

JERSEY / JUDGMENT

Bonney v AG [2021] JRC 174 (17 June 2021)

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JUDGMENT

THE COMMISSIONER: 1. The Appellant (who we will refer to as "the Applicant") appeals the decision of the Magistrate, Bridget Shaw, not to recuse herself from presiding over the prosecution being brought against him in the Magistrate's Court.

Procedural History

2. The Applicant is charged with the following offences namely that: (i) On 8 th January 2020 in the road named as Le Petit Pont Marquet, in the Parish of St Brelade, he assaulted Peter Crowther. (ii) At the same date and place, he committed a grave and criminal offence on Peter Crowther. (iii) At the same date and place he assaulted Peter Crowther. (iv) At the same date and place he caused malicious damage to a Samsung mobile phone to a value of £549, to the prejudice of Peter Crowther. The Applicant has pleaded not guilty to all four charges.
3. A pre-trial hearing was held on 21 st January 2021. The Assistant Magistrate, Peter Harris, was sitting. The Greffier recorded " Magistrate to be appointed to ensure no conflict arises", a matter raised by the defence. No application was made for particular Magistrates to recuse themselves, but the Assistant Magistrate indicated he would not sit due to a personal connection to the Applicant. The trial was allocated to Relief Magistrate Sarah Fitz who has no connection to the Applicant.
4. The trial was listed for 10 th and 11 th March 2021. On 10 th March 2021, Relief Magistrate Fitz was unwell, and the Magistrate sat in her place. The Magistrate, recognising that an issue of conflict might arise, said this: "Now, just to begin on a more general note, the - you might have been expecting to see Advocate Fitz sitting on this case. Unfortunately, she is unwell and will not be able to sit either today or tomorrow. The - in terms of court availability, I'm available to sit and I will say that I do know Mr Bonney, I don't know him well. I don't know him socially, I used to work in the same building within the Law Officers' Department which was stationed at the police station when he was head of CID. I left that department in 2007. I do not think there is a conflict, but if either of you think there is any reason why I should not sit I will hear what you have to say and apply the appropriate test which is Porter and Magill ." 5. Advocate Baker submitted that the Magistrate should recuse herself because she had worked with the Applicant in the past, to the extent that consideration had been given to asking the Magistrate to give evidence as to his character. It is fair to say, judging from the transcripts, that Advocate Baker had been taken by surprise by the Magistrate sitting, and did not have to hand the relevant authorities

on recusal, which the Magistrate referred to in some detail, pressing Advocate Baker to address the legal test as opposed to making general comments. He concluded by saying that the legal test was met, but whatever the strict legal test "it just doesn't feel right." 6. The Magistrate refused the application to recuse herself, saying this: "In my view the test for recusal is not met. The only association I had with Mr Bonney was a very long time ago, it means it was uhm, I'm not someone who knows Mr Bonney socially, never socialised with him, uhm, I didn't work with him in a very close capacity - he was police, I was in the Law Officers' Department, I wasn't his junior, I wasn't his boss and I had no animosity towards him, I don't recall any fallings out or any occasion or even - even recall any particular advice given or any particular conversations held. I feel that the independent observer would understand that a Magistrate has taken an oath to deal with matters independently and impartially and justly and that is the way the Magistrate will approach the matter and I, in my view, a well informed and independent observer would come to that conclusion, and therefore I don't see any reason not to sit, the legal test in my view is not met." 7.

Acknowledging that there may have been many cases where she had advised the Applicant, she added: "As I say it's 2007 was the last time I worked in that capacity. I do not recall any individual case, I certainly don't recall any arguments, any animosity, any breakdown in relations anything that would make me harbour any grudge against Mr Bonney or anything of that nature, my thoughts of him are entirely neutral." 8. On 11 th March 2021, Advocate Baker applied for the Magistrate to state a case pursuant to Article 21(1) of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 ("the 1949 Law"), answering the question why her determination not to recuse herself on the basis of apparent bias was correct as a matter of law. 9. The application set out in more detail the Applicant's recollection of the closeness of their working relationship and the grounds upon which it was contended the Magistrate should have recused herself and Advocate Baker asked whether any of this led the Magistrate to wish to look at the issue again. This exchange then took place:

"MAGISTRATE: Well that's correct. I have to say I wouldn't necessarily agree with how this is presented in terms of contact that I've had - DEFENCE: Yes, yes MAGISTRATE: ... with contact with your client, but even if it were true and accurate, I'm not saying he's - there's a deliberate misrepresentation, but if it were accurate it would not change my decision." 10. The Magistrate referred to the case of *Wakeham v AG*

[2010] JLR 628 , which held that the Magistrate had jurisdiction to state a case and the Royal Court had jurisdiction to hear it, even though there had not been a final determination of the proceedings. Satisfied therefore that she had the power to state a case at that stage of the proceedings, she declined to do so under Article 21(4) on the grounds that the application was "frivolous" . That word was defined by the Royal Court in *Wakeham* as meaning that the application was futile, misconceived, hopeless or academic. 11. The Magistrate made this finding: "In this case I find that the application to state a case is misconceived or hopeless. The defence in my view have failed to identify any real possibility of bias or the appearance of bias under the test in *Porter and Magill* and indeed the case put forward in today's bundle, which will form the basis of the appeal, that's AB

