

Crown Office and Procurator Fiscal Service

Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA



Mr Craig Murray

Edinburgh

EH10

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Your ref:

Our ref: DCA/CM

21 April 2020

Dear Sir

HM Advocate v Craig Murray

Please find enclosed a certified copy interlocutor, certified copy petition and list of documents in respect of the above case. This letter and enclosures should be treated as service.

Please note that a hearing has been fixed for 7 July 2020 and a procedural diet has been fixed for 10 June 2020.

You may wish to consider seeking legal advice in respect of this matter. Should you require to contact our office, any correspondence can be sent by email to PADCAseriouscasework@copfs.gov.uk or by mail addressed for the attention of the Office of the Deputy Crown Agent Serious Casework, Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA.

Yours faithfully

Procurator Fiscal Depute
Crown Office

Misc: HCA/2020- 06 /XM

HIGH COURT OF JUSTICIARY

INTERLOCUTOR SHEET

IN

Petition and Complaint

By

Her Majesty's Advocate

In Causa

HMA

V

Craig MURRAY

Act:

Alt:

Edinburgh, 22 April 2020

Lord Turnbull

having considered the foregoing Petition, in chambers, grants warrant for serving a copy thereof and this deliverance on Craig Murray, [REDACTED], Edinburgh, EH10 [REDACTED]. Appoints the Petition to be heard on 07th JULY 2020 at 10.30am within the High Court of Justiciary, Parliament House, Edinburgh; Appoints the respondent to lodge written answers no later than 15th May 2020; Assigns 10th JUNE 2020 at 10.00am as a procedural hearing within the High Court of Justiciary, Parliament House, Edinburgh.

A McKay
Depute Clerk of Justiciary

HIGH COURT OF JUSTICIARY

UNTO THE RIGHT HONOURABLE THE LORD JUSTICE GENERAL, LORD JUSTICE
CLERK AND LORDS COMMISSIONERS OF JUSTICIARY

PETITION AND COMPLAINT

of

The Right Honourable
JAMES WOLFFE, Queen's Counsel,
Her Majesty's Advocate

For Her Majesty's Interest

Petitioner

against

CRAIG MURRAY, [REDACTED]
[REDACTED], Edinburgh, EH10 [REDACTED]

Respondents

HUMBLY SHEWETH THAT

1. On 23 January 2019, Alexander Elliot Anderson Salmond was arrested by police officers in relation to a number of incidents that had taken place in Scotland. On 24 January 2019, said Alexander Salmond appeared on a petition before the sheriff at the Sheriff Court, Edinburgh, charging him with a number of serious sexual offences including attempted rape. Alexander Salmond was committed for further examination and admitted to bail. Alexander Salmond was indicted to the High Court of Justiciary. The case called by way of preliminary hearing at the High Court of Justiciary at Edinburgh on 21 November 2019 and on 22 January 2020. A dedicated floating diet for trial was provisionally fixed for 9 March 2020. Said trial commenced on 9 March 2020 and concluded on 20 March 2020. Alexander Salmond was acquitted of all charges. Alexander Salmond is a former leader of the Scottish National Party and a former First Minister of Scotland. The evidence in the case concerned allegations of sexual

offences committed whilst he was in office. There has been considerable media interest in respect of the case.

2. On 10 March 2020, the Lord Justice Clerk at the High Court of Justiciary, issued an indefinite order in the following terms:

"The court, on the motion of the advocate depute, there being no objection, made an order at common law and in terms of Section 11 of the Contempt of Court Act 1981, preventing the publication of the names and identity and any information likely to disclose the identity of the complainers in the case of HMA v Alexander Elliot Anderson Salmond."

3. On 10 March 2020, the Lord Justice Clerk at the High Court of Justiciary, issued an interim order to last until the conclusion of the trial diet in the following terms

"The court on the advocate depute, there being no objection, made an order in terms of the Contempt of Court Act 1981, section 4(2) preventing the publication of the details of the issues raised in the legal submissions that took place between 14:20 hours and 14:25 hours on 10 March 2020. Said order to be in place pending the resolution of trial proceedings against the accused Alexander Elliot Anderson Salmond."

4. Since 23 August 2019 a number of articles connected to or referring to the criminal proceedings have been published on the website www.craigmurray.org.uk (the "Website"). The Website is believed to be owned and operated by the Respondent, Craig Murray (the "Respondent"), residing at [REDACTED], Edinburgh, EH10 [REDACTED]. The articles all bear to have been written by the Respondent.

