

# Ali Rafati

Call: 1993



## PRACTICE OVERVIEW

Ali is one of the busiest and most experienced barristers on the Western Circuit.

Ali joined chambers in 1993. His career is largely focused on criminal law although he also takes instructions for hearings before the family court.

In crime, Ali has worked hard to retain his standing as a specialist engaging in a serious and heavy weight criminal practice. Ali is on the Crown Prosecution Service panel of Advocates permitted to prosecute serious criminal offences.

He is regularly instructed in murders, serious violent/sexual offences, serious frauds, drugs cases as well as regulatory matters.

Ali accepts instructions in Family Private Law and Public Law proceedings.

He is fully computer-literate and understands the inner working of computer substructure, which maybe essential in image download cases.

## PRACTICE AREAS

### Crime

SA Criminal advocate with extensive experience in the full range of criminal cases including murders, serious violent/sexual offences, frauds, drugs cases as well as regulatory matters.

Ali is a specialist in dealing with cases involving vulnerable clients or witnesses. He is very skilled in dealing with those who may have additional needs / young witnesses or those suffering with mental health issues.

Ali has a formidable track record in the Court of Appeal (Criminal Division) prosecuting and defending and has successfully argued against a number of Attorney General's references.

Ali's legal arguments on the PACE codes and identification parades (as fully adopted by the Court of Appeal in the case of R v. A) now form part of the backbone of identification law in this country.

Always overprepared in his work and available for face to face/ phone conferences with professional and lay clients from an early stage in the proceedings, Ali leaves those who instruct him secure in the knowledge that they are receiving the greatest care and consideration in the presentation of their case.

Ali is bilingual, Farsi (Persian) being his 'mother' tongue.

## CONTACT

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## AREAS OF LAW

**Children (Public Law)**

**Children (Private Law)**

**General Crime**

## Family Law - Public & Private Law

Ali accepts instructions on private and public law cases. Ali has experience in public law which includes representation of parents in applications for Care, Placement and Supervision Orders. He is able to represent parents in injunctions and all stages of private law cases. With his criminal law background, Ali can advise and represent those going through criminal proceedings and family proceedings simultaneously.

### Cases of note

R v. P, Nov. 16th 1996 (first prosecution under the Misuse of Computers Act).

R v. A [1998] Crim LR 67 (transcript, CACD, 23 June 1997) as cited in House of Lords Judgement in R v. FORBES (APPELLANT). (2000). (ON APPEAL FROM THE COURT OF APPEAL (CRIMINAL DIVISION)). ON 19 JULY 2001. [2001] UKHL 40.

R v. P (2005) 1 Cr. App. R.(S) 113 – credit for guilty pleas and appropriateness of consecutive sentences when offences arise from a single ‘rolling’ incident.

R v. H. Nov. 26th, 2007 – Court of Appeal (sentencing guidelines for causing death by dangerous driving).

R v. B and others [Dance Academy trial] – Court of Appeal October 2008 (anonymity of witnesses, and sentencing guidelines in ‘permitting sale of class ‘A’ drug cases).

R v C (Trial 2018 and re-trial 2019- Plymouth Crown Court) - Ali (Led by Queen’s Counsel) defended a mother charged with 4 counts of cruelty to a child and as well as administering poison with intent. The ‘victim’ of these allegations was her 10 months old daughter. It was suggested that she on occasions deliberately restricted her daughter’s breathing (probably by placing her hand on the child’s nose and throat), and separately administered morphine to the same child. These behaviours it was suggested were to bring attention to her and her baby. The bulk of the evidence came from medical experts at the hospital but also some of the most eminent experts in the field of radiology /paediatrics. There were over 1500 pages of material to consider. This trial involved complicated and detailed examination /cross examination of a series of top medical experts as to alternative explanations for the conditions suffered, including errors at the hands of the hospital. The jury were unable to return a verdict at the first trial and acquitted following a 12-day re-trial)

**R v H** (Trial May 2018 - Plymouth Crown Court)

Ali defended an 80-year-old man charged with multiple counts of indecency against 8 children/ young persons, dating back to the 1980’s and 1990’s. The defendant who had previous similar convictions dating back to 1960’s developed dementia during the course of the investigation. Conflicting evidence from psychiatrists as to the extent of his ability to participate resulted in a *voire dire* (found in the defendant’s favour). The defendant was found to be unfit to plead/ unfit to stand trial following which there was a trial of the issue of the facts before a jury, cross examining the victims as to the alleged acts.



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**DOLS in Care Proceedings**

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## LEGAL 500 RECOMMENDATIONS

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Leading Junior in Criminal Law Tier 2**

“Ali is an excellent criminal barrister”

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**R v A**(Trial May / June 2018 - Plymouth Crown Court)

The trial involved the presentation of a man suffering from acute medical conditions (HIV / severe COPD/ Porphyria (light sensitive skin). The client, charged with counts of rape and serious sexual abuse against 3 boys/ young men in the 1980's and 1990's hardened his relationship with previous legal representatives shortly before trial. Ali received instructions and had to prepare this 18-day complicated trial in a very short period of time. The client had to be handled with extreme care in terms of his trial management/ expectations. Specially devised timings and lighting conditions had to be put into place to allow the trial to proceed.

