



From the 2016 Supreme Court case of *R v Jogee* in which Lord Neuberger said that the law on joint enterprise had taken 'a wrong turn in 1984'

## DRAWING THE LINE

There are many restrictions on reporting upon events in a courtroom including a ban on sketching in court. Artist and blogger **Isobel Williams** wants to know why



**H**ow do you spell Fawkes?' asked the man next to me in the High Court. A citizen journalist, he was tweeting. Nobody assessed his output for contempt or defamation. But if I'd started drawing, then the sight of my sketchpad, the scratch of my pen and the flash of my varifocals would have attracted attention, a hefty fine and a criminal record.

So it's a bit of a mess and, as ever, the law has to run to catch up with technology. Section 41 of the Criminal Justice Act 1925 makes it contempt of court to photograph or sketch court proceedings. There are two exceptions: the Supreme Court provides footage on [www.supremecourt.uk](http://www.supremecourt.uk) and judgment summaries on YouTube, while lawyers and judges may

be filmed in the Court of Appeal. (In a pilot project, eight crown courts are filming judges pronouncing sentence, but not for broadcast.)

The 1925 law was introduced after newspapers caved in to sensationalism by printing paparazzo courtroom scenes – for example, a poisoner being sentenced to death, looking attentively at the black-capped judge.

Today there are still (some) boundaries of taste, and a duty to conceal identities of juries and vulnerable people. But where is the harm in drawing the passing scene in a courtroom? It can only help to demystify the legal process. And drawings are easier to police than tweets.

Official court artists commissioned by news outlets have to use their trained memories – a cruel and unusual punish-



## Court artists have to use their memories – a cruel and unusual punishment

ment. They take a good look then dash out to concoct an image. The chosen medium is pastel, a source of bafflement to artist Richard Cole. At the Abu Ghraib prison abuse courts martial in Baghdad, where he was the sole accredited artist (and allowed to draw in court), he preferred pencil and watercolour, which had the added drama of still drying in front of the cameras.

I'm not saying that drawing always presents truth. Drawing is autobiographical. The artist intervenes between the subject and you. Events can unfold during what art historians may call the campaign. The light changes. Richard Cole says a drawing can be 'a map of time'. It's the law's attitude to drawing, not the drawing itself, which is the key point here.

As a dilettante live-drawing in several locations, I have the Supreme Court's permission to pursue my stream-of-consciousness tendencies in the public seats, drawing and blogging about what the uninitiated see.

The issue of contempt is always at the back of my mind. Hogarth, Swift and other sharp objects must be left outside. I am not here to caricature, to be snide, or to draw the person next to me who falls asleep. The robust traditions of political sketch-writing and savage cartooning – important indicators of a democracy's health – would be misplaced in court. Subtler tools are available to qualified commentators.

I make occasional forays into memory-drawing. I sat in on the hacking trial in the Old Bailey, sadly missing the day a QC fell off his chair. I stared hard at Rebekah Brooks, trying to fix her features, until she gave me such a filthy look that I had to drop my gaze.

I also observed the so called Naked Rambler's hearings last year – former marine Stephen Gough 'made legal history' (as the Guardian put it) by appearing before leading judges in the nude. Gough is reckoned to have spent eight years of almost continuous imprisonment as a result of his refusal to wear clothes in public.

And I have never felt more frustrated by the ban on drawing than at the Brexit directions hearing in the High Court in July. Sketching aside, there is a public interest argument that – as an antidote to the deceit and fact-allergy surrounding the referendum – the Brexit proceedings should have been filmed, as are all appeals in the Supreme Court. ●

Stephen Gough, aka the Naked Rambler, stands in the dock at Winchester Crown Court behind his brief, Matthew Scott. This picture had to be drawn from memory. Isobel points out what whilst she rendered the dock transparent, 'I forgot that he wears hiking boots'. *R v Gough, Winchester Crown Court, December 2015*