# In the prosecutor's chair

*Chuck Nduka-Eze recalls his days at Bow Street*

Much has been written about the problems of the CPS and its failings as a prosecuting authority and probably very little is known about the drama and entertainment aspect of being a prosecutor in central London. As I walk down memory lane, certain incidents and cases stick to mind both in terms of the impression they made on me at the time and the interest some of them generated with the public. The job of a prosecutor in England is demanding and requires a good deal of maturity and flair to carry it with grace. I shall refer to some cases and experiences that I had in my time with the CPS in order to share with you something of the unique privilege that could be afforded a young lawyer charged with this responsibility.

One of my early encounters with sensitive cases relates to the occasion when a group of feminist protesters scaled the wall of Buckinham Palace and insisted on an audience with the Queen. They had managed to gain access into the palace before security got their act together to stop them. Officers responsible for the Palace were, understandably, angrily excited about the breach of security and the embarrassment that flowed from it and were therefore keen to ensure that these women were dealt with on a serious basis. These ladies were apparently protesting about nuclear tests somewhere in South America and were looking to draw some attention to the issue. I therefore considered their action in that light and did not share the police's view of the evil intentions of these women in relation to the Queen. The senior officer who attended court requested that the women should be remanded in custody and I put him on the witness stand to justify it. Suffice it to say that he came away agreeing with me that conditional bail would be appropriate. The case was a gift to the tabloid press. In due course they were all dealt with by way of a modest fine.

The most interesting case that I handled was the dead sheep case—Damien Hirst's exhibit at the Serpentine Gallery. It raised some interesting and compelling questions concerning appropriate response to unconventional works of art and the integrity of art galleries. On another level it provided trivial entertainment as a *cause célèbre* rather like the age-old dispute between Whistler and Ruskin in 1878. The defendant, Mr Bridger, was a most intelligent person to be up against and had a lot to say about the state of contemporary art. It was, however, important that his attractive arguments did not succeed because a terrible precedent would have been set, entitling anyone with a grudge to take matters into their hands—consequently no gallery would be safe from the hostile attentions of objectors. His counsel's submission that his action enhanced the commercial value of the work, although true, missed the point that it was not the consequence intended by the defendant when he damaged the exhibit. It ended well for the protagonists: Bridger had his public platform to speak on a subject of great interest to him and Hirst's reputation as a controversialist was enriched.

One of the cases that gave me some trouble in an effort to ensure that the right balance was struck between competing considerations was the case of a sportsman charged with an offence of dishonesty that could substantially have damaged his career and reputation. It was evident that he had been drinking heavily on the evening in question and the circumstances of such events by sports men sometimes give rise to loutish behaviour. I was not persuaded that he intended to behave in the manner implied by the charge but the officers felt that the question of what he was up to should be left to the court. Although this argument on its own was perfectly proper, one was, however, conscious of the enormous damage that would be caused to the defendant if the case proceeded as one of theft within the full glare of the media. Even if he were acquitted by the jury, the publicity engendered by his trial would be highly prejudicial and one was also mindful of the triviality of the issue and the likely penalty. I explained my position to the officers and they properly accepted the decision that a plea to criminal damage covered the seriousness of the conduct. I felt that some good had been done and that a good career was allowed to proceed unimpeded by unnecessary embarrassment.

One of the most disturbing incidents I encountered relates to an officer fainting in the witness box at a magistrates' court following tough and rigorous questioning by a stipe. The magistrate, with some ground, formed the view that the officer had concealed evidence favourable to a defendant in an effort to secure a conviction. The officer explained that she did not consider that the evidence had any relevance to the case and whilst the magistrate took her to task she fainted. I invited the court to rise to give some assistance to her and was pleased to observe when I approached her that she was not too ill. On speaking to her I indicated that there was no mileage in proceeding with the case on account of her condition and the serious view the court had taken regarding her conduct. To my surprise the officer intimated thus: "don't worry, we shall get him for ...". I was struck by the officer's assumption that I could be made a party to her vendetta against the defendant. I delicately suggested that perhaps it would be better to concentrate her efforts in ensuring that all was in order with her health for present purposes. When the court reconvened, I apologised on behalf of the officer and duly withdrew the case. The lesson that I drew from this is the importance of ensuring that the distinction between the police and the CPS should be maintained in the wider interest of maintaining public trust and confidence in our criminal justice system.

It can be a little awkward for a black prosecutor in London. Unfortunately a disproportionate number of defendants are black and some take the view that a black man has no business prosecuting. Often I found it easier to maintain a polite demeanour as any attempt to indulge this line of reasoning could result in embarrassment that is better avoided. I did find, however, that one sympathised almost intuitively with certain problems that confront such defendants and on certain occasions felt it important to explain to colleagues some facts of life from my particular vantage point.

I have had cause to reflect on the qualities that makes for a decent and effective prosecutor. I found that an ability to keep an open mind and a degree of detachment from the fray was invaluable. A prosecutor should be actuated by considerations of fair play and should balance the necessity of securing justice for the victim with a keen regard for the rights of the defendant. I cannot imagine a more unedifying spectacle than a mean and narrow-minded lawyer playing the role of a prosecutor. The system we have in this country is worthwhile and the public should view any attempt to wittle down the safeguards built in after painful experiences with alarm. Unfortunately there are clear and present indications that changes being introduced to wipe away certain beneficial features have gone unchallenged. ○

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