

Alec Small

**Degree:**

LLB (Hons) University of Exeter (Cornwall Campus): Awards: Bernard Sunley Prize presented by the Knights of the Round Table to Inner Temple Pupils (2014), Stones Prize for best undergraduate dissertation in Law (2011), Clifford Parker Mooting Prize (2011)

Year of call and Inn:

2012; Inner Temple

Email:

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Specialist Areas:

Court of Protection

Crime, including Courts Martial

Employment and Professional Disciplinary

General common law including contract and tort, Landlord and Tenant, and other land and property disputes

Regulatory, including Health and Safety

Practice Overview:

Alec joined Albion Chambers in 2014 after the successful completion of his pupillage. He practises in criminal, court of protection and civil law. He maintains an advocacy and advisory practice in these areas.

Prior to joining Chambers Alec worked as a County Court Advocate regularly appearing in civil matters across the South West. His background with the Royal Air Force Air Cadets means he has a good working knowledge of forces matters and the impact such lifestyles can have on clients.

Areas of Practice

Crime

Alec regularly appears in both the Crown and Magistrates' Courts both prosecuting and representing defendants. He is a CPS Advocate panel level 3 Prosecutor and regularly prosecutes

and defends in Crown Court Trials. He appears in most criminal matters including the supply of controlled drugs, violence and offences against property. He also appears in Proceeds of Crime applications and in matters on behalf of the Probation Service.

Alec also appears on behalf of constabularies and the CPS in disclosure applications in the Family Court, using his knowledge of both jurisdictions to good effect to obtain vital information for ongoing investigations.

Notable cases

R v Peter Daley [2018]

Alec, led by Michael Hall, prosecuted this multi-million-pound fraud trial in Liverpool Crown Court. The Defendant had set up numerous companies, each mis-selling advertising in emergency services related magazines which did not exist. The case was complicated by the fact it had been investigated by numerous police forces, with complainants situated nationwide. The defendant pleaded guilty at the end of the Prosecution case and received eight years' custody.

R v Luke Finch [2018]

Alec successfully prosecuted this s.18 GBH trial in Gloucester Crown Court, where a disagreement in a club during the Cheltenham Gold Cup week resulted in the defendant biting part of the victim's nose off. A trial on intent only resulted in a conviction and a 5-year sentence.

R v Daemon Griffiths [2018]

Alec defended in this case where the defendant had been arrested following an assault with an unused knife in his possession. Alec argued that the defendant had a good reason for possessing the knife and was successful in securing an acquittal.

R v LEM, LM and SW [2017]

Central Criminal Court – Alec Small, led by Jason Taylor represented the third defendant in a complex VAT and Excise Duty Fraud at the Old Bailey. Their client, the director of a wine importation company, was accused of illegally importing millions of pounds worth of undeclared wine from Italy and selling it for cash; evading vast amounts of taxes and duties payable in the process. In particular, their client was accused of being part of the 'legitimate front' presented by the company to HMRC to avoid detection.

After a thorough and detailed analysis of the computer evidence disclosed by the crown, Mr Taylor and Mr Small identified that key documents; relied upon by the prosecution as evidence of their client's having signed letters connected to the company's fraudulent activities, were in fact signed electronically. Others in the company had been using an image of his signature which they 'copied and pasted' into the draft letters.

Further expert computer analysis demonstrated that these documents had been produced without their client having any knowledge of their existence. As a result of this, the Albion team were able to successfully argue that their client had no case to answer in this £46 million fraud.

R v Mazzaello and Others [2017]

Alec is being led in this multi-handed fraud trial in the Old Bailey as junior counsel for the third defendant in a complex importation fraud worth around £40million. The trial is currently adjourned awaiting an interlocutory appeal following a successful argument by the first defendant of 'double jeopardy' under EU law following his prosecution in Italy for the same acts.

R v Hutchinson, Barclay and Others [2015]

Acting as junior counsel to Jason Taylor, Alec prosecuted in a four-handed assisting-an-offender case where the family and friends of Luchiano Barnes, the murderer in the original case, were accused of assisting him in fleeing the jurisdiction after the event. All four were found guilty, after a

long trial involving complicated technical evidence.

BIS v Edwards [2015]

Alec prosecuted this two-day regulatory trial for the Department of Business Innovation and Skills where the defendant was accused of dispersing his assets prior to declaring for bankruptcy. A guilty verdict was achieved following a straightforward presentation of the lengthy written evidence and a comprehensive cross-examination process.

R v Barnes and Others [2014]

Alec acted as the Crown disclosure junior in this complex Murder and Conspiracy case in Bristol Crown Court. The case involved complex points of law including a half-time appeal by the Crown against a terminatory ruling. It was subsequently the subject of the Channel 4 documentary 'The Murder Detectives.' The case resulted in the conviction of the lead defendant, Luchiano Barnes, of murder.

Police v Dumbleton [2014]

Alec successfully argued on behalf of the defendant to have this case dismissed in the Magistrates' Court following numerous issues with disclosure and identification evidence.

Crime Clerks:

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Employment

Alec regularly appears in the Employment Tribunals in all forms of hearing. He has worked in matters regarding dismissal, Equality Act cases and breaches of contract, and will accept work in any Employment dispute. He undertook an employment pupillage Stephen Roberts and Jason Taylor.

He now has a national practice appearing in tribunals in Liverpool, Manchester, Plymouth and London.

Alec acts for both claimants and respondents at all stages of proceedings, including advising on prospects.

Alec takes a pragmatic approach to his cases and is able to apply his advocacy and analytical skills from his criminal practice to tribunal proceedings to good effect.