and AG specifically warns against applications for recusal of this type being acceded to. Paragraph 16 for example rules that 'a judge is not removed merely because one party expresses unease about him, or in circumstances where the test in Porter and Magill is not [met]'. In my view, any appeal on this matter by case stated would be bound to fail, and that's not just because I think I'm right, it is based on the law and even on the Defence's case upon which they have indicated they would rely on appeal. And so, the conclusion today is that I refuse to state a case as being frivolous ..." 12. The Applicant then applied under Article 21(5) of the 1949 Law for the Royal Court to make an order requiring the Magistrate to state a case. 13. On 24 th March 2021, the Royal Court ordered the Magistrate to state a case for the reasons set out in an unpublished judgment, but requested the Magistrate to reconsider her decision in the light of new evidence provided by the Applicant and in the light of a new issue over the evidence of the Applicant's good character to be given by Mrs Sarah O'Donnell, a friend of the Magistrate. 14. The new evidence provided by the Applicant comprised: (i) A report dated 3 rd April 2003, which the Applicant had obtained from material available following the independent Jersey Care Inquiry detailing an investigation into serious child abuse. At the end of that report is a handwritten note from the Applicant to the Magistrate about the wisdom of launching a prosecution in a particular case in which he addresses her as 'Bridget'. (ii) A witness statement by the Magistrate for the Independent Jersey Care Inquiry dated 2 nd December 2015, in which she describes at paragraph 3 her role providing legal advice to the States of Jersey Police, and in paragraphs 17 and 18, how the police force would request advice from the Legal Advisers' Office often and at any stage. 15. The Magistrate considered this evidence and this issue, but maintained her decision not to recuse herself and stated her case on 19 th May 2021. Before turning to that, it is helpful to summarise the applicable law. The Law 16. Article 21(1) of the Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949 provides as follows: "21 Statement of case by Magistrate (1) Any person who was a party to any proceeding before the Magistrate's Court or is aggrieved by the conviction, order, determination or other proceeding of the Magistrate's Court may question the proceeding on the ground that it is wrong in law or is in excess of jurisdiction, by applying to the Magistrate to state a case for the opinion of the Royal court on the question of law or jurisdiction involved." 17. The Royal Court's jurisdiction on an appeal by way of case stated is therefore limited to points of law or jurisdiction. As was said in *Bracegirdle v Oxley and Cobley*

[1946] 1 KB 349 at page 252 in the context of a case stated by English magistrates: "It is said that this court is bound by the findings of fact set out in the cases by the magistrates. It is true that this court does not sit as a general court of appeal against magistrates' decisions in the same way as quarter sessions. In this court we only sit to review the magistrates' decisions on points of law, being bound by the facts which they have found, provided always that there is evidence on which they could come to the conclusions of fact at which they have arrived. Mr Parker, who has intervened in this case as *amicus curiae* to enable the court to have the benefit of a full argument on each side, concedes that if magistrates come to a

decision to which no reasonable bench of magistrates, applying their minds to proper considerations and giving themselves proper directions, could come, then this court can interfere, because the position is exactly the same as if the magistrates had come to a decision of fact without evidence to support it. Sometimes it has been said of the verdict of a jury given in those circumstances, that it is perverse, and I should have no hesitation in applying that term to the decisions of magistrates which are arrived at without evidence to support them." 18. The position is analogous to appeals from decisions from the Employment Tribunal which are limited to questions of law and where it is well established that questions of law are characterised in this way: (i) The Employment Tribunal had misdirected itself in law or misunderstood the law or misapplied the law; or (ii) there is no evidence to support a particular conclusion or findings of fact; or (iii) the decision was either perverse in that it is one which no reasonable Employment Tribunal directing itself properly on the law, could have reached (what is known as Wednesbury unreasonableness) or alternatively was one which was obviously wrong, or (iv) an incorrect procedure had been adopted by the Employment Tribunal. (See, for example, *Sumera v Atlantique Seafood TA Soy Sushi Restaurant*

[2019] JRC 164 at paragraph 4). 19. In this case, there is no suggestion that the Magistrate misdirected herself or misunderstood the law, no issues arise as to findings of fact and there is no suggestion of an incorrect procedure. The test as agreed by counsel is Wednesbury unreasonableness namely whether in the light of the law on recusal, the decision of the Magistrate not to recuse herself was one which, directing herself properly, no reasonable magistrate could reach. 20. Advocate Baker suggested that the Court might dilute this test from Wednesbury unreasonableness to a lower test of " what the Court considers unreasonable " citing an administrative appeal line of cases namely *Island Development Committee v Fairview Farm Limited*

[1996] JLR 306 ; *Token Ltd v Planning & Environment Committee*

[2001] JLR 698 ; *Anchor Trust Company Limited v Jersey Financial Services Commission*

[2005] JLR 428 . We reject that suggestion as these cases are all premised upon a different and lower statutory test, namely that " the decision was unreasonable having regard to all the circumstances of the case" . We are concerned therefore with Wednesbury unreasonableness. 21. The legal test on a recusal application has been authoritatively set out in the judgment of the Court of Appeal in *AB v AG (Capacity)*

[2020] JCA 094 , where the Court said this at paragraphs 10-14: "10 The Applicant submits that all litigants are entitled to enjoy a fair legal system, and this is obviously correct. All judges promise to dispense justice equally and fairly, and the starting presumption is that they will do so. However, there are circumstances where there is a 'real possibility' that a particular judge may appear biased, that he or she should not sit. Only in those circumstances of apparent bias can a judge be asked to recuse him or herself from sitting. 'Apparent bias' is disclosed if there are facts from which a fair minded and informed

observer, having considered them, would conclude that there was a real possibility that the tribunal was biased (*Porter v Magill*

[2002] 2 AC 357 at 103). There are two elements to this test. Firstly, an allegation of a real possibility of bias must be backed by facts, not mere apprehension. A tribunal considering an application for recusal for bias must identify the particular facts upon which reliance is made. Secondly, the person to whom the 'real possibility' of bias should be apparent from those facts is a hypothetical, dispassionate, fair minded and informed observer. This person was described by Sumption, Commissioner, in *Syvret v Chief Minister*

[2011] JLR 343 (quoting Lord Hope in *Helow v Home Secretary*

[20080] 1 WLR 2416) as someone who views the matter with some detachment, and reserves judgment until she has seen and fully understood both sides of the argument. She is not unduly sensitive or suspicious, but nor will she shrink from the conclusion that there is a real possibility of bias, if this can be justified objectively by 'things that [the impugned judge or judges] have said or done or associations that they have formed may make it difficult for them to judge the case before them impartially.' She will form her judgment on this matter only when she has taken the trouble to inform herself on all relevant matters, and put them in a fair and complete overall context, recognising that this is part of the material which she must consider before passing judgment." 22. The Court of Appeal went on to make the following two observations at paragraph 15 and 16: "15 We make two observations on this test in the light of the Applicant's submissions. Firstly, the test is whether there are facts from which the hypothetical fair minded and informed observer would conclude that there was a real possibility of bias, not merely facts from which such as person might reach such a conclusion. Whether or not a reasonable person would apprehend such a genuine risk is the issue for this court, and the burden of proving the facts and the conclusions a fair minded and informed observer would draw from them rests on the person making a recusal application. Secondly, we agree that it is important that the possibility of removing a judge for apparent bias exists. It is also important that the approach to considering whether any application for recusal is well-founded should be that of the fair minded external observer (in the Applicant's language 'an onlooker'), rather than the perspective of a person involved - whether as a complainant or person being complained against. But it is equally important that this test is applied rigorously and carefully, and that a judge is not removed merely because one party expresses unease about him, or in circumstances where the test in *Porter v McGill* is not made out, following such scrutiny. It would be as harmful to the equal dispensation of justice if judges were to be removed from tribunals when the test for apparent bias had not been made out, as it would be if they were not removed in circumstances where it had. Whether or not alternative judges are available is irrelevant. The test is not whether it is 'necessary' for the impugned judge to sit, but whether the person making a recusal application has established facts from which an external onlooker, acting in a fair and well-informed way, would conclude that there was a real possibility of bias."

