



CLARE MONTGOMERY QC

MAIN AREAS OF PRACTICE:

Arbitration
Commercial and Corporate Law
Competition and Regulation
Crime and Regulatory
CSR, Investigations and Audits
Extradition and Mutual Assistance
Fraud, Financial and Business
Crime
Human Rights Law
Inquests and Inquiries
Public Law
Sports Law
Tax Law

Called to the Bar 1980
Appointed to Silk 1996

CONTACT:

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Clare is a highly respected specialist in criminal, regulatory and fraud law, perhaps best known for her work on legally and factually complex cases. 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. Formerly a member of the Attorney General's Panel, Clare has also been concerned in a wide range of public law and due process cases both for and against the Government. Clare has been thrice named Crime Silk of the Year; she has also twice been nominated as the Lawyer's barrister of the year. Clare has been admitted in Northern Ireland and specially admitted in the courts of Antigua, the Bahamas, Bermuda, Brunei, Hong Kong, Mauritius and the Turks and Caicos Islands.

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. She is presently advising a number of FTSE 100 companies in dealing with current SFO enquiries, most involving complex cross border issues. Completed advice has enabled GSK to answer concerns raised by the MHRA in relation to clinical trials procedures by reference to EU and domestic regulation. She acted on behalf of BAE throughout the long running SFO investigation negotiating the ground breaking settlement that ended the investigation. She recently represented Tesco in connection with its completed DPA. She is also sought out by prosecuting authorities to advise and represent them in politically sensitive or legally complex cases.

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 arising out of the death of Jean Charles de Menezes and her successful defence of the UK Government in the related proceedings in Strasbourg. She defended in the British Airways/Virgin cartel prosecution

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DIRECTORIES' RECOMMENDATIONS

Ranked in 2019 by Chambers & Partners, Legal 500, Who's Who Legal and Best Lawyers in:

Stars of the bar: Lauded for her "firm, clear and practical advice," Clare Montgomery QC also receives praise for having "an exceptional ability to spot issues" and for her "brilliant strategic nous." A star individual in both our general crime and financial crime rankings, Montgomery's skill and expertise in criminal defence is roundly praised by her peers, of whom one says "she deserves every accolade." Also recognised as an "international crime specialist" she frequently handles cases with complex jurisdictional elements, including extradition requests and POCA proceedings. "Clare is legendary for extradition work," one peer remarks, while an instructing solicitor credits her with "unrivalled expertise in cross-border criminal and regulatory enforcement." She also demonstrates a ready command of the interplay between civil and criminal law, handling fraud and public law cases and providing impeccable advice on issues relating to civil liberties and human rights. Sources are full of praise for her advocacy, describing her as "incredible to watch" and "fearless in court," while also commending her as a silk with "an unerring eye for the detail and a reassuring client manner."

Financial Crime (including Corporates): "The go-to person when there's a significant crisis situation." & "She is an exceptionally talented advocate who is hard-working, excellent with clients and a brilliant team leader. Her advice is clear and her approach dynamic. At trial she is very focused and excellent at looking after clients dealing with the stresses and strains of an extensive trial."

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 FCA and SFO as well as acting for private clients and corporations. She was the advocate for the former chief executive of Railtrack charged 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 has represented senior politicians and business leaders in connection with allegations of conflict of interest or corruption. She is joint editor (with Professor David Ormerod and Anthony Shaw QC) of *Fraud (Criminal Law and Procedure)* (OUP, 2013).

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 instructed by News Group Newspapers in the Mobile Telephone Voicemail Interception litigation. She is valued for her ability to work in a team, her attention to detail and her skill as a cross examiner.

CROSS BORDER CHALLENGES

Clare has had extensive experience in extradition, international mutual legal assistance and international criminal law, representing both governments and individuals. She works 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 led the prosecution team in relation to the extradition of the founder of Wikileaks and acted for Vijay Mallya in relation to allegations made against him in India. She is a co-author of *The Law of Extradition and Mutual Assistance* (3rd Ed published by OUP, 2012). She regularly advises governments on crimes of universal jurisdiction. She is also involved in public law cases concerned with investigative orders. She recently represented respondents in the first successful application to discharge Unexplained Wealth Orders.

