Smith, who appears for the defendant, has not sought to address any submissions to the court designed to persuade us not to grant leave to the prosecution if the prosecution can show that it has acted with all due expedition.

The appeal

3 On 17 February 2023 the defendant's appeal against conviction for wounding with intent, contrary to section 18 of the Offences Against the Person Act 1861, was allowed by the Court of Appeal Criminal Division, Popplewell LJ, Griffiths J and HHJ Dhir KC, sitting as a judge of the Court of Appeal Criminal Division. Their decision is to be found at [2023] EWCA Crim 259, but is presently subject to reporting restrictions in order to protect the integrity of the retrial which that court ordered, having allowed the appeal. It is unnecessary in this judgment to say anything about the facts of the allegation which led to the conviction which was then quashed. That is why, subject to the anonymity of the defendant in the title of the judgment, this judgment can be reported now. [NOTE: This was an *extempore* judgment given on 20 June 2023. In view of the completion of the re-trial on 11 July 2023 it is no longer necessary to anonymise the defendant and this decision and [2023] EWCA Crim 259 can now be published in full].

4 The court directed, when ordering the retrial, that a fresh indictment should be served within 28 days and that an arraignment on that indictment should take place within two months. We shall set out shortly the statutory provisions which led to those directions.

5 In a letter from the Registrar of Criminal Appeals to the Woolwich Crown Court, dated 21 February, the Registrar communicated the decision of the Court of Appeal and the order which it had made, and said this, "I would emphasise that the defendant must be arraigned on a fresh indictment within two months (14 April 2023)."

6 That letter was copied to both counsel, to the defence solicitors and to the Crown Prosecution Service. It was uploaded on to a new file opened on the Digital Case System (DCS) by Her Majesty's Courts and Tribunal Staff in relation to the retrial. It was uploaded on to that file on 20 March 2023. By way of explanation, it is worth recording that the conventional practice so far as the use of the DCS is concerned is that on a case being sent for trial a file is opened and all the trial documents are there stored and made available to those who have business to see them. An indictment is preferred by being uploaded into the relevant section of that system and an indictment number is also assigned. When a conviction is quashed, as occurred in this case and a retrial is directed, the practice is that a new DCS file will be opened and the fresh indictment as directed by the Court of Appeal Criminal Division will be uploaded into the relevant section and a new indictment number assigned. That is what occurred in this case, although the new DCS file was not opened at the very start of the retrial proceedings, which may have contributed to the unfortunate series of events which then followed.

7 By the date when the Registrar's letter was uploaded on to the DCS the Crown Prosecution Service had already uploaded a draft indictment on to the DCS. They did this on 17 March 2023. They uploaded it on to the old DCS file which may at that stage have been the only one on to which they could upload it.

8 It is perhaps worth recording that the "fresh indictment" was identical to the indictment on which the defendant had stood trial and been convicted. That form of indictment was an extract from a larger document which was described as the "Trial indictment" and which was uploaded on to the DCS as long ago as 2 July 2022. No-one at any stage in these proceedings since the order of the Court of Appeal Criminal Division in February has been in any doubt as to what the trial indictment would contain except perhaps the person who prepared the first draft fresh indictment, who prepared it in the form containing one rather than two counts. That error was very swiftly corrected and the appropriate two count indictment was in place, as we have said, by 17 March 2023, albeit on the old case file, rather than the new DCS file which was shortly to be created.

