



GARDEN COURT CHAMBERS

Audrey Cherryl Mogan

YEAR OF CALL: 2014



Audrey Cherryl Mogan is a criminal defence barrister with particular expertise representing vulnerable defendants, including those with mental health issues and drug addiction. Her background in European human rights law, trafficking, deportation and asylum, makes her qualified to advise on these matters within a criminal context.

Audrey regularly appears before the Youth, Magistrates and Crown Courts representing clients in relation to a wide range of offences.

"Audrey has refused to lose. She has not conceded defeat and I have never seen such dedication from a pupil barrister."

PARIS THEODOROU, SOLICITOR, HODGE JONES & ALLEN LLP

If you would like to get in touch with Audrey please contact the clerking team:

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You can also contact Audrey directly:

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CRIMINAL DEFENCE

R v AR [2019] (Wood Green Crown Court)

Defendant acquitted of coercive and controlling behaviour and two counts of common assault.

R v PW [2019] (Oxford Crown Court)

Vulnerable defendant given a suspended sentence after trial for one count of possession with intent to supply.

Successful emergency judicial review to release defendant after acquittal for common assault

R v AJ [2018] (Westminster Magistrates' Court)

Secured acquittal of defendant on two counts of common assault. The defendant had been remanded in custody pending trial. The acquittal came in at 5.30 pm on a Friday and the prison claimed they were unable to process the defendant's release until Monday. Worked with solicitors to lodge a successful emergency judicial review on *habeas corpus* grounds, where the judge made an Order for the defendant's immediate release as interim relief.

Concurrent sentences after defendant entered guilty pleas to drugs supply

R v RW [2018] (Bristol Crown Court)

The Defendant, a serving prisoner, entered guilty pleas to two counts of possession with intent to supply class A drugs, and two counts of being concerned in the supply of class A drugs. Persuaded the Court to make the sentence concurrent on the basis that it would be undesirable to pass a determinate sentence following an extended sentence.

Successful appeal against convictions for two public order offences

R v NB [2018] (Kingston Crown Court)

Successful appeal against conviction of racially aggravated s.5 public order, and a simple s.5 public order offences, homophobically aggravated. Court accepted submissions that the phrasing of the simple s.5 public order offence was wrong in law.

Defendant acquitted of all offences on appeal, two counts after successful half-time submissions

R v MA [2017] (Kingston Crown Court)

Successful appeal against conviction of defendant on one count of common assault, two counts of assault PC, and one count of criminal damage. Court upheld a submission of no case to answer on one count of assault PC and the criminal damage.

Trial and plea re-opened as defendant's fair trial rights had been breached

R v FS [2017] (Folkestone Magistrates Court)

Defendant charged with dangerous driving. Persuaded the Court to order a re-trial, and re-open plea before venue, due to breaches of the defendant's right to a fair trial, especially the lack of an interpreter.

Mental Health

Charges withdrawn against vulnerable defendant after lengthy legal submissions

R v KL [2017] (Westminster Magistrates Court)

The defendant faced one count of common assault. He suffered from paranoid schizophrenia. After a number of hearings, submissions made to the judge and representations to the CPS, including the limited available options to the bench following an *actus reus* hearing, persuaded the CPS to withdraw the charges.

Defendant with schizophrenia not penalised for breaching tagged curfew

R v DK [2017] (Hendon Magistrates' Court)

The defendant suffered from schizophrenia and was given a tagged curfew following a guilty plea to burglary and common assault. The defendant breached the curfew consistently. Following the breaches, persuaded the Court to revoke the current sentence and order a conditional discharge, due to the defendant's vulnerability.

Protest

Protestors at Motorpoint Arena arms trade fair acquitted after prosecution fail to disclose vital evidence

L, S & D [2018] (Cardiff Magistrates' Court)

Three defendants were acquitted of failing to leave land, after protesting an arms fair at Motorpoint Arena in Cardiff, mainly on the basis that the weapons have made their way to Afrin in Syria and assisted in the onslaught of violence in mainly Kurdish areas. A successful argument under s.78 PACE was made to exclude evidence on the basis that the prosecution failed to serve the vital evidence until shortly before the trial. This failure significantly prejudiced the defendants by precluding them from being able to properly challenge prosecution evidence. The District Judge accepted the submissions, effectively bringing the prosecution to an end.

