

# THE DEFENDERS

**Desperate and floundering, the McCanns' solicitor flicked through a legal directory to find an extradition and can be counted on to shield Madeleine's parents from the specialist – and hit pay dirt. Kingsley Napley have defended everyone from Pinochet**

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If Kate and Gerry McCann wanted a secretive, technically brilliant, ruthless, committed, honest lawyer who shuns the media spotlight, they chose the perfect advocate in Michael Caplan QC. Described as 'the weapon of choice for battleship cases' by a legal guide, he will relentlessly protect their interests during any Portuguese onslaught to extradite the beleaguered couple. Caplan's grey, tiny functional office in Clerkenwell, the only touches of colour are cartoons, most of them chronicling his last famous case: preventing the brutal Chilean dictator General Augusto Pinochet from being extradited to Spain to face trial for torture charges.

Despite its high profile, the case revealed Caplan's talent for legal lateral thinking but also his near-obsession for secrecy, which one colleague found slightly weird. 'He is very honest and a superb lawyer, but he is also very intense and does not appear to trust anyone,' said one legal source. 'His approach, like his ascetic lifestyle, is measured and restrained,' said another. 'He plots and schemes like a chess player.'

For the past 25 years, Caplan, 54, one of the first solicitors ever to become a QC in criminal law, has been a partner at Kingsley Napley, renowned for defending controversial, high-profile figures. The title of QC is awarded by the Department of Constitutional Affairs and is an honour normally accorded only to barristers. For a solicitor to be singled out in this way is remarkable.

Educated at King's College, London, he then joined Lickfolds, Wile & Powles in 1975 and has been on the legal fast-track ever since. He became a part-time Crown Court Judge in 2000 and took silk two years later. He is married with two children and lives in London. One of Caplan's early cases was to represent the captain of the dredger Bowbelle which collided with the Marchioness on the Thames in 1989, killing 51 people. Captain Henderson was tried twice but never convicted of wrongdoing.

His other cases involved the BCCI bank fraud with its undercurrents of bribery, moneylaundering and arms trafficking, and the arms-toIraq scandal, which contributed to the downfall of John Major's Tory regime when it emerged that Matrix Churchill, four of whose directors were on trial for selling arms to Saddam Hussein's Iraq, were authorised to do so by the government. In both cases, charges were dropped.

Down the corridor, his colleague, affable solicitor Angus McBride, 42, has also been hired by the McCanns. Educated at University College, Cardiff, he worked for Lewis Silkin before joining Kingsley Napley in 1999. He, too, is married with two young children and lives in London. Equally scrupulously honest and dedicated, he also has obsessive tendencies. 'He will not leave any stone unturned and will then worry that he may have missed a stone,' said a source who has worked with him. 'But he is unflappable and never appears to be too busy. He is much more open than Caplan and relaxed with the media. The McCanns have chosen wisely.'

McBride's past clients include Michael Fawcett, a former senior aide to Prince Charles; former military intelligence officers in Northern Ireland accused of colluding with paramilitaries to commit murder; the comedian Chris Langham, convicted for downloading child pornography; Premier League footballers accused of rape and another player charged and acquitted of violent assault. His expertise is managing and protecting the reputation of individuals who are under criminal or media investigation.

For the McCanns the priority is advice on whether to resist extradition or return to Portugal voluntarily if they are charged with killing their daughter. Fate appeared to intervene in their choice of lawyers. Their local solicitor in Leicestershire was unsure of who to choose and flicked through a directory – looking under 'E' for extradition specialists and settled on Kingsley Napley almost in passing.

It was a smart selection, for the couple will also need strategic counsel if the British police assist the Portuguese in their investigation – known as mutual assistance. 'The McCanns will want to know if the Portuguese police can turn up at their house and search it, or can they get the English police to search it,' Julian Knowles, a barrister who worked with Caplan on the Pinochet case, told the BBC. McBride is well-prepared for such eventualities. In 2005, he delivered a speech entitled 'Responding to a Crisis: Practical Tips to Get you Through your Worst Nightmare'.

If the Portuguese do press charges, they could apply for a little-known fast-track extradition procedure called a European Arrest Warrant (EAW). 'The EAW simplifies the extradition procedure between certain EU member states such as Portugal and the UK,' Rod Fletcher, head of fraud and regulatory investigations at Russell, Jones & Walker, told ES. 'This simplified procedure prevents the McCanns from asking a UK court to consider the allegations against them or examine the evidence. The McCanns' only legal option would be to argue that a legal bar prevents their return to Portugal. They could argue that it would breach their human rights in that the extensive and adverse media coverage would prevent them having a fair trial in Portugal.'

