

IN THE SUPREME COURT OF THE UNITED KINGDOM

The King

-v-

Benjamin FIELD

Respondent

STATEMENT OF FACTS AND ISSUES

THE INDICTMENT

1. The Respondent Benjamin Luke Field was born on 27 October 1990.¹ He was arrested on 13 March 2017 for the murder of Peter Farquhar (date of birth 3 January 1946). In due course he was arraigned at the Crown Court at Oxford on an indictment [REFERENCE] containing 13 counts.
2. Count 2 of the indictment alleged that the Respondent and Martyn Smith, between 24 and 26 October 2015, murdered Peter Farquhar. The prosecution elected not to proceed on Count 1, which alleged that that the Respondent and Martyn Smith conspired together to murder Peter Farquhar.
3. Count 4 alleged fraud contrary to section 1 of the Fraud Act 2006, in that the Respondent and Martyn Smith, between 22 April 2013 and 27 October 2015,

¹ The term 'the Respondent' is used throughout to refer to the present Respondent, Mr Field, even when describing the appeals to the Court of Appeal to which the Crown was the respondent.

dishonestly and intending thereby to make a gain for themselves, made representations to Peter Farquhar which were and which they knew were or might be untrue or misleading, namely that Benjamin Field was in a genuine, caring relationship with Peter Farquhar. The prosecution elected not to proceed on Count 3, which alleged a conspiracy to defraud based on the same conduct.

4. Count 5 alleged that the Respondent and Martyn Smith conspired, between 14 June 2015 and 13 May 2017, to murder Ann Moore-Martin. Count 6 alleged that the Respondent and Martyn Smith attempted, between 14 June 2015 and 13 May 2017, to murder Ann Moore-Martin.
5. Count 8 alleged fraud contrary to section 1 of the Fraud Act 2006, in that the Respondent and Martyn Smith, between 14 June 2015 and 13 May 2017, dishonestly and intending thereby to make a gain for themselves, made representations to Ann Moore-Martin which were and which they knew were or might be untrue or misleading, namely that Benjamin Field was in a genuine, caring relationship with Ann Moore-Martin. The prosecution elected not to proceed on Count 7, which alleged a conspiracy to defraud based on the same conduct.
6. Count 9 alleged fraud contrary to section 1 of the Fraud Act 2006, in that the Respondent, dishonestly and intending thereby to make a gain for himself, made representations to Ann Moore-Martin between 1 May 2016 and 2 June 2016 which were and which he knew were or might be untrue or misleading, namely that he needed £4400 in order to purchase a car and that any monies given to him for that purpose would be used to purchase a car.
7. Count 10 alleged fraud contrary to section 1 of the Fraud Act 2006, in that, dishonestly and intending thereby to make a gain for themselves, the Respondent, Martyn Smith and the Respondent's brother Tom Field made representations to Ann Moore-Martin between 1 June 2016 and 3 September 2016 which were and which they knew were or might be untrue or misleading, namely that Tom Field was suffering from a kidney ailment that was so severe that he needed the assistance of a kidney dialysis machine.
8. Counts 11 and 12 alleged burglaries contrary to section 9(1)(b) of the Theft Act 1968: Count 11 alleged that the Respondent had stolen a bottle of Drambuie from a dwelling at 5 Manor Park between 13 June and 19 July 2016; and Count 12 alleged that he and

Martyn Smith had between 14 and 17 August 2016 stolen three rifles and a bayonet from a dwelling at 41 Treefields.

9. Count 13 alleged possession of an article for use in fraud contrary to section 6(1) of the Fraud Act 2006.
10. The Respondent was arraigned, together with Martyn Smith and Tom Field, on 21 March 2019. He pleaded guilty to counts 4 (fraud by pretending to be in a genuine caring relationship with Peter Farquhar) and 8 – 12 (the frauds on Ann Moore-Martin and the burglaries). He pleaded not guilty to the remaining counts and the other defendants entered not guilty pleas on all counts with which they were each charged.
11. The jury indictment was renumbered to reflect the counts not proceeded with and the pleas as follows:

Indictment	Jury Indictment
Count 1: Conspiracy to murder Peter Farquhar	Not included (not proceeded with)
Count 2: Murder of Peter Farquhar	Count 1
Count 3: Conspiracy to defraud (Peter Farquhar's will)	Not included (not proceeded with)
Count 4: Fraud (caring relationship with Peter Farquhar)	Count 2 (Martyn Smith only in light of Respondent's plea of guilty)
Count 5: Conspiracy to murder Ann Moore-Martin	Count 3
Count 6: Attempted murder of Ann Moore-Martin	Count 4
Count 7: Conspiracy to defraud (Ann Moore-Martin's will)	Not included (not proceeded with)
Count 8: Fraud (caring relationship with Ann Moore-Martin)	Count 5 (Martyn Smith only in light of Respondent's plea of guilty)
Count 9: Fraud (£4400 for car)	Not included as Respondent had already pleaded guilty

Count 10: Fraud (kidney dialysis machine)	Count 6 (Martyn Smith and Tom Field only in light of Respondent's plea of guilty)
Count 11: Burglary (5 Manor Park)	Not included as Respondent had already pleaded guilty
Count 12: Burglary (41 Treefields)	Count 7 (Martyn Smith only in light of Respondent's plea of guilty)
Count 13: Article for use in fraud (Elizabeth Zettl's will)	Count 8

12. For obvious reasons, the judge's summing up [REFERENCE] to the jury referred to counts by reference to the jury indictment, whereas his sentencing remarks [REFERENCE] referred to counts on the full indictment.

**Tab 35:
Sentencing
Remarks
(p738)**

**Tab 33:
Summing
Up (p583)**

THE TRIAL

13. The Respondent was tried before Sweeney J and a jury at the Crown Court at Oxford in a trial beginning on 30 April 2019.

14. The prosecution opened the case in accordance with the transcript [REFERENCE].

15. The evidence which was heard was summed up by the judge in the second part of his summing up on 15 July 2019. [REFERENCE] It was also summarised by the Court of Appeal at [REFERENCES], and by the Criminal Cases Review Commission at [REFERENCE]. The evidence before the jury in connection with the murder of Peter Farquhar included:

- (i) Peter Farquhar's journals [REFERENCE]
- (ii) Notes made by the Respondent [REFERENCE]
- (iii) A schedule showing what drugs were covertly administered by the Respondent [REFERENCE]
- (iv) Agreed facts [REFERENCE]
- (v) A timeline [REFERENCE]

**Tab 33:
Summing
Up (p612)**

**Tab 12: CCRC
Statement of
Reasons (p176)**

**Tab 40:
Opening Note
(p769)**

**Tab 9:
Judgment of
CACD1 (p**

Tab 33: Summing Up (p625)

**Tabs 44 and 45: Exhibits RHM/3
and JDL/11 (pp1108 and 1159)**

Tab 46: Exhibit RME/4 (p1217)

Tab 42: Agreed Facts (p1042)

Tab 33: Summing Up (p623)

Tab 43: Witness Evidence (p1085)

(vi) Witness evidence as to Peter Farquhar's general character, use of alcohol, and relationship with the Respondent [REFERENCE]

(vii) Communications with the other defendants [REFERENCE]

Tab 33: Summing Up (p626)

Tab 47: Evidence of Dr Lockyer (p1222)

(viii) Medical evidence including the evidence of the pathologist Dr Lockyer [REFERENCE] and evidence of Mr Farquhar's interactions with medical professionals and others in relation to his health before his death [REFERENCE]

Tab 48: Exhibit PWB/53 (p1254)

(ix) Evidence of the discovery of Mr Farquhar on the morning of 26 October 2015 [REFERENCE] including that there was a glass on the floor and a bottle of whisky on the table, the former having the Respondent's fingerprint.

Tab 33: Summing Up (p648)

Tab 38: Defence Statement (p756)

16. The defendant had served a defence case statement [REFERENCE] and responses to requests for further information [REFERENCE] setting out his case in advance of trial. In particular, he admitted covertly administering drugs to Mr Farquhar, and admitted that it was his practice to note the occasions that he administered drugs in this way, as reflected in notes that were in evidence, the authorship of which he admitted. He denied being present when Mr Farquhar died, and said that when he left him on the evening of 25 October 2015, Mr Farquhar had not to his knowledge consumed any alcohol. He said that he did not force or encourage the consumption of any alcohol or drugs while he was in the company of Mr Farquhar that evening, and that in general he never encouraged Mr Farquhar to drink. He denied having any intention to kill Mr Farquhar and denied that he had an intention to carry out anything written in his notes. He left at about 10pm.

