



PUBLIC PETITION NO.

PE01562

Name of petitioner

Alan McLean

Petition title

Perverse Acquittal

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to consider the need for trial judges have the power to refer jury verdicts to the High Court of Judiciary in the event the judge believes the verdict to be perverse (e.g. Irrational, unsupported, unbelievable).

Action taken to resolve issues of concern before submitting the petition

- I attended a meeting with Margaret Mitchell MSP to discuss the proposal of a petition to make an amendment within the Criminal Bill Act (Scotland) Perverse Acquittal & Knife Crime at the Scottish Parliament last year where the meeting was very positive and supportive.
- Lord Advocate (Frank Mulholland QC) was our VIP guest at our Anti Knife Crime seminar at the Kingswood Hotel on the 3rd December 2014. The Perverse Acquittal petition and flow chart was presented at the seminar.
- I have also spoken to Justice after Acquittal on this issue and it is fully supportive for a change within the current Criminal Justice Bill.

Petition background information

In the trial regarding the death of our son, Barry McLean, there were originally three charges against the accused. These were: Murder; Assault; and Threatening behaviour with an offensive weapon.

During the proceedings charges two and three were dissolved allowing the jury to concentrate on charge one which was murder. The jury failed to identify that murder or even culpable homicide had been committed and returned with an acquittal which allowed the accused to walk free from the High Court. The current system failed and allowed two charges to be dissolved without any safety precautions being in place.

The Judge operates on the basis of a "Reasonable Doubt" about the jury's verdict, the Perverse Acquittal provides a safety net for the Judge, although the judge's word is final on the law and the jury's word is final on the facts. This process would only be

used by the judge when he/she thinks that the verdict is not just simply wrong, but actually perverse and has the power to intervene and forward the case to the High Court of Judiciary.

The Perverse Acquittal flow chart (published on the petition's page on the website) provides a safety net and clear route to be taken when the judge believes that the verdict delivered by the jury is fundamentally wrong, for example: irrational decision which is completely unsupported due to the amount of evidence provided by the Crown Prosecution Service and which has not included in the jury's decision of the verdict to be delivered to the court. Sometimes the jury do not fully assess the information provided over the course of the trial, or there may be too much information which may cause confusion to jury member/s and lead to the wrong verdict being delivered to the court.

A flow chart showing the suggested process for dealing with pervers acquittals will be provided alongside this petition. The flow chart is easy to follow as it clearly indicates a clear route to be taken for the following:

- Guilty – Sentenced
- Not Guilty – a Judge may decide that the acquittal is perverse
- The verdict could then be referred to High Court of Judiciary for review
- If the High Court of Judiciary agrees with the referral – Retrial
- If the High Court of Judiciary does not agree with referral, the verdict stands.

The Justice & Social Affairs Research Unit has confirmed that both the Scottish Government and the Crown Office are not aware of any work which has been done in relation to the issue of Perverse Acquittal.

The Perverse Acquittal information and flow chart has been forwarded to the following persons: Lord Advocate (Frank Mulholland QC), Justice Committee (Margaret Mitchell).

Unique web address

<http://www.scottish.parliament.uk/GettingInvolved/Petitions/PE01562>

Related information for petition

Do you wish your petition to be hosted on the Parliament's website to collect signatures online?

YES

How many signatures have you collected so far?

1

Closing date for collecting signatures online

27 / 03 / 2015

Comments to stimulate online discussion

- Should Judges have the power to provide additional guidance to jury's who are undecided?
- Do we have enough control measures within the current Justice system?
- We require equal rights and continuity for victims and offenders within the current Justice system, do you think that the Perverse Acquittal will provide support for victims?