



## NEWS RELEASE

**The Scottish Criminal Cases Review Commission ('the Commission') has referred the cases of David Sutherland Pugh, Kevin James Kane and Brian James Meighan to the High Court of Justiciary.**

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, the Lord Advocate and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public.

On 31 October 2000 the applicants were all convicted of rape after a trial at the High Court of Justiciary in Edinburgh. The Crown's case included reliance upon evidence of a forensic medical examiner in respect of injuries to the complainer. All the applicants gave evidence that the sexual activity engaged in with the complainer was consensual. After being convicted by the jury the applicants were sentenced to six years' imprisonment and detention respectively.

The applicants appealed against their convictions and appeal was refused by the High Court of Justiciary in June 2002. The applicants applied to the Commission in 2004. The Commission decided not to refer their case to the High Court of Justiciary as it did not consider that the grounds submitted to it met that the test that a miscarriage of justice may have occurred. The applicants subsequently sought to judicially review the Commissions' decisions. The petition for judicial review was dismissed in the Outer House in July 2006.

In April 2019 Mr Pugh applied again to the Commission, relying upon fresh evidence in the form of three expert reports which refuted the opinion evidence given by the forensic medical examiner at trial. Given the grounds to be reviewed were common to the co-accused Brian James Meighan and Kevin James Kane the Commission wrote to them to ask if they wished to make applications to have their convictions reviewed. They both applied in September 2020.

The Commission has decided to refer the applicants' convictions to the High Court of Justiciary. The Commission considers that the fresh evidence now available, which arises from research and developments in medical science since the time of the original conviction, is of a kind and quality which was likely to have been of material assistance to the jury in its consideration of the critical issue of consent and there may have been a miscarriage of justice.

This release is for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons.

## Notes for Editors

The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194 A to L of the Criminal Procedure (Scotland) Act 1995 (as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997) the Commission can refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in the interests of justice that a reference should be made. Once a case is referred to the High Court by the Commission, it will proceed as a normal appeal.

The Commission operates with a Board of 8 Members, one of whom is the Chairperson, a Chief Executive, a Director of Corporate Services, a Head of Casework, 2 Senior Legal Officers, 3 Legal Officers and administrative support staff.

In terms of its disclosure policy, the Commission will disclose the fact that a case has been referred. However, as it operated under strict statutory non-disclosure provisions, the Commission will not disclose any further information about such cases.

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