

Putting the lie into unreliable

WHEN does a renowned villain, liar, drug dealer and addict become a witness of truth? When he is giving testimony to the court of appeal, it seems, and his is the only evidence that upholds a conviction in a notoriously grim double murder.

The appeal court showed it has learned no lessons from previous miscarriage of justice cases which rely on dodgy "cell confessions" when it threw out the appeal of Michael Stone (pictured right), serving life for the murders of Dr Lin Russell and her six-year-old daughter Megan.

There was no forensic evidence linking Stone to the crime (the hair, fibres and prints at the murder scene were *not* his), and his conviction depended entirely upon the "cell confession" testimony of one Damien Daley, a convicted robber and drug addict who was already known to have committed perjury in the case.

Nevertheless Lord Justice Rose and Mr Justices Moses and Walker reasoned that Daley's motive in coming forward – his "repugnance at what had happened to the Russell family" – meant that new evidence showing how he had lied about his drug addiction under oath did not devalue his testimony against Stone.

Oddly enough there was evidence of another "cell confession" that the appeal court judges decided *not* to hear. This was a confession made by Daley himself to other inmates, in which he apparently told them that he had made up all the Stone stuff to help police.

Fellow prisoner Paul Gilheaney had claimed that Daley admitted to him and to two others that his story about Stone's confession was "all bullshit". One of those other prisoners confirmed Gilheaney's story to those representing Stone. But when police went to investigate the claims, the situation changed. In a highly unusual move, Gilheaney was arrested by officers for attempting to pervert the course of justice and was bailed until a date after Stone's scheduled appeal. The other inmate then suddenly changed his story and declined to give a statement to police.

Gilheaney, although he had stuck to his account about Daley's admission through four separate interviews, finally decided he no longer wanted to "help" and Stone's lawyers had to ask the appeal judges to subpoena him. This they refused to do, having decided that Gilheaney's evidence could not be relied upon because he had been wrong about the date when he claimed Daley had "confessed".

In fact police established that the four named inmates were not together on the day Gilheaney said that their conversation had been triggered by a TV broadcast. However, they were together on four other days at around the same time – but this did not impress the appeal judges.

While Daley stood to benefit from his cell-confession testimony against Stone (charges of GBH and arson were subsequently dropped against him, although police claimed it was because the evidence collapsed), there was never going to be any potential gain for Gilheaney.

But does the judges' reasoning that Daley's conscience makes him a reliable witness stack up?

The judges decided that Stone's "confession", relayed via drainpipes, was so detailed it had to have come from the killer. In particular, it included material about an identification parade that only Stone could have known about. Yet there was a story in the *Daily Mirror* about an ID parade; and Stone's lawyers maintain Daley said nothing he could not have pieced together over the 48 hours during which time he clearly spoke to numerous people.

The appeal judges also relied on the discovery of a bloodstained bootlace, used to tie up one of

the girls. It was argued that Stone, as a drug addict, used to use bootlaces as a tourniquet. But that ignores the fact that saliva traces on the boot lace (addicts usually hold the lace in their mouth while injecting themselves) were *not* linked to Stone.

In fact the boot lace no more links Stone to the killings than it does another man with mental health problems who was in the area at the time and who had a history of attacking women and children.

According to one health worker at his hostel, this man went missing for 24 hours at the time of the killing and returned agitated – and without his shoelaces. Police have ruled him out, however.

Stone is no innocent. He has a string of convictions, including one dating back 23 years for attacking a man with a hammer during a robbery. But in itself does not make him guilty of the Russell murders so many years later.

When the appeal failed Stone's QC, Edward Fitzgerald, asked for the matter to go to the Lords on a point of public interest. The appeal judges refused. Though the Stone family believes "innocence has a way of coming out", in the case of the four men wrongly jailed for the murder of newspaper boy Carl Bridgewater, it took the appeal court 10 years to realise that damning "cell confession" testimony was thoroughly unreliable.



PRISONS

Inquiry scrubbed



ONE of David Blunkett's last acts before resigning as home secretary was to refuse a public inquiry into events at Wormwood Scrubs prison where, for at least eight years, staff subjected inmates to beatings, assaults, death threats and mock hangings.

Writing to lawyers representing many of the prisoners, who were assaulted at the west London jail between 1992 and 1999, Mr Blunkett concluded that while events had been "wholly unacceptable", lessons had been learned and "there would be no useful purpose served by a public inquiry".

Mr Blunkett did agree, however, to release some reports of the internal investigations into the jail. So far the home office has released just one – which serves only to underline why there *should* be a full public inquiry.

Drawn up in 1998 at the height of the troubles, it not only found that abuse was widespread in the jail and not confined to the segregation block, but it identified serious and prolonged management failures that allowed the brutal regime to thrive. Worse, it revealed that even after the problems were drawn to the attention of those who headed the prison service, the abuse was allowed to continue for another year.

One of the more serious incidents was in July 1998 – three months after the damning report was sent to Richard Tilt, then in charge of the prison service, and Tony Pearson, director of prison security. It involved an inmate who was beaten on three consecutive days (his teeth were knocked out in the first attack) as a "punishment" for offering a witness statement in support of another inmate who had been subjected to mock executions.

Among a catalogue of failures the report revealed that of 23 investigations into serious allegations of assault made against staff, only three were "completed to a satisfactory standard".