Position of the Applicant 23. The position of the Applicant on his relationship with the Magistrate is contained in his affidavit of 17 th March 2021, in which he said, in summary: (i) He had been on first name terms with the Magistrate for over twenty years. (ii) He served in the States of Jersey Police for 28 years retiring in 2005 holding the rank of Detective Inspector. In 1998, the Magistrate took up a position as a Police Legal Adviser, employed by the Law Officers' Department but working at the police station. (iii) There was open access by the police to the Police Legal Advisers which fostered a close working relationship. He worked frequently and productively with the Magistrate and considered her a colleague, although not a police colleague. (iv) He was always aware that the Magistrate was not employed by the Police, but notwithstanding that position, the nature of the dynamic that existed between her role as a police legal adviser and his as a detective inspector was that " we were fully joined up, united one may reasonably say, in what may best be described as a common purpose, namely the investigation of offences and then the prosecution of offenders before the courts ". (v) Against that background, they both attended small associated social gatherings. (vi) He held the Magistrate in high esteem and without waiving legal privilege, said he had given consideration to asking her to provide evidence of his good character, but decided against this so as not to embarrass her in her position as Magistrate. 24. He then said this at paragraphs 18-20: "18 I was relieved when the Magistrate's court appointed an independent person. I took that as agreement that it was wrong for Mrs Shaw to sit. I was dismayed when without warning this was reversed by Mrs Shaw. My reluctance stems from being placed in a position from which each possible outcome is tainted. If I am acquitted there will inevitably be the suspicion that old colleagues have closed ranks. If I am convicted, I will never rid myself of the feeling that it resulted from Mrs Shaw being concerned to demonstrate publicly that old colleagues have not closed ranks, even if that concern is subconscious. I feel that the position just described is unfair to me, particularly when another Magistrate could so easily sit so that the trial has the proper appearance of justice." The case stated 25. In her case stated, the Magistrate confirms that she worked for the Law Officers' Department as a legal adviser on a part-time basis from 1998 - 2008. From September 1998 until December 2007, she worked in an office based at States of Jersey Police Headquarters where the Applicant was a Detective Inspector until he retired in 2005. Mr Ian Christmas was the senior legal adviser until 2002, when he was succeeded by Mr Lawrence O'Donnell, who was married to Mrs O'Donnell. The Magistrate worked closely with Mr O'Donnell and was friendly with Mrs O'Donnell and was aware that they had formed a personal friendship with the Applicant, but she had no connection to that friendship. Mr O'Donnell died whilst in post in 2017 and Mrs O'Donnell left the Island shortly afterwards. 26. The Magistrate explains that the role of legal advisers based at Police Headquarters was to provide independent legal advice to the States of Jersey Police on criminal matters, but they are not the lawyers to the States of Jersey Police. This was not a lawyer/client relationship, either with the States of Jersey Police as a body or with any individual officer. The legal advisers were responsible to the Attorney General for the advice they gave, not to the States of Jersey

Police or any individual officer. Whilst individual lawyers might develop a good working relationship with individual officers in particular cases, she did not accept the description in the Applicant's affidavit of legal advisers as "colleagues, fully joined up" and "working with a common purpose". The roles and organisations of the Law Officers' Department and the States of Jersey Police were very different. 27. As to her connection with the Applicant, the Magistrate says this at paragraphs 53-57: "53 I have very little recollection of working with the Applicant. I do not recall any specific instances in which I gave him advice. I do not recall any work-related or non-work-related social event at which the Applicant was present. I have formed no view of his character. I do not know of any incident, conversation or views expressed by others that reflected on the Applicant's character or integrity. The Legal Advisers had a small suite of offices separate from those of police officers or police civilian employees. The Applicant's office must have been on the same site, but I am not sure whether he worked in the same building. I cannot recall visiting his office and I do not know where it was. The Legal Advisers gave advice either in writing in person or by telephone. When a meeting in person was required it was not unusual for police officers to attend the office of the relevant Legal Adviser. The Applicant visited the Legal Advisers' offices from time to time. My only clear recollection is of him holding meetings with Mr O'Donnell in Mr O'Donnell's office. I expect that he also met with Mr Christmas in the same way, but I do not recall any particular instance. The Senior Legal Adviser's office was glass fronted and came off the Legal Advisers' administrative office. I had a separate office nearby. I remember seeing the Applicant speaking to Mr O'Donnell in his office and the Applicant coming and going but I do not recall him visiting my office. I cannot say with certainty that he did not do so but I do not recall any occasion. I have no recollection of working with the Applicant directly. I might have given advice to him on one or more occasions but I have no recollection of any instance in which I did so." 28. The Magistrate says the Applicant is mistaken as to his memory of gatherings they might have attended and says she has never been to a party or otherwise socialised with the Applicant at the house of Mr and Mrs O'Donnell. She did not socialise with them as a couple, nor did she socialise with the Applicant. She was likely to have attended the swearing in of Mrs O'Donnell at which the Applicant may have been present, and following Mr O'Donnell's untimely death in 2017, she issued an invitation in her capacity as Magistrate to a wide range of people who had worked with Mr O'Donnell in the criminal justice system to which the Applicant was invited, because he had worked with Mr O'Donnell and she understood they had been personal friends. 29. The Magistrate said she had clear recollections of dealings with a number of other officers of the States of Jersey Police whilst working as a legal adviser, who had sought her advice on a fairly frequent basis, and with whom she had worked closely enough to form some view of their characters and something of their personalities. She had no such recollections or views of the Applicant. If she had worked as closely with the Applicant as she says, she would have remembered doing so in the same way as she remembered a number of other officers and can only conclude that any dealings she had with the Applicant were neither close nor frequent. She had only seen

the Applicant once since he retired in 2005, and that was at the Magistrate's Court's reception in memory of Mr O'Donnell, and there was no continuing connection. 30. As to the present position, the Magistrate says this at paragraphs 70 and 71: "70 I know very little of the Applicant. He was not my client, nor was he my colleague or a team member. I know nothing of his personal life, his family, his views or his opinions. I hold no opinion of his character. I have never known him well enough to form an opinion. I know of no incident, conversation or views expressed by others that reflected on the Applicant's character or integrity I do not agree that I had a close working relationship with the Applicant. I believe I would have remembered if I had done so. I might have advised him on criminal cases, but I have no recollection of doing so and I had no connections with the Applicant outside of my work. I know of the Applicant from a professional relationship that ended 16 years ago, and apart from one occasion, I do not believe I have seen him since." 31. Turning to the consideration by the fair-minded and informed observer, the Magistrate said this at paragraphs 75 - 83: "75 The fair-minded observer will assess the facts in the light of the observations of Lord Hope in *Helow v Home Secretary*

