

SHERIFFDOM OF GRAMPIAN, HIGHLAND AND ISLANDS AT FORT WILLIAM

[2018] SC FORT 8

B33/16

JUDGMENT OF SHERIFF WILLIAM J TAYLOR QC

In the cause

DAVID ALEXANDER CAMERON,  
residing in Fort William

Pursuer

Against

PHIL GORMLEY QPM, THE CHIEF CONSTABLE, POLICE SCOTLAND,  
having his headquarters at Police Scotland Headquarters

Defender

**Fort William, 30 October 2017**

The Sheriff having resumed consideration of the cause FINDS IN FACT:

1. The pursuer is David Alexander Cameron who resides in Fort William.
2. The pursuer has held a Firearms Certificate continuously from 2005 to 2015.
3. The pursuer has no criminal convictions for any offence for the past 30 years.
4. His Firearms Certificate expired on 17 May 2015. Prior to that date he had submitted an application for renewal of the certificate to Police Scotland.
5. He was issued with a Temporary Permit under section 7 of the Firearms Act 1968.  
It was valid from 18 May 2015 to 18 June 2015.
6. On 28 May 2015 the pursuer was informed personally by Inspector Mike Middlehurst, Police Scotland that his Firearms Certificate had been revoked and his firearms were to be seized.

7. The pursuer was informed that the revocation was brought about because he was deemed to be unfit to be entrusted with a firearm due to an association with a person involved in criminal activity namely drug dealing. The person was declared to be the pursuer's son, Michael Alexander Cameron.
8. The pursuer's son Michael Alexander Cameron having been convicted of a number of contraventions of the Misuse of Drugs Act 1971, was sentenced on 20 June 2013. His release date from that sentence was expected to be 19 June 2017.
9. Prior to his imprisonment the pursuer's son Michael had resided in a flat above the garage which comprised a separate building within the pursuer's garden.
10. The gun cabinet was located in the pursuer's house some distance from the garage.
11. The gun cabinet was secured by three locks each requiring a separate key. The cabinet was bolted from the floor and to the wall. It was located upstairs in the pursuer's house.
12. The pursuer was agreed to be a person who was not prohibited by the 1968 Act, as amended, from possessing a firearm.
13. The pursuer was agreed to be a person who had a good reason for having in his possession the firearms and ammunition in respect of which the application had been made.
14. The only question for the court was whether or not the pursuer could be permitted to have the firearm or ammunition in his possession without danger to the public safety or the peace.
15. In the course of a discussion with a police officer the pursuer was informed that one difficulty might be that his son would gain entry to the gun cabinet if he stole

the keys. Consequent upon that consideration the pursuer took the advice of a gunsmith and replaced the middle lock on the gun cabinet with a digital lock whose combination was known only to himself.

16. In the entire period from 2005 to 2015 there had not been a single incident concerning the pursuer's possession or storage of firearms or ammunition.
17. The firearms certificate had been renewed in 2005 and in 2010.
18. The averred aim of Police Scotland is to standardise the criteria for the issuing of firearms certificates regardless of whether the applicant requires to use the weapon in a rural or urban context.
19. James Kennedy is very well known in the Fort William area. The pursuer could not properly be described as an associate of his.
20. The pursuer is not 'an associate' of his son Michael in the sense that that word was used by Chief Inspector Fraser Lamb.
21. There was no evidence whatever that the pursuer had been a cause of concern to the police in connection with his possession of a firearms certificate, his use of weapons, or his storage of his firearms and ammunition.
22. Whether the tests laid down in the statute are met in any case will depend on the particular circumstances of the case.
23. Danger to the public safety or to the peace must be shown to be a danger related to the possession of a shotgun. Whether the conduct does or does not yield the conclusion that the pursuer cannot be permitted to possess a firearm without danger to the public safety or to the peace depends on the nature of the conduct in question when set against the circumstances of the individual case.

24. If the Sheriff is satisfied that there is a risk which is not trivial that damage to the public safety or to the peace will occur if possession of firearms continues to be permitted, he should refuse the application.
25. On the evidence presented to me in court I am satisfied that there is no real risk to the public safety or to the peace if Mr Cameron continues to hold a firearms certificate and to continue to make use of firearms and ammunition in the way he has done for a considerable number of years.

### **Finds in Fact and Law**

1. The Applicant can be permitted to possess a firearm without danger to the public or to public safety.
2. Therefore, allows an Appeal against the decision of the respondent dated 28 May 2015 and 11 March 2016 to revoke the applicant's Firearms Certificate, and orders the respondent to reinstate the same; makes no award of expenses due to or by either party.

### **NOTE**

#### **Statutory Framework**

1. Section 27 of the Firearms Act 1968 ("the 1968 Act") provides that a firearm certificate shall be granted where the Chief Officer of Police is satisfied:
  - a. That the applicant is fit to be entrusted with a firearm... and is not a person prohibited by this Act from possessing such a firearm;

- b. That he has good reason for having in his possession or for purchasing or acquiring the firearm or ammunition in respect of which the application is made; and
- c. That in all the circumstances the applicant can be permitted to have the firearm or ammunition in his possession without danger to the public safety or to the peace.

The section applies to the renewal of a firearm certificate as it applies to a grant.

- 2. Section 30A of the 1968 Act provides that a certificate may be revoked by the Chief Officer of Police if he is satisfied that under subsection (3) the holder is prohibited from doing so; or cannot be permitted to possess a firearm without danger to the public safety or to the peace, (under subsection 2(b).
- 3. Section 30A(6) of the 1968 Act provides that a person aggrieved by the revocation of a firearms certificate may appeal against the revocation in accordance with section 44 of the Act.
- 4. Section 44 of the Act provides inter alia that such an appeal lies, in Scotland, to the Sheriff. The Sheriff requires to determine the Appeal on the merits and not by way of review. The Sheriff may consider any evidence or other matter, whether or not it was available when the decision of the Chief Officer was taken, further, the Sheriff is required to have regard to any guidance issued under section 55A of the Act that is relevant to the appeal. In schedule 5 of the Act, Part III shall have effect in relation to appeals to the Sheriff.
- 5. Part III in schedule 5 to the Act provides that an appeal to the Sheriff shall be by way of summary application and enacts that in determining the appeal the Sheriff may either dismiss the appeal or give the Chief Officer of Police such directions as he thinks fit as respects the certificate which is the subject of appeal.

