

Criminal Law News



THOMSON REUTERS

online

Contents -

Issue 29 March 2011

DNA development

The prosecuting of 'assisted suicide' in the UK

Chicago's multi-million dollar Ponzi fraud

Organised crime in Scotland

US environmental crime by pesticide manufacturer

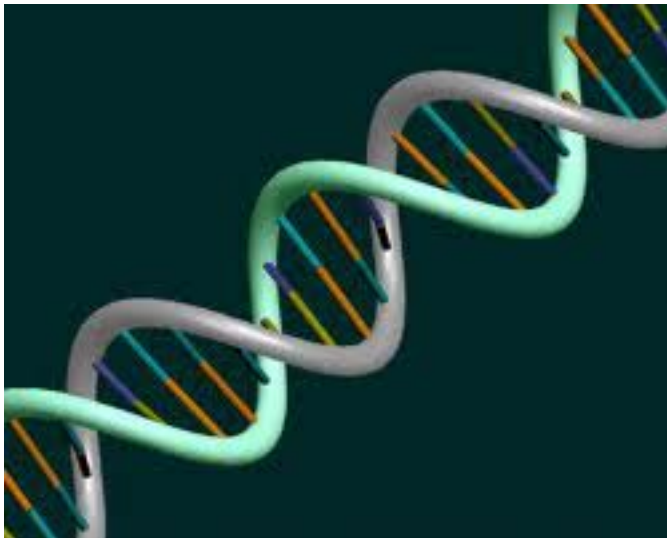
- **Chief Editor:** Sally Ramage, Member of the Chartered Institute of Journalists; Society of Editors and Society of Legal Scholars, UK.
- **Consultant Editors:** Anand Doobay, Partner, Peters & Peters Solicitors, London, UK.
Leonard Jason-Lloyd, Visiting Fellow, Midlands Centre for Criminology & Criminal Justice, UK.
Roderick Ramage, Consultant, Mace & Jones Solicitors, Liverpool, UK.
David Selfe, Deputy Director, Law School, Liverpool John Moores University, UK.
Edward S. A. Wheeler, IT Manager, Medway Council, UK.
- **Design:** David. E. Tonkinson, Designer and Online Editor, Poole, UK.

DNA development

Sally Ramage



In 2009, as many as 25,000 DNA samples from convicted felons were found not to have been processed or filed- instead they had lain in the Maryland State Police laboratory, unanalysed and uncatalogued.



The situation has improved in that these records have now been processed. However, there is a new fear of another such backlog due to the new DNA collection law in force in 2011. The situation may result in many faulty convictions if DNA samples were to become contaminated.

The full article can be bought from Westlaw, Thomson Reuters.

The prosecuting of ‘assisted suicide’ in the United Kingdom

Sally Ramage



When the United Kingdom’s House of Lords blocked a Bill on 12 May 2006- a Bill to change the law on assisted suicide- no-one would have expected the developments that ensued. *Pretty v United Kingdom*¹ was an emotive case that was heard in Brussels and in this case, Diane Pretty, who was suffering from motor neurone disease, failed in her appeal to the European Court of Human Rights when she attempted to persuade the Brussels justices to decide that her partner would be granted immunity from prosecution, were he to assist her to die in the jurisdiction of the United Kingdom.



¹ [2002]35 EHRR 1.

The European Court of Human Rights decided that '*the notion of personal autonomy is an important principle underlying the interpretation*' of the right to respect for private and family life, home and correspondence, guaranteed by article 8 of the Convention². Although the ECHR said that³

The full article can be bought from Westlaw, Thomson Reuters.