[2008] WLR 2416 (above). She will be aware that I have been a Magistrate since 2008; I have taken an oath to administer justice equally; that I am bound by the principles of judicial conduct to act independently, impartially and with integrity; I have also undergone regular judicial training. The fair-minded observer will also consider that my working relationship with the Applicant ended 16 years ago. She will also consider the lack of any current contact and the fact that, apart from one invitation to a commemoration for Mr O'Donnell, as far as I am aware, there has been no contact since. The fair-minded observer will assess the nature of the former working relationship. She will also consider the fact that the closeness of that relationship is not accepted, nor are a number of the Applicant's statements that I attended events at which I was present. She may conclude that the Applicant is capable of making honest mistakes or erroneous assumptions about these events and that he is also capable of making similar honest mistakes or assumptions about the nature of the former working relationship. The fair-minded observer will know that these events were a long time ago and attended by many people who would have had a connection with the person in respect of whom the event was held; not necessarily with each other. The fair-minded observer will also note that the Applicant refers merely to my being present at these events but no more than that. She will understand that even if the Applicant's statements are correct, they do not indicate a personal or social connection to me which could lead to a real possibility of bias. The fair-minded observer will bear in mind that I do very clearly remember dealing with other officers around the same time as the Applicant was a Detective Inspector. As I do not remember working with the Applicant the explanation may very well be that I did not work with him closely or often. The observer will take into account the fact that I have little recollection of him during my time as Legal Adviser, that I have no personal knowledge of him and that I have no opinion as to his character. She will then ask herself, even if I had worked closely with the

Applicant until 2005, as I have no memory of a close working relationship, nor of forming an opinion of his character, how that could present a real risk of bias to a trial in 2021. In my view she would conclude that it could not. On 10th March 2021 I concluded that the test for apparent bias was not met in this case. I have considered the additional material provided by the Applicant in his affidavits of 17th and 23rd March 2021 but I remain of the opinion that the test is not met." 32. The Magistrate also referred to the warning given by the Court of Appeal in *AB v AG* at paragraph 16, namely the importance that the test is applied rigorously and carefully, and that a judge is not removed merely because one party expresses unease about her, or in circumstances where the test in *Porter v Magill*

[2002] 2 AC 357 is not made out following such scrutiny. 33. Turning to the character evidence of Mrs O'Donnell, the Magistrate confirmed that she was friendly with Mrs O'Donnell, whom she would meet occasionally for lunch. She did not recall socialising with Mr O'Donnell. She has not kept in touch with Mrs O'Donnell since she left the Island after the death of her husband in 2017. Mrs O'Donnell had provided a statement as to the character of the Applicant from her own view and from that of her late husband who worked closely with the Applicant from 2002 until 2007, and therefore had a good opinion of his character and judgment. 34. The Magistrate also addressed the character evidence to be given by Mr Barry Faudemer and Ms Lisa Hart to which no point is taken by the Applicant. The Magistrate pointed out that the evidence of Mrs O'Donnell was not in dispute, and that she would not attend Court or be cross-examined. The Court will accept her statement as the truth, and the character evidence will be given the weight the Court considers it should properly bear. As to that, she said this at paragraphs 93-97: "93 The fair-minded observer would be aware that the Applicant will have the benefit of both limbs of the good character direction, that is, that he is less likely to have committed the offences, and less likely to lie about them. The Applicant can also rely on his past police career as evidence of positive good character. The fair-minded observer would know that the Applicant admitted in police interview that he was angry with the complainant and there is dash cam evidence to support this. The Applicant's character would be assessed in this context alongside the usual behaviour of which the witnesses speak. The observer will also note that the character witnesses all carry considerable weight in themselves. Any Magistrate would regard these witnesses as people of good character, integrity and good judgment due to their professional backgrounds which are evident from the statements. My previous knowledge of the witnesses would not add to the weight of these statements. The fair-minded observer will know that the Magistrate is experienced in applying weight to evidence and taking all factors into account. The unchallenged character evidence will carry considerable weight regardless of any previous knowledge of the witnesses held by the sitting Magistrate. I therefore do not consider that my previous knowledge of the character witnesses meets the test in *AB v AG* (*Porter v Magill*) and should not lead me to recuse myself." 35. In conclusion, the Magistrate said this at paragraphs 98 and 99: "98 In conclusion, the test in *AB v AG* is an objective test which must be rigorously applied. Facts must be identified from which a fair-minded and impartial observer would conclude that