6. The decision of the Sheriff on an appeal may be appealed only on a point of law.
7. In making her/his decision the Sheriff shall have regard to the relevant aspects of the statutory guidance issued under section 55A of the Act.
8. Guidance has been issued in terms of the Act. Chapter 12 gives guidance on the question of assessing suitability.
9. Amongst other things on which guidance is given, para 12.16 provides that information contained in criminal intelligence must be assessed paying particular regard to alleged or known involvement in criminal offences ..... or evidence of associations with known criminals. Para 12.17 introduces a major caveat. The decision maker is put on notice that a court will place less weight on hearsay evidence than on direct evidence and this should be taken in mind. The decision maker is further reminded that in the interest of fairness the applicant should be given the opportunity to comment on any allegations against them which have not been tested in the courts.

Para 12.19 is in these terms:-

“The test to be applied in considering whether an applicant is unfit in light of such allegations or intelligence is twofold; firstly whether any such allegations would if substantiated be enough to render an applicant unfit/unsuitable. Second whether in the light of all the different types of evidence and information considered the Chief Officer of Police is satisfied that the applicant can be permitted to possess the firearm or shotgun without a danger to public safety or to the peace.”

Para 12.32 is in these terms:-

“Consideration should include any evidence that unauthorised persons such as family members or associates who may themselves present a danger to the public safety might have access to firearms, notwithstanding any arrangements for the security of the firearms which may already have been made. Any history of serious incidents involving firearms or a careless approach to handing of other potentially dangerous items should also receive close consideration. Where the latter exists the Police should consider the likelihood of repetition.”

## List of Authorities

1. **Firearms Licensing Guidance 2016 chapter 12**
2. *Dabek v The Chief Constable of Devon and Cornwall*
3. *Michael Gerard Davis v The Chief Constable, Decision of Sheriff Principal Dunlop QC date 5 September 2005.*
4. *Acgers & Others v Taylor* 1 WLR 405
5. *The Chief Constable of Derbyshire v Mr Goodman and Mr Newton* 1998 WL 1042603
6. *Leslie Morrison v The Chief Constable, Kirkcaldy, Sheriff James Williamson, 11 November 2015.*
7. *Jed Burn v The Chief Constable, decision of Sheriff Peter Paterson, Jedburgh, 29 March 2016*
8. *Malcolm MacKinnon v The Chief Constable, Campbeltown, 5 November 2008.*
9. *Roy Alexander Paterson v The Chief Constable, Oban, 19 March 2001*
10. *The Queen on the Application of the Chief Constable of Hampshire Constabulary v Oldring* EHC 1807 Admin.

## The Evidence

### 1. *David Cameron*

[1] David Cameron the applicant in the current process is 59 years of age. He works with Highland Council as a Community Services Officer and also has skills as a roofer, a plasterer and a builder. He has been married for 40 years approximately to his wife Catherine. They have lived in Fort William and in their current home in Fort William for more than 30 years. They have 3 children Michael, David and a daughter Kerry Ann. Michael is 36 years old, he was at the time that Mr Cameron gave evidence in prison having been convicted under the Misuse of Drugs Act 1971 for supplying heroin. The date of his release was 19 June 2017. The witness had been in possession of a certificate authorising him

to keep rifles and ammunition from the year 2005, the first certificate was renewed, it expired after 3 years then a further certificate was issued which was also valid for 3 years and the current certificate was one which was valid for 5 years and was also renewed. He uses his firearm in terms of vermin control and he also earns some money hiring his services for deer management on local estates. He also shoots foxes, hares, rabbits and mink. He has a small rifle it's a 223 for foxes, in all he had 3 rifles and soft nosed ammunition. He is a member of a syndicate of 30 members and he worked with the Forestry Commission. He had joined those beats in 2005 and he gave details of their locations. He has certification in terms of deer management at level 1 which is regarded as a competent deer manager. From 2006 onwards he had permission to shoot on their land from various farmers, he was involved in vermin control, deer management, one farmer was Ian McNorton and he worked with him until about 2015. He conducted vermin control for Donald Cameron and he worked for a lady at Spean Bridge, Mrs June Bridges, about 20 times a year he went to the Fort Augustus area to work for a Ian McNocher, typically that would be during the months April to February, wherever he has shot since he has been a certificate holder he has shot with the consent of the landowner. In 2005 he got £60 per fox, sometimes he would be allowed to keep the carcass of the deer which he would keep in a chiller in his garage, he would sell venison from time to time to work colleagues but nothing commercial. Shooting in the area of Loch Morar can be dangerous and sometimes when he was required to shoot there he would be anxious to have someone accompany him and on one occasion he could remember Mr Kennedy being with him and on a second occasion Donald Cameron was present with him. On both occasions they were looking for a fox den. On the occasion with Mr Cameron they both had rifles and on the occasion with Mr Kennedy, Mr Kennedy had a shot gun and they had dogs with them they were fox terriers. He shot a stag one time with

the permission of the land owner, he indicated that his son Michael had been with him on deer stalkings at Fort Augustus where he acted as a gillie, he never had a gun and he never shot. James Kennedy was not with him when he was with Michael. He bought a telescopic sight off James Kennedy in 2012 and he fitted it to his rifle and took it to Three Mile Water which is about 3 miles from Fort William. He adjusted the sight on a target, he paid £300 for it, he worked alongside Charles Kennedy and mentioned something wrong with the scope and he said Kennedy had got a scope for sale and he bought it for him. If his licence was returned to him he would use the licence in the same way as he had done throughout the period he had had a valid licence. There never had been complaints about him, he had faced no charges, nor had he ever been charged. He was stopped by the police in 2005 coming back from the Moor.

