

Written for The Observer in 2006

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Nearly ten years ago the writer Bob Woffinden penned this for The Observer. It remains interesting today.

The Observer

By Bob Woffinden

Jonathan King can now prove that he was in New York when a crime for which he served more than three years in prison was allegedly committed in London.

King, 61, the pop music impresario, was tried at the Old Bailey in September 2001 and convicted of six sexual offences that had occurred up to 20 years earlier. He was sentenced to seven years in prison and was released last March, having served half his sentence. He has always protested his innocence.

The most controversial part of Kings trial occurred when the dates of four charges on the indictment were changed. By that stage, all the evidence had been given, so King did not have an opportunity to answer what were effectively new charges. It is only in the months since his release that he has been able to piece together information and evidence to assemble what would have been his courtroom defence.

You can imagine my astonishment when the prosecution was allowed to change the dates, King told the Observer, and even more, when I was not even allowed in say in my own defence, I didnt do it then either.

The prosecution case was that King had invited boys to his west London home, using the excuse of asking their views about pop music, and had then committed assaults ranging from putting his hand on one boys knee to bugging another. King did acknowledge having met four of the five youths, but said that nothing improper had taken place; he always denied having even met the fifth youth.

As the trial unfolded, the defence was able to show that many supposed offences could not have taken place when the prosecution claimed they did.

Several charges had to be dropped and the Crown counsel, David Jeremy, asked to change the periods specified in four of the remaining six counts.

The judge, Mr Justice Paget, acceded to the Crown request.

The indictment was then changed on Monday 24 September 2001 [see attached indictment sheet]. That same day, the judge started his summing-up, and the following day the jurors were sent out to consider their verdict.

In every instance, the revised periods of the alleged offences became more recent, and thus the complainants were older than they had suggested in their testimony.

The change of dates had two effects, explained Arthur Blake, a barrister who has become so concerned about Kings case that he has given advice pro bono. The first is that the complainants may have been given an artificially-enhanced credibility. The men making these allegations testified they would have been 12-13 at the time of the alleged offence. Once the dates were changed, it meant they would have been 14-15. Had the prosecution presented its case on this basis, the jurors may have found their testimony less plausible. As older teenagers, the complainants would not have been as ingenuous about sexual matters as they claimed; and they would also have been more able physically to look after themselves.

The second, and even more important, effect was that Mr King was deprived of his right to put forward a defence in relation to the revised charges.

For example, count 17 (on the original indictment; it later became count 4) related to an offence of attempted buggery. The dates originally covered a period from 1984 to early 1985. The complainant, JH, claimed he had met King in the summer of 1984 when he was 12 or 13. Both he and his sister said that the offence occurred in the summer of 1984, when they regularly watched No Limits, a BBC TV programme which King produced and sometimes appeared on.

However, No Limits did not begin transmission until 30 July 1985. With his account in question, JH told the court that his evidence could be corroborated because his mother had recently found a diary in which she had recorded details of his contact with King. [She] kept a log of every time he phoned me, he testified, every time; the times I went there as well.

No one involved in the case had known of the existence of this diary and, at the request of the judge, the police immediately made a 300-mile round-trip to retrieve it.

In fact, the mothers diary did not bear out the sons original story. Instead, it purported to show that it was on Sunday 8 September the following year, 1985, when her son spent the day with King at his house. This explains why the dates on the charge-sheet were shifted forward some nine months to - a day between the 6th and the 9th of September 1985.

King, who had naturally prepared his defence on the basis that the charge related to 1984, could not recall what he had been doing that September weekend 16 years earlier. Once the trial had finished, he was imprisoned. Even when he was released in March 2005, researching his own history was not straightforward. Many personal effects were in his flat in Manhattan and, under the terms of his parole, he is not able to leave the country. Consequently, he has had to ask friends to go there and bring back cases full of documentation.

It has taken him months to assemble and go through all this. As a result, for the very first time, he has been able to put together the defence he would have presented at trial in 2001.

He has found documents showing that he flew to JFK airport, New York, on 22 August 1985 to prepare a new series of his BBC2 programme, Entertainment USA. (No Limits, about UK pop music, was a different TV programme.)

On Sunday 1 September, he attended a Bruce Springsteen concert at the Giants Stadium in New Jersey with the late Roger Scott, a Capital Radio DJ.

