

Ms Clare Whitaker
Serious Fraud Office
10-16 Elm Street
London WC1X 0BJ

By email and by post

Our Ref: GBJ/AEH/Nadir

11 August 2011

Dear Ms Whitaker,

RE: Regina v Asil Nadir

We reply to your letter dated the 29th of July which was received in this office on 5 August 2011.

The enclosed File Note records that Mr McStravick has reported to Clare Whitaker, Case Controller at the SFO, that the former Case Controller, Lorna Harris, had told untruths to the Court in a bail hearing or hearings.

This amounts to report of a serious criminal offence by an employee of the SFO. It is one from which malice towards Mr Nadir can be properly inferred.

Your letter states that the SFO do not intend to 'take any steps' as a result of what Mr McStravick has reported.

We presume that the Director of the SFO has taken a decision in accordance with the Code for Crown Prosecutors and any other criteria that the SFO are bound by that governs the reporting of offences to the Police in the event that the SFO concludes that it does not intend to investigate a reported offence.

The wording of your letter implies that the SFO has taken a decision not to report this matter to the Police for investigation.

Setting aside, for the moment, the relevance to the matters presently before the Central Criminal Court and the Court of Appeal is this not something the Police should be informed of?

We understand that the City of London Police is already investigating Lorna Harris in respect of an entirely separate lie told to the Court in the abuse of process hearings. We would



you think the Police might regard an allegation that Lorna Harris lied to a court on another occasion as relevant?

As to relevance to the abuse of process application:

- (a) Mr McStravick is a retired Police Officer who was formerly the most senior officer in the investigation of this case.
- (b) He was treated as a witness of truth by all parties and the Court.
- (c) The contents of the File Note do not suggest he is biased towards the defence, quite the opposite.
- (d) This appears to be another lie by Mrs Harris that is not explicable by any of the previous excuses put forward on her behalf. It raises a much broader issue of breach of duty and implies malice towards the Defendant.
- (e) If Mr McStravick is correct this new lie would be highly relevant to the two rulings of Holroyde J. given on the 31st of March and the 25th of July, 2011.
- (f) In the first ruling Holroyde J. found that Mrs Harris had lied to him during her evidence but that this was regrettable but isolated departure from what was in general a high standard of diligent and conscientious performance of her demanding work (Transcript page 2).
- (g) In the second ruling, on the evidence then available, the defence did not contend that Mrs Harris was motivated by malice or by a desire to deliberately disadvantage the defence and the Judge rejected submissions that he should revisit his first ruling because he did not find any further lies to have been told. On the evidence before him, the Judge found that any wrongdoing by Mrs Harris in the investigation had not been deliberate.

The evidence that could now be given by Mr McStravick would fundamentally alter the way in which the defence would conduct its case and could affect the basis of the judgment and the Judge's approach to Mrs Harris, particularly the emphasis placed on her record being unblemished in other respects, her lie to the Court being treated as a regrettable but isolated incident.

The defence had previously asked the SFO to disclose whether Mr McStravick had ever made any complaint to Mrs Mills about Mrs Harris. No disclosure has been made but we renew the request in the light of the allegation by Mr McStravick.

The File Note records comments that may be relevant to the abuse application or may have wider implications for the case as a whole. It is Commander McStravick's view that the case has been 'cocked up from the start' and there are 'numerous time bombs ticking away'.

In any case, let alone one that concerned a number of controversial and sensitive issues, it might be thought that the Prosecution would at least be curious about what the 'cock ups' and 'time bombs' were, but apparently not.

We hope that the SFO will understand that the defence believe that it and the Court may be assisted by some further particulars of what had been 'cocked up from the start' and what the 'numerous time bombs' were.

Mr McStravick has made a particular point about the file note of Barbara Mills not being dated. He suggested it could have been written some time later. Although Mrs Whitaker thought it appropriate to suggest to the witness that he should 'not worry on that score', we suggest that it raises issues of great concern that are relevant to the abuse of process application.

We intend to apply to Holroyde J. to re open the abuse and respectfully suggest that the SFO reconsiders its decision to take no action over the allegations of Mr McStravick. It will be vital to have as accurate as possible record of the words Mr McStravick.

- (a) The File Note is typed, may we see a copy of the handwritten original notes?
- (b) Did Mr McStravick say anything else in the telephone call?
- (c) Was the telephone call recorded?

In the course of giving his second ruling on abuse of process on the 25th of July, Holroyde J made a number of findings that were based on failings of recollection by Police Officers due to passage of time.

One Officer, Mr Hawkins, gave evidence that everything relating to this investigation was in his notebook but that he had been told that the notebooks had been destroyed.

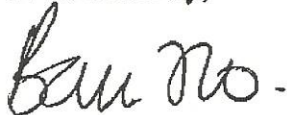
We seek disclosure of what notebooks and IRB's existed and a properly particularised account of what has happened to them. They will not only be relevant to the re opening of the abuse and Mr McStravick's important new evidence but also to the issue of the alleged plot to bribe the original trial Judge, Tucker J. You will recall that the defence wish to rely on the evidence of Michael Francis and Wendy Welcher and Michael O'Keefe that the first contact with the SFO and Police officers investigating this matter was in 1991 while the SFO contend it was the end of July 1992.

It seems to us that a simple examination of the notebooks and duty sheets will resolve this issue, particularly as a good deal of the contact took place abroad.

We are sure you will fully appreciate the urgency in the light of the trial time table and the imminent application to the Court of appeal and we look forward to your early response.

Should you have any queries, please do not hesitate to contact Giles Bark-Jones or Alison Hill of this firm.

Yours sincerely,



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