



## Rufus D'Cruz

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Rufus D'Cruz is an able, experienced leading junior who is instructed to prosecute and defend in serious, complex, multi-handed criminal, fraud, regulatory and international work.

The breadth of his practice both prosecuting and defending, has provided him with extensive experience of representing a wide range of clients, from those on death row to corporate clients and he has dealt with a wide range of witnesses from child and vulnerable witnesses to senior police officers, company directors, senior lawyers and expert witnesses in many specialisations. He is particularly adept and experienced at representing and advising corporate clients in relation to Health and Safety and Environment Agency offences, money laundering matters, production orders relating to special procedure material/LPP and corporate fraud.

Rufus has particular expertise, experience and insight in representing and advising clients based in Russia and the FSU, having studied Russian Language, Literature, History and Social Sciences at university and undertaken seminars and lectures both in the UK, Russia and the FSU over many years. He advised clients on the alternative criminal/regulatory remedies available in commercial litigation and civil fraud cases, including cases involving allegations of unlawful enrichment and share dilution schemes. He brings to this work a unique combination of proficiency in the language, knowledge of the political and economic context and his experience of the interplay between commercial and criminal/regulatory remedies. He is a member of the British-Russian Law Association.

He has considerable experience as an appellate advocate across a range of tribunals including the Divisional Court, the Court of Appeal, the House of Lords, the Privy Council and the US Supreme Court as part of a team of Barristers who prepared an Amicus Brief in a leading case in relation to Guantanamo Bay and fundamental Habeas Corpus principles.

Rufus also has over 20 years experience of domestic and international Human Rights work in UK, the Caribbean, the U.S.A., Russia and the FSU, through his work for NGOs including the Bar Human Rights Committee and Liberty.

Rufus is instructed increasingly to lead in cases and the breadth of his practice, both prosecuting and

defending is a reflection of his ability as an accomplished lawyer and advocate.

## **Serious and Complex Fraud**

Rufus has extensive experience over many years of a wide variety of fraud work. He specialises in complex fraud cases, including cheat, VAT, film tax credit, banking/ e-banking, corporate, trust, insurance and mortgage fraud.

He was appointed in 2017 to the A list of the SFO Specialist Panel of Advocates. He is a grade 4 CPS Prosecutor (the highest grade) and is regularly instructed by both the CPS Special Casework Unit and the Serious Fraud Group. He is also instructed regularly to defend in serious and complex fraud cases. He brings to this work an ability to command and order large volumes of papers, a shrewd sense of strategy, an ability to present often very complex evidence in a lucid way and to distil complex issues of fact and law into structured, articulate and authoritative written and oral submissions. Recent instructions have included the following:

- **R v JP (2018)** Serious and complex joint Met Police NMPCU and HMRC investigation, and Complex Casework Unit prosecution alleging fraud, money laundering, cheat and VAT evasion by trading in and laundering the proceeds of lost and stolen mobile phones through a web of companies and trading names. The case also involved complex expert forensic accounting evidence and the Revenue Margin Scheme.
- **R v Naseer Ahmad (2017)** Fraud by abuse of position of trust as an assistant financial controller of a large hotel over significant time by abusing access to and intimate knowledge of the hotel's computer systems.
- **R v Steward (2016 -2017)** VAT fraud where the complexity of the defendant's varied employment status involved understanding and explaining esoteric and complex issue of VAT law and policy such as the Lennartz principle.
- **R v Balogun & Others (2015-2016)** 2 month fraud and money laundering trial of sophisticated and complex frauds against an educational institution, a large airline, an insurance company, a large international bank and a VAT and benefits fraud.
- **R v Anand & others (2013- 2015)** Prosecuting 5 handed 2 month £6.2m film tax credit and vat fraud trial for the CPS Specialist Fraud Group. In a linked trial an application for a Nolle Prosequi was successfully resisted.
- **R v Howes (2013-2014)** Defended £1.7m family trust and banking fraud, involving various complex legal instruments setting up trusts for the benefit of a mother that were defrauded by her son.
- **R v Matthews & others (2009)** Sophisticated large scale, multi handed mortgage fraud and money laundering scheme.

## Serious Organised Crime

Rufus has extensive expertise and experience prosecuting and defending in serious and organised crime cases including murder, large scale drugs importation and firearms, football related violent disorder, conveying prohibited items into prison and people smuggling and has been appointed to the CPS Serious and Organised Crime Panel as a Grade 4 Prosecutor.