On Friday 6th, he had lunch with his U.S. accountant, and wrote a letter to the president of CBS records, thanking him for the Springsteen tickets.

On Saturday 7th, he took Ursula Kenny, who worked for the BBC in New York, to see the newly-opened film, Back To The Future.

On Sunday the 8th, he went to the US Open Tennis mens final between Ivan Lendl and John McEnroe. While there, he bumped into an old friend, Paul Marshall, an attorney who was admitted to the US Bar in 1952.

Marshall has now provided a witness statement confirming that he recalls meeting King there that day.

On 9th September, King did some shopping before flying from JFK later that day. He arrived back at Heathrow on the morning of Tuesday 10th. He had returned merely to get his visa renewed. He collected the new visa on 11th September, and flew straight back to New York on the 12th. He attended the MTV awards at Radio City music hall on the 13th and began filming the BBC series on 16th September.

There are passport and visa details, bank receipts, American Express slips and other documentation to prove all this. He also wrote about many of these events at the time in his column, Bizarre USA, for the Sun newspaper.

King was convicted of two charges in relation to JH. For the offence of attempted buggery, he was imprisoned from 2001-05. But, when this incident supposedly occurred, he and his victim were on opposite sides of the Atlantic.

A second complainant, SH (whom King says he has never met) claimed that King had approached him in 1987 when he was 12 or 13. He alleged that King had shown him a porn magazine, but said that at the time he was young and naive and sex was not something he thought about. To confirm his testimony, he said that King had given him a photograph of himself with the celebrity, Samantha Fox.

During the trial, the defence proved that the photograph was actually taken on 4 May 1989. Again, this led to a change of dates on the indictment (it was count 19 originally; later, count 6) pushing the date of the alleged offence forward by 28 months.

If the defence had been allowed to cross-examine the witness as a 15-year-old boy instead of a 12-year-old, explained Blake, the evidence that he did not know what a nude magazine was and had not developed sexual interests at that age would have been beyond belief.

These complainants had anchored their case to specific pieces of evidence and King is able to prove that they were wrong. The changes in the indictment, however, may have prejudiced the conduct of his defence and led to an unfair trial.

King, whose appeal was turned down in January 2003, argues that events since have only compounded the unfairness. Had he known the scope of the charges he had to answer, he would have called Ursula Kenny (the sister of the journalist Mary Kenny) as an alibi witness. Sadly, he could no longer do so; she died in 2003.

The contaminating effect of individual charges on the others should not be under-estimated, Blake added. At trial, the

crown counsel had emphasised to the jury; You could use the evidence of one of these young men to support the evidence of the others : each corroborates the account and the truth of the other.

Six weeks after the end of the trial, King faced a second trial with different complainants. This was stopped because of the unreliability of the prosecution witnesses, and King was found not guilty of all charges.

No contemporaneous or spontaneous complaints were ever made against King. In fact, complainants only emerged after police began investigating Chris Denning, the former disc jockey whom King knew and who is currently awaiting trial on sexual offences. As a spin-off from that inquiry, police began what has been termed a trawling investigation into King. The practice of trawling (normally, the police have a crime and need to find suspects; in a trawling investigation, they have a suspect and need to find crimes) has been heavily criticised. It has led both to an inquiry by the home affairs select committee and to the setting-up of the all-party parliamentary group on abuse allegations, chaired by the Labour MP, Claire Curtis-Thomas.

So many of the men who have been accused of historic offences of sexual or physical abuse are totally unable to prove anything about their whereabouts at the time, pointed out Curtis-Thomas, and so are at the complete mercy of the police and the Crown Prosecution Service.

It is believed that those who made allegations against King, irrespective of whether those allegations led to convictions, received significant sums of compensation. A total figure of just over 160,000 pounds has been reported. The Criminal Injuries Compensation Authority says it is their policy - not even to acknowledge the existence of a compensation claim - but adds that - we take allegations of fraud very seriously.

What happened to me was a legal scandal, said King. Five years ago, I would never have imagined that this could have happened to anyone, but I have since become sadly aware of how often the rules can be bent.

Submissions on Kings behalf have been made to the Criminal Cases Review Commission, which has the power to refer a case back to the Court of Appeal. The CCRC is now considering the case as a matter of urgency.

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Bob Woffinden/ January 2006