5. The Website presents as a blog written by the Respondent. The Website includes an image of the Respondent and a biography about him in which he is described as "an author, broadcaster and human rights activist." The Website includes a section titled "Support This Website" which advises that the writer has been writing the blog for over thirteen years and

invites readers to make donations towards the Website. The Respondent describes the Website in this section as journalism. The Website includes a link to a related profile on the Facebook social media platform which suggests that the Respondent has over 2.6k likes on the Facebook platform. The Website carries the option for readers to post publicly available comments in relation to each blog post.

6. The Respondent also operates an account on the social media platform Twitter under the profile name @CraigMurrayOrg. The account includes an image of the Respondent. He is described as an "historian and human rights activist" and as a "former British Ambassador." As at 31 March 2020, the profile has 77,000 followers and has tweeted approximately 11,100 times. The profile @CraigMurrayOrg contains a link to the Website and the Respondent regularly posts links directing users to his Articles.
7. On 5 March 2020, the Respondent sent an email to the Scottish Courts and Tribunals Service that was also posted on the Website stating "I am arguably the most read journalist in Scotland. We have undoubtedly the most popular and most read new media website in Scotland, <http://www.craigmurray.org.uk>. Our regular readership is higher than the regular readership of the Scotsman or the Herald, and on a good day higher than any Scottish newspaper. I have 75,000 followers on Twitter. Last week our daily coverage of the Julian Assange hearing reached many millions of readers all around the world." On 7 March, the Respondent stated on the Website "I am indeed the most widely read journalist resident in Scotland."
8. Between 23 August 2019 and 20 March 2020, the Respondent published 14 articles on his website that made reference to the case against said Alexander Salmond.

Article - 23 August 2019

9. On 23 August 2019, an article was published on the Website entitled "The Alex Salmond Fit-Up" ("23 August Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms

which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 671 comments attached.

10. The 23 August Article includes a section which purports to be an investigative journalist report about the case from a friend of the Respondent. The report states that the author will be unable to comment on the Alexander Salmond criminal case until it is over but wishes to make comments on an earlier civil case brought by said Alexander Salmond against the Scottish Government. The author states "*In lay person's terms it looks like Salmond was being fitted up by officials in the Government he once led with such distinction.*" The author names a number of Government officials that he understood to have been questioned in the civil process and goes on to criticise the Scottish Government. The report concludes "*And from what I already known, some of which can print, and a lot more I can't reveal as yet, this entire process against Salmond, already judged unlawful in the highest court in the land, stinks to high heaven.*"

11. Following the inclusion of the report, the Respondent writes in the 23 August Article that "*The Salmond Affair indeed stinks to high heaven and*

[REDACTED]
He continues by making reference to the criminal investigation suggesting that it has been subject to influence and motivated by malice or politics stating "*I am not amongst those who has faith in the fairness of the police and prosecutorial system in Scotland. In my view, the centralisation of Police Scotland made it highly susceptible to political influence.*" The Respondent goes on to make the following claims about the investigation:

"Police Scotland put 22 officers full time in to trying to dig up historic dirt on Salmond. I have personally seen a statement from a woman who was astonished to be interviewed by Police Scotland after having been seen, years ago, to have a greeting peck on the cheek from her friend Alex at a public function. This has been the biggest and most maliciously motivated fishing expedition in Scottish police history."

"The Salmond case aside (phrase inserted on legal advice!) it ought to be a public scandal that the Procurator Fiscal can arraign and parade a person in public and charge them with grievous offences, then delay matters for months and years while attempting to somehow cobble together the pile of mince they have as 'evidence' in to some sort of case."

12. The 23 August article was published on the Website at or around 23 August 2020. As at 31 March 2020, there were 671 comments between 23 August and 18 September 2019 attached to the 23 August Article. The comments include reference to said Alexander Salmond being the subject of a "fit up" or a "stitch up" and that in terms of the allegations *"skullduggery is afoot."*

Article – 18 January 2020

13. On 18 January 2020 a further article was published on the Website. The title of the article is "Yes Minister Fan Fiction" ("18 January Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 433 comments attached.
14. The 18 January Article begins by referring to personal health issues faced by the Respondent. The Respondent ponders whether he would regret holding information which he had not imparted to his readers should he no longer be able to do so. He states *"As it happened the thing I found I was most worried about not being able to impart was not, at least on its surface, a case of world sweeping importance, but rather of individual injustice. Though the surface often hides a great deal."* The article then goes on to purport to be a fan-fiction style mock script for a known television show called "Yes Minister." At the heading of the script, the Respondent appears to acknowledge the similarities with the aforementioned criminal case and states:

"As with the original series, although based on a realistic civil service scenario dealing with similar events to those the civil service actually deals with, this conversation between a Minister and Permanent Secretary is purely fictional. No real situation is alluded to and any resemblance between the people and situations portrayed here and anything that is happening in real life is entirely accidental. Please do not attempt in the comments section to relate this entirely fictional homage [sic] to Yes Minister to any actual events involving any actual court cases. Because you might wander into contempt of court."

15. The 18 January Article thereafter includes a script which purports to be a conversation between two characters described as the Permanent Secretary and the Minister. The characters discuss how the reputation of the Minister's predecessor can be destroyed by accusing him of sexual offences. The tenor of the conversation is that the offences are all fabricated by government officials in an attempt to discredit a former politician. A relevant excerpt from the 18 January Article states:

Perm Sec Please don't worry yourself. It doesn't matter, Minister. All we need is the word "rape" in the newspaper headlines. "Attempted rape" will do. You just tell the prosecutor to get the word out there, spread it in the media and Orpheus is finished.

Minister Even if he is not guilty?

Perm Sec He will be guilty. Whether he is guilty is irrelevant, he will be found guilty. This is where we use "more of".

Minister "More of"?

Perm Sec Yes, "More of". It's not an official legal term, but all the lawyers know it as the oldest trick in the prosecutor's book.

Minister What do you mean, Permanent Secretary?

Perm Sec Well look, we have the canoodling episode, the kiss in the office and a couple of suggestive remarks about sexy clothes.

Minister The sexy remarks are hardly illegal, are they?

Perm Sec Good God, Minister, what century are you in? (Canned Laughter). Sexual harassment, Minister. Kiss someone at the office party

and tell someone else their figure looks good in that blouse, and you have established a pattern of behaviour. "More of" you see, Minister. The "more of" this stuff you throw, the better chance some of it will stick.

16. The conversation by the characters in the 18 January Article also includes reference to other purported characters. In the script, the Minister suggests that the wife of a former politician may be willing to fabricate allegations of sexual abuse to further their careers.

Minister *What? Oh too right. I was just thinking, Permanent Secretary, you know I am starting to get the hang of this. What about old Marmalade? He is very keen to get back into parliament and sees himself as a potential successor.*

Perm Sec *Marmalade? Well I suppose if we start adding in gay allegations, it does give a slightly more exotic tinge for the tabloids.*

Minister *I was thinking more of his wife, Permanent Secretary. If the old Marmalade family want a nice safe seat in the capital, let them do something to earn it.*

Perm Sec *Indeed, Minister. And is the wife not a former Special Adviser?*

Minister *Yes, is that a problem?*

17. The 18 January Article also refers to the anonymity afforded to the victims of sexual abuse in criminal cases. The characters suggest that the victims are fabricating their evidence but they will be protected by anonymity provision within contained within the law. A relevant excerpt from the 18 January Article states:

Perm Sec *Accuser anonymity, Minister.*

Minister *Accuser anon... oh yes! Oh yes! I am beginning to see!! They are sexual allegations so...*

Perm Sec *The identities of the accusers can be kept hidden by the court under penalty of severe jail sentences for anybody who reveals them so...*

Minister ...the accusers can just be my closest political cronies and the public will never be aware of that! That's brilliant, Perm Sec!

18. The 18 January Article also carries the suggestion that prosecutors will add charges to an indictment in order to persuade juries to convict accused persons of the lesser charges even where there is insufficient evidence. The 18 January Article claims that juries will make decisions based on compromise and convenience rather than on the evidence heard in court. A relevant excerpt from the article states:

Perm Sec Yes Minister. Answer me this. What does a jury want more than anything?

Minister To do justice?

Perm Sec Wrong, Minister, wrong. Home. A jury wants to go home. (Canned Laughter) Jurors are ripped away from their homes, jobs and families for weeks. At the end of it they are locked in a stuffy room with other jurors they don't like, and not allowed to go home until they have all reached a verdict. So what do they do to reach agreement?

Minister Aaah, I see now. They compromise.