The law

9 Sections 7 and 8 of the Criminal Appeal Act 1968 provide as follows:

> "**7 Power to order retrial.**
>
> (1) Where the Court of Appeal allow an appeal against conviction ... and it appears to the Court that the interests of justice so require, they may order the appellant to be retried.
>
> (2) A person shall not under this section be ordered to be retried for any offence other than—
>
> (a) the offence of which he was convicted at the original trial and in respect of which his appeal is allowed as mentioned in subsection (1) above;
>
> (b) an offence of which he could have been convicted at the original trial on an indictment for the first-mentioned offence; or
>
> (c) an offence charged in an alternative count of the indictment in respect of which no verdict was given in consequence of his being convicted of the first-mentioned offence.
>
> **8 Supplementary provisions as to retrial.**
>
> (1) A person who is to be retried for an offence in pursuance of an order under section 7 of this Act shall be tried on a fresh indictment preferred by direction of the Court of Appeal, ... but after the end of two months from the date of the order for his retrial he may not be arraigned on an indictment preferred in pursuance of such a direction unless the Court of Appeal give leave.
>
> (1A) Where a person has been ordered to be retried but may not be arraigned without leave, he may apply to the Court of Appeal to set aside the order for retrial and to direct the court of trial to enter a judgment and verdict of acquittal of the offence for which he was ordered to be retried.
>
> (1B) On an application under subsection (1) or (1A) above the Court of Appeal shall have power—
>
> (a) to grant leave to arraign; or
>
> (b) to set aside the order for retrial and direct the entry of a judgment and verdict of acquittal, but shall not give leave to arraign unless they are satisfied—
>
> (i) that the prosecution has acted with all due expedition; and

(ii) that there is a good and sufficient cause for a retrial in spite of the lapse of time since the order under section 7 of this Act was made.

(2) The Court of Appeal may, on ordering a retrial, make such orders as appear to them to be necessary or expedient—

(a) for the custody or, subject to section 25 of the Criminal Justice and Public Order Act 1994, release on bail of the person ordered to be retried pending his retrial; or

(b) for the retention pending the retrial of any property or money forfeited, restored or paid by virtue of the original conviction or any order made on that conviction.

(3) If the person ordered to be retried was, immediately before the determination of his appeal, liable to be detained in pursuance of an order or direction under Part V of the Mental Health Act 1959 or under Part III of the Mental Health Act 1983 (other than under section 35, 36 or 38 of that Act),—

(a) that order or direction shall continue in force pending the retrial as if the appeal had not been allowed; and

(b) any order made by the Court of Appeal under this section for his custody or release on bail shall have effect subject to the said order or direction.

(3A) If the person ordered to be retried was, immediately before the determination of his appeal, liable to be detained in pursuance of a remand under section 36 of the Mental Health Act 1983 or an interim hospital order under section 38 of that Act, the Court of Appeal may, if they think fit, order that he shall continue to be detained in a hospital or mental nursing home, and in that event Part III of that Act shall apply as if he had been ordered under this section to be kept in custody pending his retrial and were detained in pursuance of a transfer direction together with a restriction direction.

(3B) If the person ordered to be retried—

(a) was liable to be detained in pursuance of an order or direction under Part 3 of the Mental Health Act 1983;

(b) was then made subject to a community treatment order (within the meaning of that Act); and

(c) was subject to that community treatment order immediately before the determination of his appeal, the order or direction under Part 3 of that Act and the community treatment order shall continue in force pending the retrial as if the appeal had not been allowed, and any order made by the Court of Appeal under this section for his release on bail shall have effect subject to the community treatment order.

(4) Schedule 2 to this Act has effect with respect to the procedure in the case of a person ordered to be retried, the sentence which may be passed if the retrial results in his conviction and the order for costs which may be made if he is acquitted."

10 Rule 39.14 of the Criminal Procedure Rules prescribes a procedure for making applications of this kind. That procedure has been complied with and nothing turns on it.

11 These provisions have been considered by this court on a number of occasions. In *R v Pritchard* [2012] EWCA Crim 1285, Gross LJ giving the judgment of the court, said this:

"5. The section has been considered in a number of authorities from which for present purposes, and focusing essentially on subsections (1B)(b)(i), we distil the following summary:

(1) The purpose of the section is to ensure that the retrial take place as soon as possible. The purpose is intended to be achieved by a focus on arraignment. Once arraignment has taken place, the case will be back under judicial control and the matter can be left to the judge to ensure that the retrial occurs at the earliest practical opportunity.

(2) The section is structured in such a way that this court has no power to give leave to arraign out of time unless the cumulative sections of sections (1B)(b)(i) and (ii) are satisfied.

