



# David Aubrey KC

## Contact:

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## Qualifications:

(1976) QC 1996

University of Wales, Cardiff – LLB (Hons.) 1972

Pupillage Christopher Llewellyn-Jones 1975-1976

Called 1976 Middle Temple

Pupil supervisor 1983 - present

Recorder Crown Court & County Court 1996

Appointed Queen's Counsel in 1996. Became King's Counsel on the Accession of His Majesty King Charles III

Authorised by the Lord Chief Justice to try Serious Sexual Offences 1997

Appointed Legal President, Mental Health Review Tribunal, 1998

Member of the Bar Council 2000-2010

Head of Chambers, Temple Chambers, Cardiff & Newport, 1999-2010

Treasurer Wales & Chester Circuit, 2001-2003

Appointed Master of the Bench, the Honourable Society of the Middle Temple, 2002

'Welsh Lawyer of the Year' 2004

Appointed Legal Adviser, Care Council for Wales, 2005

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Appointed Legal Assessor, Nursing & Midwifery Council,

2012 Head of Chambers, Temple Court Chambers, Cardiff,

2014 Head of Advocacy, The Public Defender Service, to date.

## **Advisory**

Syndicate Leader/Tutor Judge on the Criminal Justice Act 2003 Seminars, Judicial Studies Board

Syndicate Leader in Criminal Law, Wales and Chester Circuit

Formerly Lecturer for the External Law Degree, University of London

Lecturer, Temple Chambers Training Courses in Criminal Law and Family Law

Lecturer on Civil Actions against the Police, and The Police and Criminal Evidence Act 1984, for London Legal Training

Member of the HMCS Working Party on the use of Psychiatric Evidence in Courts

Consultee to the HMCS Committee investigating amendments to the law and procedure relating to Coroners' Courts

## **Expertise**

### **Criminal Law**

Extremely extensive and substantial practise – prosecuting and defending – very grave, complex and heavy-weight cases of murder, manslaughter, sexual offences and violence.

Similarly extensive experience in cases involving fraud, VAT and tax evasion, trading standards offences, money laundering, proceeds of crime and recovery of assets.

Sits as a Recorder in the Crown Court dealing with cases of all levels of seriousness and complexity including serious sexual offences and cases with a European Law and Human Rights Act element.

### **Family Law**

Wide experience of representing parties in Care Proceedings that have involved issues of physical and sexual abuse of children, and their general neglect.

Especially skilled at the examination and cross-examination of expert witnesses in a variety of different disciplines.

### **Civil Law**

Experience acting for parties in general civil claims; landlord & tenant and boundary dispute actions; and in cases involving equality and diversity law.

Sits as a Recorder in the County Court hearing a very wide and diverse array of cases including personal injuries, boundary disputes, landlord and tenant disputes, contract cases, malicious falsehood etc. Has conducted hearings involving Actions against the Police for abuse of powers, wrongful arrest and unlawful detention.

Acted in many cases of judicial review, particularly those where questions relating to Mental Health Act law and practice arise (see below).

## **Mental Health Act and Regulatory Law**

Advises regularly in the fields of Mental Health Act Law, and Regulatory Law, and appears in the High Court and County Court dealing with cases in these areas.

Sits as a Legal President of the Mental Health Review Tribunal, dealing with Restricted Patients, and acted as Legal Adviser and Assessor to the Care Council for Wales and the Nursing and Midwifery Council.

Represents parties before Regulatory and Disciplinary Tribunals, and acts pro bono for Barristers appearing before the disciplinary bodies of the Bar Standards Board.

## **Notable Cases**

Set out below is a selection of cases in which David Aubrey, K.C. has been involved, but it should not be regarded as exhaustive.

### **FRAUD**

#### **R v Tecwen Whittock**

VHCC case. Lasted two months.

Defended the 'cougher' in the notorious and famous 'Who Wants to be a Millionaire' trial. Case involved obtaining the execution of a valuable security by deception and fraud. A three Defendant high-profile case involving technical evidence and scientific issues.

#### **R v G**

Multi-handed conspiracy to evade VAT, involving complex issues relating to planning law and regulation, as well as the VAT regulations.

