

In The Court Of Appeal
Criminal Division
Royal Courts of Justice
Strand
London WC2A 2LL

CAO 200504343 C4

Regina

v

Casey William HARDISON

Renewal Application
for Leave to
APPEAL AGAINST CONVICTION

I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of man.
-Thomas Jefferson, Sept. 23, 1800

Prepared By

Casey William HARDISON

May 25th 2006

Renewal Grounds Appeal against Conviction

- 1) Bodily self-ownership is anterior to and more basic than political rights. ***The choice to care for and maintain the body is concomitant the right to life.*** The exercise of Power over the body of an individual must never be free from question, debate, exposure and possible defeat. To this end the Human Rights Act 1998 protects the individual from unjustified State interference. On this, Thomas Jefferson wrote, “Was the Government to prescribe to us our medicine and diet, our bodies would be in such keeping as our souls are now.”¹
- 2) In paragraph 1 of my skeleton Appeal against Conviction, I submitted that the application of the Misuse of Drugs Act 1971 in this case contravenes my Human Rights under Article 3, Article 6, Article 8, Article 9, Article 10 and Article 14 of the Human Rights Act 1998. (See *Appendix A* for expanded arguments in relation to the asserted breach of human rights.)
- 3) The argument is submitted under Section 7(1) and 7(3) of the Human Rights Act 1998 requiring this Court to subject the submission to strict scrutiny in line with the intent and purpose of the 1998 Act as the HRA is a more recent expression of Parliament’s *sovereign will* than either the UN Drug Conventions or the Misuse of Drugs Act 1971 or related legislation under which I have been investigated, arrested and prosecuted.
- 4) Yes, I have been aware that since my birth my ‘explorative facilitations’ were proscribed by the Misuse of Drugs Act 1971; this is analogous to the homosexual in the *Dudgeon v United Kingdom* case whose ‘homosexual tendencies’ were in breach of the criminal law, and the homosexual in *Norris v Ireland*. *Norris’s* rights were abrogated by the ‘mere existence’ of the legislation proscribing his ‘tendencies.’ Therefore, I claim standing as a ‘victim’ pursuant to s7 of the Human Rights Act 1998 effectuating the European Convention for Human Rights.
- 5) As a result of these misanthropic drug laws I have been denied the peaceful enjoyment of my most intimate possession, my body and mind. I have also been subject to Confiscation Proceedings intended to permanently deprive me of my exogenous physical property.
- 6) The choices to self-medicate, self-enable, self-enhance and self-explore “involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the [Human Rights Act 1998]. At the heart of liberty is the right to define one’s own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State.” ***Planned Parenthood of Southeastern Pa. v. Casey, (1992) 505 U.S. 833, 852. Mutatis mutandis***
- 7) In form SJ paragraph 1, the learned Justice Clarke makes no mention on what authority he relies in dismissing without strict scrutiny my claim in paragraph 1 of my Appeal against Conviction. I can assume he may have relied on ***R. v. Taylor [2002] 1 Cr. App. R. 37.***
- 8) I assert once again that mere reference to a UN consensus on the matter is not sufficient, as indeed, there is considerable discussion and dissent occurring both within the UN General Assembly and the EU Parliament about the human rights abuses perpetrated in the name of a never ending War on Drugs. Indeed, in the United States, two Class A molecules found in my original indictment, the phenethylamine Mescaline and the tryptamine DMT, are now sanctioned for religious use by the Supreme Court and Acts of the Congress as matters of religious freedom. ***Cf. Gonzales, Attorney General, et al v. 0 Centro Espirita Beneficente Uniao Do Vegetal et al. 546 U.S.__(2006),*** decided February 21st, 2006.
- 9) The proper form of HRA 1998 inquiry and strict scrutiny of the Misuse of Drugs Act 1971 is the class, group, or subset it is applied to: ‘users’, ‘self-medicators/self-healers/self-enablers’, ‘explorers’, ‘psychonauts’, ‘communicants’, ‘celebrants’, ‘self-seekers’, ‘therapeutæ’, etc.