there was a real possibility that I would be biased in dealing with the Applicant. I do not consider that such facts exist. I do not believe that I had a close working relationship with the Applicant. However, even if the Applicant's description is correct, I have no recollection of such a relationship, no view as to his character and no continuing connection with him. I do not consider that the fair-minded observer could find any grounds upon which she could conclude that there was a real possibility that I would be biased either in favour of the Applicant or against him. I have some knowledge, to a greater or lesser extent, of the character witnesses. I have no continuing relationship with any of them, although I might meet Ms Hart again professionally. The Applicant's good character is not in question. The character witnesses are, on the face of their statements, people who can be expected to be of good character and sound judgment themselves. They are people who hold or have held positions of considerable responsibility requiring the utmost integrity. I do not consider that my past knowledge of any of the character witnesses would lead me to give more weight to their evidence than would be attributed to it by any other Magistrate. I do not therefore conclude that the relevant test is met for me to recuse myself in light of my knowledge of the character witnesses." Affidavit of Mrs O'Donnell 36. The Court has been provided with an affidavit by Mrs O'Donnell, who considers herself a friend of the Magistrate, dated 14th May 2021, two days before the Magistrate's case statement was filed and therefore too late for the Magistrate to comment upon it. No issue arises, in our view, as the Magistrate has confirmed her friendship with Mrs O'Donnell. 37. Mrs O'Donnell describes that friendship in some detail, saying how when she and her husband first came to Jersey, they had dinner with the Magistrate and her husband at the latter's home, how she would attend meetings at the Magistrate's court and regularly have tea with the Magistrate afterwards, how they would have lunch together, how they sat together at formal dinners by choice and how kind the Magistrate was to her after her husband's death. She said she had seen the Applicant and the Magistrate together and seen them speaking to each other. They would speak to each other using first name terms, but she believed the Magistrate was in first name terms with a number of officers she worked with. She had no direct personal knowledge of how closely they worked together. The Applicant's submissions 38. Advocate Baker respectfully but vigorously submitted that the Magistrate's decision to sit at any stage in this matter was irregular, and that her decision in that respect should be set aside. 39. Advocate Baker stressed the importance of appearance and referred to the short judgment of Lord Nolan in *R v Bow Street Metropolitan Stipendiary Magistrate and Others, ex parte Pinochet Ugarte* No 2)

[1999] All E R 577, where he said this at page 592: "I would only add that in any case where the impartiality of a judge is in question, the appearance of the matter is just as important as the reality." 40. Advocate Baker submitted that no magistrate, properly mindful of appearances, should sit on a case in which the following features are present: (i) They have been on first name terms with the defendant and may be taken to remain so. (ii) They have at any time worked jointly with the defendant as part of their mutual employment.

(iii) They have had a mutual colleague with whom both have socialised and who is to be called to give evidence of good character of one former colleague (the defendant) to the other (the magistrate). (iv) They have descended into the arena by disputing matters of fact put forward by the defendant, pitting their personal recollection against statements of fact concerning them advanced by the defendant. (v) They have openly committed to a view of the evidence which is factually mistaken without hearing from the defendant or counsel.

41. In respect of this latter point, the Magistrate had stated wrongly in her case stated (later amended) that the Applicant has admitted in interview that he lost his temper with the complainant. We note that this statement was contained in the first case statement issued to the Applicant, but was corrected in the final version, which refers correctly to the Applicant admitting in his interview with the police to being angry with the complainant.

42. Advocate Baker referred to this passage from the judgment of the English Court of Appeal in *Locabail (UK) Ltd v Bayfield Properties Ltd* and another

[2000] 1 All England Reports 65, at paragraph 25: "25 It would be dangerous and futile to attempt to define or list the factors which may or may not give rise to a real danger of bias. Everything will depend on the facts, which may include the nature of the issue to be decided. We cannot, however, conceive of circumstances in which an objection could be soundly based on the religion, ethnic or national origin, gender, age, class, means or sexual orientation of the judge. Nor, at any rate ordinarily, could an objection be soundly based on the judge's social or educational or service or employment background or history, not that of any member of the judge's family; or previous political associations; or membership of social or sporting or charitable bodies; or Masonic associations; or previous judicial decisions; or extra-curricular utterances (whether in textbooks, lectures, speeches, articles, interviews, reports or responses to consultation papers); or previous receipt of instructions to act for or against any party, solicitor or advocate engaged in a case before him; or membership of the same Inn, circuit, local Law Society or chambers (*KFTCIC V Icori Estero SpA* (Court of Appeal of Paris, 28 June 1991, International Arbitration Report, Vol 8 8/91)). By contrast, a real danger of bias might well be thought to arise if there were personal friendship or animosity between the judge and any member of the public involved in the case; or if the judge were closely acquainted with any member of the public involved in the case, particularly if the credibility of that individual could be significant in the decision of the case; or if, in a case where the credibility of any individual were an issue to be decided by the judge, he had in a previous case rejected the evidence of that person in such outspoken terms as to throw doubt on his ability to approach such person's evidence with an open mind on any later occasion; or if on any question at issue in the proceedings before him the judge had expressed views, particularly in the course of the hearing, in such extreme and unbalanced terms as to throw doubt on his ability to try the issue with an objective judicial mind (see *Vakauta v Kelly* (1989) 167 CLR 568); or if, for any other reason, there were real ground for doubting the ability of the judge to ignore extraneous considerations, prejudices and predilections and bring an objective judgment to bear on the issues before him. The mere fact that a

judge, earlier in the same case or in a previous case, had commented adversely on a party or witness, or found the evidence of a party or witness to be unreliable, would not without more found a sustainable objection. In most cases, we think, the answer, one way or the other, will be obvious. But if in any case there is real ground for doubt, that doubt should be resolved in favour of recusal. We repeat: every application must be decided on the facts and circumstances of the individual case. The greater the passage of time between the event relied on as showing a danger of bias and the case in which the objection is raised, the weaker (other things being equal) the objection will be ." (His emphasis) 43. The reference to " a real danger of bias" has been deleted from the test following *Porter v Magill*

[2002] 2 AC 357 , so that it is now whether there was " a real possibility that the tribunal was biased" but even so, Advocate Baker made the following submissions in relation to the highlighted passages: (i) Even if one discounts for the moment the professional relationship between the Applicant and the Magistrate, it remains true that a witness in the proceedings (character witness Mrs O'Donnell) is a friend of the Magistrate from her time in Jersey. (ii) In the instant case, the Magistrate had expressed her mistaken understanding that the Applicant had admitted losing his temper with the complainant on an erroneous adverse conclusion made without hearing from the Applicant or anyone else. He said this was seriously detrimental to the Applicant's case. (iii) Whilst it is a considerable time since the Applicant and the Magistrate were in a professional relationship, nevertheless the key point is that they were respectively in the position of giving and receiving advice on sensitive matters and their knowledge and opinions of each other have long been in place. One would not, anyway, expect a former professional adviser to sit in judgment on a past regular client, " particularly when the latter was of senior office and standing". Whilst there is a conflict of evidence about the professional relationship, the Applicant had given sworn evidence and documentary evidence by way of a document which is publicly available online following the Jersey Care Inquiry. 44. Advocate Baker referred to cases in which *Porter v Magill* had been applied in jury trials involving police officers, by analogy the Magistrate being akin to the jury for the present purposes. It is clear, he said, from *R v Abdroikov; Green; Williamson*