Tab 39: Defence Response (p760)

17. The oral evidence of the Respondent [REFERENCES] reflected and developed this. He admitted 'gaslighting' Mr Farquhar and administering drugs, but said that he did not kill him or intend to kill him.

Tab 33: Summing Up (p617)

Tab 33: Summing Up (p646)

Tab 25: Schedule of Submissions (p366)

18. During the course of the trial, submissions were made orally and in writing about the directions to be given to the jury. These are scheduled at [REFERENCE]. On 4 July 2019, Sweeney J gave a ruling [REFERENCE] addressing the question whether encouraging a person to kill themselves could amount to murder, agreeing with the submission that this was only possible in limited circumstances but rejecting a submission of no case to answer on counts 3 and 4 of the jury indictment.

Tab 28: Ruling on Encouraging Suicide (p466)

Tab 30: Directions v1 (p482)

Tab 31: Directions v2 (p515)

Tab 32: Directions v3 (p549)

19. On 8 July 2019, the judge circulated three different versions of the legal directions which he would give the jury [REFERENCES]. These developed as he heard argument [REFERENCE] that day in respect of how the jury should be directed on Count 1, and the last reflected the directions which he actually gave the jury. He reserved his reasons and later gave reasons for his directions on 30 August 2019 [REFERENCE].

Tab 25: Bundle of Submissions (p444)

Tab 29: Ruling on Directions (p479)

20. Having retired to consider their verdict, the jury returned with a note [REFERENCE] seeking clarity on the legal directions, *"especially regarding the implications if Ben and Peter were drinking together on 25 October 2015"*. The judge gave further directions [REFERENCE] in response to this note.

Tab 33: Summing Up (p707)

Tab 34: Jury Note (p736)

21. On 9 August 2019, the jury convicted the Respondent of the murder of Peter Farquhar (Count 1 of the jury indictment, Count 2 of the full indictment). The defendants were acquitted on all other counts which were left to the jury.
22. The Respondent was sentenced on 18 October 2019. On the charge of murder which is the subject of this appeal, he received the mandatory sentence of life imprisonment with a minimum term of 32 years' imprisonment. [REFERENCE]

Tab 35: Sentencing Remarks (p744)

THE COURT OF APPEAL

23. The Respondent appealed against his conviction for murder. Leave to appeal was granted by the Hon Sir Alistair MacDuff on 22 January 2020 and an oral hearing took place on 28 January 2021 before Fulford LJ, Whipple and Fordham JJ: 'the first Court of Appeal'. The parties' positions were set out in their written arguments [REFERENCE].

Tab 18: Respondent's Submissions (p268)

Tab 19: Appellant's Skeleton (p309)

24. On 3 March 2021, the first Court of Appeal circulated a draft judgment [REFERENCE]. Counsel for the Respondent initially proposed some corrections to the way in which the first Court of Appeal had described concessions said to have been made by them, and then, on 15 March 2021, sought a rehearing of the appeal. This was refused by a decision communicated by email on 16 March 2021. Judgment was handed down under reference [2021] 1 WLR 3543; [2021] EWCA Crim 380 on 18 March 2021 [REFERENCE] and contained differences to the draft originally circulated. The differences have been set out in a schedule [REFERENCE]. The judgment dismissed the Respondent's appeal against his conviction for murdering Mr Farquhar on its merits, and upheld the judge's directions. The Court of Appeal corrected an omission by the judge to make allowance for time served on remand when setting the minimum

Tab 9: Judgment of CACD1 (p152)

Tab 20: Draft Judgment (p335)

Tab 21: Schedule of Changes (p352)

term to be served under the sentence of life imprisonment, and to that extent allowed an appeal against sentence.