Recent cases

AP v SC Ltd [2017]

Alec was instructed for the complainant in a five-day final hearing, the complainant had claimed for Sexual Harassment, Victimisation and Discrimination against her employers. Alec's cross-examination of the chief witness for the Respondent revealed that evidence had been likely withheld and internal procedure not followed in relation to her initial complaints. In particular highlighting that the respondent witness had been able to prepare his defence to the complaint before he had been notified of it. The judgment is awaited.]

AD v DCF [2017]

Alec represented the claimant in a three-day final hearing in Worle in a case of age Discrimination.

AMD v LL [2018]

Alec represented the claimant in a one-day final hearing in a case alleging disability discrimination. Alec was able, through cross-examination based upon timesheets, pay slips and accounts to demonstrate that the Respondent had falsified his accounts, forcing a settlement before judgment.

"Lovely Cross-Examination in just the right tone on the right areas. Economic, appropriate and rather good."

RR v NWM and SS

Acting for the claimant in a complicated TUPE matter involving a dispute over who employed the claimant. Alec was successful in achieving a finding that neither defendant had properly consulted with the claimant.

LC v Y NHS Trust

Acting for the claimant in disability discrimination case. Alec successfully argued that the claimant was disabled by law and had suffered discrimination by the defendant.

JB v WSFA

Acting for the Local Authority respondent. Advising on an unfair dismissal allegation by a fire fighter who was alleging improper procedures in relation to an investigation by the Fire Service.

M and W v TLL

Alec successfully represented an applicant in a preliminary hearing concerning claimants who were said to have started their claims out of time.

IH v RR

Alec represented a claimant in quasi-discrimination and redundancy case where he successfully argued that, in a case where discrimination was a live issue, the ordinary rule that claimants could not see the score sheets in a redundancy scheme did not apply due to the specific nature of the allegation that the Claimant had been unfairly treated. As a result the score sheets were disclosed in a partially redacted format to enable a full analysis of the scoring to be carried out.

SB v Z

Alec represented a claimant in the Central ET in a case against a government department concerning issues of anonymity, security and disability discrimination.

Recent Articles

The workplace and social media: #Fired

Clerk:

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Court of Protection

Alec accepts instructions to act on behalf of local authorities, families, the Official Solicitor, Care commissioning Groups, deputies and NHS Trusts in matters involving both welfare and finance. He has been a member of the Court of Protection team since joining Albion Chambers in 2014 and has regularly assisted local authorities, NHS authorities and solicitors' firms with education and training.

Alec also undertakes work in Ordinary Residence disputes. Recently advising Local Authorities in

cases where funding responsibility is in dispute.

Alec is known for his ability to assimilate material quickly, build a good rapport with clients and is able to cut to the heart of the issues in the case, in this way he is able to find a route through the case with an eye on avoiding unnecessary costs and delay.

Recent cases

LJ v JJ v BCC

Alec represented P (instructed by the Official Solicitor) in this bitter family dispute. The issue was between siblings over whether their mother should continue to reside in a care home, or return to the family home. The case also involved related issues over deputies, LPAs and finite resources.

Alec represented P throughout the proceedings until a contested final hearing where he successfully argued against P's eldest son's application to move her back into the home with him, also ensuring he was stripped of his status as LPA.

BBC v NA

Alec represented P in this case which focussed upon the issues raised by the *PJ v Welsh Ministers* case, before it was heard by the Supreme Court. It had been agreed by all parties that P should move to a new placement. However, the move was opposed by P's responsible clinician. Following the decision of the SC in PJ however, P was allowed to move.

JW v CC & KCCG

Alec represented the CCG in this case where P was actively challenging the decision that he lacked litigation capacity, whilst accepting that he lacked subject matter capacity.

RK v TC

Alec represented the Local Authority in this unusual case where P, a Finnish Citizen had been found to be ineligible for financial and care support within the UK and the LA were prevented from supporting her financially; leaving her effectively destitute. A negotiated settlement was reached, which left Alec successfully arguing for the Court of Protection to authorise a deprivation of her liberty while she was transferred by car and plane to a waiting care facility in Finland.

WC v D re: CD

Alec represented and advised a local authority in a complicated case concerning a daughter who was concerned for her reclusive mother's welfare. A key issue was how to ascertain the capacity of a person who refused to open her door to anyone from authority, and would only speak to people she knew in town.

JE v MCC Re: PE

Alec represented in proceedings concerning a wife who was facing a divorce application from a husband who was found to have lacked capacity and her cross-application for contact with him. One of the key issues in the case was the role of the husband's children in the litigation, in particular their contention that he did not lack capacity to litigate his divorce.

PB v SGC

Representing a local authority in an ongoing matter concerning a young man with learning difficulties detained in a residential college. Key to the case is the availability of suitable educational provision, and questions of physical abuse within the current facility.

DCC v RT re: CT

Alec represented a patient in a case where the agreed way forward was for them to be transferred into a nursing home. The difficulty was how to progress the move. Alec successfully argued that this was an unusual case where it in fact was in their best interests for the move to be facilitated by the use of mild sedatives in order to reduce their distress.

Legacy

DCC v xNHS Trust

Acting for a health authority in relation to a case involving accusations that members of the family were alleging entitlement on the estate. Alec advised the trust that their role had effectively come to an end and the most economical way forward was to leave the proceedings.

Seminars/Articles

Freedom is the right of all: How the Supreme Court transformed the deprivation of liberty landscape

Cases of interest in Court of Protection

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