[2007] UKHL37 that if there is a challenge to police evidence, then the question of apparent bias becomes a matter of judgment in each case, using the *Porter v Magill* test. The relevant questions would include: did the juror and the police witness know each other; had they worked together; did they share the same local service background; and other questions of that kind? In the instant case, he said each of the specific questions is to be answered in the affirmative. 45. Moreover, where there is an important conflict regarding police evidence and the officer witness is acquainted with the officer juror, judicial directions and warnings will be insufficient to guard against the risk that the officer juror may, albeit subconsciously, favour the evidence of the police witness--see *R v Hanif* (No 2)

- [2014] EWCA Crim 1678 . It must be borne in mind, he said, that bias can be perceived in either direction, and it is always the appearance which is material. 46. The fair-minded and informed observer would conclude that there was a real possibility that a juror was biased from the mere fact that she knew and worked with police officers giving evidence in the case--See *R v Pintori*
- [2007] EWCA Crim 1700 . 47. Advocate Baker argued that the Magistrate and Applicant are now direct competitors on questions of fact, with the Magistrate having descended into the arena to dispute, from her personal faculty of recollection, facts advanced by the Applicant about the relationship between them. He provided a list of disputed matters and asked who is to adjudicate between competing versions? Is it to be supposed, he asked, that the Magistrate would find against herself, even though the Applicant had given sworn evidence in affidavit form, and the Magistrate had not? What would the independent observer make of two senior members of the law enforcement authorities, one now a judge and the other retired, squabbling over these facts? 48. The Magistrate's factual finding that she can properly sit in a case in which (i) her friend is to give evidence, and (ii) the Applicant is a friend of that friend and (iii) in which she has worked one to one directly with the Applicant in the past and (iv) with whom she has a common service background and (v) in which she has openly misunderstood the nature of the evidence in a way which is prejudicial to the Applicant is not one which a reasonable Magistrate could properly have reached. He argued that it does not conceivably pass the *Porter v Magill* test and was not within the range of views which a reasonable Magistrate, directing herself properly, and in accordance with the law, could reach. 49. Advocate Baker concluded that at its heart, the question of recusal amounts to little more than the familiar need for demonstrable fairness and the need for justice to be seen to be done. Regardless for the moment of anything else, he pointed to the following: there are three former work colleagues, all known to each other, and, at the material time, all pursuing the common aims of their employment together. Move forward in time and, as matters stand, former colleague number three will be giving evidence to former colleague number two about the character of mutual former colleague number one. This has not so much the appearance of impartial justice as of absurdity. These are people, he said, who in other circumstances might agree to sit down together for a reunion lunch. For the matter to proceed to trial in the form currently intended runs the serious risk of the administration of common justice being brought into disrepute. Submissions on behalf of the Attorney General 50. In the application by the Applicant for the Magistrate to state a case, the Attorney General had supported the conclusion of the Magistrate that the application was misconceived and hopeless and this on the basis of the information before the Magistrate on 10 th March 2021, when she had refused to recuse herself and which focused on the relationship between the Magistrate and the Applicant. However, Crown Advocate Hallam informed the Court that the further evidence and the issue of the character evidence of Mrs O'Donnell changed the landscape, and the Attorney General now takes no position on the matter, seeking only to assist the Court. 51. Advocate Hallam referred to the case of

Hirschfield v Abacus

- [2000] JLR 420 , where the Court considered the question of a recusal where the party alleging bias and the judge disagreed about the evidence regarding the alleged bias. The Commissioner stated: "In the light of all I have said, I have now to balance the two duties which I owe as a judge: (a) not to sit where one of the parties has as genuine case for recusal on the ground of apparent bias; and (b) not to recuse myself where there is not such a genuine case for recusal. In making this balance, I must (I repeat) ignore my own subjective view and look at the question through the objective eyes of the reasonable observer who is aware of the facts - 'the correct facts' and not a misconceived version of the facts, and the whole facts, including what I have stated as regards the criticisms of Mr Sinel as an advocate, and the nature of the Socratic dialogue in appellate courts." 52. It is clear, she said, that there is a fundamental disagreement between the Applicant and the Magistrate as to the nature of their relationship, which the Court was not in a position to determine and its decision on the point of law must be made in the knowledge of that conflict. In other words, the existence of that dispute formed part of the " correct facts " of which the fair minded and informed observer would be aware. 53. Whilst it is clear that the test is an objective one, in the case of *Baglin v AG*
- [2005] JLR 180 , the Court of Appeal held that the Bailiff's lack of recollection of events that were said to lead to bias or the appearance of bias was a relevant circumstance which the hypothetical (objective) observer could take into account. The Court said: "We do not accept that the judge's absence of recollection is a circumstance which the hypothetical observer cannot take into account - it is the latter, after all, and not the judge who performs the requisite objective function. In the instant case, the Bailiff's lack of recollection clearly was relevant and we reject this argument also." 54. As to the suggestion that the Magistrate had descended into the arena by becoming a direct competitor on questions of fact, Advocate Hallam noted that there must often be different views of the facts taken by the party alleging bias and the judge. It cannot be the case that this factor alone must lead to a judge recusing herself. If that were the case, then almost all applications could be successful simply by asserting facts that the Applicant knows that the judge will disagree with, or worse, that they know not to be true. 55. In relation to the character evidence of Mrs O'Donnell, the Magistrate had observed that the character evidence is not challenged by the prosecution and will be taken as being true. The Applicant will be entitled to both limbs of the character direction and could rely on his police career as evidence of positive good character. The Magistrate had stated that the reasonable observer would note that the character witnesses all carry considerable weight as people of good character, integrity and good judgment, due to their professional backgrounds, and that her previous knowledge would not add to the weight of the statements. 56. Crown Advocate Hallam submitted that the following factors are relevant to the Court's decision: (i) What is the factual basis upon which the Magistrate ought to have made her decision regarding recusal? (ii) What weight should be afforded to the Magistrate's lack of recollection of the Applicant (a relevant consideration pursuant to the

decision in Baglin) ? (iii) Does the dispute of facts need to be settled, and if so by whom?

(iv) In light of the Court's conclusions on the questions above, was the decision she made one which no reasonable Magistrate could have reached, therefore rendering it wrong as a matter of law? Decision 57. Taking the first part of the legal test on a recusal application, an allegation of a real possibility of bias must be backed by facts, not mere apprehension (AB v AG at paragraph 11). The Applicant has discharged his burden in this respect in that it is a fact that the Applicant and the Magistrate knew each other and had worked in the same building in their respective roles for some five years. That much is acknowledged by the Magistrate in her opening remarks at the hearing on 10 th March 2021. That foundation in fact is further supported by the Magistrate's recollection of their relationship as set out in her case stated and by the additional documentary evidence provided by the Applicant. His allegation is not therefore based on mere apprehension.

