

Clare Montgomery QC

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matrix
chambers

Registered name on the Bar Standards Board Register: Clare Patricia Montgomery QC
VAT Number: 365611845

Year of call 1980 Silk 1996



Main Areas of Practice

Crime and criminal due process
Regulatory and health and safety
Commercial fraud

Administrative law
Extradition and mutual assistance
International criminal & regulatory law

Clare is a highly respected specialist in criminal, regulatory and fraud law, perhaps best known for her work on legally and factually complex cases. Formerly a member of the Attorney General's Panel of Counsel, Clare has also been concerned in a wide range of public law and due process cases both for and against the Government. For the past decade Clare has specialised in dealing with the most demanding and difficult legal cases. She has featured in the starred category of QC's recommended for crime and fraud for the whole of that period.

Pre litigation strategy

Clare is widely valued as a pre litigation adviser, providing strategic guidance and advice to companies and individuals caught up in regulatory and criminal investigations, particularly those with an international dimension and where both civil and criminal law problems are present. For example she acted successfully for GSK in dealing with an investigation by the MHRA into its clinical trials procedures involving questions of EU and domestic regulation. She acted on behalf of BAE throughout the long running investigation into its business by the SFO and negotiated the ground breaking settlement that ended the investigation. She is also sought out by prosecuting authorities to advise and represent them in politically sensitive or legally complex cases, most recently advising the DPP in connection with his powers to control private prosecutions and the safety of the convictions of climate change protestors.

Range of skills

Clare is able to take a case through from investigation to trial and appeal as with the high profile investigation and prosecution of the Metropolitan Police Commissioner for health and safety offences arising out of the death of Jean Charles de Menezes. She is now instructed by the UK Government in connection with related proceedings in Strasbourg. She was instructed to defend in the British Airways/Virgin cartel prosecution where she was instrumental in setting the strategy which saw her client avoid prosecution in the US and secure an acquittal in the UK.

Trial work - Criminal

Clare represents a range of prosecuting authorities, such as the FSA and SFO as well as acting for private clients and corporations. She was the lead advocate for the former chief executive of Railtrack charged with health and safety offences in relation to the deaths in the Hatfield rail crash. She has appeared in many of the leading SFO trials of the last 20 years. She is joint editor (with Professor David Ormerod) of *Fraud (Criminal Law and Procedure)* (OUP, 2008).

Trial work - Civil

Since taking silk in 1996, Clare has also come to be valued as a trial advocate in complex civil disputes. She appeared as trial counsel in the Bermuda Fire & Marine litigation and in the BCCI misfeasance action against the Bank of England. She continues to work on civil fraud and arbitration cases both as an advocate and an adviser. She is valued for her ability to work in a team, her attention to detail and her skill as a cross examiner.

Notable Cases

Cross border challenges

Clare has had extensive experience in extradition and international mutual legal assistance, representing both governments and individuals. She has also worked with lawyers outside the UK on national and international criminal cases assisting with strategy and legal challenges. She represented Augusto Pinochet in the House of Lords. She advised the former Prime Minister of Thailand after he was ousted in a military coup. She has successfully represented a string of prominent Russian citizens who have been the focus of requests from the Russian Federation. She leads the prosecution team in the Swedish request for the extradition of the founder of Wikileaks and acts for Shrien Dewani in relation to allegation made against him in South Africa. She is a co-author of *The Law of Extradition and Mutual Assistance* (2nd Ed published by OUP, 2007). She regularly advises governments on crimes of universal jurisdiction.

Appeal work

Clare has also developed a substantial and varied appellate practice. She represented the Bar when the issue of barrister's immunity arose in the House of Lords; she appeared for Sally Clark when Clark was finally cleared of murdering her two sons by the Court of Appeal in 2003 and appeared for Sion Jenkins when his conviction was quashed in 2004. She was brought in to lead the argument for the defence when the Court of Appeal confirmed the dismissal of the pharmaceuticals case brought by the SFO in 2008. In 2011 following a successful judicial review of the CCRC, she acted for Kenneth Noye in the Court of Appeal. She has appeared in courts of appeal in Brunei, Bermuda and Hong Kong. In the Hong Kong Court of Final Appeal she acted for Mo Yuk Ping, in the leading case on conspiracy to defraud, and in *HKSAR v Andrew Lam* she secured the acquittal of a solicitor charged with perverting the course of justice. Throughout her time in practice Clare has been closely connected with the development of human right arguments in Strasbourg, from Soering through to Armani da Silva in 2011.