Dealing with such scenarios is why the McCanns are paying Caplan and McBride £700 per hour for their services. But Kingsley Napley have thrived on such high-profile controversial cases ever since they were founded in 1937. It was not an auspicious beginning. After setting up an office on Kingsway opposite the old Stoll Theatre (now the Peacock Theatre), David Napley and Sidney Kingsley temporarily left the practice with another solicitor while they served in the Second World War.

But when they returned, they discovered that their colleague had ruined the firm and committed suicide. After the relaunch in 1946, Kingsley Napley concentrated on conveyancing. For a time Napley was attracted by a political career and unsuccessfully stood as a Conservative parliamentary candidate in the 1951 and 1955 General Elections. But by the Sixties they were specialising in criminal cases and Napley became the most famous lawyer of his generation. In private, he was a remote, austere, pompous figure, but could also be a charming host with a wicked sense of humour.

Based on Napley's formidable contacts, the law firm protected establishment figures and yet also defended notorious characters where the odds were stacked against them in high-risk criminal trials. Its reputation was cemented in 1979 when Napley represented Jeremy Thorpe, the former Liberal party leader who was charged with conspiracy to murder his gay lover, the male model Norman Scott. Thorpe and Scott had been lovers in the early Sixties. But when the Liberal leader broke off what he called their 'affectionate relationship', he was frightened that it would be disclosed (homosexuality was then illegal and Thorpe had been married twice).

Petrified that the gay affair would ruin his political career at a time when the Liberals were a powerful force, Thorpe allegedly conspired to murder his former amour. After being charged, he turned to Napley who believed the witnesses were unreliable. In a high-risk move, he chose to crossexamine them during the committal hearings. But his masterstroke was hiring George Carman as Thorpe's barrister for the trial at the Old Bailey. Carman mesmerised the jury with his closing argument. Thorpe was acquitted and

Napley became a household name. Two years later he was knighted for services to the legal profession.

But that did not deter him from controversial cases. In 1982 he represented Dr Richard Arnot at the inquest into the death of the nurse Helen Smith in Saudi Arabia. It was claimed that Smith fell to her death from a balcony at the house of Dr Arnot during or after having sex with one of the guests. During the inquest Helen Smith's father, a policeman, accused Dr Arnot of the murder of his daughter and the Foreign Office of a cover-up. The case again propelled Napley into the headlines, but this time with some unflattering comment. His bill of £28,630 for the 11-day inquest was regarded as excessive at the time and his habit of turning up in a gold Rolls-Royce during the hearings enhanced his reputation as an avaricious advocate. Napley lived in a vast country house in the Buckinghamshire village of Stoke Poges and became the *éminence grise* of the criminal law profession. He died in 1994 while still in practice, aged 79.

Napley's legacy was a law firm renowned for charging high fees and raw aggression in representing clients who were often questionable characters. 'They will work for anyone,' said a source who has consulted them. Their partners argue that everyone deserves legal representation. 'I have a duty to a client, just as a surgeon does to a patient,' said Caplan in a rare interview after he prevented Pinochet from facing trial for horrendous human rights abuses.

In 1995 the rogue trader Nick Leeson turned to Kingsley Napley when facing charges of falsifying documents, fraud and breach of trust. It was alleged that his actions caused the collapse of Barings bank with losses of £860 million. Leeson fled to Germany and faced extradition back to Singapore. He was joined by Stephen Pollard, a tough workaholic 36-year-old Kingsley Napley solicitor, who launched a media campaign on his client's behalf. Facing a daily wall of TV cameras, Pollard said Leeson was 'a scapegoat' for the bank's collapse after his disastrous gamble on the markets.

Like the McCanns' current predicament, the issue was extradition and Pollard persuaded his client to co-operate with the Serious Fraud Office investigation and hope to be tried in the UK. Pollard acted as Leeson's spin doctor and distributed long press statements, as well as navigating the tricky waters of extradition avoidance. His defence was that the extradition request by Singapore had 'no merit' under German law and the proposed seven-year jail sentence was a breach of his human rights. But after seven months of valiant resistance, Leeson was extradited and jailed in Singapore for false accounting. Four years later he was released after contracting cancer of the colon.

In stark contrast to Pollard's PR campaign, his colleague Michael Caplan shunned the media spotlight when representing General Pinochet. During a

visit to London in 1998, Pinochet was arrested just after having tea with his friend Lady Thatcher and faced extradition to Spain.