**R v H**(Trial July 2018)

Ali defended the above client who was charged with s.18 wounding upon his wife following a night fueled by drink and drugs. The extensive injury and cuts (many dozens) across the whole of the complainant's body required a leading Home Office approved pathologist to be instructed to interpret depth/ length (and comment on suggestions that some of the injuries were self-inflicted. The complainant had a long history of abusive relationships with men often ending in violence as well as longstanding conflict with Social Services regarding her ability to care for her children. The case required a lengthy bad character application. The defendant was acquitted of causing the injuries (in so far as were attributed to him) with intent.

**R v A and others** (Trial November 2018 – Retrial June 2019)

This was a multihanded drug conspiracy. Ali defended a client in this 8 handed complex trial. The papers were voluminous and complicated. The preparation of the case required the examination of 1000's of pages of phone data / charts setting out the relationships between the offenders. Further and during the course of the trial, further evidence was produced revealing over 30 hours of telephone recordings between the parties. Following the first trial being aborted for administrative reasons in 2018, Ali's client was acquitted following a 26 day re-trial in June 2019.

**R v B and others** (Trial January/ February 2019)

Ali defended a 26-year-old man with counts of wounding with intent and attempted robbery. This was a 5 handed case surrounding an allegation of a drug taxing which went badly wrong. B, the lead defendant stabbed the complainant with a kitchen knife to the side of the ribs on the ground following an attempt to restrain him. The knife passed through his upper abdomen through his liver, perforating his colon and lacerating a kidney. The injuries would have been fatal but for emergency surgery. The case involved legal argument on a number of topics including the subject of dangerousness.

**R v P and others** (trial October 2019)

Ali was instructed to defend in a 3 handed case where P was one of three in a flat where drug dealing took place. It was alleged that the lead defendant had upon him a functioning handgun with bullets which were used to carry out the robbery. The handgun used was used again later in the same day to shoot and injure another male in a drug related attack. The case against Ali's client and another ended following cross examination of the principal witness.

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**R v S** (Instructed in 2019- Trial January 2020 - Plymouth Crown Court)

Ali defended a 54-year-old man charged with counts of engaging in sexual activity in the presence of a child and breach of a sexual harm prevention order. The defendant has suffered from learning disability with offending behaviour and has been in formal care arrangements for the last 30 years. He was under the care of social services with 16 hours a day care when he committed the offences. The defendant would wait at his front door for the complainant a young girl to walk past so he could engage her in conversation. The conversation would be inappropriate in nature and the defendant often stood outside with just his pants/ no clothes on would masturbate in front of the young girl. Evidence from psychiatrists concluded that the defendant was unfit to plead/ unfit to stand trial following which there was a trial of the issue of the facts before a jury, cross examining the victim (and complaint witnesses as to the alleged acts).

**R v P** (Trial - July 2020- Plymouth)

Ali defended a 52-year-old businessman of previous good character for a series of very serious sexual offences. Having been accused of long-term sexual assaults upon his stepdaughter, the defendant was arrested and interviewed. As part of the enquiry his DNA was taken. That sample was placed on the national database and subsequently proved to be a match for a DNA profile held, originating from the scene of the 1987 knife point rape upon a woman walking home in Plymouth. The prosecution successfully applied to try the historic offence alongside the more recent complaints. As well as cross examination of civilian witness, during the 2-week trial there was forensic cross examination of experts on the topics of digital data/ handwriting as well as storage and interpretation of results relating to DNA.

**R v J** (Trial - December 2020 - Plymouth Crown Court)

In this case Ali defended a 66-year-old carer who was charged with causing death by dangerous driving. Whilst transporting an elderly client back home the defendant crashed her car into a wall. Both she and the client received injuries. The client (a woman in her 80's) suffered from broken ribs. Following that woman's admission into hospital she received 'inadequate treatment' and later died when an overworked registrar lacerated her heart with a chest drain which was pushed too far.

So far as the cause of the accident was concerned, the defendant contended that she passed out whilst driving her car. The cause of this she believed was syncope. The prosecution's case was that the defendant was suffering from fatigue and sleep apnoea which was causing her to fall asleep. They suggested that the defendant knew that she should not have been driving but took the risk. So far as the death was concerned, it was the defence case that the cause of death was the treatment at the hospital rather than the injuries received following the accident. We argued that the chain of causation had broken and so the defendant should not legally be responsible for significantly contributing to the death. Numerous experts were called and examined as to the cause of crash and responsibility for the death.



