

MANUEL MARTINS, TERESA KIRK, DEVON COUNTY COUNCIL AND THE COURT OF PROTECTION – TIMELINE

ALL FACTS IN THIS TIMELINE TAKEN FROM PUBLISHED JUDGMENTS OF COURT OF PROTECTION AND COURT OF APPEAL OR DIRECT QUOTATIONS FROM MRS KIRK AND HER LEGAL REPRESENTATIVES PUBLISHED IN THE MEDIA

Devon – Manuel Martins’ home for many years	Sussex – Teresa Kirk’s home	Portugal	HMP Bronzefield	Court of Protection	Court of Appeal
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	MANUEL MARTINS	TERESA KIRK	DEVON COUNTY COUNCIL	COURT DECISIONS
DATE	Referred to as MM until reporting restrictions lifted – the Court of Protection case was about him as an adult who lacked capacity to make decisions for himself	Manuel’s younger sister Further (unnamed) sister resident in Madeira Other extended family members in Portugal	Local authority for Sidmouth, where Manuel lived, has statutory responsibility (now under Care Act 2014) for adults who need care and support	Decisions of the Court of Protection and the Court of Appeal on appeal from the Court of Protection
1935/6 – said to be 81 at date of June 2016 hearing	Born in Madeira, moved to UK to work when young and remained in UK	C 10 years younger than her brother, also born in Madeira, also moved to UK and remained close to him although not living nearby		
Mid-1960s-2014	Moved to Sidmouth, Devon and stayed there until 2014. Married and divorced. Lived alone with cat, Tuna, after divorce, but with many local friends. Worked as head waiter in local hotel until			

	retirement.			
2012	Diagnosed with vascular dementia (in his late 70s)			
2013	Some care provided informally by friends and neighbours in Sidmouth, in particular "JF"			
2013	Appointed Teresa Kirk and JF's brother as attorneys for property and affairs, and health and welfare			
12 June 2014	Discussed with carer the plan for him to go on holiday to Madeira to visit his other sister	Discussed with Manuel plan to take him on holiday to Madeira to visit their other sister		
Summer 2014	Taken from Sidmouth to Teresa Kirk's home in Sussex Sidmouth house put up for sale by auction [apparently on instructions of Teresa Kirk]	Took Manuel to her home in Sussex, [and it appears] arranged for Sidmouth house in to be cleared and instructed auction house to sell it – ¹ she intended to buy a smaller home for herself and Manuel to live in where she would be his carer		

¹ According to "Portugal Resident" English-language news site 20.10.16

<p>9 September 2014</p>	<p>Continued to live at Teresa Kirk's home in Sussex as his house had been cleared</p>		<p>Hearing of Devon's application for injunction against auction house preventing sale of Manuel's Sidmouth house</p>	<p>Court of Protection ordered an injunction against sale of Manuel's Sidmouth house</p>
<p>Later in 2014 or early 2015</p>	<p>A further capacity assessment concluded that he lacked capacity to manage his property and affairs</p>		<p>Devon makes application to the Court of Protection to revoke Teresa Kirk's appointment as Manuel's attorney</p>	
<p>March 2015</p>	<p>Consultant old age psychiatrist assessed mental capacity, confirmed suffering from moderately severe dementia, lacked capacity to manage property and affairs or make decisions about where he should live or arrangements for his care or contact with others, or to decide whether to go on a short holiday to Madeira</p> <p>Psychiatrist reported that in Manuel's best interests to go on a short holiday to Madeira with Teresa</p>			
<p>20 April 2015</p>	<p>Independent social worker reported to Court that not in Manuel's best interests to carry on living with Teresa but that in his best interests to return to live in Sidmouth,</p>			

	where he had lived for 50 years and had a large circle of friends			
Between 23 and 30 April	Taken to Portugal by Teresa Kirk	Told solicitor she was unhappy with recommendations made by independent social worker Made travel arrangements and took Manuel abroad without telling anyone involved in Court of Protection case		
30 April 2015				Court hearing due to take place, court discovered that Teresa had taken Manuel away without telling anyone or with permission of the court
17 May				Reporting restrictions order made by Mr Justice Baker
4 June 2015				High Court judge, Mrs Justice Pauffley, made an order directing Teresa to return Manuel to England between 25 and 30 June Penal notice attached to order
5 June-8 July 2015		Failed to return Manuel to England despite court order of 4 June		