[2] On another occasion in February 2007 he noticed a break in at a garage adjacent to his house in the Ben Nevis Industrial Estate, he saw 2 men hanging about with their car parked at the Highland Industrial Supplies. He took the car number; he saw 2 guys at the garage and 1 guy at the car. He heard a crash and saw the 2 guys running off. They had radios and lights he asked a woman who was nearby to call the police and he came to court to be a witness in the case against them but they pled guilty and his services were not required. He has 2 previous convictions for poaching salmon in 1982 and 1986. The 1982 matter was in the River Spean where he was caught with a net and 9 or 10 salmon, in 1986 again in the River Spean he was fishing with a rod, he had no fish and he was about 25 years old at the time, both convictions were disclosed to the police at the time of his licence applications. In 2015 his application for renewal was refused, he was issued with a temporary certificate for 1 month, production 5/22 vouchers was valid from 18 May 2015 to 18 June 2015, he was handed that with a compliments slip, it was signed by someone called

Kirsty. He thought at first that they must be busy and hadn't got round to giving him his permanent certificate so he spoke to her and he was unaware at that stage that there was any difficulty whatsoever, eventually of course he discovered that his licence renewal had been refused, his firearms were seized on 28 May by Police Constable McTaggart who had arrived at his house without notice. The constable said that he was not there with good news and that he was there to seize the firearms and the reason why was that his son was coming to these premises from prison. His son of course had been serving a sentence, he had been getting leave to visit the house, he had been escorted by G4S officers when he came home on leave. His wife had had a major operation and he couldn't visit his wife in prison. When their son visited him he was double hand cuffed to the police officer. His mother at that time was also terminally ill and that made visiting very difficult. Throughout his teenage years and beyond his son has worked as a game keeper from time to time and had been unemployed at other times. To be honest he had been a bit of a handful and had appeared before the children's panel on occasions. When the Police Officer took the 3 rifles he also took the ammunition associated with them and also 3 sound moderators. Michael did accompany him on the hill but that was normally to help drag beasts off the hill, he occasionally worked as a gillie with him but just at the Fort Augustus Estate, Mr McNocher's ground. The last time he helped was in 2008. His certificate had expired on 18 June 2015 as already indicated but the meeting he had with Police Officers was not until the 13 January 2016. He was informed then that he had 21 days within which to appeal and he saw a solicitor called Claire Russell at her offices. The case then called in court, the decision was that this was not a revocation of a licence, it was an application to review the decision of the Chief Constable, the legal advice had cost him about £1,200. Subsequently he got a telephone call from Police Sergeant James, there was a call to call in at the Police

Headquarters for a chat, he attended with a witness Sarah Glover and the minutes of that meeting are production 5/1/2. He was referred to a letter dated 5 February 2008. In relation to Michael he wanted to make it clear that Michael would not be coming to stay at his property. His wife and he are adamant that he would not return to live at home. He had gone to see Trevor Bell who is a social worker to make sure that the prison found him somewhere to stay. "Michael will not be allowed in our house, he is finished he knows this he has become too big a handful in his life", there is a granny flat above the detached garage that was where Michael from time to time would stay. The gun cabinet is normally kept upstairs in our house, it is bolted to the floor and to the wall behind it. The granny flat in the garage is now rented out and a student now lives there, he obtains about £350 per month by way of rental. He discussed the locks on the gun cabinet with police officers and was informed that a better way of securing the gun cabinet would be the installation of a digital lock to replace one of the locks that was operated by a key. He took that advice and installed a new digital lock in place of the middle lock which had been operated by use of a key. He has shown a letter which had been hand delivered by a police officer from Police Scotland making reference to section 27 of the Firearms Act 1968 and included in that was a statement "You said that you will continue your relationship with your son" in relation to that he said that he never said that he would continue any relationship with his son, never used the word associate it's not a kind of word that normally would be used by laymen and by any event it is often used in connection with "acting together" he has never acted together with his son. He knew that his son was up to no good but he had never dismissed any police concerns that they might have in relation to his guns he has accepted every single time that they have commented and he has acted on the comments which have been made by police officers for example when the key locking mechanism was replaced by a digital lock. He

pointed out in the letter that the police who had withdrawn the certification in 2016 had agreed that there was nothing against Mr Cameron himself who they regarded as a responsible person they in correspondence simply indicated that the issue was with Michael Cameron. As far as Michael was concerned he was not aware of his son's day to day activities, he knew that he had used drugs a while back and that at one point he had become addicted some time ago but he understood that he was on the methadone programme and was trying to break the habit. As far as James Kennedy is concerned he didn't socialise with him or meet him regularly he is 15 years older than he was and Mr Cameron himself had to confess that he was a bit of a loner. He visited at home once in 2012 to look at quoting for a rough cast wall in his house and he did that and it was paid for in cash. James Kennedy had told him that he always poached deer and he informed him that he was buying a telescopic sight and was returning home. He had no idea why the police stopped the vehicle and he didn't know that Mr Kennedy had previous convictions for deer poaching. He remembered Mr Lamb saying that he had been listening to police radios. 'I never accept that' he said there are no interceptors found at my place, no evidence that I had done anything in relation to police radios nor known about it. He had worked for a while at Rory Cameron's company who are Nevis Builders, he had applied for jobs in deer management and he reiterated that Mr Lamb had described him as a responsible person.

