



The Association of British Drivers

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David Carter
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Ministry of Justice
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Reference the Consultation on "The Award of Costs from Central Funds in Criminal Cases".

Dear Mr Carter,

Regarding the above mentioned consultation, I wish to make an objection to the proposals contained therein on behalf of the Association of British Drivers, and also based on my personal recent experiences of defending a prosecution in a magistrates court.

In my view these proposals are motivated solely by the desire to save money, and are not in the interests of justice.

The vast majority of people are not eligible for legal aid. Therefore if they are prosecuted for a motoring offence in the magistrates or crown courts, they have no alternative (unless they are to defend themselves) to hiring legal representation. Such representation may not at first appear very expensive, but even a relatively simple magistrates court case may cost several hundred pounds, if not more. And there are often other incidental costs such as travel expenses.

In my view it would be wholly iniquitous if acquitted defendants could not recoup their reasonable costs. And I am not convinced that defendants could obtain adequate representation at legal aid rates.

Although I have personally defended myself in the past in a magistrates court, a recent prosecution for a motoring offence caused me to hire legal representation. I anticipated that this would be a very quick and low cost trial, and the lawyer I appointed was certainly not expensive. However, what actually happened thereafter is detailed in the note at the end of this letter.

At the end of the day, there were two magistrates hearings, involving two trips to Stafford, plus a judicial review hearing. My costs ended up as being quite substantial (still less than £2000) even though only part of them were recouped from the Crown.

It would be absolutely wrong not to reimburse such costs for a prosecution that was clearly totally mistaken on the first alleged offence, and where the second offence was not proven simply because of the incompetence of the prosecution and basic failure to produce the required evidence in court.

It would obviously deter people from defending such cases if they cannot recoup their costs. This case was not clear cut and there was a substantial risk that I might have been found guilty if my defence had not been competently handled. In other words I was already risking substantial costs being awarded against me, which is quite sufficient deterrence without making it even more difficult for people who are prosecuted for what are relatively trivial offences.

I do not see how it is in the interests of justice to drop the long standing reimbursements of defendant's costs where they are found not guilty.

Neither incidentally do I see any particular difference that should apply to larger cases such as those of prosecutions of companies.

Yours sincerely

Roger Lawson
London Co-Ordinator
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A Personal Story of Speed Camera Persecution by Roger Lawson

I have been prosecuted twice for alleged motoring offences in over 30 years of driving. Twenty years ago I was accused of overtaking on a zebra crossing in Sevenoaks, defended myself in court and was found not guilty.

In October 2005 I received a Notice of Intended Prosecution (NIP) for an alleged speeding offence on the A500 in Stoke picked up by a laser camera van. They alleged I was doing 42 mph in a temporary 30 mph limit where road works existed. You can actually see the complaints prompted by 5500 other drivers who collected speeding tickets in these road works on the ABD's web site at: <http://www.abd.org.uk/local/staffordshire.htm>

I completed and returned the NIP with a covering letter, indicating I was the driver and refusing the fixed penalty offer. Two offences were subsequently listed for trial: failing to complete the NIP (obviously a nonsense which they persisted with even though I pointed out their error) and exceeding the speed limit. Bearing in mind this odd response, I decided to hire a lawyer to represent me.

It finally was listed for trial in Stafford in November 2006. I expected the trial to last about 20 minutes. The prosecution immediately offered no evidence on the failure to complete the NIP. I gave evidence that so far as I was concerned I was driving reasonably and probably within the speed limit and maintained my not guilty stance (I had of course no specific recollection of the incident as I did not see the camera van). The camera operator confirmed a few details but when cross examined by my barrister said that the speed signage was no concern of his and he had not checked it. In his closing statement my barrister said that as there was no evidence presented by the prosecution on the signage, then the case could not be proved.

At that point the Clerk of the Court interrupted and said that this was an "ambush" by the defence as this had not been raised before and therefore she was "aborting" the trial. My lawyer said it had come out in the cross examination (which the prosecuting counsel subsequently agreed), and that he did not recognise the word "abort" as a legal term. Two hours later, after lengthy debate on these legal issues, the case was "adjourned" to enable more evidence on the signage to be produced.

We applied for a Judicial Review of this case to the High Court on the basis that it was wrong to adjourn a case after closing statements had commenced, that it was unfair on me to have to travel again to Stafford for such a trivial case, that the court had abandoned its impartiality and a few other grounds. But in October 2007 the High Court rejected our arguments (it seems they expect the defence to do the prosecutions job for them now by pointing out the errors in their work in advance).

So it was back to the Stafford magistrate's court in April 2008. I maintained my not guilty plea because there seemed little evidence still of the nature of the speed signage on this road. Indeed I had taken some photographs of the scene some weeks later when I next travelled the road which you can see below – the camera van was parked on the flyover you can see in the second photograph. But there is no evidence of any speed signs for the 1000 metres of this road or any warnings of speed camera usage (both probably required as this was a temporary limit due to road works).



But when we arrived in court, it was clear that the key prosecution witness had not turned up and nobody knew where he was.

The prosecution asked for another adjournment which the magistrates refused. He then asked for the written evidence of the signage by the witness to be allowed as “hearsay” evidence which they also refused. He then withdrew the case. Costs were awarded to me.

What an enormous waste of public money and my time, on a prosecution that was questionable to begin with.

Note that my legal advisor was David Sonn of Sonn Macmillan Walker, Tel: 020-7377-8889, email: dsonn@smw-law.co.uk