

Stewart Smith

Position
Prison Law Supervisor

Practices

- Private Client Criminal Defence
- Criminal Defence & Serious Crimes
- Prison Law
- Courts Martial & Military Law

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Stewart specialises in Service Law, Prison Law and Military Law. He has had notable success defending soldiers at Courts Martial including obtaining acquittals for a number of clients including for both sexual and violence related offences. His knowledge and experience of Service Law has meant he has had some involvement in almost every service law matter undertaken by the Tuckers Solicitors, both at Courts Martial and in Civilian Courts.

Stewart highly experienced in all aspects of Prison Law, including re-categorisation reviews, recalls, sentence planning and progression, IPP appeals, adjudications, HDC, sentence calculation and parole board hearings.

In addition he has launched several judicial reviews on behalf of clients and has had great success. He has successfully challenged the Probation Service on licence conditions and has also successfully challenged Ministry of Justice decisions on a number of occasions.

Stewart has recently managed to secure an oral hearing for a client who had been recalled to custody four times during his licence. He represented the client at the hearing a secured his release for a fifth time.

Cases

- **R v Suddell (Courts Martial):** Client was accused of a sexual assault. He was successfully defended at trial and found not guilty of the charges against him.
- **R v Dixon (Courts Martial):** Client was accused of Conduct Prejudice to Good Order and Service Discipline. The client had been accused of lying to a Senior Non-Commissioned Officer and a Commissioned Officer. This is not a

charge that would normally be tried at Courts Martial but the client activated his right to have his case heard by a Courts Martial, as he was adamant that he had not committed the offences. This proved to be the correct decision when after two trials the Service Prosecuting Authority decided they would not pursue the charges against the client and the Court duly dismissed them.

- **R v Green (Courts Martial)**: Client was accused of a Racially Aggravated Public Order Offence when it was alleged that he had racially abused an Asian taxi driver. He was successfully defended at trial and found not guilty of the charges against him.

- **R (on application of Moult) v Secretary of State for Justice (Judicial Review)**: Client was released from prison after serving the custodial element of a term of imprisonment. His licence conditions included an exclusion zone, which prevented the client from entering certain areas. It was successfully argued that the size of this exclusion zone was not only excessive and disproportionate but also impacted on the client's Human Rights. The Secretary of State conceded that the exclusion zone should be amended before the case came to court.

- **R (on application of O'Connor) v Secretary of State for Justice (Judicial Review):** The client was serving a custodial sentence and wanted to apply for release on Home Detention Curfew (HDC). The prison authorities informed him that he was not eligible for HDC for some time. This was challenged in the light of the Supreme Court ruling in the case of *Noone* and the Secretary of State conceded before the case came to court that the client was in fact eligible to apply for HDC and informed the prison authorities to commence his application.