58. The issue therefore relates to the second part of the test namely whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Magistrate was biased (AB v AG at paragraph 11). 59. We do not accept the implied criticism that the Magistrate has descended into the arena by setting out her memory of her relationship with the Applicant, as it was necessary for her to do so when faced with the application to recuse herself on the grounds of that relationship. There is a fundamental difference between their respective recollections as to the closeness of that relationship, and we agree that it is not possible for the Magistrate or indeed for this Court to make findings of fact as to which recollection of that relationship is the more accurate. As Crown Advocate Hallam submitted, the fact of this unresolvable difference in their recollections is a matter which the fair minded and informed observer would take into account, together with all other relevant facts. 60. We regard the Magistrate's mistaken reference to the Applicant losing his temper, quickly corrected, as just that, a mistake. It is not the Magistrate expressing views "in such extreme and unbalanced terms" as to throw doubt on her ability to try the case with an objective judicial mind or of her openly committing herself to views of the evidence which were factually mistaken. That leaves us with the issue, a substantive issue, of the Magistrate's relationship with the Applicant which we take first. We will come to the issue of the character evidence of Mrs O'Donnell later. 61. It is understandable that two people may have different recollections as to their relationship with one placing greater importance upon it than the other. In her case stated the Magistrate concluded that a fair minded and informed observer would find that there was no risk of bias when, as per Baglin , the Magistrate had no recollection of a close working relationship, a relationship that ended in 2005, and which did not enable her to form a view as to the Applicant's character. However, in our view, that comes close to making the standpoint of the Magistrate decisive. The fair minded and informed observer also has to consider the standpoint of the Applicant and the need for justice to be seen to be done. As the Court of Appeal said in AB v AG the fair minded and informed observer is: " someone who views the matter with some detachment, and reserves judgment until she has seen and fully understood both sides of the argument". 62. The Magistrate states that even if the Applicant's recollection of their relationship was correct, the test in Porter v

Magill would still not be met. That is on the basis that she has no recollection of the relationship being that close, and that accordingly, there would be no possibility that she would be biased. It goes without saying that if she did recollect a relationship that close, then the test would definitely have been met. In that scenario, she would be sitting in judgment on someone with whom she knew she had had a previous close working relationship and of whose character she would have formed a view. 63. In *Porter v Magill* and the other cases cited to us, the courts were concerned with applications to set aside decisions on the grounds of bias after the hearing or trial. Understandably in those circumstances, the Court will focus very much on what the judge actually knew (assuming that is not in dispute). As the English Court of Appeal said in *Locabail v Bayfield*, a case in which it was asserted that the judge who presided had a conflict of interest through his firm of which he had no knowledge: "51 In answering this question, the court must take into account the actual facts as disclosed by the evidence and, in particular, what it was that the judge knew at the time the case was being heard. ..." And at paragraph 55: "... the *R v Gough* test must be applied and, for that purpose, all that is necessary is to ask whether, in the light of the judge's actual knowledge at the time of the hearing and of any other relevant facts established by the evidence, the real danger of bias test has been satisfied." 64. The judgment goes on at paragraph 58: "58 Miss Williamson placed reliance on the Law Society's conflict rules. These, it was argued, would have disqualified the deputy judge - or Herbert Smith as a firm - from acting for Mrs Emmanuel or for Locabail in the *Hawks Hill* or *Hans House* litigation. We think that is probably correct. We see the force of Miss Williamson's submission that, if a conflict prevents a solicitor from acting for a party to litigation, the conflict must surely also disqualify the solicitor from sitting as a deputy judge in that litigation. But the submission is, in our opinion, too inflexible. Everything depends on the circumstances. If a serious conflict of interest becomes apparent well before the hearing is due to commence, it seems plain to us that the judge should not sit on the case. This is so whether the judge is a full-time judge or a solicitor deputy or as barrister deputy. On the other hand, if a conflict does not become apparent until very shortly before the hearing or during the hearing, the position may be different. The course the judge, or deputy judge, should take will depend on all the circumstances. Inflexible rules are best avoided" 65. We think that many magistrates on the facts of the instant case would have taken the view on the 10 th March 2021 that a serious issue of conflict had arisen in advance of the trial, an issue which depended on differing recollections, and that the prudent decision would be not to sit. The Magistrate did not think that there was a serious conflict, based essentially on her own recollections of the relationship. She referred, rightly, to the need to apply the test rigorously and carefully so that a judge is not removed merely because one party expresses unease about her or in circumstances where the test in *Porter v Magill* is not made out - paragraph 16 of *AB v AG* above. In her view the test was not made out. 66. However, it is important that justice must not only be done but seen to be done. As the Court of Appeal said in *AB v AG* at paragraph 19: "Sir Michael relied upon observations of this Court in *Syvret* to support his view that the requirement that 'justice must not only be done, but be seen to be done' is as much

part of English law on an appearance of bias (as applied in Jersey) as it is a characteristic of a fair tribunal under Article 6 of the European Court of Human Rights' caselaw. That is, the test under the law of England and Wales is compatible with the observations of the European Court of Human Rights in the cases of *McGonnell v United Kingdom* (App No 28488/95) and *Meznaric v Croatia* (App No 71615/1), to the effect that the court must both be subjectively free from bias and that there must be sufficient guarantees to exclude any legitimate doubt in this respect. The test is whether a fear of bias could be held to be justified, by a dispassionate, informed but objective outside observer." 67. In the first instance decision of *AB v AG*