Perm Sec Exactly, Minister. They will compromise. It's a natural human instinct to avoid conflict. There will be some people who think him totally innocent as nothing was individually proven, but there will be others who will think he must have done something wrong or there could not possibly be so many accusations. The power of "more of". Of course they will chuck out the "attempted rape" very quickly as obvious nonsense. In the end they will find him not guilty on nearly all counts, but as a compromise will convict him of stroking someone's hair, patting their bum or saying they look sexy.

19. The 18 January Article was published on the Website at or around 18 January 2020. As at 31 March 2020, there were 433 comments dated 18 to 25 January attached to the article. A number of the comments attached to the 18 January Article make specific reference to Alexander Salmond in connection with this article. The Respondent has also commented in

response to another reader mentioning the Scottish National Party that the article is true. Examples of relevant comments include:

January 19 2020 at 02.44:

Antonym: "Alex Salmond neutered, right?"

January 19 2020 at 12:37:

Alex Birnie: *If this is true, then the SNP (and independence) are finished. If the central thrust of this isn't true, then you've done exactly what you are accusing others of making insinuations that can't be disproved. Like Cubby, I am going to suspend judgement until after the trial.....*

Craig Murray: *That's kind of sensible Alex but remember that the judge will almost certainly withhold the identities of the accusers, which will muddy the waters very considerably. If I was not 100% – and I really do mean 100% – certain I would not have written.*

Alex Birnie: *I respect your sources of knowledge, Craig, but this accusation is so explosive, that it will blow the indy movement apart, if it turns out to be true. From your certainty, I can only assume that you have spoken personally to the "predecessor", and that he will speak about it at the trial. If the "predecessor" confirms this accusation in court, I'll be resigning my membership of the party immediately, and I'm fairly sure that I'll be one of tens of thousands who do so. It will possibly mean the end of the SNP and therefore the indy movement, because too many people like me revere the "predecessor". If he IS guilty, then it would be a case of another hero proving to have feet of clay – a disappointment – but you shake yourself down and carry on. If THIS is true, then it is an act of such utter perfidy on the part of the "minister", that it could never be forgiven. The only hope for repairing the indy movement in that case, would be for the "predecessor" to be found not guilty, and to form a new indy party. Now THAT party would win regional votes at an election, in a way that Solidarity, RISE and the putative "Wings" party never would. In terms of Scottish independence, this is the most explosive blog you've ever written.*

January 20 2020 at 08.04:

Jimmock: Absolutely brilliant. So Julian and Eck are finished.

January 20 2020 at 10:04:

John Robertson: I think this is a fine allegory for the Alex Salmond case and I claim my £10 prize! Professor John Robertson.

January 19 2020 at 12:37:

Jim McWilliam: "interesting piece, although I'm sure that no parallels could be drawn between it and the 'cases' against Julian Assange and Alex Salmond. 'Heaven forfend!'"

20. On 21 January 2020 at 16.01 hours, the Deputy Crown Agent Serious Casework wrote to the Respondent at the email address provided on the Website requesting that the 18 January Article was removed from the Website. A copy of the letter was sent to the home address of the Respondent on 22 January 2020.

Article – 5 March 2020

21. On 5 March 2020 a further article was published on the Website. The title of the article is "The Alex Salmond Trial and Censorship" ("5 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 175 comments
22. The 5 March Article begins with an image of an email sent by the Respondent to the Crown Office and Procurator Fiscal Service (COPFS). The email is a response to the letter from the Deputy Crown Agent Serious Casework. The Respondent states "*I do not believe my satire on Moorov doctrine which you cite, which was clearly labelled fiction and nowhere mentioned Mr Salmond or his accusers, was in contempt of court.*" The Respondent thereafter asks COPFS to arrange access for him to the court during the criminal proceedings as a member of the media.