10) Whilst I read *Quayle et al. [2005] EWCA Crim 1415*, concerning a necessity defence for medical *Cannabis*, an analogy occurred to me: *one would not kick a sick dog for eating grass nor kick a cat for frolicking in a pile of Catnip; yet, we kick humans who do the equivalent.*

11) For utmost clarity, I am seeking the following relief under the Human Rights Act 1998:

- a. I am seeking an unequivocal declaration that the three relevant United Nations Conventions have no power to *disapply* the Human Rights Act 1998 or the ECHR.
- b. I am seeking an unequivocal declaration that the Misuse of Drugs Act 1971 is incompatible with the Human Rights Act 1998 and the ECHR.
- c. I am seeking an unequivocal declaration that *Article 9(2) does not prescribe any interference in freedom of thought.*
- d. I am seeking the return of my bodily possession and the concomitant right to care, nourish and control it as I see fit provided no harm results to others.
- e. I am seeking an unequivocal declaration that Article 9 protects the right of each individual to think independently and autonomously, to access and use the full spectrum of his or her mind, to willfully engage in multiple modes of thought, and that decisions concerning whether or how to change a person's thought processes *must* remain the province of the individual as opposed to the government or corporation.
- f. I am seeking an unequivocal declaration that it is time to develop a jurisprudence of the mind, accounting for the latest understandings of the brain, the advancing powers of psychopharmacology and pharmacotherapy and situating these within our traditions of embracing individual freedom, self-determination, and limited government.
- g. I am seeking an unequivocal declaration that Medical Freedom, i.e., Freedom of therapeutic choice is encompassed within and protected by Article 9; as Self-medication is a sacred 'inalienable right' recognizably motivated by belief system, conscience and religion.
- h. I am seeking an unequivocal declaration that 'drug users' are a recognizable minority consistent with the 'other status' clause of Article 14 and are not wrong, bad, dirty, shameful, scourges or scapegoats to be purged from the body politic.
- i. I am seeking an unequivocal declaration that civilized nations do not make war on its own citizens and *there must be a truce declared in the War on Drugs.*
- j. I am seeking to have my convictions quashed and to be granted interim relief including amnesty for *all* adult prisoners of the 'War on Drugs' across the EU that are incarcerated for nothing other than violations of the Misuse of Drugs Act 1971 and related EU Member State drugs legislation or regulations, i.e. non-violent, no crimes against the person, and no theft or other such offences.

12) The relevant questions are:

- a. What is the purpose of the MDA 1971, i.e. what mischief is it alleviating and who benefits?
- b. Is the prohibition or strict control of use, manufacture and supply of the scheduled drugs *necessary* in a democratic society to *achieve* the purpose and *alleviate* the mischief?
- c. Is the MDA's oblique affect of denying the peaceful enjoyment of one's body and mind and the concomitant right to care, nourish and control it the values of a democratic society, i.e., are the Acts oblique affects valid State interests?
- d. Is general drug prohibition a domestic cultural tradition or value?
- e. Is there a reasonable relationship between the objectives to be achieved and the means used to achieve that objective?
- f. Is the objective achievable? Is the objective being achieved?

13) In answering these questions one need determine:

- a. The nature of each right asserted;
- b. The importance of the limitation, if any, on each right;
- c. The nature and extent of the limitation, if any, on each right;
- d. The relationship between the limitation and its purpose;
- e. If there exists less restrictive means to *achieve* the purpose and *alleviate* the mischief.

