

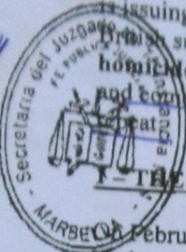
Exhibición 55 - De Court-4-Marbella-Submissions adjunto

TO THE MAGISTRATES COURT AT WESTMINSTER

Special Crime Division

11 AUG 2008

MARIA PÉREZ RUIZ, Magistrate of the Court of First Instance No. 4 in Marbella, who is issuing this document with regards to the detention and delivery order sent for the subject **GARY SAMUEL OWENS** for a suspected crime of robbery and homicide, having learned on June 18 of the allegations brought forward by his defence, and communicating today that the previous **REPORT** may not be admitted, wishes to



THE TIMELINE OF LEGAL INVESTIGATIONS IN SPAIN:

On February 28, 1991, Ms. Anna Christine Bertil filed a police report with the Spanish National Police regarding the disappearance of a Norwegian citizen, Torbjorn Langaas Heia, stating that she had found many blood stains around their residence in Marbella. As soon as the Court was made aware of this fact it proceeded to initiate the corresponding criminal process (Preliminary Proceedings 218/91) for the investigation of the issue and its perpetrators.

Once Mr. Gary Samuel Owens' possible implication had been determined, he was detained on April 2, 1991, in Puerto de la Cruz (Tenerife), and was transferred to Marbella under Judicial authorisation. Once he arrived, testimony was taken on April 3 and again on April 5, in legal presence, in both cases assisted by an Attorney, as per Spanish legislation. Thereafter, his retention for security reasons was ordered (preventative detention) by means of a Writ of the same date.

As a result of a letter sent by a prisoner in the facility where Mr. Owens was being held, and which made reference to a conversation said prisoner had overheard, the authorities became aware that Mr. Torbjorn's bodies was to be found at Cabo Pino. This lead to the body being recovered on July 8, 1992.

On July 14 and 31 and September 23, 1992, the accused again provided testimony with his Attorney's assistance. On September 22 it was agreed to maintain Mr. Owens in custody.

By a Writ issued on January 18, 1993, it was declared that Mr. Owens would be released on bail for the sum of 1 million pesetas, which under no circumstances is the same as "freedom without charges". Samuel Owens continues to be the suspected perpetrator of the crime, but it was recognised that the time that had passed had reduced his flight risk and the possibility of tampering with evidence.

Spanish legislation establishes a special procedure to investigate and try particularly serious crimes, such as the one at hand (robbery with homicide). That is the reason why it was determined by means of a resolution of March 30, 1993, that the investigation would continue into the cause of the crime, via the indictment procedure, one of the main milestones of which is the so-called "Processing Writ" (issued on June 14, 1993) which is a significant guarantee for the accused as it describes exactly what they are accused of and, thus, what may lead to charges.

Said resolution established the reasons why "rational indications of criminality" are considered to exist with regards to Mr. Owens, who was notified and thereafter gave testimony ("Investigatory Testimony"), order by the resolution of June 15, 1993.

On October 5, 1993, Mr. Owens was notified of the Writ modifying his prison conditions and, with the bail posted, he was advised of his obligation to appear before the Court of the 1st and 15th of each month. The accused set his residence as Los Boliches, Fuengirola. On January 10, 1994, he was permitted to reduce his appearance before the court to the 1st of each month.

On May 11, 1995, the Processing Auto was declared void and a new one was issued increasing the initially included facts. One June 2, notification of said Writ and a call to receive investigatory testimony were issued, however, Owens had left the residence designated for that purpose without notifying the Court, making the serving of the Writ impossible. In November of that year his Attorney submitted a letter from Owens where the latter expressed his gratitude for the service provided and declared that he was in Scunthorpe (South Humberside).

On July 16, 1996 the accused was declared in contempt and on September 3, a request was made to INTERPOL to confirm the information brought by the Attorney. INTERPOL made no communication as to Owens' whereabouts until November 15, 2004, at which time it was indicated that he was in Poynton, Cheshire and an international search was declared on January 14, 2005. On February 11, 2005, INTERPOL informed this Court that they English courts may oppose the extradition by applying the "passage of time" rule, and requested that a summary of the investigation since 1991 be sent to them. That was duly done on March 16, 2006, accompanied by the corresponding translation.

On September 13, 2006 further correspondence was received via INTERPOL indicating that the European Arrest and Delivery Warrant did not meet British legislation's requirements and that the nature and legal classification of the crime and the measures in section E applicable in this case. It was agreed to proceed as previously by Providence on August 6, 2007.

On July 18, 2008, correspondence was received in this Court from the Interpol Service that may reveal the possible reasons for Owens' extradition being refused.

2 - POINTS OF INTEREST

Samuel Owens gave testimony before this Investigating Court on at least four occasions, and, although he did not admit blame on any of them, his description of the facts varied considerably on each of those occasions, and other indications also existed that could serve as the basis for his conviction should proceedings advance and a Trial be opened.