23. The Respondent has then published a copy of said letter from the Deputy Crown Agent Serious Casework within the body of the 5 March Article on the Website. The Respondent states that his interpretation of the letter is that it *"is an attempt at censorship by terrifying me into removing the article of which they complain."* The Article goes on to suggest that the letter from COPFS is a breach of human rights.
24. The 5 March Article goes on to indicate that the Respondent will continue to report on the case before again criticising the anonymity of the complainers. He states *"When combined with the anonymity of the accusers, it does make it very difficult indeed to report the background to the case, which given its profound political implications that engage a legitimate wider public interest, is deeply disturbing to me."*
25. The 5 March Article was published on the Website at or around 5 March 2020. As at 31 March 2020, there were 175 comments dated 5 to 10 March 2020 attached to the article. A number of the comments attached to the 5 March Article make specific reference to Alexander Salmond in connection with this article. An example of an excerpt from one relevant comment shows that other readers made the connection between the 18 January Article and the criminal case:

March 6 2020 at 14:38:

John McLeod: *I'm not surprised that you received this letter from the court. When I read your 'yes minister' blog, it seemed obvious to me that it was referring to the Salmond case. If I interpreted it in that way, I would assume that many other readers would have had a similar response.*

Articles – 10 March 2020 and 11 March 2020

26. On 10 March 2020 an article was published on the Website. The title of the article is "In a Strange Limbo" ("10 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31

March 2020 the article remains on the Website and has 123 comments.

27. In the 10 March Article, the Respondent refers to the Crown witness known as Ms H and states that he knows who she is, commenting "I know who Ms H is, incidentally."

28. On 11 March 2020 another article was published on the Website. The title of the article is "The Alex Salmond Trial: Your Man Excluded From the Gallery" ("11 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 231 comments.

29. That in the 11 March Article, the Respondent again states that he knows who the complainers are. He states:

Therefore coming specifically to the Salmond case I know some things which the jury know but you, dear reader, are not permitted to know, like the identities of the accusers. I know other things around the alleged events which the jury will not know, because it does not fit in to the judge's, or the lawyers', view of what is needful to be presented at trial.

30. The Respondent continues to make comments in the 11 March Article connection with the evidence of Ms H, going on to state:

Yet this is a person who could stay in a bedroom inside Bute House (not Salmond's bedroom), who was employed then in a central, vital political capacity,

31. It is respectfully submitted that these details included in 11 March Article about Ms H and her political involvement could lead to her identification as a complainer in the criminal proceedings, contrary to the section 11 order imposed by the Court.
32. In the 11 March Article, the Respondent also discusses his views in respect of the law on contempt of court which he states are "*much too strict in limiting publication*" and "*the extremely arbitrary powers of the judge to decide who is guilty of contempt of – the judge themself [sic] – is an extraordinarily abusive power if you think about it. Being able just to jail anyone who says you are personally doing a bad job is self evidently an abuse of human rights.*"

Articles – 12 March 2020, 16 March 2020 and 18 March 2020

33. On 12 March 2020 an article was published on the Website. The title of the article is "Your Man Kept Out the Gallery: The Alex Salmond Trial Day 3" ("12 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 177 comments.
34. The 12 March Article refers to the witnesses known as Ms A, Ms C and Ms H stating "*So it is extremely important for you to be aware that none of these accusers to date (up to end day 3) has been a career civil servant. [redacted] right at the heart of the operations of [redacted].*" The Respondent goes on again to refer to what he calls "*the massive fishing expedition conducted by Police Scotland against Alex Salmond.*"
35. On 16 March 2020 a further article was published on the Website. The title of the article is "13 Events, No Witnesses: The Prosecution Concludes the Case Against Alex Salmond" ("16 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at

31 March 2020 the article remains on the Website and has 305 comments.

36. The 16 March Article describes six of the complainers as members of [redacted] circle" and the other three complainers as "*senior Scottish government civil servant[s]*."

37. On 18 March 2020 another article was published on the Website. The title of the article is "Your Man Finally in the Public Gallery. The Alex Salmond Trial Day 7" ("18 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 288 comments.

38. The 18 March Article refers to the witness known as Ms D and describes her as [redacted]

39. It is respectfully submitted that the details included in Articles of 12, 16 and 18 March about the complainers could lead to their identification as witnesses in the criminal proceedings, contrary to the section 11 order imposed by the Court.

Article – 19 March 2020

40. On 19 March 2020 an article was published on the Website. The title of the article is "Your Man Finally in the Public Gallery. The Alex Salmond Trial Day 8" ("19 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 215 comments.

41. The 19 March Article describes details of evidence heard in court that day, including evidence from a witness, Fergus Mutch. The witness was asked about evidence previously given by the witness known as Ms F. The Respondent comments:

"Mr Mutch testified that

42. It is respectfully submitted that the details included in the 19 March Article could lead to the identification of the witness known as Ms F in the criminal proceedings, contrary to the section 11 order imposed by the Court.