25. On 22 June 2021, the Court of Appeal declined to certify a point of law of general public importance or to grant leave to appeal to the Supreme Court. [REFERENCE]

Tab 8: Order of CACD1 (p151)

26. On 29 June 2021, the Respondent applied under Rule 36.15 of the Criminal Procedure Rules to reopen the appeal. This application was referred to a full court by Dame Victoria Sharp P on 12 October 2021. It was argued before Dame Victoria Sharp P, Sir Nigel Davis and Sir Stephen Irwin ('the Second Court of Appeal') on 28 January 2022. They dismissed the application by a judgment dated 16 March 2022, under reference [2022] 1 WLR 3495; [2022] EWCA Crim 316 [REFERENCE]

Tab 7: Judgment of CACD2 (p129)

27. On 5 September 2022 the Respondent invited the Criminal Cases Review Commission to refer his case to the Court of Appeal. He did so on two grounds, described by the Commission as interrelated:

- (i) That there is a new argument drawing on the authorities relating to consent procured by deception in the law of sexual offences that the jury in Mr Field's case was misdirected in respect of causation; and
- (ii) That there are exceptional circumstances which justify inviting the Court to reconsider the argument on causation made on Mr Field's appeal.

28. By a decision dated 28 August 2025 [REFERENCE], the Commission referred the case to the Court of Appeal on both grounds. The consequential appeal was heard on 5 March 2026 by Edis LJ VP, Goose and Butcher JJ. On 16 April 2026 they handed down judgment allowing the appeal [REFERENCE]. By an order of the same date [REFERENCE], they quashed the conviction for murder, certified that a point of law of general public importance was involved in their decision, granted leave to appeal to the Supreme Court to the prosecution and gave directions for a retrial but stayed them pending that appeal.

Tab 12: CCRC Statement of Reasons (p

Tab 5: Order of CACD3 (p94)

Tab 6: Judgment of CACD3 (p96)

ISSUES

29. The issues are as set out in the certified question:

"1. Were the directions given to the jury by the trial judge in this case right in law?"

2. Did either the first or third Court of Appeal err in their understanding and application of R v Kennedy (no 2) [2007] UKHL 38; [2008] 1 AC 269; and is any reconsideration of that decision required?"

DAVID PERRY KC
VICTORIA AILES
RACHEL HUGHES

DAVID JEREMY KC
PAUL WAKERLEY

ANNEX

October 2013	Respondent moves into Mr Farquhar's home
13 March 2014	Mr Farquhar and Respondent hold 'betrothal ceremony'
11 September 2015	Mr Farquhar makes the last of several will changes, which means that the Respondent will gain a lifetime interest in his home immediately upon Mr Farquhar's death
26 October 2015	Mr Farquhar is found dead at home
13 March 2017	Respondent arrested
21 March 2019	Respondent pleads guilty to four counts of fraud and two counts of burglary
30 April 2019	Start of the trial at the Crown Court at Oxford
9 August 2019	Respondent convicted of murder of Mr Farquhar by Sweeney J and a jury
30 August 2019	Sweeney J hands down written ruling on reasons for rejecting defence submissions on jury directions
18 October 2019	Respondent sentenced to life imprisonment with a minimum term of 36 years
28 January 2021	Respondent's appeal against conviction and sentence heard by the first Court of Appeal (Fulford LJ VP, Whipple and Fordham JJ)
3 March 2021	Circulation of judgment under embargo
7 March 2021	Amendments to judgment proposed by Respondent
15 March 2021	Respondent makes written application to reopen the appeal
16 March 2021	Application to reopen the appeal refused
18 March 2021	Final judgment of first Court of Appeal handed down, dismissing the appeal against conviction and granting an appeal against sentence (relating to credit for time served)
22 June 2021	Refusal of application to certify a point of law of general public importance and for leave to appeal to the Supreme Court

29 June 2021	Application to reopen the determination of the appeal under Rule 36.15 of the Criminal Procedure Rules
12 October 2021	Application to reopen referred to full court by Dame Victoria Sharp P
27 January 2022	Second Court of Appeal (Dame Victoria Sharp P, Sir Nigel Davis, Sir Stephen Irwin) hears argument on the application to reopen the appeal
16 March 2022	Second Court of Appeal hands down judgment declining to reopen the appeal
5 September 2022	Respondent applies to the Criminal Cases Review Commission
28 August 2025	Criminal Cases Review Commission refers case to Court of Appeal
5 March 2026	Third Court of Appeal (Edis LJ VP, Goose and Butcher JJ) hear appeal against conviction for murder
16 April 2026	Third Court of Appeal hands down judgment allowing the appeal and order certifying a point of law of general public importance and granting leave to appeal to the Supreme Court. Retrial ordered, but stayed pending the outcome of the appeal to the Supreme Court.