



The Scottish Parliament
Pàrlamaid na h-Alba

[REDACTED]
Member of the Scottish Parliament [REDACTED]

Dorothy Bain QC
Lord Advocate
Crown Office & Procurator Fiscal Service
By Email

8 February 2022

Dear Lord Advocate,

I write on behalf of [REDACTED] who was raped by David Goodwillie and David Robertson in 2011. You will be aware that the Crown Office decided not to pursue a criminal prosecution in this case and that Ms Clair went on to successfully pursue a civil action against her attackers.

[REDACTED] remains firmly of the view that there was a sufficiency of evidence to prosecute both men and that the decision to drop the case has never been adequately explained to her, telling one newspaper at the weekend: "To this day, I have never received a satisfactory answer as to why one day prosecutors were telling me the case was a good one and it was going ahead only for it to be suddenly dropped,"

In 2014, in a Court of Session action was raised by [REDACTED], a football agent who acted for Mr Goodwillie. Evidence was led that Mr Goodwillie switched to the defenders — other agents, who were both also lawyers — on the basis that one of them would act pro bono in respect of the rape charge which was still under consideration by the Crown. The defenders allegedly agreed to recoup their fees from Mr Goodwillie's future earnings as a footballer.

In a judgment, which ruled [REDACTED] case should be heard, Lord Stewart said: "I was led to understand the appointment of another agent in place of the pursuer [REDACTED] came about because the defender [Goodwillie] was facing a charge of rape in the High Court of Justiciary. Counsel told me the solicitor acting for the defender [Goodwillie] in the criminal proceedings proposed to waive the legal fees in return for the opportunity to act as the defender's agent in negotiations for the defender's transfer to Blackburn Rovers."

[REDACTED] is frustrated as the outcome of this civil action does not appear to be in the public domain, but is understandably concerned at any suggestion that her rape case was effectively used as a lucrative legal 'bargaining chip'.

At the time of this decision being made, Derek Ogg QC was the head of the Crown's National Sexual Crimes Unit and Frank Mulholland QC was Lord Advocate while Mr Goodwillie was represented by Paul McBride QC.

The Scottish Parliament, Edinburgh EH99 1SP
[REDACTED]

[REDACTED] is aware that Mr McBride was a friend of Mr Ogg and Mr Mulholland and questions whether this had any influence on the decision to drop criminal proceedings.

I know that you have spoken with great conviction about the need for Scotland's criminal Justice system to deal much more effectively with rape and crimes of a sexual nature, in which most victims are women and girls.

In your evidence to the Scottish Parliament's criminal Justice committee last December, you acknowledged the large number of sexual offences awaiting trial and how these impact disproportionately on female victims and witnesses.

[REDACTED] understands that much has changed within the Crown Office, in terms of culture and personnel, and the Scottish criminal Justice system over the past decade.

And it is for that reason that she is again seeking a full and frank explanation from the Crown about why it did not pursue a criminal prosecution. Given the serious unanswered questions around this case and the desire to increase confidence in the system, she has asked that you consider instigating a thorough review of how her case was handled.

It is a matter of public record that you acted for Mr Goodwillie in the civil case, but perhaps you could also disclose whether you had any involvement in the criminal case.

[REDACTED] would expect the Crown to address her concerns about the perception of conflicted interest due to personal connections between Mr McBride, Mr Ogg and Mr Mulholland and also to ascertain the purpose of reported phone calls from McBride to the Crown Office prior to the criminal case being dropped.

I would be grateful for your reply and [REDACTED] has indicated a willingness to meet with you or your officials to discuss these matters if that would be appropriate.

Yours sincerely

[REDACTED]