

## Robert Newcombe

Barrister

### Overview

**In 2015 barrister Robert Newcombe secured the following 7 acquittals for clients:**

- Mortgage Fraud
- Mortgage Fraud
- Murder
- Reporting Restrictions Apply to Successful Appeal Against Conviction
- Rape
- False Imprisonment
- GBH with Intent

**Conspiracy to Defraud: Mortgage Fraud, tried at the Central Criminal Court before HHJ Morris QC.**

The prosecution case against the defendant (bank employee of good character) collapsed after 4 weeks of financial expert evidence against this defendant and several others. The allegations included use of false documents to obtain many millions of pounds of mortgage advances.

Dogged pursuit of disclosure requests, combined with a written submission of “No Case” at the end of the prosecution evidence lead to no evidence being offered at that late stage, against Mr Newcombe’s client.

**Fraud Act: Mortgage Fraud - Title Fraud: tried at the Crown Court at Preston before HHJ Knowles QC.**

Mr Newcombe’s FCA approved mortgage broker client (of good character) was charged with making false representations on behalf of clients in order to induce mortgage lenders to believe that a number of residential conveyancing transactions were genuine, when they were not. Properties were “sold” without the real owners knowing.

The defence case that the broker was not a knowing participant was accepted by the jury. Detailed cross-examination of the Crown expert on a large number of conveyancing files assisted the defendant’s case.



Year Of Call:

**1996**

### Practice Areas

Crime

Regulatory

### Memberships

The Honourable Society of Lincoln’s Inn

Association of Regulatory and Disciplinary Lawyers

Criminal Bar Association

UK Environmental Law Association

Royal Forestry Society

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**Murder: Central Criminal Court: tried at the Central Criminal Court before HHJ Hone QC.**

Mr Newcombe was led by Mr Kerim Fuad QC, head of Church Court Chambers, Temple, London. A man was stabbed to death outside Stockwell Underground Station during a public order incident. Two young men were tried for murder and several others were charged with conspiracy to commit violent disorder and GBH with intent.

The evidence against Mr Newcombe's client was: (a) he was seen on CCTV running into the fracas; (b) the deceased's blood was found on his hoody and (c) he was seen on CCTV re-enacting what appeared to be the fatal blow, afterwards.

The jury accepted his case that he was neither a principal or secondary party to murder, and he was acquitted of all charges. He had assisted the police with their inquiries at all stages. The forensic evidence of the blood staining was in fact consistent with that which any bystander at the scene may have been expected to have received, according to the prosecution forensic expert, in cross-examination.

**Offence not Disclosable: Appeal against Conviction: Court of Appeal (Criminal Division):**

Mr Newcombe acted for an Appellant before the Full Court, with leave to appeal, and bail for the Appellant. The nature of the Appeal concerned "Fresh Evidence". The conviction was quashed. A reporting restriction is in place relating to the judgment of the Court.

**Rape: Crown Court at Bradford: tried before HHJ Hatton QC.**

The defendant was acquitted of raping his own son, several years earlier. The jury heard about the defendant's previous conviction for unlawful sexual intercourse with his step-daughter (aged 15 ½ at the time). This conviction's use by the jury was limited to background only and not propensity, after submissions before the learned judge.

**False Imprisonment: Crown Court at Blackfriars: tried before HHJ Richardson.**

The 17 year old defendant (of good character) was acquitted of being party to a joint enterprise where a young woman was raped in the bathroom while this defendant was in the adjacent living room.

**GBH with Intent: Crown Court at Newcastle: tried before Mr Recorder Elliott QC.**

The defendant (businessman of good character) was acquitted of kicking a man on the ground and breaking his jaw, in the early hours outside a nightclub. A photograph had been taken by a witness of the alleged perpetrator on a mobile phone. Others purported to identify the attacker.

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Under cross-examination witnesses agreed that they were drunk at the time. It transpired that they had seen the picture that was taken, prior to making statements describing the assailant. A recorded confession of a third party was also admitted in evidence after legal submissions.

In 2015 Mr Newcombe also represented a Bishop (of previous good character) at trial who was convicted of rapes which occurred many years ago. Four other females also made allegations of indecent and sexual assault, of which he was also convicted. The defendant received a sentence of 25 years imprisonment. In sentencing at the Crown Court at Inner London, HHJ Madge agreed that a determinate sentence was appropriate notwithstanding that he had made a finding that the defendant was a “Dangerous Offender”.