9 July 2015			Application for committal of Teresa Kirk for breach of order made on 4 June	Hearing before High Court judge, Mr Justice Newton, ordered Devon to file evidence in support of application for committal for contempt of court
September 2015		Handwritten note to judge seeking variation of order made on 4 June		Hearing before High Court judge, Mr Justice Baker, directed further hearing on 18 September
18 September 2015		Present at court hearing		Hearing before High Court judge, Mr Justice Mostyn, refuses to make any changes to the 4 June order for Teresa Kirk to return Manuel to England and orders Devon to use its best endeavours to secure his return
Mid-September 2015 to mid-January 2016	Manuel discharged from hospital in Portugal and placed in care home in Portugal			Care home in Portugal refused to comply with any orders unless authorised by Teresa Kirk or Portuguese legal authorities
18 January 2016			Further application to court	Hearing before Mr Justice Baker: judge directs further assessment to establish whether in Manuel's best interests to be returned to England or remain in Portugal
20-21 April 2016			Practice manager of complex care team ("NS") and community matron for dementia ("SP") travel to	

			Portugal to assess Manuel at care home there	
10 June 2016				<p>Hearing: judge (Mr Justice Baker) decides that it is in Manuel's best interests to return to England</p> <p>Judgment: Devon County Council v Martins [2016] EWCOP 45</p> <p>http://www.bailii.org/ew/cases/EWCOP/2016/45.html</p>
20 June				<p>Court's order drawn up following hearing on 10 June – paragraph 7</p> <p>“No later than 4 p.m. on 27 June 2016 Ms Theresa Kirk shall provide to Devon County Council a signed copy of the written declaration of authority appended to this order and having signed the said document shall not thereafter take any steps or measures to withdraw or countermand such authority whether by herself or by instructing or encouraging any other person to do so.”</p>
27 June		Teresa Kirk failed to comply with deadline in 20 June order		
18 August 2016		Teresa Kirk represented at hearing in open court by	Hearing of Devon's application for committal of Teresa Kirk for	High Court judge (Mr Justice Newton) found Teresa guilty of contempt for

		solicitors and a barrister, refused to sign the declaration of authority, found guilty of contempt of court for failing to sign the authorisation and sentenced to six months in prison	contempt of court for failure to comply with paragraph 7 of the 20 June order	failing to sign the authorisation and sentences her to six months in prison for contempt, order suspended for seven days to give Teresa a final chance to sign the authorisation Judge acknowledged Teresa Kirk has “deeply held, sincere beliefs as to the best interests of Manuel and is genuinely concerned about his welfare” Re M [2016] EWCOP 42 http://www.bailii.org/ew/cases/EWCO/2016/42.html
25 August 2016				Seven day suspension of 18 August order expires, judge issues arrest warrant
26 September 2016		Arrested and imprisoned at HMP Bronzefield		
27 October 2016		Notice of appeal against imprisonment filed		
8 November 2016		Teresa Kirk released from prison		Court of Appeal hear Teresa Kirk’s appeal against committal to prison Court of Appeal quashes committal order and directs her immediate release from prison – Reason: committal shouldn’t have been heard before appeal from decision that it was in Manuel’s best

				<p>interests to return to England</p> <p>Court of Appeal also grants limited permission to appeal 20 June 2016 orders</p> <p>Devon County Council v Kirk [2016] EWCA Civ 1221</p> <p>http://www.bailii.org/ew/cases/EWCA/Civ/2016/1221.html</p>
30 January 2017				<p>Court of Appeal written judgment following review of papers on Teresa's appeal against the 20 June 2016 order</p> <p>Re MM: Teresa Kirk v Devon County Council [2017] EWCA Civ 34</p> <p>http://www.bailii.org/ew/cases/EWCA/Civ/2017/34.html</p>
1 February 2017	Death in care home, Portugal			
13 February 2017				<p>Court lifts reporting restrictions order, makes final order, June 2016 judgment published on BAILII</p>
12 April 2017				<p>Court of Appeal written judgment on costs of Mrs Kirk's appeal against (1) committal order and (2) appeal against best interests judgment</p>

Re MM: Teresa Kirk v Devon County Council [2017] EWCA Civ 620

<http://www.bailii.org/ew/cases/EWCA/Civ/2017/260.html>