[3] Cross examined on behalf of the Chief Constable he indicated that he had been stopped once with Mr Kennedy at Claggan and also once in 2005 at Morar 3 miles from Corpach, he was unaware about anything being found amusing by Mr Kennedy when the vehicle was stopped in 2005 he was out of the van by that time talking to a police constable and Kennedy himself never got out of the van. So far as the 2012 incident is concerned he never knew the police were behind the vehicle when it went round the roundabout twice, he

thought that the vehicle had gone round the roundabout because someone had left their mobile phone at home. He confirmed that DC Malcolm Cameron in December of 2015 had come to take a statement from his wife, it was a prearranged appointment, he asked about security measures but he never checked the cabinet. He told the constable that if the police had any specific requirements in relation to the gun cabinet he would implement the suggestions they made, he did not say that Michael would return to stay in the house or the granny flat. He did not agree that he did not tell Mr Lamb that his son would not be returning, he said that Mr Bell the social worker knew where he was coming from. Prison had been pushing for a home address for Michael and the witness wanted him to be placed on the housing list. The granny flat had been assessed by the criminal justice system and Trevor Bell had come to the house to view it. He was told by Mr Cameron that Michael should be placed on the housing list so that he could get rehoused separately from his mother and father. He had made it clear he thought about a year before that Michael would not be coming home. He's referred to notes; there was no mention of heroin. He was asked about police interceptors and he said that no equipment had ever been in his house, somebody called Mike McManus had never been in his house. He was aware that Mike McManus bought motorcycles but he was completely unaware that he had anything to do with heroin. He was further cross examined after a short interval in relation to Trevor Bell being in his house and he indicated that he did not tell Mr Bell that his son would be welcome to stay. He knew that Michael used drugs but he didn't think that he was 100% guilty of the offence of which he had been convicted. He understood that the three witnesses who gave evidence against Michael were themselves convicted dealers and users of illicit drugs. In the course of various discussions with people he had picked up that the Highland Council had a duty to care and to rehouse Michael when he was released from prison. He

thinks that came from charity workers that he had spoken to in Shotts Prison in 2015. He had told his son Michael that he could apply for housing. Prison itself did not give him that information. "I don't know" he said if paperwork had been submitted in respect of housing. What he did know was that they had a live application for housing dated 1 May 2016, and Michael has known for some time that he is not coming back to live in the house permanently. He told Fraser Lamb that he didn't know where Michael would go. He said he would see Michael on a regular basis obviously because he was his son. He asked if he was saying that he was not allowed to have contact with his son and Fraser Lamb indicated that Michael would not have a licence. He had never seen anybody coming to visit Michael when he was in the granny flat or indeed when he was in the house with his mother and father. He didn't think that he was dealing in drugs from that address. He was aware that Michael was being counselled in relation to drugs prior to 2005. He himself and his father had never had support in that regard from social services. He thought that the drug problem that Michael had had been resolved. He thought that Michael worked from time to time quite casually, but now since his turn in prison, he is fit and healthy and he has never seen him under the influence of drugs. He has got no concern about Michael's mental health or his own mental health. He had occasionally taken him onto the hill to help him take deer off the hill, but the firearms if they were there were always under his own control. He worked on various estates around Fort William deer stalking. He would carry a firearm as part of his duties on those estates and on occasion he had taken guests out on the Glenfinnan Estate. Michael had a rifle on that occasion. He assumed that the witnesses at his trial were biased against him. Michael is his son and he likes to think that he will eventually come good. I have faced up to his problems he said. "I hope he will. Of course it is my natural instinct to try to help him" he said. He is my son but he has been retrained as a painter and decorator

and his view was that his son would move away from the area and carry on that trade. He himself works for the Council and he worked for a construction company before that. He was self-employed before that. He was asked if it didn't concern the renewal of the certificate would he have him back to stay and his answer was he did not know. He had known Charlie Kennedy for somewhere between eight and nine years. He thinks perhaps even before 2005. He met DC Michael Cameron in December 2015. It was put to him that he gave different versions of his views to different people, instance, Trevor Bell, Malcolm Cameron and Fraser Lamb.

[4] There was no re-examination.

[5] The second witness was Mrs Christine Cameron, she was 56 years of age, she was the mother of Michael, had lived with her husband, they had been married for 38 years and lived in Fort William. She had two sons and one daughter. Michael is the oldest son he would be 37 in July. The marriage was a good one, she was aware that his application for a renewal had been refused by the police. He had a firearm certificate until 2015. A rifle and ammunition were kept at home but she had never taken much interest in them. They were kept upstairs in a bedroom in a cabinet. She had no idea about keys; she had never held them or seen them. Her husband always had the keys; she didn't even know what they looked like. He always has them on him she said. She didn't know about how they were there or how they were kept there. She had seen rifles she could see that when he was either coming home or going away but she had never seen anyone else with his rifles. She knew why he had them, he told her because he earned some money and he enjoyed the sport. Michael has never discussed rifles either with her or with his father in her presence. He used the rifle for vermin control and deer, I don't know how often he went shooting, but he has been shooting near Fort Augustus. He works for the Council, he is a roofer and rough caster

and a man of all parts; he would put his hand to almost anything. Michael had been brought up in the family home he last lived in the house a few years ago, he then moved into the granny flat. The roof on the garage went on about 12 years ago so it would be a while after that that he moved in there. Michael was taken into custody in 2012, he lived in the granny flat, we hardly ever saw him to be honest, she said he would be away for weeks on end, he could be back for a couple of days or he could be away for many days before he came back. He lived there alone, no one else stayed with him. He was visited by his cousin Martin Black, but she had never seen any other visitors. She knew that he was in prison for drugs, she was aware that he had had a drugs problem. He had had a nurse to try and help him get weaned off heroin but the state nurse never saw much of him. She was gutted when he was arrested, he was getting help but she herself was ill at the time. She has no time for drugs or drug dealers and it never crossed her mind that he was selling drugs. She knew he wasn't working he had no money to buy drugs. She and Michael had clashed from time to time. She informed that they needed someone to help us get on so they got help, a social worker to try to help resolve family difficulties and it worked out really well. He went to someone called Fern Tosh at a children's home for problem kids, he volunteered to go there. He went off on his own, he was 14 or 15 and we got along well after his period there she said. He confided in her about his heroin problem when he was in his 30s. She tried to help him. They got onto private help but she was told it would cost about £5,000 per week. He saw a CPN. She was close to her son and she knew that he was due to be released in June of 2017. He did not phone from prison because he knew that any phone call simply upsets his mother. She only visited once in Barlinnie. Following Michael's release she said he would not be returning to live at home. She indicated that that had been her position for a long time. She wanted a quiet life she couldn't go through it all again. She didn't want the police coming to the house

