



'Never gives up on a case' - Legal 500 2011

A 'terrier-like ability to unearth the weak points in the prosecution case' - Legal 500 2010

Background

Tom has always been a devoted criminal defence Barrister and is dedicated to upholding the rights of those against whom the State seek to bring criminal charges.

In the service he provides for professional clients, he is able to bring the benefits of his experience working for a busy East London solicitor's firm representing clients at the police station and preparing cases for Defendants charged with offences including murder, rape, drugs importation and terrorism. For lay clients he provides a strong mix of fearless advocacy, in-depth legal knowledge and thorough preparation together with a sympathetic manner, common sense and sound judgment.

Outside of work, Tom continues his support of those desperately in need of a strong defence in his following of Sheffield Wednesday FC.

Practice

At the Bar, Tom is rapidly gaining a formidable reputation as a passionate defender and a strong advocate. He is regularly instructed in cases involving serious violence, sexual assaults, kidnapping, firearms, drug importation and armed robbery.

Tom also has a particular interest and experience in the following areas:

- **Protest Cases:** Upholding protestors' rights under Articles 8, 10 and 11 of the European Convention on Human Rights. Tom has particular expertise in winning cases on the basis that the police officers involved were acting outside the execution of their duty or that their actions were disproportionate. Tom's practice in this area includes high-profile cases such as R v Martin Jahnke who was arrested after throwing a shoe at the Chinese Prime Minister in protest at their Human Rights record. He has also appeared regularly for 'FITWatch' who object to the Metropolitan Police's determination to intimidate peaceful protestors by photographing and storing their personal data.
- **Court of Appeal:** Most notably, Tom acted in R v Bassett, the leading case on the offence of voyeurism and which defined 'breasts' for the purposes of the Sexual Offences Act 2003. In addition, Tom has a solid track record in having convictions quashed and sentences reduced where previous Counsel had advised there was no merit and where the Single Judge has refused leave. He is more than happy to take instructions pro bono in relation to the merits of making renewed applications.
- **Youth Work:** Tom has a great deal of experience acting on behalf of young people facing serious charges and Anti-Social Behaviour Order ('ASBO') applications in the Crown Court and Youth Court. He has amassed a detailed knowledge of youth court procedure and sentencing legislation. Tom is also particularly conscious of the need to establish a rapport and

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Education
MA (Oxon) Jurisprudence

Practice Areas:
Tom Wainwright is a member of the following Practice Areas:
- Crime
- Fraud and Regulatory Law
- Planning & Environmental Law

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gain the trust of young clients and to ensure, so far as possible, that they are able to fully participate in court proceedings.

- **Serious Fraud:** Tom has experience in both large scale complex frauds and lower level offences and is skilled at absorbing and processing complicated concepts and legal scenarios in order to effectively deploy the necessary facts before a jury. He has defended in prosecutions brought by the Serious Fraud Office, Trading Standards and the Department for Business, Innovation and Skills.

Tom is also a member of the Planning and Environmental Law Team and specialises in defending those charged with criminal offences arising out of their involvement in protests on environmental issues.

Notable Cases

COURT OF APPEAL

Regina v Dale [2011] EWCA Crim 1675, CA

Defence should have been allowed to call expert evidence to demonstrate that, despite a lack of medical proof, there was a body of opinion that cannabis assisted in the control of epilepsy, in order to support the Defendant's account that this was the reason he had a large amount of the drug. Conviction unsafe as a result and quashed. Sentence on other counts reduced. Single Judge previously refused leave on both applications.

Regina v Markowski [2010] EWCA Crim 2699, CA

In the unusual circumstances of this case, the Sentencing Judge should have imposed a suspended sentence for multiple burglaries. Appellant released immediately.

Regina v Barrowes [2010] EWCA Crim 1293, CA

Conviction quashed due to material misdirection in summing up on 'partial identification'. Assistance given in relation to directing the jury in cases whereby, following R v Barry George, such evidence is deemed admissible. Initially appearing pro bono, Single Judge having refused leave.

Regina v Burciu [2010] EWCA Crim 845, CA; Banks on Sentence 366.17

Sentence for stealing bankcards and cash from an ATM machine reduced, leading to Appellant's immediate release.

Regina v Pimm [2009] All ER (D) 141; [2009] EWCA Crim 2019, CA; Banks on Sentence 305.16

Partially severing the victim's tongue was not 'particularly grave' harm for the purposes of the Sentencing Guidelines and therefore the Sentencing Judge erred in taking too high a starting point. Sentence reduced leading to appellant's immediate release. Initially advising pro bono, having not represented Defendant at original hearings.