15 → With regards to Owens, to date only investigative tasks have been completed as the individual breached their obligation to appear before this Court and to designate a residence in Spain, meaning that he could not be found, he could not be advised of the Processing Writ and the legal processing of the hearings phase of the procedure, which is considered necessary before trial, could not be carried out. With regards to the accused himself, there has thus been no conviction with regards to the facts we are pursuing, and only preventative measures were agreed at the time (initially prison and then, bail and an obligation to appear before the Court) to ensure his presence and avoid the destruction of evidence or the chance that he may offend again. What was agreed in 1992 was the "deferral of prison" (which was not translated precisely), that is to say, it was agreed to remand Owens to custody in light of the relevance of the indications of criminal acts against him.

16 The legal procedure began in February 1991 immediately after the police informed Court that a crime may have been committed. Thereafter, once the body had been discovered and considering that the facts were very serious, it was agreed that the indictment process would continue, which only provides the accused with further guarantees (correlative to the greatest sentence that could be imposed at the time) as a formal accusation process would be undertaken (processing writ), which is not included in the shortened procedure. In this case we cannot strictly speak of two procedures, rather of one that has changed in the light of the serious nature of the crime under investigation.



17/ Spanish legal practice does not include the expression "with charges" / "without charges". Mr. Owens was set free as, given the amount of time that had passed, it was considered that his flight risk had been reduced and there was less possibility of him hiding or destroying evidence, as well as taking into account the time limits imposed on provisional imprisonment under Spanish legislation. Other preventative measures were agreed in stead of custody: the provision of bail of 1 million pesetas and the obligation to appear before the Court of the 1st and 15th of each month, which was considered enough to guarantee the accused presence. However, there is no doubt that Mr. Owens remained one of the prime suspects as, otherwise, such measures would not have been imposed and, furthermore, at that time he was interviewed as a suspect, being informed of the crime that he was accused of. At no time thereafter was a writ issued to file away the procedure regarding Mr. Owens.

18/ Owens was under an obligation to appear before the Court twice per month (from March 1994, only once per month) as well as to inform the court of any change of resident address. These obligations (the first imposed by judicial resolution and the second by a legal measure, and of which the accused was fully informed) were flagrantly violated by the Mr. Owens, who ceased to appear before the court and failed to indicate his change of residence, and when he finally did so (indirectly via his Attorney), the residence indicated was not true: INTERPOL was unable to locate him until November 2004 despite the fact that the order was issued in 1996, and he was found in Poynton Cheshire, not in Scunthorpe (South Humberside), as the accused had indicated.

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In 1995 no rogatory letter was issued. Attempts were made to serve the Processing Writ and to hold the Investigatory Testimony in the accused residence that featured on file (at that time, Cadiz) which, as it is a procedure that has to be undertaken outside of this Court's judicial remit, it was achieved thanks to the assistance of another Spanish judicial organisation ("by request").

20 With regards to the other co-accused, Douglas Gerar Garbin was sentenced on November 23, 1998 as responsible of the robbery with the use of force from an inhabited dwelling and for a charge of receiving-stolen property. Allan Wilcock, whose whereabouts in unknown, was recently arrested, the corresponding documents have been sent to the body responsible for his trial (The Provincial Court of Malaga). With regards to Roy Rochelle, an arrest and delivery order is currently in force.

21 We informed INTERPOL of Mr. Owens' possible whereabouts on September 3, 1996 but INTERPOL was not able to locate him until November 15, 2004. The international search order was issued only two months, on January 14, 2005. In Spain, the European Arrest Warrant is regulated by Organic Law 3/03 of March 14 (published in the BOE March 17), and entered into force on the say day as the implementation law in the United Kingdom, January 1, 2004.

3. MR. OWENS' TESTIMONY:

A Large part of Mr. Owens' testimony is incomprehensible.

22 It is true that the accused has not admitted guilt in any of his declarations, however, there are other indications that could lead to his conviction should the procedure move forward and a trial be opened. If that were not the case, provisional (preventative) prison would not have been ordered for Mr. Owens.

23 We are entirely unaware that he was threatened by Barry Unwin, Alan Wilcox or Roy Rochelle. At not time was he ordered, adviser or permitted to leave Spain as that would have required the modification of the judicial resolution that established his obligation to appear before the Court of the first day of every month. Such a modification could only have been legally completed via a new judicial resolution, of which we have no record (and which the accused does not claim was issued). Owens was aware of this obligation and also knew of his obligation to inform the Court of any change of resident address. I DID INFORM THEM

Owens was arrested in Puerto de la Cruz (Tenerife) and brought to Marbella at the beginning of the procedure in 1991.

24 He has only been the object of preventative prison and not of an effective sentence. As we have explained above, the accused' fleeing Spain has prevented the investigation phase of the proceedings for being completed. That phase is a necessary preparation for the trial and possible sentence. There was no question of open prison during provisional detention. Mr. Owens was help in prison from April 5, 1991 to October 5, 1993.