(3) 'Expedition' means promptness or 'speed'. 'Due' means 'reasonable' or 'proper'. The question of 'due expedition' relates to the arraignment, not to other aspects of the preparation for the retrial. Where the deadline has been missed, the court does not look simply at the end result, nor does the court conduct a minute examination of the systems employed in the offices and chambers of those involved in the prosecution. What is involved instead has been referred to as a broad 'post mortem'.

(4) The primary duty to ensure that the arraignment takes place within the time limit lies with the Crown Court concerned. However, all parties to the proceedings are also under a duty to co-operate to ensure that the defendant is re-arraigned within the two-month time limit.

(5) The requirement that the prosecution should have acted with "all due expedition" is less exacting than that for the extension of a custody time limit (where the requirement is 'with all due diligence and expedition').

See *R v Coleman* (1992) 95 Cr App R 345; *R v Kimber* [2001] EWCA Crim 643; *R v Jones (Paul Garfield)* [2002] EWCA Crim 2284, [2003] 1 Cr App R 20; and *R v Dales* [2011] EWCA Crim 134. Further citation of authority is unnecessary."

12 In the more recent decision of *R v Muner Al-Jaryan* [2020] EWCA Crim 1801, the court quoted that passage with approval and went on to extract some further formulations of the law from the authorities which Gross LJ had mentioned, although he felt that it was unnecessary to cite any part of them. The court in *Al-Jaryan* carried out that exercise in its paragraph 25. In our judgment, the statement of the law as set out by Gross LJ is, as the court in *Al-Jaryan* said, sufficient and complete.

13 It is worth reminding ourselves that until amendment to include the word "diligence" by the Crime and Disorder Act 1988, section 22(3) of the Prosecution of Offences Act 1985, which deals with custody time limit extensions, had been in substantially the same terms as the provision with which we are concerned. It required only all due expedition and did not mention due diligence. Therefore, it may be helpful by analogy to consider a decision of the Divisional Court decided under the pre-amendment custody time limit provision in order to understand what due expedition might mean.

14 The Divisional Court in *R v Manchester Crown Court ex parte McDonald* [1999] Cr App R 409, was required to consider that provision which was then very similar to the provision with which we are concerned. Before moving to cite briefly what the court

said about that, it is worth observing that the prosecution duty in bringing a case to trial is, of course, far more extensive than its duty in procuring an arraignment. In bringing a case to trial, especially a complex case, the prosecution may be required to carry out many different duties and to exercise a great deal of care and judgment in deciding what it should do, what it must do and what it need not do. By comparison, the exercise of procuring an arraignment is, so far as the prosecution are concerned, a very straightforward one.

15 In that context it is worth citing what Lord Bingham CJ, giving the judgment of the court, had to say about the duty of expedition:

> "To satisfy the court that this condition is met the prosecution need not show that every stage of preparation of the case has been accomplished as quickly and efficiently as humanly possible. That would be an impossible standard to meet, particularly when the court which reviews the history of the case enjoys the immeasurable benefit of hindsight. Nor should the history be approached on the unreal assumption that all involved on the prosecution side have been able to give the case in question their undivided attention. What the court must require is such diligence and expedition as would be shown by a competent prosecutor conscious of his duty to bring the case to trial as quickly, as reasonably and fairly as possible."

16 Finally, in reviewing the law which is applicable to the current issue, we would refer to the overriding objective contained in Part 1 of the Criminal Procedure Rules. The overriding objective itself is set out in rule 1.1 and so far as relevant, says:

"(1) The overriding objective of this procedural code is that criminal cases be dealt with justly.
(2) Dealing with a criminal case justly includes —
(a) acquitting the innocent and convicting the guilty [...]
(f) dealing with the case efficiently and expeditiously; [...]"

17 By Rule 1.2 that obligation rests on all participants in the case and by rule 1.3 the following is provided:

"1.3 The court must further the overriding objective in particular when —
(a) exercising any power given to it by legislation (including these rules)."