APPEAL WORK

Clare has also developed a substantial and varied appellate practice. She represented the Bar when the issue of barristers' 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 2018 she appeared in the UKSC in relation to election expenses charges. 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, in HKSAR v Andrew Lam securing the acquittal of a solicitor charged with perverting the course of justice. She led the successful appeal to Hong Kong Court of Final Appeal on behalf of Donald Tsang, the former Chief Executive of the HKSAR. She represented the Prime Minister of Mauritius, Pravind Jugnauth, when he was cleared of conflict of interest allegations by the Privy Council in 2019. Throughout her time in practice Clare has been closely connected with the development of human right arguments in Strasbourg, from Soering through to Yukos related cases. She represented the Government of Cyprus before the Grand Chamber in *Güzelyurtlu and others v Cyprus and Turkey*.

SELECTED CRIMINAL CASES

Güzelyurtlu & Ors v Cyprus & Turkey [2019] ECHR 36925/07 The ECtHR found Cyprus did all expected of it in a murder investigation and so did not violate ECHR, art 2.

DPP v Jugnauth [2019] UKPC 8 Case on conflict of interest.

R v Mackinlay [2019] AC 387 Leading decision on electoral offences

HKSAR v Donald Tsang Yam-kuen [2019] HKCFA 24 Case on common law offence of misconduct

HKSAR v Hui Rafael Cases on common law offence of misconduct (2017) 20 HKCFAR 264

R. (on the application of Duggan) v Assistant Deputy Coroner for the Northern District of Greater London [2017] 1 WLR 2199

Da Silva v United Kingdom (2016) 63 EHRR 12

HKSAR v Pang Hung Fai (2014) 17 HKCFAR 778 Review of the mental element in money laundering

Government of the Republic of South Africa v Dewani [2013] 1 WLR 82

Review of the relevance of mental condition in the context of extradition

HKSAR v Wong Chi Wai [2013] 16 HKCFAR 539 Court of Final Appeal decision on ambit of the offence of perverting the course of justice

ICAC v A FACC [2013] 1 HKC 334 Court of Final Appeal decision on the abolition of the right to silence under the Bribery Ordinance

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] 1 WLR 2108 Representing a former government officer in the Privy Council

R v Smith and another [2005] 1 WLR 704 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

EXTRADITION CASES

Government of India v Mallya [2019] EWHC 1849 (Admin)
Goluchowski v Poland [2016] 1 WLR 2665
Assange v Swedish Prosecuting Authority [2012] 2 AC 471 Power of a prosecutor to issue EAW
Deuss v Attorney General of Bermuda [2010] 1 All ER 1059 Leading decision on power to issue provisional warrant
McKinnon v The Government of the United States of America [2008] 1 WLR 1739 The propriety of plea bargaining in the context of extradition
R (on the application of Rottman) v Commissioner of Police of the Metropolis [2002] 2 AC 545 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

ADMINISTRATIVE/PUBLIC LAW CASES

R (oao Belhaj) v DPP [2019] AC 593 Meaning of criminal cause or matter
Ismail v Secretary of State for the Home Department [2016] 1 WLR 2814
R (oao Collins) v Secretary for Justice [2016] Q.B. 862
R (oao Lord Carlile and ors) v SSHD [2013] EWCA Civ 199 Challenge to a controversial exclusion decision
R (on the application of Gujra) v Crown Prosecution Service [2013] 1 AC 484 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 meaning of article 31 of the Refugee Convention
Yukos Oil Co v Financial Services Authority London Stock Exchange [2006] EWHC Admin 2044 A challenge to the floatation of Russian oil group Rosneft on the London Stock Exchange
Bright v Central Criminal Court [2001] 1 WLR 662 The use of special procedure powers against newspapers

CIVIL CASES

Various Claimants v News Group Newspapers Limited (ongoing)
Hargreaves v Revenue and Customs Commissioners [2016] 1 WLR 2981
Wiese v UK Border Agency [2012] EWHC 2549 (Admin) Securing the return of a large amount of cash seized at the UK border
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 [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

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Bolkiah (HRH Prince Jefri) and Others v State of Brunei Darussalam and Brunei Investment Agency (No 2) and other appeals - [2001] 2 LRC 134
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

PUBLICATIONS

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

Co-authored *The Law of Extradition and Mutual Assistance 3rd Ed* (OUP 2013)

'*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)

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