even if there were no firearm issues she would not have her son back. Even if her son put pressure on her he is still not coming back. There were difficulties about the transitional arrangements as Mr Bell had contacted them in relation to where Michael would stay whilst he was being given certain release from prison prior to his eventual release date. A police constable came to speak to her about the gun cabinet. He was called PC Cameron she understood, he was really just in and out she said. It was a very quick visit it was before Christmas and she didn't know if her husband had spoken to him. She knew that Michael was going to be getting home for a short period and the social worker asked the question where would he stay, we thought it would be okay for him to stay for the short periods when he was training for freedom because there were no firearms in the house but it never came to that in any event. We always said he wasn't coming back to stay for good. She didn't know James Kennedy she had heard the name and she knew that her husband was not an associate of James Kennedy. She thought he had done some work for him, roughcasting she thought. She knew that her husband was involved in vermin control but didn't know who he did it with or for. She wouldn't recognise James Kennedy if she saw him again. Michael had confided in her many years ago before he was 30 he was seeing a state nurse. We his mum and dad didn't know how bad it was. He was looking healthy for years now and we understood that he was on methadone. She thought it was resolved by the time he was sent to prison. She sometimes gave him some money and she was aware that on occasion he would get money from the dole. Michael was convicted she really didn't believe he was selling drugs. She had heard that the witnesses were lying and that he didn't commit the crime but she couldn't go through all of that again. The police were coming and searching the house she was on holiday at the time and she was shattered, couldn't face people, she was really ashamed. He had told her years ago that he had had problems and

she was told that the state assistant was dealing with matters that she should not ask her son too many questions because they had a scheme. They had informed her that her son was on a dose of methadone she finds it extremely embarrassing to confess to people that she has a son who has served a prison term. She had never seen firearms as they were located in the house and accordingly nobody should be surprised that she was never concerned about the proximity of firearms to Michael because she just didn't think it was an issue. She remembered PC Cameron coming in December of 2015. She thought that he knew that Michael would not be coming there to stay if he got back for a short time that was a different matter and she was not sure if he would stay on that occasion or not. He wants to turn his life around she told the police officer. He had trained as a painter and decorator. She knew that he had been moved from Glenochil to Shotts and thought it had something to do with drugs. They had been visited by Trevor Bell in October of 2015 and have seen Trevor Bell a good few times. He often chats about Michael who looked around the granny flat. I can't remember if we said to him that Michael was not welcome back in the house she said. I don't know who my husband shoots with he doesn't go shooting a lot. She thinks that she may have told Cameron that Michael would come back to get himself sorted out because we've got his stuff in boxes she said. She doesn't know where her son will live but he is in her words off my hands now and will not be living at home. She agreed that he had been in trouble with the police over the years but he would definitely not be coming back to live at home. She is getting older and she doesn't want her son to bring her down. So far as she was aware no police officers had ever looked at the gun cabinet since the digital lock had been fitted.

[6] At the conclusion of her evidence the case for the pursuer was closed. The first witness for the Chief Constable was PC Malcolm Cameron he had been a constable for four

years and he was 28 years of age, based in Fort William and he dealt with firearms in Inverness and worked with Inspector Mike Middlehurst at Nairn. He was asked to attend the locus and take a statement from Mrs Cameron concerning the suitability of Mr Cameron to keep firearms. He was given instructions by e-mail, the main thing that concerned the police was that Mr Cameron's son was in prison and he had to ask about the security arrangements. He did not know the date of release of Michael from prison. He made arrangements to attend at the Camerons' house. He sent them an e-mail which was copied to Sergeant Bell. He thought that he looked at the cabinet and he thought that there were bolts stored separately from the cabinet and that there was a digital lock on the cabinet. He didn't recollect them saying that's Mr and Mrs Cameron saying that their son would not be welcome on his release from prison. He thought that if he had said that it would be put in the e-mail that he sent. He did remember Mrs Cameron saying to him that her son would now have to sort himself out.

[7] The next witness for the Chief Constable was Craig Still. He was 33 years of age and served for 10 years as a police officer, he was currently a detective sergeant with the criminal investigation department in Inverness. On the 15 April 2012 he was on dayshift he was wearing reflective clothing and in the Fort William CID office. He was informed that Michael Cameron was drug dealing and lived in Fort William. It was a terraced house there was a garage in the garden. The witness patrolled in an unmarked police vehicle and they saw a drug user leave the premises. The Witness asked for a vehicle to stop the individual to allow evidence to be gathered. He was aware that Michael lived in the granny flat and he applied for a search warrant. The warrant was for the whole premises and the search commenced at 17.10. The witness searched the garage at first they were plain clothed officers with vests. The witness entered through the main door. Michael Cameron was holding a

baseball bat. "Who the fuck are you?" he said and ran upstairs. The door was secured and they could hear a toilet flushing. The witness forced the door and Mr Cameron was secured. The property was then searched. He was aware that he was going to the High Court in Glasgow and that he had been convicted there. He was sentenced to a term of imprisonment for six years. There were trace amounts of drugs on scales, diazepam and diamorphine on the scales. He was convicted along with Mark McCanus, Maria de Suza Faleso and Donald Reid, all were drug dealers and consumers of drugs. Kenneth Brown was the individual who had been stopped. He spoke to Mark McCanus who supplied heroin for 10 years and he gave details of meeting for exchanges. Dealings were with the address he was not allowed in the main house so it all happened in a converted garage. Others spoke to being supplied over periods of time. It's hard to pin people down on money. Witnesses gave evidence in court. Under cross examination he indicated that sentence had been pronounced on the 20 June 2013 until that time Michael had not been on remand. There had been a bail order for the entire period of 14 months prior to trial and he was still living in the granny flat in Fort William. He had lived there certainly on the 12 April and for a significant number of years before. He was never asked for an opinion on firearm certification and he took no steps to suggest that the firearm certificate should be revoked. He had investigated the witnesses with regard to drugs. The witness gave evidence for the Crown. A witness had been purchasing drugs but they were never prosecuted. He took statements from David Cameron and his wife. There had never been an application to anyone higher for the attendance of armed officers when the searches were going on and there was no re-examination of the witness.