43. On 19 March 2020, the Advocate Depute brought the publication of the 19 March Article to the attention of the Lord Justice Clerk, who took the view that a *prima facie* case had been made out that a contempt of court had been established and as such ordered that the Respondent was not permitted to enter the court for the remainder of the proceedings. The Lord Justice Clerk made an interim order in the following terms:

"The court, on the motion of the advocate depute, there being no objection, made an order in terms of the Contempt of Court Act 1981, section 4(2) preventing the publication of the details of issues raised in legal submissions that took place, within a closed court between 10:45 hours and 10:49 hours on 19 March 2020. Said order to be put in place pending the resolution of trial proceedings against the accused Alexander Elliot Anderson Salmond."

44. The Respondent was subsequently not permitted access to the court. At 11:34 hours on 19 March 2020, a message was posted by the Twitter account @CraigMurrayOrg with a link to the 19 March Article along with the following comment:

"I have been barred from the court, on a motion of the prosecution, for possible contempt of court. I asked the friendly police who removed me why, and they did not know. I have not been charged and know of no reason you should not read my last report."

45. As of 31 March 2020, the Twitter post has been retweeted 1146 times, has been "liked" 1531 times and has 120 comments attached. The comments included those from Twitter users stating that they were able to identify a complainer from Articles published by the Respondent. Examples of relevant messages are referred to below, including those where the Respondent has replied:

Jock @JocksTwater – Mar 19

Replying to @CraigMurrayOrg

I identified a victim from this blog. You should perhaps edit it.

*Reply to **Jock** from **Craig Murray** @CraigMurrayOrg – Mar 19*

I presume you meant to say alleged victim. It would be a great deal easier to identify an alleged victim from this, for example, which gives information I deliberately withheld for that reason.

[Link to newspaper article about the trial published by The Guardian]

Donald MacKenzie @dmck52 – Mar 19

Anyone reading your report who was in any way close to the Salmond government would be able to identify some of the witnesses. That is not allowed.

Charles Lavery @charleslavery – Mar 19

Your piece includes comment and opinion. You're not a court reporter and you shouldn't be doing this. There are several contempt issues in what you have published.

46. On 19 March 2020 at 17.08 hours, the Deputy Crown Agent Serious Casework wrote to the Respondent at the email address provided requesting that he remove both the 19 March Article from the Website and

the associated Twitter postings. A copy of the letter was sent to the home address of the Respondent on the same date. As of 31 March 2020, said article and Twitter messages remain on the Website and Twitter.

Article – 20 March 2020

47. On 20 March 2020, a further article was published on the Website. The title of said article is "The Long Dark Night of the Soul" ("20 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 485 comments.

48. The 20 March Article makes reference to the Respondent being removed from the court the previous day. The article states that he does not know why he was removed. The Respondent claims that he can only assume that it relates to something that he has written and that *"I will state openly that if the court asked me to remove or change anything I have written, I would certainly do that."*

Twitter – 29 March 2020 and 2 April 2020

49. At 08.31 hours on 29 March 2020, a message was posted by the Twitter account @CraigMurrayOrg ("29 March Tweet"). The message states:

"It is respectfully submitted that the details included in the 29 March Tweet could lead to the identification of one of the complainers in the criminal proceedings, contrary to the section 11 order imposed by the Court.

51. As of 31 March 2020, the Twitter post has been retweeted 881 times, has been "liked" 1629 times and has 108 comments attached. The comments included those from Twitter users stating that they were able to identify a complainer from Articles published by the Respondent. Examples of relevant messages are provided below:

Jo @nannounannou1 – Mar 29

Have these women got lifelong anonymity guaranteed by the court? I believe that I know who one of the women is (took a bit of googling but I have pieced it together & it makes perfect sense.) [sic]

Timerousbeastie ESQ. @timerousbeastie – Mar 29

Whilst you raise an important point haven't you essentially named one of the women?

Tich W @Tich_TinyT – Mar 30

[Quoting COPFS Twitter account] A reminder that in the case HMA v Salmond a court order remains in place preventing the publication of the names and identity, and any information likely to disclose the identity of, the complainers.

Jim Monaghan @JimMonaghan – Mar 29

Are you deliberately trying to breach her right to anonymity?

Tamara Patel @Tamara_Patel1 – Mar 29

You've just effectively named her. The media have not done so for the very good reason that they don't want to go to jail for contempt of court!