<u>The events following the 17 March 2023</u>

18 The events which require this decision need to be set out with a little care. We have taken the history already up to 17 March 2023, when the indictment was uploaded in the way we have already described. It was on the same day, 17 March 2023, followed by a letter from the Crown Prosecution Service which said this:

> "We write further to the successful appeal of the conviction by Kuran Gill in respect of the section 18 wounding intent offence and the retrial which must now take place. The Crown has sent a copy of the trial indictment to the Crown Court Digital Case System. Unfortunately, the reviewing lawyer sent an indictment containing only section wounding with intent offence, and then realised the alternative section 20 wounding needed to be added. The omission has been rectified and the correct indictment sent.
>
> Please find enclosed a copy of the Court of Appeal ruling and directions and a copy of the defence letter sent today.

We would be grateful for the notification of the listing for re-arraignment."

19 We pause in the chronology to observe that in the overwhelming majority of cases writing that letter would suffice in itself to discharge the obligation of the prosecution to procure an arraignment. It is the court and only the court which can list a case for that purpose and it is the court and only the court which can arraign a defendant on an indictment.

20 In this case, as we shall reveal, matters did not run so smoothly. The case was listed for a plea and trial preparation hearing (PTPH) at Woolwich Crown Court on 31 March 2023. At that stage, as we have said, the draft fresh indictment was to be found in the relevant section of the old DCS file and not the new one, which had by then been created. The hearing was very short, certainly very short for a plea and trial preparation hearing. No doubt it occurred as part of a busy list. It is well-known that here in 2023 the crown courts of England and Wales are under enormous pressure to try to progress work as efficiently as they can. There is no doubt that the judge who was to hear that PTPH was under just that pressure in dealing with all his work on that day.

21 What happened was not a conventional PTPH. As we have said, the acronym PTPH stands for plea and trial preparation hearing. We would emphasise the word “plea”. The case had come into the list in order that the defendant could be arraigned. That did not happen. The defendant was told by the judge that the trial would be held on 3 July and then, after indicating that the defendant would be held in custody pending that trial, the judge said, "I do not think there is anything else to be said". Prosecution counsel then said, "The only procedural issue is with whether or not that it is appropriate that he be arraigned, given that the original convictions have been quashed and there is now a new indictment."

22 The judge asked prosecuting counsel what his submission was and received the answer, "Well, I suggest that it's the safest option is that he is arraigned." Defence counsel (not Mr Smith who appears before us today but another counsel, no doubt covering the PTPH in Mr Smith's absence), pointed out that there was no new indictment on the DCS. Prosecution counsel said that the indictment had been uploaded on 17 March. It was then established that that was true but that it had been placed on the old file. The judge pointed out that the trial would take place under the new indictment number and not the old one and that there was no indictment on the new DCS file.

23 He then said this:

"We have all got used to arraignment taking place very much later than it might properly have done back in what I might call the old days. You and whoever defends will have ample leisure to consider whether he needs to be re-arraigned and my not putting that off will not make any difference at all. I will put, ‘? Does he need to be re-arraigned’, on my note."

That concluded the discussion on that subject that day.

24 The letter from the registrar which made the position clear beyond any doubt was at that time to be found in the new DCS at item A2, the second item in the list, where it had been since 20 March. It appears that it was overlooked by all concerned. Afterwards, the judge made a note on the side bar of the DCS, where anyone who has access to the system and this file can leave if they choose a widely shared comment. It said:

"This case was originally T20217128. It resulted in a conviction, now overturned in the Court of Appeal and sent back for retrial. I direct that all the material on

> T20217128 be transferred to this DCS file. D is on remand for this matter and CTL expires on 7/7/23. However, D is awaiting sentence on other matters [...] Query does he need to be re-arraigned."

25 Within a week the Crown Prosecution Service had apparently appreciated that there was a problem in the way the PTPH had been dealt with. They wrote to the Crown Court by email of that date, saying:

> "Good afternoon, At the hearing on 31 March the defendant Kuran Gill was listed but not arraigned. However, the order made by the Court of Appeal on 17 February was clear that the defendant should be arraigned within two months. Prosecution counsel would also like to refer the court to *R v Llewellyn* (Andrew) [2022] EWCA Crim 154. As such, we would be most grateful if the case could be listed before 17 April in order that all parties can comply with the Court of Appeal's directions and Kuran Gill can be arraigned."