[8] The next witness was Glen Bigham, he was a police constable. He worked in Fort William at the time but now was based in Inverness. On 17 December 2012 he was with

Lewis MacDonald in a vehicle where James Kennedy and Mr Cameron it was a Volkswagen Caddy. They suspected them of poaching. They followed the vehicle past the hospital to a roundabout and the vehicle went twice round the roundabout and headed back north. They followed the vehicle to Claggan. In the passenger seat was David Cameron. James Kennedy treated the whole thing as a joke. He was not at all serious. Mr Cameron on the other hand sat in the passenger seat and never said a word.

[9] The next witness for the Chief Constable was Trevor Bell he is a social worker and he was referred to his report (production number 6) which was dated the 22 October 2015. It was what is called a Home Leave Report. His duty was to look at the address and see if the address was okay for residence of up to one week. The property he saw was a flat above a garage. He was there for half to three quarters of an hour and they spoke about various things while he was there. The owners were happy for him to return if he wished and to have a final look round the property. There were two questions, one was liberation and the other was home leave. He did not recollect that he was told that Michael was not to return home. Mrs Cameron in July 2016 came to discuss accommodation of her son if he never returned home and gave me a letter to say that the son would not be welcome home. They told him that there were difficulties with firearm certificate and he agreed that production number 8 was a letter indicating that Michael was not to return home to the property after his release. He informed them that after release homeless accommodation would require to be made available to Michael and he would be in that homeless accommodation for perhaps up to one year. The Council had a duty of care and he was likely to be rehoused in Fort William. The involvement of the Social Work Department will be for a period of two years after release from prison. So far as he was aware Michael had continuing drug problems in the prison. He was aware that the son had had problems with drugs when he was at liberty.

He will see Michael after he is released on a weekly basis for three months or so. He was aware that Michael already had quite independently made an application for housing separately from his mother and father and that application was just updated when it became clear that he would not be returning to live at home with his parents.

[10] The final witness for the Chief Constable was Fraser Lamb. He was 51 years of age and a retired police inspector. He had had 30 years police service when he retired. He worked with Strathclyde Police firstly as a police constable and then in CID then back to uniform in 1998. He was a sergeant in Dunoon and he was moved to the CID in 2006. His last appointment had been as a detective inspector in South Lanarkshire. He was an adviser on sex offenders and he dealt with firearms up until 2013 when he had been an authorised firearms officer and dealing with shotguns since he was 17 years old. His responsibility for firearms is with the Chief Constable of Police Scotland and that is delegated now by him to eight locations in Scotland. He was aware that Mr Cameron had a certificate since 2005. On 17 May 2010 it was renewed until May of 2015 when Mr Cameron applied for renewal. He was given a temporary permit for one month from the 18 May to the 18 June. On the 28 May he instructed the seizure of the firearms. It was a local decision he said by the local inspector. On the 11 March 2016 he had written a letter to Mr Cameron refusing the certificate on behalf of the Chief Constable. It was he who made that decision and he was aware that an appeal had been lodged. He reviewed the papers in relation to Mr Cameron; that took consideration of a police report and statements. He read the statements for 2005, 2010 and 2015. On the 13 January he had a telephone conference with Mr Cameron the purpose was to find out what his association was with Michael. He needed to be sure of his knowledge. He was also concerned about an association with James Kennedy. His application for renewal was outstanding in January. The witness was in Glasgow. There was a minute taker who

knew of the conviction of Michael and he told Mr Cameron that it was heroin. He said that it was likely that Michael would come home. They were in close contact. He told me that he was seeing his son every day. We were informed that he was associated with his son and that unauthorised people were having access to the property. We were concerned that unauthorised people might have access to firearms. He told me that his son would be coming to live in the granny flat and not his house. His attitude was that his son has served his time and that was it. It should be forgotten about.

[11] David Cameron failed to appreciate what the witness said. He did not realise that his son could never have his gun again. Was there a risk? He was refused access to open the slate. In relation to Michael for firearm refusal there is a drugs link. If firearms are available it might heighten the risk considerably for other people. He was informed that David Cameron had been listening to police scanners and had been seen going into the house. Cameron had a certificate since 2005 it had been renewed in 2010. There was a note in the file that Michael Cameron was a big drug dealer. Northern Constabulary were not following the philosophy in relation to firearm certificates. He was told that Michael would not be returning to live in the house or the granny flat, but Michael had refused to take a drugs test. He was aware that Mr Cameron had offered extra security in relation to the gun cabinet and he was aware that Sheriff Davidson had described Kennedy as a serial poacher. He knew James Kennedy and shot with him and his association with Kennedy was also an influence on him in reaching his decision. He referred himself to the Home Office Guidelines, he was not aware of David Cameron's previous convictions for poaching. There seemed to be a lack of protective factors in relation to Mr Cameron. He indicated that there were 51,000 holders of firearm certificates in Scotland. If there were caring protective

families, that would be something that would influence the police. He was aware that Michael Cameron was in his late 20s early 30s.