Bosco @BoscoBrawley5 – Mar 30

That is a disgraceful post. One you should withdraw immediately. Clearly you are trying to identify the women whose identity is protected by law.

52. In addition, one Twitter user with the name "Bella Spandangle" and the Twitter handle @tinkytoe commented on the 29 March Tweet on the same



image of a news article naming one of the complainers alongside an image of her.

53. On 1 April 2020, a journalist named Dani Garavelli published an article entitled "Scotland after the trial of Alex Salmond." At 19.20 hours on 2 April 2020, a message was posted by the Twitter account @CraigMurrayOrg ("2 April Tweet"). The message included a link to Ms Garavelli's article and states:

It is respectfully submitted that the details included in the 2 April Tweet about Ms Watt [REDACTED] could lead to the identification of two of the complainers in the criminal proceedings, contrary to the section 11 order imposed by the Court.

56. As of 3 April 2020, the 2 April Tweet has been retweeted 241 times, has been "liked" 379 times and has 32 comments attached. One user commented indicating that naming of Ms Watt appeared to be another attempt at identification of the complainers by the Respondent. The comment and the Respondent's reply are provided below:

Telomere @ChrisDarroch2 - 3 Apr

Is naming the [REDACTED] a jigsaw piece?

Craig Murray @CraigMurrayOrg - 3 Apr

Life is a jigsaw piece

Telomere @ChrisDarroch2 - 3 Apr

You must release that the latest threats from the press about contempt, are pretty much aimed at you.

Article - 30 March 2020

57. On 30 March 2020, another article was published on the Website. The title of said article is "J'Accuse" ("30 March Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms

which are incorporated herein *brevitatis causa*. As at 31 March 2020 the article remains on the Website and has 257 comments.

58. In the 30 March Article, the Respondent describes the criminal investigation as *"the most extensive and expensive fishing expedition in Scottish police history"* and suggests that the complainers and others should be prosecuted for conspiracy to attempt to pervert the course of justice. The article goes on to suggest that *"the police and prosecutors, the Scottish government including, but not only, as represented by the accusers, have all been part of the same joint enterprise to stitch up Alex Salmond."*
59. On 23 March 2020, Juror Number 4 RR was excused from the jury in the criminal proceedings. On 23 March 2020, the Lord Justice Clerk made an interim order in the following terms:
- "The court, on the motion of the advocate depute, there being no objection, made an order in terms of the Contempt of Court Act 1981, section 4(2) preventing publication of the details of the issues raised by the Advocate Depute on 23 March 2020. Said order to be in place pending the resolution of any proceeding that may be taken in respect of Juror Number 4 RR."*
60. As at 31 March 2020, the possibility of proceedings against Juror Number 4 RR remains an active consideration. In the 30 March Article, the Respondent commented, *"You might also wish to consider this. While the jury was considering its verdict, two members of the jury were removed. Here I know more than I can legally say at present"* and *"Because the only thing that was not fixed about this entire affair was the jury. And they may well have contrived to nobble even that with jury expulsion."* It is respectfully submitted that these comments contravene the section 4(2) order of the court of 23 March 2020.

61. On 3 April 2020, another article was published on the Website. The title of said article is "I have a plan so that we can remain anonymous but have maximum effect" ("3 April Article"). A copy of the article taken from the Website is produced herewith and referred to for its terms which are incorporated herein *brevitatis causa*. As at 4 April 2020 the article remains on the Website and has 231 comments.
62. The 3 April Article represents the entire article to which the excerpt of the 2 April Tweet relates. The Respondent has therefore has again published details about Karen Watt being [REDACTED] known as Ms B and Ms D.
63. In the course of the article, the Respondent makes a number of further comments relating to the identity of various complainers. He states that "Woman A" [REDACTED] and that she is [REDACTED] *She is going to feature a lot as documents kept from the court become public in new processes.*" In addition, the 3 April Article also makes further reference to the hair of the complainer known as Ms D, describing it as [REDACTED]
64. It is respectfully submitted that the details included in the 3 April Article about the complainers could lead to their identification as witnesses in the criminal proceedings, contrary to the section 11 order imposed by the Court

Submissions by the Crown

65. Since August 2019, the Crown Office and Procurator Fiscal Service (COPFS) took the decision to regularly post messages on Twitter in the following terms to remind those on social media to consider issues around contempt before publishing any comments:

When an individual is arrested or an indictment is served, the Contempt of Court Act 1981 applies. The court may consider that any information published which creates a substantial risk that justice is impeded or prejudiced is 'contempt'.