[2020] JRC 038A , Sir Michael Birt, Commissioner, referred to the following passage from *Meznaric* in the Strasbourg court (omitting references): "31 As to the objective test, it must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his impartiality. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge lacks impartiality, the stand point of the person concerned is important but not decisive. What is decisive is whether this fear could be held to be objectively justified. In this respect even appearances may be of a certain importance or, in other words, 'justice must not only be done, it must also be seen to be done' ... What is at stake is the confidence which the courts in a democratic society must inspire in the public..." 68. This is authority for the proposition that the standpoint of the Applicant is important but not decisive - it is a question of whether his fear can be objectively justified. Equally, the standpoint of the Magistrate is important but not decisive. Both would be taken into account by the fair minded and informed observer. 69. As to appearances, it is relevant to take into account the perception not just of the Applicant, but of the complainant who has a legitimate interest in seeing his complaint dealt with before a fair tribunal. The Magistrate makes no reference to the perception of the complainant in her case stated. What will be the perception of the complainant if the Applicant is acquitted, and the complainant discovers that the Magistrate had a connection with the Applicant? The Applicant illustrates the dilemma at paragraph 19 of his affidavit which we repeat: "19 My reluctance stems from being placed in a position from which each possible outcome is tainted. If I am acquitted there will inevitably be the suspicion that old colleagues have closed ranks. If I am convicted I will never rid myself of the feeling that it resulted from Mrs Shaw being concerned to demonstrate publicly that old colleagues have not closed ranks, even if that concern is subconscious." 70. On the basis of the facts canvassed before the Magistrate's Court on 10 th March 2021, namely the fact of a relationship between the Magistrate and the Applicant, admittedly some years ago, a difference as to their recollection of the closeness of that relationship and the need for justice to be seen to be done both for the Applicant and the complainant, it is arguable, some might say strongly arguable, that the test in *Porter v Magill* was met at that point, but the Applicant would have some difficulty in persuading the Court that no reasonable magistrate could have reached the same decision as the Magistrate. 71. However, as Crown Advocate Hallam said, the landscape

has changed since then. Further evidence has been filed and the issue of the character evidence of Mrs O'Donnell has been raised. From the latter the following emerges: (i) Mrs O'Donnell is giving evidence as to the good character of the Applicant on behalf of herself and on behalf of her late husband. (ii) The Magistrate is a friend, it would seem a fairly close friend, of Mrs O'Donnell and had a close working relationship with the late Mr O'Donnell who was her boss at the Law Officers' Department. (iii) The trial will involve the Magistrate in assessing the veracity of the evidence of the Applicant and the complainant, and in assessing the veracity of the Applicant's evidence, the Magistrate will have to decide what weight to be given to the good character evidence of Mrs O'Donnell, which as per the standard direction counts in favour of the Applicant, firstly in supporting his credibility and secondly, making it less likely that he committed the offences of which he is charged. 72. In her case stated the Magistrate says that the Applicant will have the benefit of both limbs of the good character direction, that he can rely on his police career as evidence of his good character and that the evidence of Mrs O'Donnell will carry considerable weight to which the Magistrate's knowledge of her would add nothing. In effect the Magistrate discounts the relevance of her knowledge and friendship with Mrs O'Donnell in deciding what weight to give to her evidence, but in our view, there is no avoiding the fact that the Magistrate will be considering character evidence given by and on behalf of a witness she knows well, and which is directly relevant to an issue she will have to determine, namely the veracity of the Applicant. Whether in practice her friendship with Mrs O'Donnell influences her decision or not, the perception is not compatible with the notion of an impartial tribunal. The trial will have the potential of leaving either the Applicant or the complainant feeling aggrieved, depending on whether the Applicant is convicted or acquitted. 73. Stepping as best we can into the shoes of the fair minded and informed observer, the facts are as follows: (i) The Magistrate knows the Applicant. They worked in the same building for five years, admittedly some years ago, and in their respective capacities would have met. There is evidence that they were on Christian name terms. (ii) There is a difference as to the closeness of that relationship with on the one hand, the Applicant describing a close working relationship as colleagues and attendance at social and other gatherings and on the other hand, the Magistrate having very little recollection of working or meeting with the Applicant. (iii) Evidence will be given as to the Applicant's good character by Mrs O'Donnell who is a friend of the Magistrate both on her behalf and on behalf of the Magistrate's former boss, with whom the Magistrate had a close working relationship. (iv) The veracity of the Applicant will be an issue in the trial. 74. In terms of confidence in the administration of the courts, we think the fair minded and informed observer would also take into account the fact that the issue of a potential conflict (albeit with no particular magistrate being named) was raised by the defence at a pre-trial hearing, a not unreasonable matter to raise in view of the Applicant's senior rank in the Police Force, and a decision was taken to allocate the case to Relief Magistrate Fitz, who has no connection with the Applicant and who the Applicant and his legal representatives expected to preside on 10 th March 2021. 75. The Court finds that the fair minded and informed observer, having considered the cumulative effect of all

of these factors, would conclude that there is a real possibility that the Magistrate would be biased, in other words that the test in *Porter v Magill* is met, and that the Magistrate should have recused herself from presiding at least at the point at which the Court asked her to reconsider her position. The fear of bias on the part of the Applicant would be found to be justified by a dispassionate, informed but objective outside observer. That observer would regard a trial presided over by the Magistrate with these associations between herself, the Applicant and Mrs O'Donnell as incompatible with a fair trial and would consider that if the Magistrate were to preside in a trial with such associations, although justice might well be done, it would not be seen to be done. 76. Furthermore, the cumulative effect of all of these factors is such that we cannot envisage any other magistrate in her position declining to recuse herself, and therefore the test on appeal is also met. 77. We therefore reverse the decision of the Magistrate not to recuse herself. Authorities *Magistrate's Court (Miscellaneous Provisions) (Jersey) Law 1949*. *Wakeham v AG*

[2010] JLR 628 . *Bracegirdle v Oxley and Cobley* [1946] 1 KB 349. *Sumera v Atlantique Seafood TA Soy Sushi Restaurant*

[2019] JRC 164 . *Island Development Committee v Fairview Farm Limited*

[1996] JLR 306 . *Token Ltd v Planning & Environment Committee*

[2001] JLR 698 . *Anchor Trust Company Limited v Jersey Financial Services Commission*

[2005] JLR 428 . *AB v AG (Capacity)*

[2020] JCA 094 . *Porter v Magill*

[2002] 2 AC 357 . *R v Bow Street Metropolitan Stipendiary Magistrate and Others, ex parte Pinochet Ugarte No 2* [1999] All E R 577. *Locabail (UK) Ltd v Bayfield Properties Ltd and another*

[2000] 1 All ER 65 . *R v Abdroikov; Green; Williamson*

[2007] UKHL 37 . *R v Hanif (No 2)*

[2014] EWCA Crim 1678 . *R v Pintori*

[2007] EWCA Crim 1700 . *Hirschfield v Abacus*

[2000] JLR 420 . *Baglin v AG*

[2005] JLR 180 . *AB v AG*

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