

STATEMENT ON BEHALF OF JAKE SMITH

Jake Smith was arrested on 10th January 2009. It is now the 23rd March 2010. It has taken the Prosecution 14 months to accept that there is no case against Jake Smith and that they must the drop charges for violent disorder for the 3rd and 10th January 2010 when he attended protests against the Israeli invasion of Gaza...

It is well known that defendants who have pleaded guilty to a single count of violent disorder arising out of these events have had extremely heavy custodial sentences. Jake Smith was facing two counts on two separate days and faced an even longer sentence if convicted after trial.

Jake Smith is a 23 year old man of good character. He is a University graduate in Journalism who has suffered serious anxiety over the last 14 months whilst awaiting his trial. In that time he has had to sit his final exams, and since then his life has been on hold as he has not known if he might be sentenced to prison. He has always protested his innocence. He has also been on continuous bail conditions since the outset of this case of residence and had to surrender his passport over that period.

It took the police until 6th October 2009, in what they had said was an 'extensive' information gathering exercise concerning many hours of CCTV and video footage, for him to be charged.

A defence case statement was served on 26th January 2010. This set out Jakes Smith's defence clearly;

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4. On the 3rd and the 10th January 2009 there were public demonstrations in opposition to the Israeli offensive against the civilian population of Gaza.

The offensive was later described by Richard Goldstone (a South African Judge and former prosecutor at International War Crimes Tribunals) who concluded in his report to the United Nations released on the 15th September 2009, that Israel had "*committed actions amounting to war crimes, possibly crimes against humanity*" by using disproportionate force, deliberately targeting civilians, using Palestinians as human shields and destroying civilian infrastructure in Gaza.

5. The defendant went on both demonstrations in response to the atrocities he saw happening in Gaza.
6. On the 3rd January 2009 he attended with a home made placard which said "Love Jews Condemn Israel". He denies throwing anything at all and any suggestion he is the person shown throwing a stick in video MSR/13 is mistaken.
7. On the 10th January 2009 the defendant again attended the protest.
8. On both demonstrations he was assaulted by police and he also saw other protestors being maltreated by the police.
9. At no stage either on the 3rd or the 10th January did the defendant use unlawful violence. He never threw any sticks or assaulted any police officer. At times he acted to defend himself and/or others. The defendant felt it was frightening as the police were behaving aggressively towards the protest. "

Amongst other things in that defence case statement we asked for disclosure of

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12. We seek any further CCTV or DVD footage for the 3rd January 2009 for Pall Mall identifying our client or his placard "*Love Jews Condemn Israel*";

13. Any footage for the 3rd and the 10th January 2009 which may support his defence;"

On 13th January 2010 at the PCMH this matter was listed for trial in the warned list for 15th March 2010. There was no response to the Defence Statement from the Prosecution until a fax was received at 11.56 on the 12th March 2010 i.e. on the eve of trial. This stated that there were seven and half hours of relevant footage to view, and it had to be viewed with the police at the Police Station. Birnberg Peirce and Partners Solicitors wrote on the same day to the Court to ask the matter not to be listed until we could view the video footage. On Monday 15th March the Prosecution wrote saying they were dropping Count 1. No reasons were provided. On the 17th March 2010 Jakes Smith's solicitor Matt Foot from Birnberg Peirce and Partners attended Kensington Police Station and watched the footage that had not previously been provided and whose existence had not been disclosed until the previous Friday.

Mr Foot watched the videos in relation to the 10th January 2010 and it was clear that there was footage showing Jake Smith being assaulted by the police and left lying on the floor. This footage immediately proceeded part of the evidence that the crown relied on and had not been disclosed as part of the prosecution case. It gave a completely different complexion to the evidence against Mr Smith.

The Prosecution on 17th March provided as part of their case a new video compilation video of evidence against Mr Smith with further footage of him at the demonstration which had never previously been served. But even at that late stage this video did not include the assault which was seen on the footage shown in the police station.

In respect of the 3rd January 2009 we were initially served with two clips of film showing the demonstration in Pall Mall. The prosecution asserted that Jake Smith picked up a stick, threw it at the police and ran off. In fact, Jake Smith was on the demonstration that day with a very distinctive home-made placard saying *'Love Jews Condemn Israel'*. This fact was clearly demonstrated by other material served by the prosecution. The two video sequences were served by the Crown were presented in reverse order, which gave the impression that the defendant was responsible for throwing the stick. It must have been clear to any police officer watching the video that it was impossible for the man throwing the stick to be Jake Smith. The defence have never been served with the complete DVD evidence in Pall Mall, but Mr Foot was able to confirm from his viewing on the 17th March 2010 that the CCTV footage when played in its entirety clearly showed Jake Smith present walking down the full length of Pall Mall with his placard.

The Police and Prosecution in this case have put in place obstacles against a fair and open disclosure process of the CCTV. It remains the case that the schedule of unused material in this case did not list the footage which later exonerated Jake Smith. The solicitors have been subject to an unprecedented undertaking denying them showing the DVD evidence in this case to anyone beyond their client, counsel and expert.

Mr Foot will be writing to the IPCC to seek an independent inquiry into the way CCTV/DVD evidence has been dealt with in this case. Proper disclosure goes to the heart of fair trial and in this case the failure to disclose material which assisted Jake Smith's defence has led to him suffering the anxiety of waiting for his trial until today.

Matt Foot
Solicitor
Birnberg Peirce & Partners