- 14) Any interpretations of the rights and freedoms guaranteed must be consistent with the “general spirit of the Convention, an instrument designed to maintain and promote the ideals and values of a democratic society”². Although the Court has not discussed in any detail the qualities of a democratic society, it is clear this Court regards the qualities of human dignity, pluralism, tolerance, broadmindedness, equality, liberty, self-determination, and encouraging self-fulfilment as important ingredients of any democracy. This leads to a search for balance between the competing interests presented in any case which reaches this stage of deliberation.
- 15) Establishing if the measure of interference or restriction is necessary in a democratic society involves *demonstration* that the action is in response to a pressing social need, and the interference with the rights protected is *no greater than is necessary to address* the pressing social need and *genuinely secure* the legitimate aim. This requires the Court to balance the severity of the restriction placed on the individual against the importance of public interest. Only the minimum interference with the right that *secures* the legitimate aim will be permitted.
- 16) I respectfully submit: the *onus* is now on HM Government to demonstrate the present interference with my rights and freedoms is designed to meet a *legitimate* objective; to show that the means adopted are *rationally* connected to the objectives; and to show that nothing short of the particular impairments of my Convention rights are necessary in this democratic society to *achieve* the avowed objective.
- 17) According to recent testimony of Professor Sir Michael Rawlins, the Chairman of the Advisory Council on the Misuse of Drugs, the body created by s1 of the MDA 1971, “What we have to do though, is realise that over the last 30 years the use of drugs has dramatically increased in this country, and that the criminal justice system has not prevented that in any way.”³ Prohibition is a strategy that has failed twice and creates more harm than it alleviates.⁴
- 18) Finally, I assert, there is no evidence base for the molecules of the instant case to be in Class A, it is an arbitrary and historic knee-jerk scheduling of a political nature.⁵
- 19) This case is not a simple striking of balance between individual rights and the public interest with deference being shown to the views of state authorities; accordingly, I request this Court exercise a tighter standard of review consistent with the tests of necessity, rationality, and proportionality as found in *Silver v. United Kingdom [1983] 5 EHRR 347 & R (Daly) v. Home Secretary [2001] 2 AC 532*. The starting point is the Convention rights.
- 20) In paragraph 4 of form SJ, the learned Justice Clarke’s reasoning is factually wrong. There was *not* adduced at trial antecedent identification of myself as the sender of the package as expressed in my Appeal against Conviction skeleton at paragraph 7(j). In addition, the package was *not* traceable back to me via the mail box facility as my name was not on the external package, it was paid for in cash, and the fingerprint found inside was not tested prior to its arrival in the United Kingdom months after my arrest.
- 21) I reserve all rights and stand by all previous submissions. Please, I beg of this Court to allow this Appeal against Conviction to be heard and to give my arguments the strict and public scrutiny they deserve. *Justice must not only be seen to be done, it must be done.*

-vitam impendre vero, fiat lux!

Casey William HARDISON - POWd (Civ)

Notes

- ¹ Jefferson, T., “Notes on the State of Virginia,” 1781, reprinted in A. Koch and W. Peden, eds., *The Life and Selected Writings of Thomas Jefferson* (New York: Modern Library, 1944), p. 275
- ² *Kjeldsen, Busk, Madsen and Pederson v Denmark* [1976] 1EHRR 711 at 53.
- ³ Uncorrected transcript of Oral Evidence, House of Commons Science and Technology Committee, ‘Scientific Advice, Risk and Evidence: How the Government Handles Them’, March 1st 2006, Question 166. To be Published as HC 900-ii. *See*:
www.publications.parliament.uk/pa/cm200506/cmselect/cmsctech/uc900-ii/uc90002.htm
- ⁴ *Ibid*, Questions 127-128. *Cf.* Law Enforcement Against Prohibition at
<http://leap.cc/audiovideo/LEAPpromo.htm>
- ⁵ *Ibid*, Questions 222-230 and 250-256. *Cf.* ‘The Evidence Base for the Classification of Drugs’, 2006 Rand Europe Technical Report, Prepared for the HC Select Committee, *See*:
http://www.rand.org/pubs/technical_reports/TR362/