Selected criminal cases

[Hau Tau Ying v HKSAR \[2011\] HKCU 470](#) Court of Final Appeal decision on prosecution change of case and substituting verdicts

[R v Seager \[2010\] 1 WLR 815](#) Leading case on piercing the corporate veil in confiscation proceedings

[R v George and others \[2010\] 1 WLR 2676](#) BA/Virgin cartel case

[HKSAR v Egan \(2010\) 13 HKCFAR 314](#) Secured acquittal of a solicitor accused of perverting the course of justice

[R v GG Plc \(No. 2\) \[2008\] EWCA Crim 3061](#) Case confirming the dismissal of the pharmaceutical cartel case

[HKSAR v. Mo Yuk Ping \(2007\) 10 HKCFAR 386](#) Case in the Court of Final Appeal in relation to the constitutionality of the offence of conspiracy to defraud

[Gilbert v The Queen \[2006\] UKPC 15](#) Representing a former government officer in the Privy Council

[R v Smith and another \[2005\] UKHL 12, \[2005\] 2 All ER 29](#) The case explored the sanctity of jury deliberations and led to the guilty verdicts being quashed

[Attorney General's Reference No 2 of 1988 \[2000\] QB 412](#) Decision dealing with the width of the powers of Companies Act inspectors

[R v Gray \[1995\] 2 Cr App R 100](#) For the broker alleged to be at the heart of the so called Morgan Grenfell insider

Notable Cases

dealing ring. The charges were either dismissed at the close of the prosecution case or quashed on appeal

[Seaboard Offshore v Secretary of State \[1994\] 1 Lloyds Rep 589](#) Leading case on the corporate liability for the operation of an unsafe ship

[R v Kevin Maxwell](#) Appeared at trial for Kevin Maxwell

[Parnes \(the Guinness trial\)](#) Clare represented Anthony Parnes at trial and on appeal. She advised on the successful application to the European Court of Human Rights

Extradition cases

[Deuss v Attorney General of Bermuda \[2101\] 1 All ER 1059](#) Leading Privy Council decision on power to issue provisional warrant

[McKinnon v The Government of the United States of America \[2008\] UKHL 59](#) A case concerned with the propriety of plea bargaining in the context of extradition

[Dabas v High Court of Justice, Madrid \[2007\] 2 AC 31](#) The leading case on the European Arrest Warrant

[R \(on the application of Rottman\) v Commissioner of Police of the Metropolis \[2002\] 2 AC 545](#) Represented Rottman on his challenge to the legality of search and seizure powers

[R \(on the application of Kashamu\) v Governor of Brixton Prison \(No 2\) \[2002\] QB 887](#) The leading case on the duty in extradition to apply Article 5.4

[R v Bow Street Magistrate ex parte Pinochet \(Nos 1-3\) \[2000\] AC 61](#) Clare Montgomery led the presentation of the case before the House of Lords in all three appeal hearings

[R v Secretary of State for the Home Department ex parte Gilmore \[1999\] QB 611](#) Clare Montgomery represented Gilmore in his successful challenge to extradition to the United States

[Rey v Government of Switzerland \[1999\] AC 54](#) An extradition case that was prepared and successfully prosecuted in the Bahamas on behalf of the Government of Switzerland

[R v Governor of Pentonville Prison ex parte Osman \[1987-1992\]](#) Appeared on behalf of the Home Secretary throughout this litigation which resulted in Osman's extradition to Hong Kong

[Government of the United States of America v Bowe \[1990\] AC 500](#) A case that was prepared for extradition and successfully prosecuted in the Bahamas and the United States on behalf of the US Government

Administrative / Public law cases

[R \(on the application of Gujra\) v Crown Prosecution Service \[2011\] EWHC 472 \(Admin\)](#) Review of the power of the DPP to discontinue a private prosecution

[R \(Wellington\) v Secretary of State \[2009\] 1 AC 325](#) Controversial decision on scope of Article 3 and whole life imprisonment

[R v Asfaw \[2008\] AC 1061](#) The leading case on the meaning of article 31 of the Refugee Convention

[Yukos Oil Co v Financial Services Authority London Stock Exchange \[2006\] EWHC Admin 2044](#) The challenge to the floatation of Russian oil group Rosneft on the London Stock Exchange incorporated elements of public law, commercial law and criminal law

Notable Cases

[R \(on the application of Abacha\) v Secretary of State for the Home Department \[2001\] EWHC Admin 787](#) Challenge to the mutual assistance request made by the Government of Nigeria

[Bright v Central Criminal Court \[2001\] 1 WLR 662](#) Appeared for the police in this challenge to the use of special procedure powers against newspapers

[R v Southwark Crown Court ex parte Bowles \[1998\] AC 641](#) Instructed as amicus in the House of Lords in relation to the powers in support of confiscation

[R v Commissioner of Police ex parte Bennett \[1995\] QB 313](#) Represented the Lord Advocate in determining the effect of the Act of Union

[R v Hendon Justices ex parte DPP \[1994\] QB 167](#) The power of the Administrative Court to quash an acquittal