26 The reference in that email to *R v Llewellyn* was a reference to the decision of this court that a trial which occurs after a direction for a retrial but where the defendant had not been arraigned in breach of the direction which the court had given at the time of ordering the retrial was totally invalid and that the conviction which resulted should be quashed. That is obviously not the situation here because an application is now made for leave to arraign the defendant, which is the appropriate procedure.

27 Nonetheless, that email including reference to that decision, was in our judgment a sufficient warning to anyone reading it that there was an issue which required resolving, "before 17 April". We do not know what happened to that email in the office. What we do know is that the case was not listed before 17 April.

28 On 14 April, which was a Friday, 17 April being a Monday, the Crown Prosecution Service wrote again requesting a listing on 17 April, apparently believing that this would be within the two-month period, when in fact as a result of the proper construction of the terms of section 8 of the Criminal Appeal Act 1968, time for re-arraignment had in fact expired, it is agreed before us, by close of business on 14 April.

29 The letter which they wrote on that date said:

> "We write with reference to the above matter and in particular the email sent by the Crown on 6 April 2023, asking for an urgent listing of the case in respect of Kuran Gill, copy enclosed. Please can we now have an urgent response, given the listing must take place on 17/4/23."

30 The case was listed for re-arraignment on 17 April, when it came on before HHJ Jonathan Mann KC. He appreciated that time for re-arraignment had expired and that no arraignment could take place before him until an application of the present kind had been made and allowed in this court. He made a full note on the DCS of his conclusions in relation to that. He attributed blame to the prosecution and exonerated the court.

31 On 23 May 2023 this application was issued. On behalf of the prosecution it is submitted that despite the failure to arraign, the case has been listed for retrial promptly, nonetheless, and pending the outcome of this application the retrial is fixed for 3 July, which is within the custody time limit. [The trial in fact took place as planned and the defendant was acquitted on Count 1 and convicted on Count 2. He was sentenced on 11 July 2023].

32 The prosecution further submits that there is good and sufficient cause for a retrial, despite the lapse of time since the Court of Appeal's order. As we have said, Mr Smith does not seek to challenge that second submission. The issue is about expedition.

33 On behalf of the defendant, Mr Smith submits that the prosecution did not act with all due expedition. They uploaded the fresh indictment on to the wrong file, although it is accepted that at the date when they did that it was the only file where they could upload it, the new one not yet having been created.

34 Mr Smith submits that on 31 March it was perfectly appropriate for the judge to decline to direct an arraignment, given that there was no indictment on the relevant Digital Case System file. He blames prosecuting counsel for failing to inform the judge that not only was arraignment required, which was the doubt the judge had entertained, but also that it was required within a strict time limit. Mr Smith relies upon the conclusions expressed in his note by Judge Mann about where the blame lies in this respect, namely it lies on the prosecution.

35 Mr Smith also says that given what had transpired on 31 March, there was still time thereafter, before 14 April, for the prosecution to ensure that an arraignment did happen. He says that their efforts principally involving the email of 6 April, were inadequate and insufficiently determined, and seeks to draw a parallel with the facts of the case which resulted in the decision of *Al-Jaryan,* and invites us to arrive at the same conclusion.

Decision and discussion

36 We begin by reminding ourselves of the summary of the law by Gross LJ in *Pritchard*, which we have set out in full above. The primary duty in respect of the compliance with the direction of this court for arraignment lies on the court. It is true that all parties are under a duty to co-operate to ensure that this happens, but in the event, if the court simply fails in its obligation, the parties cannot act in the place of the court to produce compliance.

37 Gross LJ's fifth point is to draw attention to the fact that the requirement of all due expedition is less exacting than that for the extension of a custody time limit. The duty of the prosecution, in our judgment, is to act with all due expedition in the limited context of its obligations in respect of the duty of the court to re-arraign the defendant within the appropriate statutory time period. The purpose of this provision is to ensure that the case comes back under judicial control so that it can be tried as soon as possible and without further delay. The duty of the prosecution in respect of an arraignment is not an onerous one. They must proffer indictment and be represented when the court lists the matter for arraignment. If the court is failing its obligation, then no doubt they should seek to take all reasonable steps open to them to correct that failure. It is, however, to be recalled that the principal duty is on the Crown Court and in an application of this kind this court does not undertake a minute examination of each step which was taken or every step which might have been taken, but a broad *post mortem* of what occurred.