[12] In cross examination he indicated that he had never met David Cameron. The interview was conducted only on the telephone. He had never met his wife. He had never met Michael and the only contact he had was that one telephone conference and his reading of documents from the local police. He had seen the memo from Ross McTaggart dated 16 March 2016 and was aware that the firearm certificate was due to expire on the 17 May 2015. There was a briefing paper underneath the document and it referred to Michael's conviction. There was nothing about James Kennedy at all in the documentation and he was aware that McTaggart had visited David Cameron. He was referred to production 5/1/1 dated 11 March 2016, that was a letter revoking the firearm certificate. He indicated firstly that he was not a prohibited person and secondly that he had a good reason for having a firearm certificate. 'You have got to be fit to be entrusted' was his reply. The difficulty was that he was the father of Michael who was serving a six year sentence and he would continue to associate with Michael after he was released from prison. He stated that he would reside with his father and he stated that he would continue a relationship with his son. He said that he had noted that he associated with James Kennedy and referred to a telephone conference on the 13 January where Mrs Sarah Glover had taken minutes. He had seen the minutes. It was put to him that he did most of the speaking and he agreed that he had questions to put. He indicated that the whole of the first page of the minute were statements put by him to David Cameron and he agreed. He told them that it was heroin. His recollection was that he said he was coming home. His recollection further was that the minute is not 100% accurate. He agreed that Mr Cameron had asked him "does that mean that my son is not allowed home again" at one point in the interview. Nowhere was it

suggested that Michael would have access to guns. He had confirmed that David Cameron was a responsible person. If there was no intelligence there would be no problem. If on his own without the existence of Michael he would have got his certificate – yes. He was asked, if he had been the decision maker in 2005, would there have been a significant decision. He said that he had looked at the earlier applications and he was worried about Northern Constabulary *modus operandi*. He knew that police officers were aware that in 2005 and 2010 they knew David Cameron and that the approach they took were not professional and curious enough. He disagreed with the decision to renew in 2005 and 2010. He was aware that the only person who had accused Mr Cameron of listening to police radio was a drug user. He said that his involvement with James Kennedy was of concern. Nothing was found in the vehicle when it was stopped however and he knew about David Cameron's association with James Kennedy, but he thought he had seen him on a regular basis. He asked Mark James to consult all police systems in relation to Mr Cameron and nothing of significance was found. If he had assisted the police in relation to any enquiry there would necessarily be something that was noted on the police files.

[13] The guns he agreed were kept securely. There was no question of a breach of security in relation to the guns. He was noted to have been critical of Northern Constabulary's approach to firearms and he indicated that he would never have approached the question of firearms in the way they did. When Police Scotland came into being consultation had taken place over all of the forces in various different organisations and his view was that it had to be standardised. This was a consequence and a direct consequence of the formation of Police Scotland.

[14] In re-examination he said that he had more information in 2015 than there existed in 2010. He said that firearms licencing in Inverness made the decision in 2010 and he didn't

know if they knew about Michael. His role was to be a paper reviewer rather than an actual reviewer. He had reiterated that Mr Cameron on his own would have satisfied the police.

[15] At the conclusion of his evidence the case for the Defender was closed.

[16] For Mr Cameron it was submitted that the court should remember that it was dealing here with a refusal to renew a firearm certificate and that in that connection the test was whether or not the applicant was unfit to be entrusted with the certificate or seen as a danger to the peace. In other words the criteria were personal to him and the question was is there a danger to the public.

[17] Dealing with the first matter is he unfit to be someone who is entrusted. He was regarded as being responsible. He was regarded as not allowing inappropriate people to have access to the gun or guns and he has never according to all of the evidence led constituted a danger to the public in any way whatsoever. He has no real previous convictions given the history of them and their character and he has no history of misuse, violence or any kind of antisocial behaviour. The court is aware that the police in a rural area like Fort William do keep a close eye on individuals because they are able to do so. This is not an urban situation. Contrast that, I was invited, with the experience of DCI Lamb whose experience was almost entirely of an urban nature. It should be noted that it was submitted nothing was done to revoke the certificate despite police intelligence and the conviction of Michael in 2013. He would not have been granted the certificate in 2015 or indeed 2010 if there had been misgivings about his capability and suitability. The law has not changed it was submitted between 2010 and 2015 and there is no suggestion in the approach of the court that things have changed. Michael will be released on the 19 June 2017. David Cameron and his wife were absolutely firm that Michael would not be living with them. The

effect of that decision is that any risk associated with Michael being present in the household has disappeared almost entirely.

[18] So far as James Kennedy is concerned he was once in the vehicle with Mr Cameron in 2011 and Mr Cameron sees him every so often. He said with tongue only half in his cheek “so does the whole of Fort William”. Mr Kennedy is an extremely well-known person who is frequently seen speaking to people in the streets of Fort William. This is far, far, far different from the characterisation of “association” in the sense used by DCI Lamb.

[19] For the Chief Constable it was submitted that the court required to be satisfied that there was a risk, this can be a case of preventative justice, in other words trying to anticipate what might go wrong in the future. The risk is here said the representative of the Chief Constable that Michael would gain access to the guns. He would gain access to the guns because of residing or having access to the house where the guns were kept and because of his association with his father and also with James Kennedy there could be no question of him being permitted access to guns without danger to the public. I was invited to read the authority of *Damcheck v The Chief Constable of Devon & Cornwall*. I was invited to consider the evidence of Mr and Mrs Cameron, that their son would no longer be welcome home with the evidence of the witnesses who indicated that to the contrary that their son would be welcome home. That affected the court’s view, was the submission, of the credibility of Mr and Mrs Cameron.

[20] I was invited to look at the minute of the telephone conversation which gave the impression that father and son were in regular contact with each other and of DC Still who had searched the granny flat. I was also asked to keep in consideration the visit and the evidence given by Trevor Bell.

**Discussion**

[21] The principal witness in this case was of course the pursuer David Cameron. He gave his evidence in a clear and transparently honest fashion before the court. He accepted much of the criticism in relation to his behaviour when he was young, candidly and honestly. He came across as a worthy son of the soil earning extra cash for himself by making use of his skills in the fields of vermin control such as foxes and occasionally rabbits, and also the occasional work in deer stalking when he was employed by various different estates in the area of Fort William to cull deer or to assist tourists and guests in deer stalking and shooting.