This was due to the defendant’s age (66) and the length of the determinate sentence to be passed. The learned judge referred the case to the Hon. Lowell Goddard’s Independent Inquiry into Child Sexual Abuse, for consideration, given his concerns regarding the previous investigation by the Local Authority where some of the females lived and concerns relating to regulation of Churches.

**Cyber Fraud and Financial Crime**

Robert Newcombe has wide experience in financial crime cases, as well as in multi-million pound cyber frauds – conspiracy to defraud and money laundering. He acts as leading junior counsel or as junior alone in these fraud trials. He has lectured on cyber fraud to solicitors and barristers for CPD: for example in 2015 as part of the Church Court Chambers lecture series: “Cyber Fraud and Cyber Security: Trojan Botnets, Web-Injects and Mules – Law and Practical Case Management”.

Robert Newcombe has a breadth and depth of criminal law experience and is often engaged by clients (often of good character and high standing in the community) specifically because of his ability to master technically complex facts and legal areas.

He acted as leading junior counsel in a nine handed conspiracy to defraud for two months at Southwark Crown Court, where their client was first on the indictment. Issues involved the scope of the conspiracy and guilty pleas of two co-defendants, and whether their bases of plea were admissible.

Robert Newcombe also led another barrister in a successful two month money laundering trial where video-links to witnesses in Jamaica were set up.

Mr Newcombe has acted as junior alone, representing clients for attempted murder and is very familiar with firearms and their legitimate and illegal uses. Antique hammer guns or concealed key-ring guns or fully automatic machine pistols - Robert has a wide array of experience with their deployment. He has lectured to barristers and solicitors on this technical area.

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### **Environmental and Planning Law**

Robert Newcombe is also a specialist in cases prosecuted by the Environment Agency, including all waste and pollution matters and the Environmental regulatory offences. He often acts for businesses and landowners. After a nine week trial in 2013 his landowning client was acquitted of s.33 Environmental Protection Act matters. A strong challenge was made to the use of covert surveillance by the Environment Agency, the use of which is not authorised under the Police Act 1997.

In addition to his Environmental Law expertise, Robert Newcombe also is instructed to defend and prosecute in Planning Enforcement cases under the provisions of section 179 et seq of the Town and Country Planning Acts. These have included Appeals to the Inspector and Statutory Appeals to the High Court and injunctions, as well as jury trials.

His Regulatory work also includes cases prosecuted by the Health & Safety Executive. In 2014 he represented a business owner at Southwark Crown Court who was tried for breaches of the Work at Height Regulations, which resulted in the fatality of an employee.

Robert Newcombe has a real flair for dealing with contentious expert evidence, whether it be financial, FCA related evidence; or medical evidence including brain injuries; or blood spatter, glass shards, ballistics and DNA evidence; or surveyors' reports regarding baselines on land levels; or cell site and telecoms evidence; or engineering or waste management industry expert evidence.

Robert regularly delivers seminars including; Cyber fraud and Cyber Security: Trojan Botnets, Web Injects and Mules (at the University of Northumbria's Centre for Evidence and Criminal Justice Studies)

Firearms: Law and Case Management (CPD for practitioners)

## **Notable Cases**

### **As Leading Junior**

#### **R v S: Southwark Crown Court :**

Leading. Defendant denied conspiracy to manufacture and distribute identity documents on an industrial scale. He was convicted and sentenced to 4 years imprisonment after a two month trial.

#### **R v C: Croydon Crown Court :**

Leading. Defendant was acquitted of laundering cash to Jamaica using money transfer companies after a two month trial.

**Continued. . .**

**R v A:**

Central Criminal Court – Murder: Stabbing: joint enterprise: acquittal.

**R v N:**

Central Criminal Court – defendant acquitted of Murder after man bludgeoned to death on back seat of the car he was driving.

**R v M:**

Central Criminal Court – defendant acquitted of Murder after three-way cut-throat defences.

**R v H:**

Newcastle Crown Court – defendant stabbed father and pleaded guilty to manslaughter on day of trial (provocation); not guilty of Murder.

**R v S:**

Central Criminal Court and Court of Appeal (Criminal Division) – defendant convicted of murder in the course of robbery on elderly victim. Identity and causation in issue, with similar fact robberies. Medical evidence challenged from neuropathologist; pathologist; neurosurgeon; A&E registrar; ambulance crew and GP.

**R v H:**

Central Criminal Court – defendant pleaded guilty to Manslaughter after injecting friend with heroin.

**As Junior Alone**

**R v P:**

Central Criminal Court – defendant acquitted of Attempted Murder after injured party was shot in the head with a .22 shot cartridge fired from a pre-1880 hammer pistol. Both defendants were successful with their defence of accident.

