



## Alan Richards

2004

**Alan is currently serving as Senior Crown Counsel (Specialist) with the Department of Public Prosecutions of Bermuda and is consequently not available to accept instructions within the UK until further notice.**

Alan is an experienced criminal advocate whose practice is focused on prosecution work, variously for the CPS and numerous local authorities and private prosecutors. He has particular expertise in the sphere of asset forfeiture, in which he has specialised since 2006.

In addition to extensive general criminal work, including fraud and money laundering as well as serious violence, public disorder and drugs offences, Alan has developed an interest in trading standards law. He has prosecuted several cases under the Consumer Protection from Unfair Trading Regulations 2008 (upon which he has also lectured) and the Business Protection from Misleading Marketing Regulations 2008.

Intellectual property offences under the Copyright, Designs and Patents Act 1988 and the Trade Marks Act 1994 are very much familiar territory and Alan has prosecuted the same on behalf of numerous local authorities, the Federation Against Copyright Theft and other similar private bodies.

Another specialism in recent years has been false tachograph offences, prosecuted by the DVSA (formerly VOSA) under the Transport Act 1968.

His work in the POCA field has included countless confiscation hearings, but also many of the less common applications for restraint or receivership orders (including breaches thereof) and for variation of confiscation orders; either down, at the behest of the defence (including the older COI procedure), or up, at the behest of the prosecution (still comparatively rare). He has been instructed to give second opinions on the merits of confiscation proceedings and in appeals. On occasion Alan has also defended confiscation proceedings and finds that, whichever side of the court one is on, there is no substitute for an intricate knowledge of the statute and the increasingly complex case law that has built up around it. He has often secured significant reductions in the amounts claimed by the prosecution by deploying this knowledge to his clients' advantage, once halving a £4m benefit figure with a legal argument about the interpretation of section 76(4) POCA and the commencement of the Fraud Act 2006.

Alan's asset forfeiture experience is not confined to this jurisdiction. He has experience of enforcing restraint orders in Scotland and the Channel Islands and enforcing confiscation orders involving assets situated elsewhere in the EU and in the Caribbean.

Alan has advised pro bono in Privy Council appeals arising from Caribbean states and territories. His most recent such case concerned a client convicted of murder before the Jamaican Gun Court and the adequacy of the identification evidence.

Alan's practice extends beyond purely criminal matters into the regulatory field. He recently appeared before the Upper Tribunal in an appeal from a decision of the Independent Safeguarding Authority (now the Disclosure and Barring Service).

Alan's broader legal interests include a fascination with the US Supreme Court and American constitutional law in general. Away from law altogether, he is an avid classical music fan. He dreams of being a concert pianist (despite not actually being able to play) and his proudest moment is probably still conducting a performance of Beethoven's Fifth Symphony in Gloucester Cathedral in the mid-90s! Fortunately no recording exists.

## General Crime Cases

### **R v CA & DB** (Kingston CC, 2007)

Prosecution for corruption by bank employee and false document offences by individual who supplied him with fake passports to open fraudulent bank accounts. R v MM (Norwich CC, 2007) Led junior in the defence of a man charged with multiple rapes and lesser sexual offences against teenage girls.

### **R v CJ** (Snaresbrook CC, 2008)

Defence of man charged over incident in which his dog (Japanese Akita/Rottweiler cross) bit a member of the public whilst in the charge of his 14-year-old daughter. Directed acquittal secured notwithstanding the statutory burden resting on the Defendant after legal argument concerning evidence of canine behavioural expert.

### **R v GLY & DCC** (Kingston CC, 2009)

Prosecution of two illegal immigrants from China who were found in possession of large quantities of raw materials for the manufacture of false passports and temporary residence cards. Jury discharged after improper defence questioning during cross-examination of co-defendant. Convictions obtained following re-trial.

### **R v AH** (Southwark CC, 2009)

Led junior in a substantial mortgage fraud, prosecuting a Defendant extradited to the UK on a European Arrest Warrant. Also appeared in confiscation proceedings against linked Defendant convicted in absence after fleeing the jurisdiction.

### **R v JK & CW** (St Albans CC, 2012)

Grandson of former CEO of national building society prosecuted to conviction for attempted robbery and assault of victim with convictions for dishonesty.

### **R v SC** (Croydon CC, 2013)

Prosecuted alone against leader and junior a Defendant charged under the Trade Marks Act 1994 with infringing the logos of various vehicle manufacturers in the production of replacement VIN tags and plates. Case entailed extensive legal argument on the principles of agency and 'ostensible authority' of franchisees

as applied to the question of the rights holders' consent.

**R v DH** (St Albans CC, 2013)

Prosecution of a professional footballer over a violent incident at a New Year's Eve party in a Hertfordshire restaurant. Case received national press attention. Eye-witness evidence had to be given over video link from Australia.