Regina v Ahmadzay [2009] EWCA Crim 1115, CA; Banks on Sentence 359.12, 359.19, 359.58

Sentencing Judge erred in taking into account the prospect of future supplies as an aggravating feature when sentencing for a conspiracy to supply Class A drugs on one particular date. Sentence reduced by three years. Initially advising and appearing pro bono, not having represented Defendant at original hearings and Single Judge having refused leave to appeal.



Regina v Bassett (2008) Crim LR 998; (2009) 1 Cr App R 7; (2009) 1 WLR 1032; Archbold (2012)20-217, CA

Leading case on the offence of voyeurism under section 67 and 68 of the Sexual Offences Act 2003. Conviction quashed by Court of Appeal who agreed that the reference to 'breasts' in s.68 does not include a man's breasts. Defendant initially represented pro bono after leave to appeal refused by Single Judge.

Read reports in [The Sun here](#) , [The Telegraph here](#) and [The Daily Mail here](#).

Regina v Eccleston and ors [2008] 2 Cr. App. R. (S.) 56; Archbold 2012, 1st Supplement K-392, CA

Applicability of Sentencing Guidelines Council Guidelines on Robbery to a pre-planned robbery of a large shop by three young people.

CROWN COURT (LED JUNIOR)

Regina v Advani, Croydon CC (2009-2011)

Large scale fraud dating back to 1984, involving the loss of several millions of pounds, and with some of the original offences having been implicated in the collapse of the Johnson-Matthey Bank in September 1984. The size and scope of the original investigation was a significant impetus in the establishment of the Serious Fraud Office and the present case involved the consideration of enormous amounts of archived material. Matters were further complicated by the fact that the Defendant had suffered a serious stroke, significantly restricting his ability to address the charges.

Tom's involvement included comprehending detailed neurological, neuropsychological and neuro-radiological evidence in order to cross-examine a neuro-psychologist on the effect of brain stem strokes and small vessel disease on cognitive ability, successfully causing the Prosecution expert to concede their initial position.

The case also required the assessment and configuration of a substantial amount of banking and accounting evidence, complex abuse of process arguments and consideration of the historical legal position.

Regina v Cotton, Nottingham CC (2010-2011)

Fraud prosecution brought by the Department for Business Innovation and Skills involving deceptions carried out on hundreds of businesses of a total in excess of £400,000 over the course of approximately three years. Defendant and others offered to provide a service chasing Directors of insolvent companies on behalf of client businesses who had lost funds as a result of the insolvency. Case involved large amounts of complex financial and business documentation.

Regina v Pun, Ipswich CC (2010)

Multi-handed conspiracies to facilitate illegal immigration, sell counterfeit goods, obtain property by deception and laundering money.

Regina v Sharp, Isleworth CC (2009)

22 historical counts of rape, s.18 Grievous Bodily Harm and false imprisonment. Tom conducted the cross-examination of the Social Worker involved in the case.

Regina v Borg and others, Central Criminal Court (2009)

Multi-handed conspiracy to murder involving CCTV and cell-site evidence, representing the only Defendant to be acquitted.

Regina v Vu and others, Southampton CC (2007)

Large scale conspiracy to cultivate cannabis in several factories across London and the South of England.



CROWN COURT (JUNIOR ALONE)

Regina v Obi, Winchester CC (2011)

Representing young defendant charged with a conspiracy to supply heroin, involving what was said to be the most wraps of heroin ever seized in the area.

Regina v Eren, Snaresbrook CC (2011)

'Operation Jocaster'

Representing the second-in-command in a large-scale conspiracy to supply cannabis from three different venues across East London.

Regina v West, Blackfriars CC (2011)

Defendant pleaded guilty to hitting a diner in a busy restaurant over the head with a wine bottle causing permanent scarring. Read reports in The Daily Mail, The Telegraph and The Mirror.

Regina v Wodud and others, Isleworth CC (2011)

Multi-handed s.18 GBH trial, acting for the first Defendant. Charged with having led an unprovoked group attack armed with swords, machetes and baseball bats.

Regina v Miller, Blackfriars CC (2011)

Defendant charged with possession of a prohibited firearm on the basis of a video posted on 'YouTube'. Arguments related to whether the fact that the Defendant was using the item as a prop while making an amateur gangsta rap video would afford him a reasonable excuse for possessing an Imitation Firearm in a Public Place.