**R v O:**

Central Criminal Court – defendant acquitted of joint enterprise Attempted Murder, but convicted of aggravated burglary and possessing (and discharging) a firearm during a Schedule 1 offence. Co-accused was convicted of attempted murder.

**R v F:**

Central Criminal Court – defendant acquitted of Attempted Murder after stabbing his brother 9 times. The jury accepted the defence of self-defence. The assailant brother was unarmed.

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**R v A:**

Canterbury Crown Court – defendant was acquitted of Conspiracy to Supply Class A drugs. 25kg of drugs in the boot of his car as he entered the UK from a ferry. The two co-accused in the vehicle when it was stopped by Customs were convicted.

**Business Crime**

**R v C:**

Croydon Crown Court – Operation Lath: investigation commenced by FBI in USA and involved a conspiracy to defraud UK banks of tens of millions of pounds. The Zeus Trojan virus had been utilised by a sophisticated criminal syndicate to assist in withdrawing funds from internet accessible bank accounts.

**R v Y:**

Southwark Crown Court – Operation Mandrill: investigation into conspiracy to defraud the Student Loans Company of millions of pounds together with a further conspiracy to defraud UK banks.

Both of the above cases involved the use of Trojan botnets (to acquire compromised sensitive data), web-injects (to phish) and money laundering mules (to cash-out from drop accounts).

**R v C:**

Preston Crown Court – mortgage fraud and money laundering involving fraud on the title of residential properties: Acquittal.

**R v N:**

Central Criminal Court – mortgage fraud relating to over 170 residential properties. Conspiracy to Defraud and Obtaining money transfers by deception: Acquittal.

**R v K:**

Teesside Crown Court - defendant deputy manager of nursing home convicted of similar fact ill-treatment of multiple residents under s. 44 Mental Capacity Act. Expert opinion taken from one of the country's leading professor's of psychology to establish whether a base-line existed after which the nominal complainants lacked capacity.

**R v X:**

Central Criminal Court - defendant found unfit to stand trial due to progressive brain tumour - fraud in breach of trust alleged to be £½ million. Crown Offered No Evidence.

**Continued. . .**

**R v Y:**

Newcastle Crown Court – defendant convicted of sexual activity with a person with a mental disorder impeding choice, where 27 year old complainant had a mental age of 4-5.

Robert Newcombe has been involved with many cases where lack of mental capacity has been in issue. He also has considerable experience in handling cross-examination of vulnerable witnesses.

**Regulatory**

**Environment Agency v J:**

Newcastle Crown Court - defendant acquitted after 9 week trial of offence under s. 33 Environmental Protection Act. Defence consisted of suitability of deposited material and the de minimis principle and statutory defence. Challenge to the policy of permitting trespass by EA officers even though no Police Act 1997 authorisation is possible.

**Environment Agency v A:**

Redbridge Magistrates' Court - defendant pleaded guilty very early in proceedings to numerous charges contrary to the Transfrontier Shipment of Waste Regulations and was sentenced to a non-custodial sentence.

**Environment Agency v V:**

Guildford Crown Court - defendant sentenced to a non-custodial sentence after permitting the deposit of hundreds of tons of controlled waste at a swan sanctuary.

**Health & Safety Executive v H:**

Southwark Crown Court - defendant convicted of breaches of the Work at Height Regulations, resulting in a fatal fall from scaffolding, after failing to attend for his trial (whilst serving a life sentence for murder).

**Civil**

**High Court (Chancery Division) Fraud:**

Lancashire Mortgage Corporation v Ikoku and Onabrakpeya – the signatory to a false mortgage application was advised to submit to questions on his affidavit of means. He was then not charged with any offence.

**Continued. . .**

**B v BBC :**

Article 2 Right to Life Application for emergency injunction (on behalf of alleged murderer while awaiting trial) to prevent footage of murder victim being broadcast. BBC submitted that the Human Rights Act did not apply to its broadcast function, but this was rejected by Collins J: it was arguable that it did for the purposes of the application.

Statutory appeals to High Court and injunctions specifically in relation to the Town & Country Planning Acts.

**Inquests**

Robert Newcombe has achieved definite results acting for families of the bereaved at Inquests and has not listed them here. Further details are available from the Clerks at Church Court Chambers.

- R v Mitchell [2004] EWCA Crim 3206 – Rape conviction, appeal dismissed. (S.41 YJCEA 1999 – temporal provisions)
- R v Kuosmanen [2005] 1 Cr. App. R. (S.) 354 – ID documents sentencing
- R v C [2015] CA(CD) - Reporting Restrictions Apply.