He was accused of genocide and ordering the torture and deaths of political opponents during his repressive regime in Chile. He needed a lawyer fast. Despite Kingsley Napley being a donor to Amnesty International, they accepted the case. They argued that they could not refuse unpopular clients, because then other hate figures such as child killer Myra Hindley and mass murderer Harold Shipman would go unrepresented.

Caplan was attracted by the legal challenge and its historic implications and was not fazed by the abuse from human rights activists. 'Michael Caplan is a torturer' read one banner outside the court as he arrived. At first it was ruled in the High Court that Pinochet could not be prosecuted under the State Immunity Act. But the case took a dramatic twist at the Court of Appeal after it ruled that Pinochet could be extradited. Kingsley Napley was tipped off anonymously that Lord Hoffman, the Law Lord whose vote tipped the balance, was an unpaid director of Amnesty International which had argued for the extradition. Kingsley Napley argued this constituted a conflict of interests and Lord Hoffman was disqualified from ruling on the case.

A new panel then upheld the decision that Pinochet could be prosecuted. The General was losing the legal battle, although Caplan was able to restrict the scope of the extradition warrants and remove most of the torture charges. But then the 83-year-old despot's health deteriorated rapidly and the Home Secretary used his 'discretion' to free him. Caplan saw Pinochet on to the plane back to Santiago. Such was the trust and regard for the lawyer that Lady Thatcher left specific instructions that only Caplan could give her old friend an inscribed plate, once he was safely on board.

While the Pinochet case was a triumph for Caplan's cool, calm forensic skills, Kingsley Napley has also engaged in the more heated arena of injunctions against newspapers. In 2003 The Mail on Sunday was preparing to publish a story that Michael Fawcett, a senior aide to Prince Charles, had a sexual relationship with his master. It was based on a claim by former royal valet George Smith who said he made this allegation to Princess Diana at the time and she made a tape recording. Prince Charles wearily denied this 'vile and ludicrous sexual allegation' and was surprisingly relaxed about the story. But Fawcett was incandescent. On the day before publication, he instructed Angus McBride at Kingsley Napley to stop publication of this 'defamatory story'. Just after lunch he persuaded a High Court judge to grant an injunction and the story was suppressed. Mail on Sunday was gagged. But when Guardian told Kingsley Napley that they planned to name Fawcett as the subject of the injunction, although not publish the allegation, the story was revived. McBride secured a further injunction against The Guardian. The paper immediately appealed. For two days McBride manfully litigated for Fawcett.

But by now the injunctions had generated so much publicity that it was hugely counterproductive. Prince Charles told his former confidant that the court hearings were making the crisis worse. McBride was forced to concede defeat. Although Fawcett had still not been named, Prince Charles issued a public statement which, in effect, 'outed' himself. It was a disaster and the Royals were criticised for adopting heavy-handed legal tactics.

For McBride, the Fawcett case established his reputation as a mediasavvy lawyer and it generated a bill of £95,000 paid by Fawcett. Today, Kingsley Napley has retained its status as a legal confidante to the rich and powerful. Last year Tony Blair consulted them briefly during the cash-for-honours criminal investigation. But they are also prepared to confront establishment figures in politically sensitive areas. In 2001, former intelligence officers of the Force Research Unit (FRU) were accused of collusion with paramilitaries in Northern Ireland.

After a report by Lord Stevens, the former Metropolitan Police Commissioner and very much part of the great and the good, the police investigated.

McBride was again the solicitor. He defended the former FRU officers and this time was successful. Earlier this year the Director of Public Prosecutions decided not to prosecute.

Publicly, Kingsley Napley was highly critical of the former police chief: 'Despite the fact that he [Lord Stevens] knew his report was to be considered by the DPP, he felt it appropriate to publish it and hold a press conference at which the allegations were repeated. Those whom he criticised in his Report were given no prior notice of these criticisms or opportunity to correct them. To have responded hereafter would have risked prejudice to potential criminal proceedings and to personal and public safety... As a result of this unprecedented behaviour, the media and the public have been misled and our clients have been further vilified for the past four years.'

Privately, McBride was even more scathing about Lord Stevens and regards him with ill-concealed contempt. Kingsley Napley's disdain for Lord Stevens – while representing his successor Sir Ian Blair – shows how they remain part of the ruling elite and yet retain a robust scepticism about its leading members.

Whatever happens in the Madeleine McCann case, Caplan will not be speculating and he has privately told the McCanns that media overexposure will only antagonise the sensitive Portuguese authorities. His duty, the diffident QC once remarked, is to his client just as a doctor is to his patient. While Caplan's bedside manner may not be the most flamboyant, it is likely to be supremely effective. The couple at the eye of the storm have chosen the firm most used to being there.