
Dr Edward Tierney

Dr Edward Tierney was a witness of the utmost importance in this case who, in the last analysis, had obtained the very evidence that resulted in the freeing of Stefan from prison. Without that evidence I have no doubt Stefan would have died there and the truth would have perished with him. His case would not have been reopened, his conviction would not have been quashed, the police would never have re-examined the case and Ronald Castree would never have finally been convicted of the Lesley's murder.

After the conclusion of the murder trial and the imposition of the mandatory life sentence on Stefan in 1976, Dr. Tierney continued with his medical practice and his work as a police surgeon. On 26 April 1990, however, he wrote to the Home Secretary about the need for a forensic physician who appears as a witness to be impartial, to follow correct procedures and ensure that the witness must be independent of, and not closely allied to, the police or the Crown Prosecution Service. The Home Secretary of the day was David Waddington QC. If any reply was sent to him, Dr. Tierney did not receive it.

In June 1990 Campbell Malone delivered a petition drafted by him and the barrister Jim Gregory to the Home Office, seeking a re-opening of Stefan's case. Someone there might have seen a connection between these two events. In fact the doctor and the lawyers were acting independently of each other, but anyone who recollected that Dr. Tierney had been a prosecution witness in the case the re-opening of which was not being sought might well have seen the link between them. Any senior police officer or lawyer not previously connected to the case and who looked at Stefan Kiszko's case would very soon realise that Dr Tierney had, most unusually, obtained a vital piece of evidence in the course of the investigation into a child murder. If that person or persons then sought access to the papers held by the forensic scientists in Harrogate,

might they have seen the notes that the seminal stains on the little girl's clothing contained sperm heads but Stefan's sample did not?

The initial Home Office response was not encouraging. But Campbell Malone was not discouraged. He wrote again, questioning whether the delay might be linked to the fact that the current Home Secretary had previously been involved in the case. The response was immediate. A police inquiry was ordered to begin in November 1990, during the same month that David Waddington QC left his post as Home Secretary.

About two months later, on 10 January 1991, an Assistant Chief Constable of the Greater Manchester Police wrote to Dr Tierney referring to the Police Surgeons Annual General Meeting claiming that it was apparent from that meeting that '... you are not in sympathy with the way in which the Chief Constable is exercising his authority under the contract relating to your duties as a Police Surgeon. Therefore it would appear appropriate that your services as a Police Surgeon should be terminated by three months' notice in accordance with the contract'.

Dr Tierney was surprised by the content of this letter and wrote and said so on 17 January 1991. He received a reply dated 24 January. The writer noted that Dr Tierney took issue with the Force Policy in relation to medical examinations of victims of rape. The writer goes on to raise three points arising out of the Annual General Meeting. I find none of them convincing. The first claimed, 'It does appear that you find some difficulty in accepting the operating conditions and policies of the Greater Manchester Police'. Few would regard that as meeting a request for information for it does not identify the difficulty or specify the conditions and policies in question that he does not appear to accept. Second Dr. Tierney is criticised for 'the manner in which you broached these issues' (again without stating what these are) 'at the Annual General Meeting'. What does that mean exactly? Does it mean that he ought not to have raised the issue at all, or elsewhere, or was it a reference to the content of what he had to say? The letter continues to the effect that this conduct was not viewed as harmonious to the working relationship '... which we endeavor to foster in providing an effective service to the community'. I find that most difficult to understand, but I do recognise the ability of some to mimic the language of the Civil Service to say very little in

a long form of words. The third point relates to the training of another doctor and the additional costs that may be involved in that training.

The letter writer concludes by saying if Dr Tierney had any further observations to let the writer have them in order that they could be considered prior to referring the matter to the Greater Manchester Police Authority for termination of contract.

Dr Tierney decided to take legal advice, more especially when he discovered that a notice had been put on display in the charge office at Rochdale Police Station indicating that he was no longer a police surgeon. He also discovered the text of a message sent by a police superintendent in Rochdale that appears to be dated 1 February 1991 that reads: 'Doctor Tierney is no longer the police surgeon ... On no account will Dr Tierney be contacted'.