- **R v Parvez & Chin (2016)** Large scale drugs and firearms case, linked to an NCA investigation into the importation of 100kg of heroin. The defendants were involved in a conspiracy to supply class A drugs and B drugs, including 27 kg of heroin at all levels of the drugs market and Parvez was also charged with supplying a firearm and ammunition.
- **R v Elliot Fogel (2016)** Landmark harassment case where the defendant sought to pursue and harass the victim by issuing civil proceedings.
- **R v Graver, Brough & others (2015)** Defended a serious and organised conspiracy to supply class A and B drugs, investigated by the West Yorkshire Serious Crime Squad.
- **R v Lawton & others (2015)** Defended a multi handed cash for crash case prosecuted in a series of trials in Newcastle Crown Court.
- **R v Brahmhatt (2014) EWCA Crim 573** 5 handed, 9 week conspiracy by a solicitor and others to convey drugs and mobile phones into prison during prison legal visits to two clients (see below re Appellate experience).
- **R v Colletta, Caton and others (2010)** Operation Balconi Prosecuted ringleaders in the first 2 of 7 multi-handed trials involving over 80 suspects for serious, large scale football related public disorder between Tottenham and West Ham fans.
- **R v Ogundele and Jolie (2009)** 5 week double handed conspiracy to murder the girlfriend of one co-defendant by attempting to drown her in the Regent's Canal; complex expert mobile phone evidence as well as computer expert evidence.
- **R v Willett and Purcell (2007)** Two brothers remanded for murder arranged for the supply of class A and class B drugs through prison visits
- **R v Y and Y (2007)** Successfully defended a father in a father and son murder trial.
- **R v Ulcay, Garip and Others (2005)** Defended 3 month large scale and sophisticated people smuggling trial, investigated by the National Crime Squad.
- **R v Ramzan, Liqat Ali & others (2003)** Defended large scale 8 handed, 2 month conspiracy to launder over £300m, (at the time the largest money laundering case to be prosecuted).
- **R v Paulsenn (2003)** Defendant on remand for fraud charges prosecuted for soliciting the murder of co-defendant in the fraud by using the untraceable poison of a rare frog.

## Professional Disciplinary & Regulatory

In addition to financial crime and representing corporate clients Rufus has significant experience and expertise in regulatory work, including Health and Safety offences, Environment Agency and BIS

prosecutions and CITES cases and has been appointed to the Specialist Regulatory List of Prosecution Advocates.

- **HSE v Havering B.C. (2016- 2017) [2017] 2 Cr App R (S) 9** The Recorder of Southwark imposed £500,000 fine on the local authority, applying the new sentencing Guideline, in relation to s.4(3) and s.4(2) breaches of the PUWER Regulations 1998 which had resulted in serious injury to an employee. Appealed unsuccessfully on sentence to the Court of Appeal, (see below).
- **HSE v LB Lewisham (2017)** Sub contractor's employee invited on to premises at a depot fell backwards into unguarded work pit, resulting in a conviction under s.3 HSWA 1974.
- **HSE v Forefront Utilities Ltd (2016)** Maidstone CC Pipe laying company prosecuted and found guilty of serious breaches of s.3 HSWA 1974, when a heavy, large length of a gas pipe that was being propped up across a trench collapsed on to a gas pipe layer in the trench causing serious life changing injuries.
- **HSE v MTW and another (2016)** 5 week trial of specialist glass wall installation company working on a large construction site: found guilty of serious breaches of s.3 HSWA 1974 when a worker suffered serious, life changing injuries when a large glass wall panel fell on him as it was being moved.
- **EA v K&N Logistics and Nana Luther (2015 -2016)** Company and its Director prosecuted for breaches of Reg 23 and 55 of the Transfrontier Shipment of Waste Regulations 2007 in relation to the unlawful shipment of WEEE items to Ghana. The sentence was appealed to the Court of Appeal (see below).
- **R v Shepherd & Others (2013)** 2 month trial defending company, Director and another senior corporate officer for running a Waste Transfer Station in breach of the Environmental Permitting Regulations 2010 and section 2 of the Pollution Prevention and Control Act 1999.
- **R v Robartes (2016)** Defendant was prosecuted for being a bankrupt and making a material omission in an Insolvency Act statement. The bankruptcy arose as a result of costs incurred in a complex series of appeals relating to a boundary dispute.
- **R v Aviss (2013)** Defendant prosecuted for being a bankrupt and making a material omission in an Insolvency Act statement. The trial involved complex legal argument about the status of deeds of assignment, the warehousing of claims and vesting of the right to bring actions in relation to assets of a bankrupt in the OR and issues of privilege . The conviction was later appealed unsuccessfully to the Court of Appeal (see below).

## **Judicial Review**

Rufus has also acquired significant expertise and experience over a number of years in Administrative Court cases, often with a criminal dimension.

- **R v City of Westminster Magistrates Court, (ex p. Koshy) (2010)** Review of District Judge's decision not to grant leave to proceed for a private prosecution of perverting the course of

justice arising from complex commercial proceedings.