[22] It was accepted by all that he had a legitimate use for any gun in his possession and further that there had never been any difficulties between the authorities and Mr Cameron when it came to his use of the firearms he was entitled to hold. The problems for Mr Cameron seemed to have arisen because of the activities of his son, that is to say his son, Michael. Michael lived in the granny flat as it was called above the garage which was in its turn within the garden grounds of the house which was inhabited by his mother and father. He had been sentenced to a period of six years imprisonment in 2012, for a number of offences against the Misuse of Drugs Act 1971. There had been police intelligence in relation to Michael's activities prior to the date of his conviction and in particular there had been police intelligence around the time when his father had successfully applied for a renewal of his firearms certificate in May of 2010. At that time David Cameron's certificate was renewed for a period of five years and would expire according to Detective Inspector Fraser Lamb in May of 2015. The representative of the Chief Constable quite properly made a great deal in relation to the evidence concerning where Michael would stay when he was released from prison and secondly whether the character of Michael standing his previous conviction

should cause the court concern as to whether or not his father was a person who should be permitted to hold a firearms certificate. I recollect the evidence quite clearly and I have full notes of both the examination in chief and the cross examination of the various witnesses who spoke to this chapter of the evidence.

[23] In relation to “coming to stay” it is fairly plain to me that there are two aspects to the evidence. In the first place there was a concern about where Michael would stay when he was being prepared to leave the prison system and return to civilian life. In the old days this was called training for freedom, I am not sure if that application is still valid, but the concept is the same. The individual who is being prepared for release will be given periods of home leave essentially when he or she is released from prison back into the community for a short term, sometimes a weekend, sometimes a couple of days in the week, sometimes a whole week and this is to assist them to prepare for the shock to their system which comes about when freedom is restored after the confinement of a prison regime. In relation to Michael, a series of questions arose as to whether or not he would be welcome back in Fort William for various short periods whilst he was undergoing this transition phase from prison incumbent to someone who was entirely at liberty and the availability of his former residence in the granny flat came into question. My reading of the evidence is that Mr and Mrs Cameron discussed the matter quite seriously between them and they decided that there was little harm in short periods when their son would resume living in the granny flat above the garage in the garden, given that these periods would be both short and accompanied by escorts who would take their son to the property and a couple of days later pick him up from that property again and return him to prison. Initially, at least, both parents seemed to have been happy to make that provision for their son.

[24] In relation to the wider question of what would happen post June 2017, which was the release date of their son, I am satisfied that conversations took place between various members of the police force and the Camerons as to where their son would stay after his permanent release. Mr Cameron Senior was anxious to know understandably what the consequences for him would be should Michael return to live above the garage in the granny flat as before, and he was left in no doubt by various police officers that there would be to say the least some anxiety in police circles were that to be the case. Consequently, he decided that his son should not reside permanently in his former accommodation in the granny flat and should be accommodated by the local authority as he understood their duty to be in a situation in which his son Michael would find himself.

[25] Mrs Cameron was on the other hand very clear that no matter what happened in the short term training for freedom type releases and her son Michael's accommodation; she was wholly opposed to his permanent residence back in the granny flat when his release date came. As she put it, she at her age and in her state of health required a quiet life and did not want to have a situation where police officers might be calling at their property from time to time to discover Michael's movements or activities.

[26] The representative of the Chief Constable quite properly suggested that the change in testimony from one where Michael would be welcomed back to the granny flat to an assertion that Michael would under no circumstances be welcome to live permanently in the granny flat, represented a change of opinion which the court would be entitled to regard as demonstrative of witnesses who should not be relied upon in terms of their evidence.

[27] I did not take the differences in their evidence from time to time in that way. It seemed to me that they were parents in a loving relationship with their child whose loyalty was being placed under a microscope and whose reactions to questions from authority were

quite understandable. When the consequences of their initial reaction to support their son came home to them in my opinion the realism which eventually became their testimony dawned on them and they were able to see things in a rather more balanced way. I do not think that they attempted to mislead the court in any way.

[28] I was disturbed by some of the evidence of Detective Inspector Fraser Lamb. His firearms responsibilities in the area of Fort William had come about since the existence of Police Scotland had come about. It was plain from his evidence that he firstly was prepared to place a very low value on the local knowledge of local police officers in firearms applications such as the one which was before him at the time he was giving evidence. Secondly, he had an avowed objective to standardise the aspect of granting or refusing to grant firearms certificates throughout Scotland. He seemed to me to give his evidence in a particularly arrogant fashion which would brook of no interpretation other than that which he approved, and I have to say that he treated both sides of the argument and indeed the bench with a similar approach to the interpretation of the 1968 Act. He never met any of the individuals concerned whether police officers or applicants or witnesses. The exercise which he conducted was entirely a paper exercise. In my view what he failed to recognise was that the statutory tests which required to be met in terms of the 1968 Act, were subject to the particular circumstances of any individual case.

[29] To reiterate what I have said before in this judgment whether the conduct which is of concern legitimately to police officers, in this case the son of a firearms certificate holder being convicted of a drugs offence and attracting a sentence of six years imprisonment, whether that conduct does or does not yield the conclusion with the applicant for renewal of his certificate cannot be permitted to possess the firearm without danger to public safety or to the peace. It is not a question of ticking boxes which requires to be done by the decision

maker whether it is the Chief Constable or in this case the Sheriff, is to set that conduct and those concerns against the whole circumstances of the case and to reach a conclusion thereafter. In this connection I was guided by the decision of Sheriff Principal Dunlop in the case of *Michael Davis v the Chief Constable Central Scotland Police* to which I was referred. I would finally say that I was also assisted by the case of *Dabek v The Chief Constable of Devon & Cornwall* 1991 155 JP 55 to which I was referred by the representative of the Chief Constable. I was able to distinguish that case from the situation which arises here.

[30] So far as expenses are concerned, the representative of the Chief Constable submitted that this was not a case where expenses should in the normal course follow success. She submitted the Chief Constable was exercising an onerous statutory licensing function. He was acting in the public interest and absent improper motive or bad faith, he should not be found liable for expenses in the event that the appeal succeeds. I was referred to a number of *dicta* in English cases on this particular aspect of the case.

[31] Distilling the various authorities to which I was invited to pay attention, it is my view that in the absence of such things such as bad faith and improper motive, the only other justification for an award of costs in the circumstances we have here would be if the Chief Constable had behaved irrationally and had taken decisions in a manner which was considered to be unreasonable in the *Wednesbury* sense of that word. I do not believe that characterises his decision here. I therefore awarded no expenses to or by either party.