#### **R v M**

Fraud involving the evasion of VAT duty.

#### **R v W**

Trading Standards Prosecution relating to wholesale 'ringing' of motor cars.

#### **R v Bristol Trade Centre**

Evasion of duty and tax, and vast breaches of Trading Standards legislation.

## **MURDER, MANSLAUGHTER, VIOLENCE**

#### **R v Wilband**

Mother jointly charged with manslaughter of her four-and-a-half-month-old baby by shaking her violently causing catastrophic brain damage. Detailed medical evidence involved, as well as the

impact of undiagnosed neurodiverse conditions affecting the Defendant which had been 'masked' and required specialist psychological expert evidence.

### **R v Popescu**

Defendant charged with the Attempted Murder of his former common-law wife. The Defendant had stalked her for a lengthy period of time, concealed himself outside her home, then attacked her in the street by stabbing her repeatedly. His victim was 8 months pregnant at the time. The case attracted national publicity.

### **R v James**

The 'Swansea Riot' in which eighteen Defendants faced charges of Riot arising out of what was described by the Judge as the 'worst outbreak of mass violence' that occurred in his lifetime. Extensive examination CCTV and video footage was involved, together with issues of participation, joint enterprise and factual disputes.

### **R v B**

Defended a man charged with a high-profile, brutal murder, in which the defence was 'loss of control'. Appeared before the Court of Appeal presided over by the Lord Chief Justice. A 'guideline judgement' hearing involving five other appellants was heard over three days.

### **R v Richards and Hope**

The 'Roath Park Murder'. Represented one of two Defendants charged with the murder of a seventeen year old young man on the doorstep of his home, and the attempted murder of his parents. A 'contract killing' in which the Defendants went to the wrong house and attacked the wrong, innocent victim.

### **R v Shillibier**

The murder and mutilation of a young woman by a man previously acquitted of murder. Questions arose about the admissibility of that acquittal, complex scientific evidence about soil deposition and analysis, and admissibility of statements made not under caution.

### **R v Baldwin, Trial and Appeal**

The murder by the Defendant of his stepdaughter, involving extensive expert scientific and medical evidence, plus analysis of mobile telephone records and computer data.

### **R v J**

Murder trial involving youths kicking and beating a man to death. Issues of joint enterprise arose, as did the question of the status of incrimination remarks made by a co-defendant. The Court of Appeal adopted Mr Aubrey's suggested direction on the point, which was then incorporated in the Judicial Studies Board's Specimen directions.

### **R v Bowen, Trial and Appeal**

The murder by a forester of his wife, where the case was based entirely on circumstantial evidence, and the deceased's body had not been recovered. Her remains were discovered in a reservoir twenty years after the Defendant's conviction.

### **R v Edward Browning**

The M50 Murder involving the killing of a young pregnant woman who was snatched from the side of the M50 and killed.

### **R v Carter**

Murder, counts of attempted murder and false imprisonment, arising out of a revenge attack by an employee on his work colleagues. The trial involved expert medical and scientific evidence, psychiatric evidence, elements of international jurisdiction and warrants, and sensitive disclosure.

### **R v D, R and G**

A multi-handed drug related gang murder, involving difficult questions of joint-participation and joint enterprise.

### **R v Cong Van Lee**

A multi-handed, drug-related murder, involving members of the Vietnamese community running 'cannabis factories', and the killing of a worker. The case dealt with issues of expert scientific and medical evidence, detailed analysis of mobile phone records and cell site data, and questions of international jurisdiction.

### **R v A and B**

A drug-related killing involving competing gangs.

### **R v Morgan**

The attempted murder of a police officer by a Defendant driving a bulldozer over his vehicle, during the disturbances arising out of the 'Foot and Mouth' crisis.

### **R v Hegarty**

The murder by a Defendant previously convicted of attempted murder. The trial involved detailed analysis of mobile phone and CCTV evidence, scientific evidence relating to DNA and blood deposition and analysis, and pathological evidence. The defendant had beaten the victim to death with a hammer then driven his body to a car park in a suburb where he set it in fire in the back of the car.