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### **R v S**(Trial – March 2021 – Plymouth Crown Court)

Ali represented a 35-year-old man charged with manslaughter. Whilst out with his wife and a friend, the defendant's group encountered the complainant. The complainant was a man with behavioural issues. He had spent much of his evening getting into quarrels with persons as he moved from one licenced premises to another. He had been ejected from some/ not admitted into others due to his behaviour. Following making himself a nuisance /threatening violence and lashing out at the defendant's group, the complainant was chased away by the defendant. Soon after running off, he turned around and faced the defendant who was running at him with speed. The two collided and the complainant fell, striking his head on a nearby pavement. He received serious head injuries from which he died. The trial revolved around the topic of self-defence.

### **R v K** (January 2021 – Plymouth Crown Court)

Ali defended a 37-year-old woman charged predominantly with offences of violence and violence towards children. She was a foreign national with no recorded convictions but already with long term and enduring mental health issues. She pleaded guilty to the offences on the basis that she believed that the children had in some way harmed her own child. At the time of the pleas, she had been sectioned under s.3 Mental Health Act 1983. Investigation into her a variety of conditions (including bi-polar disorder) caused 2 psychiatrists to conclude that she should have been the subject of Hospital Order with a s.41 Mental Health Act 1983 restriction despite her previous lack of offending.

### **R v C**(Trial August 2021/ Retrial May 2022- Plymouth)

Ali led by Queen's Counsel defended a 42 old man charged with murder. The allegation was that the defendant together with his then girlfriend (co-defendant), befriended, took advantage of, and ultimately murdered a 60-year-old man with profound vulnerabilities. The evidence against the two largely centered around forensics at the scene by way of blood distribution and fingerprints /footprints. The defendants blamed the killing on each other. As part of the trial there were extensive bad character applications by the prosecution and each defendant against the other. Apart from the service of extensive evidence in the case, approximately 4000 pages of unused documents had been served and had to be considered.

### **R v F** (2021, Plymouth Crown Court)

In this case Ali defended a 19-year-old man charged with multiple counts of sexual abuse against females as young as 14. The defendant had intellectual limitations making him unable to establish a meaningful relationship with females his own age. The Crown's case was that the defendant groomed the complainants (and many others) through social media, exchanged nude photographs and then set up meetings where he would meet and sexually abuse them. In the evidence provided and relied on as bad character, there was text contact with a girl as young as 12 with whom the defendant tried to have a relationship. The defendant pleaded guilty to those counts. The defendant was separately charged with rape



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on another young female. Thorough preparation of the case and examination of contact between the parties led to the preparation of a defence case statement which brought about further investigation / review of the case resulting in the prosecution being abandoned in relation to that aspect of the count.

**R v J** (2021/2022, Plymouth Crown Court)

Ali represented a 51-year-old man charged with counts of fraud. The defendant had operated as an independent financial advisor for over a decade before having his work contract terminated by the company he was representing following an allegation of misconduct. As a result of further investigation into that misconduct his licence permitting him to give financial advice was revoked. The defendant who was going through financial difficulties and a divorce continued to provide advice to a number of clients and continued to take client money for another 9 years which he largely spent on his own needs. By the time his offending was reported to the police and he was charged, he had committed fraud to the value of 1.3 million pounds on his clients. Following the entering of guilty pleas before the courts the defendant was sentenced to a term of custody. His assets fell under the scrutiny of the financial investigators pursuant to the Proceeds of Crime procedure whereupon the defendant was stripped of his home and vehicle.

**R v F** (Plymouth Crown Court)

Ali represented a 48-year-old man charged with multiple counts of child cruelty against his son and stepson as well as also causing actual bodily harm to his stepson. He had faced a further count of sexual assault on his stepson but following submissions by us, the prosecution agreed not to proceed on that matter. The prosecution case against the defendant was that over a number of years he used abusive, cruel and at times violent behaviour towards the two children. The youngest child suffers autism spectrum disorder and attention deficit hyperactivity disorder. He gave his evidence to the police with the help of an intermediary and that procedure was maintained in the Crown Court. Following the requisite ground rules hearing questions were prepared and preapproved before the youngest child was examined ahead of the trial under the s.28 procedure as set out in the Youth Justice and Criminal Evidence Act 1999. This evidence was pre-recorded and is to be played at the trial in due course. Following requests in the defence case statement, this case also initiated the joint protocol between the Crown and Family Court for disclosure of documentation flowing from the private law proceedings in that jurisdiction. Applications were submitted to the family court and resulted in the service of a vast amount of relevant disclosure. In total there were over 1100 pages of documents served as unused material in the case.

**R v C** (Trial – July 2022 – Plymouth Crown Court)

Ali defended a man charged with serious offences arising from alleged domestic violence and controlling behaviour over 6 months. Following a 10-day trial at Plymouth Crown Court, he successfully managed to secure acquittals on counts of Blackmail / False imprisonment / Animal Cruelty and Assault. The defendant was convicted of a further offence of assault and criminal damage.



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