Chicago's multi-million dollar Ponzi fraud

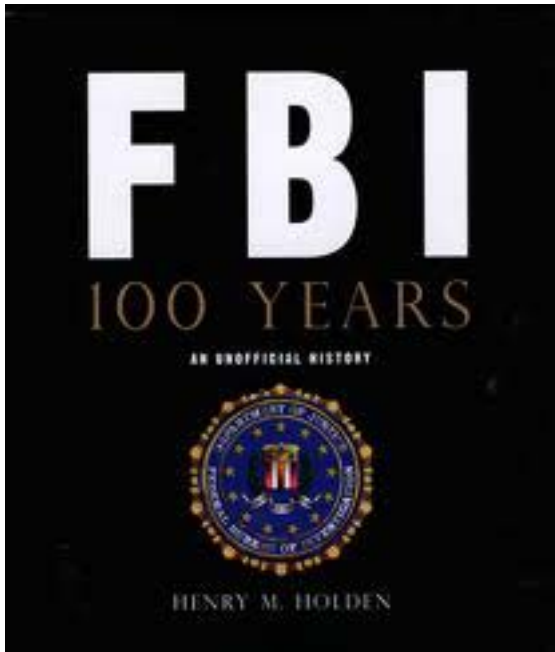
Sally Ramage



Daniel Spitzer, a Chicago man, was charged with engaging in an investment fraud scheme, thereby defrauding more than \$105 million from approximately 400 victims who invested in funds he purported to operate.

² (para. 61).

³ (para.62).



The Federal Bureau of Investigation ('FBI') announced that Spitzer was charged with eight counts of mail fraud in a criminal indictment filed yesterday. Spitzer allegedly misused money he raised from investors for his own benefit, and to make Ponzi-type payments to investors. Formerly from the U.S. Virgin Islands, Spitzer, who lives in Illinois, is due to appear in U.S. District Court. The indictment alleges that Spitzer was the principal officer and sole shareholder of Kenzie Financial Management, a U.S. Virgin Islands corporation; the sole manager and member of Kenzie Services, LLC, a corporation located in Charlestown, Nevis, West Indies. Spitzer is also the president of Draseena Funds Group, Corp., an Illinois corporation; the manager of DN Management Company, LLC, a Nevada limited liability company, and the manager of Nerium Management Company, an Illinois corporation. Through these corporations, Spitzer controlled twelve investment funds and offered and sold investments to the public in the form of membership interests and limited partnership interests.

The full article can be bought from Westlaw, Thomson Reuters.

Organised Crime in Scotland

Sally Ramage



Applying to the whole of the United Kingdom, the provisions of Proceeds of Crime Act (POCA) replaced and consolidated the old law contained in the Criminal Justice Act 1988, sections 93A to 93D, and the Drug Trafficking Act 1994. With this in mind, the principal offences are relatively straightforward. Section 327 prohibits concealing, disguising, converting or transferring criminal property. Section 329 prohibits acquisition, use or possession. Section 327 introduces a second mental element (in addition to the one required for criminal property; see above) in describing an offence where a person '*... enters into or becomes concerned in an arrangement which he knows or suspects facilitates (by whatever means) the acquisition, retention, use or control of criminal property by or on behalf of another person.*'



The 2002 act made it easier to convict criminal suspects because prior to it being enacted prosecutors had to rely on the Drug Trafficking Act 1994 for offences of drug trafficking, and the Criminal Justice Act 1988 as amended by the Criminal

Justice Act 1993 for proceeds of other crimes. The 2002 Act makes convictions more likely by removing the need to make a distinction between types of crime that made the money.

The full article can be bought from Westlaw, Thomson Reuters.

Environmental crime by US pesticide manufacturer

Sally Ramage



In *Reckitt Benckiser, Inc. v. Lisa P. Jackson*, Civ. No. 09-445(ESH) (D.D.C. 2011), the United States District Court for the District of Columbia ruled that Congress did not intend to give the United States Environmental Protection Agency (EPA) the authority under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to bring a misbranding action in lieu of a cancellation proceeding even though all pesticide products sold or distributed in the United States must be registered with the EPA. A pesticide product remains registered until EPA or the registrant cancels it pursuant to Section 6 of FIFRA.



The full article can be bought from Westlaw, Thomson Reuters.

Printed and published by Sally Ramage®, Copehale, Coppenhall, Stafford, ST18 9BW, UK. Registered as a Newspaper at the Post Office. © Sally Ramage® 2011. All Rights Reserved. No part of this publication may be reproduced in any material form (including photocopying or storing it in any medium by electronic means and whether or not transiently or incidentally to some other use of this publication) without the written permission of the copyright holder except in accordance with the provisions of the Copyright, Design and Patents Act 1988 or under the terms of a licence issued by the Copyright Licensing Agency, Saffron House, 6-10 Kirby Street, London, England EC1N 8TS. Application for the copyright owner's written permission to reproduce any part of this publication should be addressed to the publisher. Warning: the doing of an unauthorised act in relation to a copyright work may result in both a civil claim for damages and criminal prosecution. ISSN 1758-843X