WHAT DOES THIS MEAN?

JUDGE TOLD ME THAT THE INVESTIGATION WAS COMPLETE

THEY HAD 2 1/2 YEARS TO INVESTIGATE IT AND THE JUDGE HAD LIVED HIM TO THE OWENS WAS A AFTER INVESTIGATING IT AND THE OWENS WAS A



From the first testimony given in the police station, Mr. Owens was made aware of his rights, including what he was being accused of. The writ taking him into custody also featured the reasons for which that measure had been taken and the crimes that he was accused of committing. Unless the accused is suffering from some sort of psychological illness, it would be impossible for him not to be aware of the proceedings that were being undertaken against him. It is unthinkable that a person would be held in custody for more than two years without complaining at all and not know the reasons why he had been deprived of freedom. Absolutely no complaint of that type exists in the proceeding's files.

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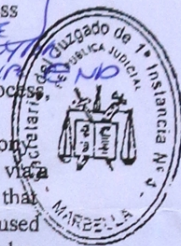
NOT TRUE AND HOW DO
THEY CONVENIENTLY KNOW THIS
BUT NOT KNOW OTHER MORE
IMPORTANT DETAILS?
I DID NOT
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AND IT WAS
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CLEAR EVER

Easy time that he gave testimony, Owens enjoyed the preceptive assistance of his Attorney. Furthermore, no complaint exists in this respect either. In fact, the letter that he eventually sent indicating that he had left the country made his gratitude to his Attorney expressly clear, which is contradictory to the allegations of defencelessness that are now being made.

THAT WAS ONLY IN REACTION TO THE

The accused was not illegally detained. He was detained at the beginning of the process, but only for the time absolutely necessary to bring him before the law, within the maximum period of 72 hours as established in Spanish legislation. Once his testimony had been taken by a judge the decision was taken to hold him in provisional prison via a resolution against which he could have appealed. There is absolutely no indication that Owens was illegally deprived of his freedom, nor does any complaint from the accused exist on file, which would have lead to the processing of a special and urgent procedure called "Habeas Corpus".

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Owens has still to be tried for the crime with which we are dealing. The successive judges that have looked at the procedure have limited themselves to investigation, that is, exclusively to the practice of investigatory proceedings, protecting fundamental rights and moving the proceedings forward. Furthermore, none of the Magistrates that have participated have at any time been the subject of a criminal sentence as a result of the way they have discharged their functions.

NOT
TRUE

It is possible that the accused may have had to be the subject of special protection while in prison (we are unaware of the cause), as our files show that his name was changed to Charles Samuel Axon, but only for internal prison purposes. The accused was not awarded any time of protective measure in the judicial procedure, as per Organic Law 19/1994, of December 23 for the protection of witnesses. Furthermore, such action was never requested by Owens and which is an entirely different issues to the adoption of measure to protect against risks to his physical wellbeing in prison.

NOT
TRUE

We have no record of him providing information to the Spanish or English police while in prison.

NOT
TRUE

Upon his release Owens was informed of his obligation to appear before the Court on the 1st and 15th of each month. The judicial investigation continued and his Attorney was notified of judicial resolutions of procedures, as it was not necessary to communicate directly with the accused until the processing writ was issued.

NOT TRUE
PROVE IT!



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We are entirely unaware whether the United Kingdom's intelligence services have used the accused to gather information on UK criminals operating in Spain or whether he obtained information for UK authorities, about whom he had

Owens states that he wrote to the Court to explain his situation, however, our files show that he wrote to his Attorney who contacted this Court and that INTERPOL could not locate him at the address that he provided. Furthermore, said organisation was not able to locate his whereabouts until 2004 with the corresponding international search order being issued only two months later. A great deal of communication has been maintained over the years that highlights the difficulty in attaining extradition, which this Court has attempted to solve as quickly as possible

SOKE OF THE CENTURY

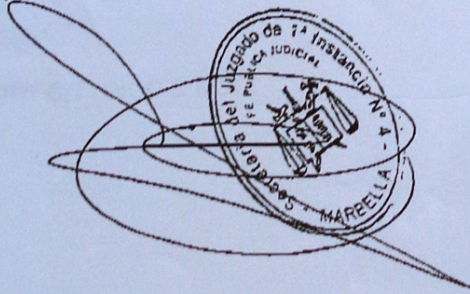
Without further ado, sincerely and respectfully in Marbella on July 17, 2008.

MARÍA PÉREZ RUIZ



Diligencia. da extendo 70 Secretario Judicial para
hacer constar que por los Servicios oficiales de
Traducción se ha recibido traducción de la documentación
remetida por este Juzgado en las Diligencias: Sumario
1/1992.

De lo que doy fe, en Marbella, a 31 de Julio de
2008.



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WHAT DATE
IS THIS?