### **R v DA**

Armed robbery by man previously convicted of armed robbery. Guidance given by the Court of Appeal for such cases on an Attorney-General's Reference.

### **R v David Cooke**

The trial for murder of a man previously convicted of murder, who was released on life and committed murder again.

### **R v H**

VHCC case. First trial lasted four months. Retrial lasted five months.

Defended in this two-handed murder in 2012 and 2013. A cut-throat defence involving detailed scientific evidence, issues of admissibility, PII, detailed phone and CCTV evidence.

## **DRUGS**

### **R v M 2009**

Leading Counsel for an appellant, along with several other appellants, in a hearing before a five-judge Court of Appeal which gave a 'guideline judgement' in POCA proceedings.

### **R v E**

Conspiracies to import vast quantities of cocaine, amphetamine, cigarettes and tobacco, and the evasion of VAT duty.

## **FAMILY, ABUSE, SEXUAL ABUSE**

### **R. v. X**

Appointed by the Court as Leading Counsel to cross-examine witnesses in a case where the Defendant was alleged to have operated an escort agency where women were compelled to act as prostitutes and where the Defendant was charged with controlling prostitution. In addition, he was charged with raping them and committing a variety of sexual offences on them. The Defendant faced over twenty five counts on the indictment.

### **Newport Borough Council v. T.**

A lengthy case of Care Proceedings involving questions of International Jurisdiction, evidence taken by live television link from Pakistan, medical experts, alleged rape, and multiple parties.

### **Newport Borough Council v. T.W**

Represented Intervener in Care Proceedings involving complex and detailed medical and scientific evidence, cross-examination of experts, and evidence given by international expert on live television link. The case involved serious defaults in medical examination which were exposed during the evidence and led to the case being reported on the point concerned.

### **Caerphilly CBC v. S.L**

Represented a woman with serious impairment of intellectual capacity and understanding, in a case involving neglect and abuse of her child. Medical and scientific experts gave evidence and had to be cross-examined, as did the Social Workers, whose notes and records were voluminous.

### **Cardiff County Council v. B**

A case involving the alleged shaking of a baby with the customary medical and other scientific experts involved.

### **Caerphilly CBC v. S & AL**

Represented the Intervener in a case alleging sexual assaults on a young child, with the usual medical, scientific, and social work experts involved, and issues of law to determine.

### **Caerphilly CBC v. T.C**

Alleged non-accidental injuries, with medical and scientific experts involved, dealing with a wide variety of injuries and conditions, the "triad of signs", the law and approach to this type of evidence, and substantial social work documentation and other evidence.

## **R v S**

A multi handed 'satanic child abuse' trial involving complex issues of disclosure, social work files and reports, cross-admissibility of evidence, and cross examination of children.

## **To Note**

### **VHCC**

Defended in VHCC trials for offences of importation and supply of drugs, fraud, murder and VAT evasion.

### **POCA**

Conducted POCA hearings as an advocate and as a Recorder. Very familiar with the applicable provisions having acted as Leading Counsel in a guideline case before the Court of Appeal.

### **Appointments to Cross-Examine Witnesses under section 38 of the Youth Justice and Criminal Evidence Act 1999.**

Has been appointed by the Courts to cross-examine witnesses under these provisions where Defendants are unrepresented and are prohibited from cross-examining witnesses in person. Has developed particular expertise in this area and in the process applicable to these cases.

### **Complexity and Scale of Evidence**

Conducted many cases that have exceeded three months. Accustomed to long and complex trials.

Dealt with cases involving vast quantities of papers, digital material and complex computer evidence. Very experienced at, and interested in, scientific and medical issues, and in cross-examining experts in these fields.

### **Leadership and Recognition**

Elected by fellow practitioners as the Treasurer of the Wales and Chester Circuit and as a member of the Bar Council. Chosen as 'Welsh Lawyer of the Year'. Elected as Head of Chambers by his peers for more than ten years.

### **Reputation and Commitment**

Reputation for independence and for not submitting to the will of judges. Determined to ensure that the PDS has an ethos of independence and the highest of professional standards, and that the interests of a Defendant are at the forefront of all of the considerations of the PDS.