**R v PW** (Mold CC, 2013)

Appeared for VOSA in the prosecution of an HGV driver for falsifying 59 tachograph charts in 4 months. Defendant had also submitted false sick notes to the Magistrates' Court in an effort to avoid appearing. He was ultimately jailed for making false records and perverting the course of justice.

**R v RR** (Croydon CC, 2014)

Prosecution of a teacher for benefit fraud committed whilst she was training.

**R v TE** (Woolwich CC, 2014)

Instructed to prosecute six-figure benefit fraud. Disabled defendant alleged to have obtained benefits over a ten-year period during which she was in possession of substantial undeclared assets and in receipt of undisclosed income.

"His advocacy is flawless with persuasive mannerisms and he is quick to pick up, expose and utilise the minutae detail to take the case up to meet and exceed the burden of proof time and time again"

- **Instructing Solicitor**

## **Asset Forfeiture Cases**

**R v JH & AUK Ltd** (High Court, QBD Commercial Court, 2006)

Appeared between privately instructed silks on behalf of RCPO as an interested party in proceedings for a Mareva injunction brought by the Danish Government.

**R v HSS** (Birmingham CC, 2007)

Successfully resisted an application to vary a Restraint Order made in order to finance private security. Applicant represented by Queen's Counsel.

**R v LD & BD** (High Court and Magistrates' Court, 2008)

Acted for the DWP in the enforcement of substantial confiscation orders. Appeared in the High Court to resist applications for Certificates of Inadequacy. Orders ultimately enforced by committal to prison.

**R v SC** (Kingston CC, 2012)

Obtained high five-figure order in a case where the local authority prosecutor was initially advised against pursuing confiscation proceedings. Case involved detailed consideration of the transitional provisions and related case law surrounding the shift from CJA 1988 to POCA 2002 confiscation regimes.

**R v TF & NF** (Luton CC, 2013)

Successfully resisted application to discharge a pre-charge Restraint Order that had been in place for 18

months.

**Re A Local Authority** (Canterbury CC, 2013)

Appeared for the CPS in contempt proceedings arising from a compulsory purchase order made by a local authority over restrained property. Detailed written and oral submissions on the legal effect of compulsory purchase, the liability of third parties for contempt arising from breach of a Restraint Order and the proper approach to inferred intent in that context.

**R v JS** (Court of Appeal, 2014)

Resisted appeal against confiscation order brought on the basis that agreement reached in the Crown Court had pre-dated Supreme Court's decision in *Waya*. Successfully argued that the position was unaffected by that decision and the same order could properly have been made now.

**R v BB** (St Albans CC, 2014)

Obtained six-figure confiscation order in VAT fraud where Defendant had sought to re-litigate elements of the criminal proceedings.

**R v JP** (Woolwich CC, Court of Appeal, 2012-2014)

Instructed by the Crown on application to increase confiscation order on discovery of further assets. Application successful. Defence appeal to the Court of Appeal pending.

## Consumer Law Cases

**R v JK** (St Albans CC, 2010)

Led junior in the prosecution of a ticket tout under the Fraud Act 2006 and related defendants charged with laundering the proceeds.

**R v RP** (Luton CC, 2011)

Prosecution of builder under CPUTR 2008. Defendant convicted by a jury of two misleading actions and a misleading omission arising from the construction of a home extension and ultimately received concurrent sentences of twelve months' imprisonment - one of the first cases prosecuted under the regulations to result in an immediate custodial sentence. Trial involved extensive legal argument on the proper interpretation of the regulations before the Court of Appeal had issued any of their more recent guideline decisions. Also issues concerning application of joint enterprise and handwriting evidence.

**R v MT** (St Albans CC, 2012)

Led junior in the prosecution of a builder under CPUTR 2008 and Fraud Act 2006. Acceptable guilty pleas obtained shortly before trial.

**R v MR** (Cambridge CC, 2015)

Instructed to prosecute a Defendant charged with fraud and offences under CPUTR 2008 and BPMMR 2008 in connection with supply of vehicle repair services.

## Qualifications & Experience

## **Qualifications**

LL.B. – First Class Honours – University of Kent (2003) BVC – Very Competent – The College of Law (2004) Member of CPS Advocate Panel and Specialist POC Panel

Admitted to the Bermudian Bar, March 2015.

## **Additional Professional Experience**

Seconded to RCPO Asset Forfeiture Unit for eight months (2006) Seconded to CPS Islington Borough Unit as a Reviewing Lawyer for eight weeks (2007) Seconded to the DPP of Bermuda for 18 months (2015- )

## **Other**

Alan is a keen mooter and has recently judged moots at the invitation of The College of Law, The Inner Temple, The University of Reading, King's College, London, and Emmanuel College, Cambridge.

He has co-ordinated Chambers' in-house advocacy training for pupils and was until recently a member of the Management Committee.

## **Interests**

Music, Astronomy, Theatre (including amateur performance!), Cinema and Heritage Railways.