38 In this case the prosecution has actually done everything necessary to ensure that the case will be tried at the earliest possible date. In fact, it will be tried within five months of the order for the retrial.

39 Matters went awry because the judge at the PTPH took what was, with hindsight and with the greater leisure available to this court to consider this matter at some length, an unfortunate view of the uploading of the indictment on to the wrong file. This was, frankly, an unimportant mistake. The indictment was in the appropriate form. It was just in

the wrong filing cabinet. It could, by digital means simply have been extracted from the wrong filing cabinet and put into the right one and an arraignment could then have taken place. That is plainly what should have happened. A trivial mistake of that sort should not have been allowed to prevent arraignment at a PTPH which in the context of this kind of case was principally listed in order that that arraignment should take place. It is unfortunate that prosecuting counsel did not firmly say to the judge, "You are wrong. An arraignment is required and we do not have ample time to consider the matter because there is a statutory time limit. This man must be arraigned on or before 14 April 2023, and since he is here now and we have an indictment, he ought to be arraigned now."

40 No doubt if prosecuting counsel had said at that the judge would have caused an arraignment to take place. That did not happen, so what should the court have done instead. In our judgment, the appropriate step in the position that the judge was in on that day would have been to list the case for a fixed date for an arraignment on or before 14 April, as the registrar had asked. Obviously, the judge did not do that because he was under the impression that an arraignment may not even be necessary at all, and certainly was not, at least on that occasion, in the pressure of that busy list, aware of the statutory time limit.

41 That all having misfired, the Crown Prosecution Service did, in our judgment, react appropriately and with all due expedition by sending their email on 6 April. That was a sufficient step to place the responsibility on the court for sorting out the errors which had occurred on 31 March.

42 The prosecution could, no doubt, have chased and chivvied further after that email, and by the time they did so it was too late, but in this respect we have regard to the limited scope of the actual obligations of the prosecution in relation to procuring an arraignment and also to the observations of Lord Bingham in *ex parte McDonald*, which we have set out above.

43 With effect from 6 April at the latest, in our judgment, they had complied with their duty to act with all due expedition and the fault for what followed was that of the court in failing to deal with the email in the way that the Crown Prosecution Service had asked and to list the case. The Crown Prosecution Service had by that date done what was reasonably necessary to procure the arraignment and they had done so in all the circumstances with expedition. Their failures to that time were not failures of expedition. The failure on 31 March was a failure to make the right submissions, having attended at a hearing that had been fixed at the right time.

44 We, therefore, allow the prosecution application for leave to arraign this defendant, notwithstanding the expiry of the statutory time limit. We shall say that the arraignment must take place by 26 June, that is to say Monday next week, and we shall direct that the case will be listed for that purpose on Friday of this week, when the defendant must be arraigned. [In the event the case was not listed on Friday, but arraignment took place on Monday 26 June which was within the time specified].

45 We leave the case by recording the fact that we have been driven to point out certain procedural failures at the court during the hearing of the PTPH and in dealing with the prosecution's email of 6 April. In doing that, we acknowledge that the court staff and the judiciary at this busy and excellent court centre are all working under very great pressure of time, and that pressure of time and work also extends to counsel. With a backlog of the size faced now by the crown court, all concerned are all doing their absolute best to process the work as efficiently and as quickly as they can in order to try to service the many cases which need to be dealt with as soon as they can. In these adverse conditions errors are

likely to occur and when it is our obligation to point them out, we do so without any spirit of criticism of those who are responsible for them. We are sure that all concerned are doing their best and in these circumstances to err is certainly human.

_____

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

Transcribed by ***Opus 2 International Limited***
Official Court Reporters and Audio Transcribers
5 New Street Square, London, EC4A 3BF
Tel: 020 7831 5627 Fax: 020 7831 7737
CACD.ACO@opus2.digital

This transcript has been approved by the Judge.