

## The Case of S's Son

S's son was unlawfully killed on 28 September 2002, as a result of two stab wounds to the left hand side of his chest.

A youth was charged with this murder and remained in custody until 1 November 2002. No murder weapon was ever found.

The victim's mother had been informed on 28 October 2002 that a bail application had been made, but was told not to worry as it was very rare and extremely unlikely that bail would be granted. On 31 October, however, she was told that bail had, indeed, been granted, but that the CPS had appealed.

On 1 November 2002 S was told the CPS had withdrawn their application to appeal against bail. The reason they gave for this action was that there was no real prospect of success, and that there had been prior agreement with the police. (To date, the police still stand by their word that they had no previous knowledge of the fact that this had been agreed). ***This procedure is unusual.***

Since that time S has had ongoing complaints regarding the CPS.

The trial commenced on 19 June 2003. Following three days of legal argument, at which S was present throughout, the accused pleaded guilty to manslaughter on 24 June 2003, just prior to a third Jury being sworn in. (The Judge gave full discount for an early plea - not normally given at such a late stage).

Prior to the prosecution accepting a plea of manslaughter, S had been included in some discussions between the CPS and prosecution counsel, where she felt intimidated because she was convinced that this was an obvious case of murder. The prosecution counsel explained that it would be guaranteed the offender would get a custodial sentence, but there was a possibility the jury would find him not guilty, feeling sympathetic because of his mother and upbringing. Also, there were two additional factors to consider if the accused were now to change his plea to self-defence and provocation, as the prosecution had proved the injuries caused could not have been sustained in the way the accused had described.

S says the most alarming thing for her was the prosecution's total change in attitude: they had gained huge advantage over the defence during the days of legal argument - and were in fact jumping with jubilation - and then this sudden change had come about, seemingly overnight, without any specific reason. ***An advocate was necessary to seek to clarify this situation.***

***One of the discussions S had been party to in chambers was when the prosecutor had said she had been approached by the defence with regard to accepting a charge of manslaughter.***

On returning to court that same afternoon, the defence counsel said he had been approached by the prosecution !

The following day the prosecutor actually claimed that it was the Judge who had directed her to approach for manslaughter. (What was the real reason for the change of attitude here?)

The accused pleaded guilty to manslaughter and was further released on bail for an additional two weeks whilst awaiting a pre-sentence report (i.e. the accused had just pleaded guilty to killing S's son, and was given two more weeks - a total of 9 months - freedom). ***What message does this send out ?***

Prior to the sentence being read out, the prosecution counsel said directly to S: "I don't know what's going to happen - I have to dash off immediately, as I have an appointment at the palace for tea with the Queen and it would not be the done thing to be late for the Queen ..."! A ***lengthy*** glowing report was given at this point about the killer of S's son. In the Court it was the victim who was 'degraded' - a common practice. The defence has the upper hand. They take the stance that the victim is in the wrong place, not the killer.

***The accused received a two-year custodial sentence, and was released in June 2004, having served only nine months in prison.***

Immediately following the sentencing S lost no time in contacting the Attorney General, because she had only 28 days in which to lodge an appeal. *This is a ludicrous time span. We wish for a extension in order for victims to gather their thoughts and reasons, which is itself difficult at a time when they have been traumatized by homicide.* The current approach is both lamentable and distressing.

The Attorney General's office contacted S, by phone, explaining the case could not be referred as being unduly lenient, due to what had been accepted by prosecution counsel. S was advised to return to her solicitor to see what else could be done, being also told that things 'had a way' of finding their way back to the Attorney General ....

S's solicitor gathered information to support the possibility of reporting the prosecution counsel to the Bar Council, whilst trying to establish why she had agreed to a plea of manslaughter.

From her personal experience, S believes it would have been a real benefit to have had her own legal representative. (Too late now!)

S raised this question with the Detective Chief inspector following her first meeting with the CPS, since she had felt uncomfortable about things at the time. He had suggested it would be a waste of her money (S says if only she had known...)

S says that, when paralyzed with grief, there is a huge need for help - more than just emotional support - particularly when families are struggling to understand the legal complexities surrounding their loved one's court case. She believes her son's case demonstrates a clear example of where a legal advocate, giving representation and

guidance, would have been invaluable as would, for example, a copy of the trial transcript. **Families would find the trial transcript of enormous value:** they attend a court case in a state of pain and confusion, at times they may naturally lose concentration, not hear, or properly understand the legal argument.

S has raised a subject which very many families feel strongly about - moreover, where a family is able to obtain the trial transcript (the written version of the case), costs of between £700 to £7,000 - or more - will be incurred.