



Year of Call

2013

Devil Masters

Chris Marney
Niall McCluskey
Kate Dowdalls

Practice Profile

Gavin is regularly instructed to appear in the Court of Session, Sheriff Courts and Tribunals.

The bulk of his practice is in judicial review with particular emphasis on Human Rights, Prison law and Immigration.

He has represented young persons at Children's Hearings and employers in the context of unfair dismissal and disability discrimination claims. He combines a personable nature with a confident and analytical approach to litigation at all levels.

Education & Professional Career to Date

LL.B (Hons) University of Strathclyde 2002 - 2006

Appointments

- Devils' instructor (2018–present)
- Board Of Assessors (2016–present)
- Human Rights and Rule of Law (2016–2018)

Selected Cases

- **Aberdeen City Council v KD & AA**
Extra Division of the Inner House - Appearing as junior alone - successful appeal against decision

of the Sheriff Appeal Court - Permanence orders - Authority to adopt - Article 8 of the European Convention on Human Rights - Remittal to the Sheriff Appeal Court to proceed as accords - Quoad ultra the Sheriff Appeal Court allowed the appeal.

- **William Graham -v- Audrey Furby et al**

Junior; acted for Trustee in Sequestration defending action for reduction of a disposition on grounds of incapacity and unilateral essential error; decree granted in favour of Trustee in Sequestration (23rd June 2017).

- **RF, Petitioner**

(2017 - Petition conceded w/ expenses); prisoners' rights; inmate serving Order for Lifelong restriction; transfer to open estate blocked despite Petitioner meeting criteria and overcoming presumption against progression; arbitrary detention and Article 5 ECHR concerned.

- **Farukh Khan v Parole Board for Scotland**

(2016 - Petition conceded w/ expenses); prisoner's right's; deportation to Pakistan pursuant to UK Borders Act 2007; Pakistani High Commissioner refusing early repatriation given nature of offence (rape of wife); Parole Board's irrational refusal to hold oral hearing.

- **Brian Hands v the Scottish Ministers, [2016] CSOH 9 (Lord Jones);**

prisoners' rights; procedural fairness analysis; interplay between the Prison Rules etc. 2011 and common law requirements of fairness; Petition refused.

- **Dmitris Stalasz v Scottish Ministers**

(2016 - Petition conceded w/ expenses); Challenge to Scottish Ministers' apprehended policy of refusing foreign national prisoners access to Open Estate at H.M. Prison, Castle Huntly. Sentencing judging noting Petitioner unlikely to pose future risk.

- **David Thompson v Parole Board for Scotland**

(2015 - Petition conceded w/ expenses); reduction of decision to refuse parole sought; breakdown of fair procedure etc.

- **Lee Sah Lim v Secretary of State for the Home Department**

(2014 - Petition conceded); Article 8; failure to appreciate private and family life.

- **Bin Chen v Secretary of State for the Home Department**

(2014 - Petition conceded); Paragraph 353 of the Immigration Rules; further submissions wrongly considered.

- **Mohammed Mobinuddin v Secretary of State for the Home Department, [IA/23617/2013];**

Acted for appellant- Pakistan - upper tribunal appeal - interplay between Immigration Rules and length of residency/knowledge of the English language; appeal allowed.

- **Secretary of State for the Home Department v MA, [IA/01848/2014];**

Acted for Respondent; Nigeria - upper tribunal appeal by Home Secretary following MA's success at first instance; Article 8 right to respect for private and family life; proportionality of removal in context of single parent and 2 very young Scots children; appeal refused.

- **Secretary of State for the Home Department v RKU, [IA/43654/2014]-**

Pakistan - UT appeal by Home Secretary following RKU's success at first instance; acted for Respondent; Article 8; personal integrity; proportionality of removal of elderly dementia patient cared for by family in the UK; lack of suitable care facilities in Pakistan; appeal refused.

- **RRR v Secretary of State for the Home Department, [2014] CSIH 44 (Lord Drummond Young)**

Nigeria - medical conditions in the context of Article 3 of ECHR - apprehended threat of death and torture by "Boko Haram" (Arts 2 and 3); errors in law and very significant threshold test not met.

- **MK v Secretary of State for the Home Department, [2015] CSOH 13 (Lord Kinclaven);**

Pakistan - proactive Labour Party activist sought to be removed; Article 8 right to respect for private life; anxious scrutiny and societal value; media bias; good arguable case based on Cart and MS (India). Petition refused.

Areas of Practice

- Family
- Property
- Public Law