Regina v Smith and others, Norwich CC (2011)

'Operation Muswell'

Multi-handed conspiracy to rob in which Defendants travelled from London to Norwich, equipped with a firearm in order to rob known drug dealers in their homes. One of the Defendant's group was stabbed and killed in the course of the robbery.

Regina v Phull and others, Kingston CC (2010)

'Operation Grafton'

Multi-handed international conspiracy involving the exportation of over 50 BMW, Mercedes and Lamborghini motor vehicles stolen in burglaries and robberies throughout the UK. The total value of the vehicles stolen was estimated at £2.5 million.

Regina v Laurence and others, Inner London CC (2010)

Protestors acquitted of obstructing police by preventing them from taking photographs of a political meeting. Prosecution had failed to prove that the police action was justifiable in accordance with Article 8 of the European Convention on Human Rights.

Regina v Williams, Blackfriars CC (2010)

Defendant acquitted of serious assault following cross-examination of Prosecution psycho-pharmacologist on the possibility that the smoking cessation drug Varenicline had combined with alcohol to produce a state of automatism. Read report in The Daily Mail [here](#) and The Metro [here](#).

Regina v Wallace, Winchester CC (2010)

Defendant charged with Kidnapping and Possession of a Firearm with Intent to cause Fear of Violence.



Regina v Ghaboli, St Albans CC (2010)

Defendant acquitted of Possession with Intent to Supply Class A drugs after his fingerprints were found on incriminating articles in a 'cocaine factory'. Cross-examination of the forensic scientists and police officers involved demonstrated that the danger of cross-contamination and transference was too high for the jury to be sure of the Defendant's involvement.

Regina v Olver, Teesside CC (2009)

Acting for a vulnerable female Defendant accused of being involved in what was reported to be the largest ever drugs seizure in North-East England.

Regina v Picard, Inner London CC (2009)

Defendant acquitted of involvement in a large scale cash-in-transit robbery following a submission that there was insufficient Prosecution evidence to establish a case against him.

Regina v Da Silva, Isleworth CC (2008)

Defendant acquitted of Importation of a Class A drug after he flew to the UK from South America with 500g of cocaine hidden inside a chopping board in his suitcase.

Regina v Coelho, Oxford CC (2007)

Client charged with sexual assault on a 14 year old girl, found unfit to plead and acquitted.

MAGISTRATES' COURT

Regina v OT, Brighton YC (2011)

15 year old boy charged with assaulting a Detective Inspector and another officer and obstructing the police in the course of the 2010 student protests. Acquitted of all three counts.

Regina v A and others, City of Westminster (2010)

Protestors acquitted of failing to comply with condition imposed on a protest on the basis that the Superintendent's order imposing the conditions was not compliant with Articles 10 and 11 of the European Convention on Human Rights.

Regina v Martin Jahnke, Cambridge MC (2009)

Protestor who threw a shoe at Chinese Prime Minister, Wen Jiabao, acquitted. Read reports in The Guardian (1 June 2009) [here](#), The Guardian (2 June 2009) [here](#) and Time Magazine [here](#).

Regina v A and others, Cardiff MC (2009)

Police acting outside the execution of duty by arresting protestors based upon intelligence not disclosed to the defence.

Regina v Shah and others, Birmingham MC (2007)

Largest illegal dog-fighting case ever to take place in Western Europe.

Publications and Appearances

'Blackstones Guide to the Criminal Justice and Immigration Act 2008'

(OUP. Published February 2009)

Author of Chapter 4 - 'New Criminal Offences'. Comprehensive guide to the new offences of Extreme Pornography, Hatred on the Grounds of Sexual Orientation, Nuisance on NHS Premises as well the 're-casting' of the law on self-defence.

'Abuse of Process' - Corker, Summers and Young, 3rd edition



Barrister profile

Tom Wainwright



(Tottel Publishing. Published March 2009)

Contributing author to chapter on 'Double Jeopardy'.

'Sex: How to do Everything' - Channel 5

(Talkback Thames. First broadcast Summer 2009)

Appearing on television documentary advising on the legality of sex in public places.

Children's Rights Day Conference

(24 September 2009)

Speaking on the current state of the law and practice in youth sentencing and highlighting areas in which the UK is falling short of its obligations under the UN Convention on the Rights of the Child.

Professional Memberships

South Eastern Circuit

Criminal Bar Association

Criminal Appeal Lawyers Association

Liberty

Bar Pro Bono Unit

Legal Action Group

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