'Contempt' is punishable by up to two years in prison and/or an unlimited fine. The law is used by the court to protect the integrity of proceedings, preserve access to justice for victims and to secure the rights of the accused.

Court is the only appropriate public forum for the discussion of matters of fact or law in live criminal cases. Any published information – including online – that creates a substantial risk of prejudicing justice may be contempt of court.

66. That as aforementioned, COPFS have written to the Respondent on two occasions expressing concern about the content of his Articles with reference to contempt of court.
67. It is clear from the terms of the articles, some of which refer to potential for contempt of court, that the publication of the articles dated between 23 August 2019 and 20 March 2020 occurred after the Respondent knew or reasonably ought to have known that Alexander Salmond had been indicted and, accordingly, while proceedings were active in terms of section 2 of and Schedule 1 to the Contempt of Court Act 1981 (the "1981 Act").
68. It is respectfully submitted that the articles dated between 23 August 2019 and 20 March 2020 contain material the publication of which the Petitioner believes and avers would have been liable to prejudice the case against Alexander Salmond.
69. It is respectfully submitted that the publication of the 23 August and 18 January Articles was such as to create a particular impression in the minds of persons who were called to try Alexander Salmond, with regard to the

facts of the incidents which were the subject matter of the criminal charge and accounts of evidence which may have been given by witnesses at trial. Whilst the 18 January Article does not explicitly name Alexander Salmond or other parties involved in the criminal case, the content refers to allegations of sexual offences against a former minister, including a charge of attempted rape. It is respectfully submitted that clear parallels can be drawn between said article and the criminal case against Alexander Salmond and that the 18 January Article implies that the allegations of sexual abuse are part of a conspiracy and have been fabricated by others. The 18 January Article suggests that prosecutors have failed in their duties to properly indict the case and that a jury will fail to properly consider the evidence. The Respondent has not explicitly named Alexander Salmond in the body of the 18 January Article, but the Website hosts comments attached to the article which do name him in connection with the content. The text of the 23 August and 18 January Articles is of a highly prejudicial nature.

70. In terms of sections 1 and 2 of the 1981 Act a publication which creates a substantial risk that the course of justice in particular active legal proceedings will be seriously impeded or prejudiced may be treated as contempt of court as tending to interfere with the course of justice in the said legal proceedings regardless of intent to do so.
71. It is respectfully submitted that publication of 23 August and 18 January Articles tends to interfere with the course of justice in the said legal proceedings and created a substantial risk that the course of justice in said proceedings could have been seriously impeded or prejudiced.
72. It is respectfully submitted that the 10 March, 11 March, 12 March, 16 March, 18 March, 19 March and 3 April Articles and the 29 March and 2 April Tweets, whether read in isolation or in conjunction with each other, contain information likely to disclose the identity of the complainers in the case of HMA v Alexander Salmond, contrary to the section 11 order imposed by the Court on 10 March 2020.

73. It is respectfully submitted that the 30 March Article contained commentary which contravened the terms of the section 4(2) order imposed by the Court on 23 March 2020.
74. The Articles were carried on the Website which purports to have a notable domestic and international readership.
75. In terms of the 1981 Act and at common law, publication of the articles was a gross contempt and high offence offered to the courts in Scotland competent to deal with the offences charged in the said petition, including the Supreme Criminal Court of Scotland, to which your Petitioner deems it his duty to call the attention of the Court.

MAY IT THEREFORE PLEASE YOUR LORDSHIPS to grant warrant to serve a copy of this Petition and complaint upon said Craig Murray and to ordain him and all parties claiming interest therein to lodge Answers hereto within such period as your Lordships shall think proper; to ordain Craig Murray or such other persons as to your Lordships shall seem proper to appear before your Lordships for enquiry into the matter complained of, and on the same being admitted or held established, to inflict upon Craig Murray such punishment as the nature of the case seems to your Lordships to require or to take further or other action as to your Lordships shall seem proper.

ACCORDING TO JUSTICE

Alex Prentice

A PRENTICE QC
ADVOCATE DEPUTE

PETITION AND COMPLAINT

of

The Right Honourable
JAMES WOLFFE, Queen's Counsel,
Her Majesty's Advocate

For Her Majesty's Interest

Petitioner

against

CRAIG MURRAY
63 Oxfords Road
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EH10 7BD

Respondents

2020

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