[Holden & Co v The Crown Prosecution Service \(No 2\) \[1994\] 1 AC 22](#) Represented the Lord Chancellor in this challenge to the width of third party costs orders

Civil cases

[SOCA v Perry \[2010\] 1 WLR 910](#) Case concerning territorial jurisdiction in a civil recovery action

[Kostic v The Conservative Party Association \[2007\] EWHC 2298 \(Ch\)](#) Probate action where testamentary capacity was in issue

[Three Rivers DC v Governor and Company of the Bank of England \[Various reports 2003-2005\]](#) Acted for the liquidators of Bank of Credit and Commerce International in its misfeasance action against the Bank of England

[Hall v Simons \[2002\] AC 615](#) Represented the Bar in relation to Barristers immunity

[Bolkiah \(HRH Prince Jefri\) and Others v State of Brunei Darussalam and Brunei Investment Agency \(No 2\) and other appeals - \[2001\] 2 LRC 134](#) Appeared for Prince Jefri in a challenge to the independence of the Brunei judiciary

[Bermuda Fire & Marine litigation \[1999-2000\]](#) Led for the Claimants in this trial in the Bermuda Supreme Court that dealt with the circumstances of the liquidation of a leading insurance company

What others say:

Chambers and Partners 2012 describes Clare Montgomery QC as "a fantastic advocate" who is a "ball of fire" and an "unstoppable force." "Formidable and determined," she "pays extreme attention to detail" when handling cases." A "Stellar silk", [she] has for years commanded the unquestioned respect of the market. Brilliant at everything she does, whether it is handling crime, fraud or extradition matters, she is "a must-have for those who crave the elite." "One of the best in the business when it comes to relating to judges," she recently acted in the extradition case of Julian Assange." She is described as ranking "in anybody's top ten of the best silks at the Bar, regardless of practice area."

Ranked as a Leading Silk in Fraud (Crime) in Legal 500 2011/12, Clare is described as "exceptionally good" and "one of the best criminal silks around".

Chambers and Partners 2011 rates Clare as a 'Star Individual' overall, and a leading Silk in Crime, Extradition and Fraud. Described as "scarily bright", she is also praised as a "formidable opponent who's as sharp as a knife" and "so down to earth and sensible". Commentators conclude that "she is arguably the best barrister at the Criminal Bar. She's ludicrously intelligent, quick, hard-working, and phenomenal in court." Another declared: "Her reputation has been well earned; she's just fantastic at what she does."

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Legal 500 2010/11 describes Clare Montgomery QC as "excellent and now has no equal", concluding that "she continues to justify and build upon her stellar reputation".

Chambers and Partners 2010 describes Clare as "an absolute star of the profession." One of Matrix's biggest names, "she has the complete rainbow of skills and can seemingly do anything."

Named as one of the contenders for the Lawyer's barrister of the year in 1999 and 2008, Clare was named Crime Silk of the Year in the 2005 and 2011 Chambers & Partners Bar Awards. She has been a top ranking Crime Silk in both the Legal 500 and Chambers & Partners directories for many years. 'Set against other rising criminal talent...one barrister steals the superlatives. "She is outstandingly clever," says her former pupil master, Stephen Batten, QC. "The brightest of them all," confirms Ed Lawson, QC. "She has a beautiful mind," adds Alex Cameron, QC. (See the Times 28 February 2006)

The Legal 500 2009/10 recommends Clare Montgomery QC as a leading Silk in Crime; Fraud Crime, "one of the most outstanding advocates at the Bar"; and Human Rights and Civil Liberties.

Chambers and Partners 2009 recommends Clare Montgomery QC as a starred Silk in Crime "eclipses her rivals...the very epitome of a modern silk" and Fraud: Crime "achieve miraculous results for her clients". Clare is recommended as a leading Silk in Fraud: Civil "one of the best" and in Civil Liberties "one of the greats of her generation".

The Legal 500 2008/9 recommends Clare Montgomery QC as a leading Silk in Banking and finance 'clearly has the trust and confidence of the bench', Crime 'quite brilliant ...phenomenal advocate' Fraud Crime 'In a league of her own' and Human Rights and Civil Liberties.

Publications:

Editor with Professor David Ormerod of *Fraud: Criminal Law and Procedure* (OUP 2008)

Practitioner editor of chapter on commerce, financial markets and insolvency in *Archbold Criminal Pleading Evidence & Practice* (since 1993)

Co-authored *The Law of Extradition and Mutual Assistance* 2nd Ed (OUP 2007)

'Forensic science in the trial of Sally Clark' (2004) article in Med Sci LJ

Other information

Senior Award from Gray's Inn (1980)

Assistant Recorder (1999)

Recorder (2000)

Master of the Bench (Gray's Inn) 2002

Deputy High Court Judge (2003)

Court of Appeal Jersey and Guernsey (2007)