Tower Bridge air pollution protestors given conditional discharges

R v DK., & ors [2017] (City of London Magistrates' Court)

Seven defendants charged with blocking a highway during a protest against air pollution at Tower Bridge. Conducted mitigation for five of the defendants resulting in conditional discharges for all five.

R v AB [2019] (Teeside Crown Court)

Protestor acquitted on appeal of obstruction of a highway charge, having engaged in a lock-on protest to protect the habitat of the Great Crested Newt.

Youth

R v AA [2019] (Blackfriars Crown Court; Highbury Youth Court)

Child defendant acquitted of two counts of racially aggravated common assault, and common assault and one count of common assault on appeal after submissions.

Vulnerable youth defendant cleared of all charges including assaulting a police officer

R v DH [2018] (Stevenage Magistrates Court)

Secured acquittal of vulnerable youth defendant of assault PC and breaching the requirements of a criminal behaviour order.

BACKGROUND

Audrey joined Garden Court Chambers in 2018. During pupillage Audrey worked closely with the drugs law NGO, 'Release', including assisting in the peer review of their publication '*Sex Workers and the Law*'.

Prior to commencing pupillage, Audrey was a Legal Project Manager at the European human rights law charity, The AIRE Centre, where she advised foreign nationals facing deportation and removal, and provided training on free movement law. She managed a strategic litigation project challenging Operation Nexus, a joint deportation initiative between Home Office Immigration Enforcement and police forces across the UK (*R (on the application of The AIRE Centre) v SSHD and Commissioner of Police for the Metropolis*) and travelled to the refugee camps in France, Italy and Greece to document the impact of the Dublin Regulation on asylum seekers in Europe.

Audrey has nine years of experience working in human rights, including at the genocide prevention NGO, Aegis Trust, at their offices in London and Rwanda. During her time in Rwanda she also worked for the Ministry of Justice, where she supported the drafters in developing discrimination laws and re-draft the genocide ideology law. Whilst completing her MSc, Audrey was awarded a grant from the LSE to travel to Sri Lanka in 2010 to complete her dissertation on the human rights abuses committed during the civil war.

PUBLICATIONS

- **Case Notes:** *Journal for Immigration, Asylum and Nationality Law*

- *R (On the Application Of Kiarie) v The Secretary of State for the Home Department, R (On the Application of Byndloss) v The Secretary of State for the Home Department* [2017] UKSC 42, Sep 2017
- *Secretary of State for the Home Department v CSC-304/14 Alfredo Rendón Marín v Administracion del Estado C-165/14*, Nov 2016
- *R (On the Application Of Kiarie) v The Secretary of State for the Home Department* [2015] EWCA Civ 1020, Jan 2016
- *TN and MA (Afghanistan) (Appellants) v Secretary of State for the Home Department (Respondent); AA (Afghanistan) (Appellant) v Secretary of State for the Home Department (Respondent)* [2015] UKSC 40, Nov 2015
- *Caught in the Nexus Dragnet*
Blog Post: The Justice Gap, April 2016
- *Tracking the Process of International Norm Emergence: A Comparative Analysis of Six Agendas and Emerging Migrants' Rights*
Journal Article: Global Governance, Jun 2013 (co-author)

AWARDS

Feb 2018, Michael Jaffa Essay Award, 25 Bedford Row

Oct 2016, Cholmeley Studentship Scholarship, Lincoln's Inn

Jun 2016, Certificate in EU Criminal Law, Fair Trials International

Jan - Mar 2010, Certificate in Law, War and Human Rights, LSE
Nov 2008, Toronto Star Young Woman of Distinction Nominee

Mar 2007, Habitat for Humanity, Kelloggs Scholarship

EDUCATION

- 2014 BPTC, University of Law (Very Competent)
- 2013 GDL, University of Law (Distinction)
- 2010, MSc Human Rights, LSE
- 2007, BA Religion, McMaster University

PROFESSIONAL MEMBERSHIP

- Young Legal Aid Lawyers Steering Committee
- Bar Human Rights Drafting Committee
- Human Rights Lawyers Association

- **Criminal Bar Association**
- **The Honourable Society of Lincoln's Inn**

LANGUAGES

- **French (working knowledge)**

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