- **R v Inner London CC (ex p. Linus Gruzdas) (2008)** Review sought of court's decision to extend custody time limit, despite what was argued to be a lack of expedition by the prosecution and good and sufficient cause.
- **R v Snaresbrook CC (ex parte Allwin) [2005] EWHC 742 (Admin)** Review of withdraw bail against the background of recent decision to abolish right of appeal to the High Court on bail decisions. The Divisional Court confirmed the right to seek review of a bail decision in order to enforce the right of Habeas Corpus and to properly guarantee rights under Article 5 of the Convention. The court also set down guidance on the procedure to be followed in such cases.

## Appellate Work

Rufus has had extensive experience of appellate work over the last 20 years, covering a wide range of issues often in significant cases. He has also appeared in the House of Lords (now the Supreme Court). Significant cases include the following:

- **HSE v Havering BC [2017] 2 Cr App R (S) 9** The Recorder of Southwark imposed a £500k fine on the local authority, applying the new sentencing Guideline, in relation to s4(3) and s4(2) breaches of PUWER Regulations 1998 which resulted in serious injury to one of its employees. The Court of Appeal upheld the fine and provided guidance in relation to the "substantial reduction" required under the Guideline, when dealing with a public body.
- **EA v Nana Luther [2016] EWCA Crim 988** Company and director convicted of breaches of Reg 23 and 55 of the Transfrontier Shipment of Waste Regulations 2007 in relation to the unlawful shipment of WEEE items to Ghana. Suspended sentence upheld but director's disqualification removed. Guidance was given about the adjustment to any sentence where the maximum for the instant sentence is less than the maximum in the sentencing guidelines.
- **R v Aviss [2014] EWCA Crim 2210** Conviction for being a bankrupt and making a material omission in an Insolvency Act statement appealed on the basis that the trial judge had failed to give a Brown direction and failed to distinguish between a legally enforceable agreement that would engage the terms of the Insolvency Act and a mere moral obligation which would not. Appeal was dismissed.
- **R v Brahmhatt [2014] EWCA Crim 573** Successfully opposed appeal by a solicitor against conviction for conspiracy to convey drugs and mobile phones prison during prison legal visits on the grounds the trial judge had wrongly refused to permit the appellant to vacate his plea.
- **R v Mohammed Aslam [2005] 1 Cr App R (S) 116** The defence sought to argue abuse arising from the fact the crown commenced confiscation proceedings in relation to some of the charges under the wrong act. The court upheld the Crown's argument that its approach did not amount to an abuse.
- **R v Weir [2001] 1 W.L.R. 421, [2001] 2 Cr. App. R. 9** Murder appeal to the House of Lords examining the effect of the Human Rights Act 1998 on the right of the Crown to appeal out of

time (1 day late). Mr Weir had been convicted on the basis of DNA evidence. However, the DNA profile had been unlawfully retained and the conviction was therefore overturned by the Court of Appeal. The Crown sought leave to appeal to the House of Lords, but did so one day out of time. The Crown argued that refusal of the late application was disproportionate and in breach of their Article 6(1) right to a fair trial and (3) right of access to a court. Their Lordships ruled that the words of the Criminal Appeal Act (1968) were clear and they had no power to extend time. They further found that the European Convention on Human Rights required contracting states to guarantee the rights of their citizens under the convention rather than conferring any rights upon the state itself.

## **International Work/Human Rights**

Rufus also has over 20 years experience of domestic and international Human Rights work in UK, the Caribbean, the U.S.A., Russia and the FSU, through his work for NGOs including the Bar Human Rights Committee and Liberty.

He served as an executive member of the Bar Human Rights Committee for 8 years, for whom he has carried out work in the states of the former Soviet Union, the United States and the Caribbean. The work was mainly focused on compatibility of English, ECHR and international human rights law with the domestic law of particular states. This was applied in trial observations, seminars and in cases (often high-profile) involving extradition and the concept of cruel and unusual punishment. He has experience in death-row work, having represented defendants in the Privy Council and prepared appeals to the Inter American Court of Human Rights. He also served on the Board and the Council of Liberty for 5 years.

Rufus is one of only a handful of barristers who has helped prepare submissions for the US Supreme Court. In 2006, he was part of a team of barristers who submitted an amicus brief on behalf of the Bar Human Rights Committee to the US Supreme Court in relation to the rights of detainees held at Guantánamo Bay Naval Base. In the landmark judgment of [Salim Ahmed Hamdan v Donald H. Rumsfeld et al., 29.06.06., Supreme Court of the United States](#) the Court ruled that the attempt to oust the jurisdiction of the courts and the setting up of military tribunals was unlawful and in breach of both US federal law and international human rights law.

He has lectured on the impact of the Human Rights Act 1998 for Liberty and in relation to the Racial and Religious Hatred Act 2006.

## **Publications, Lectures & Training**

Rufus has lectured on money laundering, confiscation, corporate manslaughter and cartel offences, the impact of the Human Rights Act 1998 and the Racial and Religious Act 2006

## **Education**

BA Hons Russian - Birmingham University (1987-1991)

Diploma in Law (Conversion Course: 1991-1992) PCL