**PRESTON CROWN COURT TRANSCRIPT EVIDENCE**

**OF FALSE STATEMENTS BY CLOHERTY**.

THE CROWN COURT

T20167042

The Law Courts,

Ring Way,

Preston.

Friday, 7th October, 2016

Before:

THE HONORABLE MR. JUSTICE GOSS

R E G I N A

-v-

MICHAEL DESMOND CLOHERTY

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MR. MATHIESON appeared on behalf of the prosecution.

MR. DAW appeared on behalf of the defendant.

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EVIDENCE OF MICHAEL DESMOND CLOHERTY

The below is parts taken from this Preston Crown Court transcript of the Trial of Michael Cloherty.

The whole transcript can be supplied upon request.

The below extracts are from the whole and the relevant page numbers are included.

**REPLIES TO PROSECUTOR OF MG11 STATEMENTS BY MICHAEL CLOHERTY.**

Q. = Mr Mathieson……..Prosecutor

A. = Michael Cloherty

TAKEN FROM PAGE 49 OF TRANSCRIPT

Q.

That seems to fit (I am not going to pin you down), but that seems to be the situation, but there was nothing else you were doing at Wirral custody suite, no other reason why you were there doing any work, the focus of your attention was getting your statement prepared, in respect of what had happened with Mr. Beecham?

A.

Yes.

Q.

Do you accept that there are errors in that MG11statement?

A. Yes.

TAKEN FROM PAGE 50

Q. And those errors (we may not agree on this one), but if we turn to the top of page 3 (this is where it starts, I suggest the errors start), "I told him he was being arrested for failing to provide me with his details." Do you agree that failing to provide you with his details is not an arrestable offence?

A. If you are asking me now whether I know that's the case, I genuinely can't remember the law, as I stand here now, I cannot remember the requirements of the law that is in existence for this arrest.

Q. The reason I say that is because, on the custody record, it is noted that he was arrested for assaulting a police officer and failing to stop?

A. Yes.

Q. And it is put to you, in your interview, that failing to stop is a proper offence, for which he can be arrested, but not failing to provide with his details, those are the necessity criteria, do you accept that or not?

A. Yes, again I accept it, yes.

Q. So it seems there, of the three requirements we have talked about during the trial, he has not been arrested for an arrestable offence, you have confused an offence with the necessity criteria and there is no record of the caution, is that fair?

A. I think so, yes.

Q. And, indeed (again, I do not dispute where and when and the circumstances in which you made this statement), but there is nothing in that first statement at all that describes an arrest, either at the scene, or some time later in the process, for assaulting a police constable?

A. That's correct.

Q. And, by no arrest, there is no mention of arrest, the caution or the criteria that are then recorded on the custody record?

A. That's correct, yes.

Q. And those are, in effect, Mr. Cloherty, the sort of gaps and errors that defence lawyers love, because that may be used to suggest you never cautioned him, even though you would say, "I definitely did, not once, but twice" and the absence of those factors might make your arrests unlawful, might they not?

A. They could do, yes.

TAKEN FROM PAGE 51

Q. At the heart of this case is when that notebook entry was made (you know that and I will come to that in due course), but do you accept that that notebook entry deals with a lot of the errors or bits that are missed out from the witness statement?

A. Yes, it does.

TAKEN FROM PAGE 52

Q. Because you accept, do you not, that in giving your evidence on the 12th July, what you stated there was, to use your words, factually incorrect?

A. Yes.

TAKEN FROM PAGE 53

Q. Of course we also know you have made assertions in another statement that are factually incorrect?

A. Yes.

Q. I take it from your answers in interview, so do you agree that was misleading as well (the evidence you gave in court), "Again, I can say what the result of that was certainly it's ill thought out and little attention to detail" (that comment, my Lord, is at page 12 of 45, dealing with this issue), so you seem to suggest you did give that evidence in court, I may be wrong, but there we are, if you do not remember, you are right, I do not have a transcript, I was going off the answer you gave?

A. Again, I wouldn't dispute that.

TAKEN FROM PAGE 54

Q. And you accept there that was factually incorrect because it was not every day and then you clarify as to why it was not potentially every day?

A. Yes.

Q. And you say lower down, about six entries from the bottom, just along from the second lower hole punch, "It is, it's very misleading, a defect"?

A. Yes, I agree.

TAKEN FROM PAGE 54

Q. So you have made, in Mr. Beecham's case, a factually inaccurate statement on the 27th May?

A. Yes.

Q. A factually inaccurate statement on the 30th April, 2012?

A. It could have read better, yes.

Q. Factually incorrect evidence on the 12th July, 2012?

A. Yes, that's correct.

Q. Do you agree that you have fallen below your own high standard then, in the case of Mr. Beecham?

A. Very much so, yes.