Dr Tierney knew that at this time the Police Authority had not yet met and therefore no decision relating to his contract for services could have been made. That did not matter to some police officers at Rochdale Police Station. It appears that someone there authorised the printing and displaying of a notice that he was no longer the police surgeon.

His solicitor wrote to the Clerk to the Police Authority seeking an explanation for the notice on display. The explanation, which I regard as flimsy, was sent to him in a letter dated 15 February 1991. It was that police officers (conveniently not identified even by rank) became aware of the proposal to terminate Dr Tierney's contract for services and that it had been referred to the appropriate committee of the authority. Those officers had assumed three things, so the explanatory letter ran, first, that the authority had confirmed the decision of the committee. Second, that notice had been served to terminate the doctor's contract and third, that the time for terminating the contract for services had expired. I find it astonishing that a number of police officers should collectively have jumped to the same three false conclusions, and even if they did why did they assume responsibility to post that notice in the police station, rather than await official confirmation from the proper authority?

All three assumptions were of course wrong. No indication was given regarding the grounds, reasonable or otherwise, for making those false

assumptions. The inaccurate notice was removed from the police station and replaced by one that reflected the true position. It read:

'All officers must note that, contrary to earlier information, Dr E Tierney is a Police Surgeon and will remain a Police Surgeon until his contract for services is terminated by the Police Authority, or until he resigns. If this happens, notice will be given. Officers should be aware of the exemplary record of service of Dr Tierney as a Police Surgeon over the last 20 years'.

Was someone calming the situation for reasons other than perhaps being faced with an action in defamation for the damage that might have been done to the reputation of a doctor who had an outstanding record for faithful and devoted service to his profession and to the public?

On 26 February 1991, however, the Clerk to the Police Authority served the appropriate notice terminating Dr Tierney's contract for services. I think this was a simple rubber stamping of a decision reached not by the lay members of the authority but by senior police officers.

The doctor was thanked for the years of service he had provided to the police. Nothing more than that, after 25 years. By this date Detective Superintendent Wilkinson had been appointed (since 26 November 1990) to carry out the investigation into Stefan Kiszko's murder conviction and that would necessarily have taken him to Rochdale Police Station to question the practices, procedures and conduct of the officers there whose evidence had helped to convict and imprison an innocent man. Did someone at that police station, seething with resentment against the doctor, pose the rhetorical question: 'Why, oh why did Dr Tierney take that sample of semen from Stefan Kiszko on 22 December 1975?', for if he had not done so Stefan's conviction would never have been set aside and the scandalous misconduct of Superintendent Richard Holland, who had obtained the detailed confession evidence, would never have been revealed. Did someone think it better that an innocent man stayed in prison rather than disclose the truth about the falsification and fabrication of confession evidence by a senior West Yorkshire Police officer, the former Superintendent Holland?

By 1992 some observers of the media saw a link between Stefan's conviction being quashed and the decision of the Manchester Police Authority to terminate Dr Tierney's contract. On 4 March 1992 in the *Daily Express* Opinion column, under the heading 'Second Victim' the newspaper stated, 'His dismissal looks suspiciously like an act of revenge for the embarrassment he caused. And it seems that the injustice surrounding this case had not ended yet'.

In my view Dr Tierney's views on the impartiality of an expert witness and the duty to disclose evidence were vindicated in the appeal court case of Judith Theresa Ward. She was a serial confessor to offences she had not committed. It cost her dearly, for she spent 18 years in prison for terrorist offences of which she was totally innocent. In her case the appeal court said that government forensic scientists were under a clear duty to act impartially in the course of criminal investigations. I do not consider this duty is limited to that group of witnesses, but also includes police surgeons. The judges went on to say that the prosecution was under a duty to disclose any scientific evidence that might assist the defence. That, in my view, also applies to medical evidence. The court ruled that

'...there was a clear obligation on an expert witness to disclose evidence of any tests or experiments which [they] had carried out or had knowledge which tended to cast doubt on an opinion [they were] expressing and to bring the records of any such tests or experiments to the notice of the solicitors instructing ...so that they might be disclosed to the other party'.

Whether those directions will be faithfully followed remains to be seen.