



Neutral Citation Number: [2019] EWHC 251 (Admin)

Case No: CO/4029/2018

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Manchester Civil Justice Centre
1 Bridge Street West, Manchester, M60 9DJ

Date: 12/02/2019

Before :

THE HON. MR JUSTICE TURNER

Between :

Franklin Awodiya

First Claimant

- and -

Victoria Awodiya

Second Claimant

- and -

The Commissioners for HM Revenue and Customs

Defendants

The Claimants in person

Mr Mark Fell (instructed by HMRC Solicitor's Office) for the Defendants

Hearing dates: 8 February 2019

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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The Hon Mr Justice Turner :

THE BACKGROUND

1. Child Tax Credit (“CTC”) is a state benefit intended to help with the costs of raising children. By the operation of section 8(1) of the Tax Credits Act 2002, entitlement to claim such benefit is dependent upon the claimant being responsible for one or more children. The circumstances in which such responsibility arises are set out in detail in regulation 3 of the Child Tax Credit Regulations 2002/2007 but, for the purposes of this case, the relevant requirement is that the children must normally live with the person claiming the benefit to enable him or her to qualify.
2. The initial decision about whether and at what rate to award the benefit is made under section 14 of the 2002 Act. Section 14(2) provides that:

“Before making their decision the Board may by notice—

 - (a) require the person, or either or both of the persons, by whom the claim is made to provide any information or evidence which the Board consider they may need for making their decision...

by the date specified in the notice.”
3. The award of CTC is made in respect of benefits due with reference to any given tax year. However, where claimants have been in receipt of CTC in previous tax years, there is provision for discretionary payments to be made after the end of the most recent tax year but before the substantive entitlement for the following year has been determined under section 14. The power to make such provisional payments is to be found in Section 24(4) of the 2002 Act:

“Where an award of a tax credit has been made to a person or persons for the whole or part of a tax year, payments may, in prescribed circumstances, continue to be made for any period, after the tax year, within which he is or they are entitled to make a claim for the tax credit for the next tax year.”
4. The claimants in this case had been in receipt of CTC in respect of three children for whom they claimed to have had responsibility over the 2017/2018 tax year and so, all other things being equal, would expect to continue to receive CTC provisional payments until the section 14 decision had been made. All other things did not, however, turn out to be equal.
5. On 23 April 2018, the defendants sent the claimants an annual review letter in standard form the purpose of which was to prompt the claimants into identifying any change in circumstances which might have had an impact on their entitlement to CTC. A reply was only required if such a change fell to be disclosed. The claimants did not respond to this letter and they thus continued to receive weekly provisional and discretionary payments directly into their bank account every Tuesday.
6. On 12 July 2018, the defendants sent a further letter to the claimants informing them that their provisional assessment was that no CTC was payable for the period between 6 April

2018 and 10 July 2018. As the letter made clear, the substantive decision as to entitlement to CTC had not yet been made and so their assessment was not final.

7. The letter did not spell out the basis for the nil assessment. The second claimant telephoned the defendants' compliance team on 17 July 2019 to find out what was amiss when her payment for that week was not received. She was told that the defendants had reason to believe that either she did not live at the house at the address in respect of which she had registered for CTC or had been absent from the UK for at least 10 weeks. The defendants declined to reveal the precise source of that information.
8. The second claimant put the first claimant on the telephone and he was invited to provide documentary proof that they lived at the registered address. On the following day, the defendants sent a further letter to the claimants requesting the originals of eight categories of documents sight of which was required before consideration of the decision to reinstate CTC. These documents included utility bills and a letter from the school which the children were attending in order to confirm such attendance.
9. It subsequently transpired, as recorded in the defendants' response to the claimants' letter before claim, that the information upon which the defendants were proceeding was to the effect that the claimants and the children had left the UK on 31 August 2015 but had returned on 15 September 2015 without them and that the children had not thereafter returned to the UK. The information provided to the claimant over the telephone had been wrong. The defendants' concern was not that the claimants were living at a different address or that they had been absent from the UK but that the three children were no longer living with them. In other words, the claimants no longer met the residence requirement of section 8 of the 2002 Act.
10. It is unfortunate that the defendants did not sooner and more accurately inform the claimants about the real reasons for suspending payment of their discretionary benefit. The delayed and piecemeal disclosure of the defendants' hand contributed to feelings of suspicion and resentment of the part of the claimants. What should have been a fairly simple exercise to determine whether or not the children were living with the claimants at the material times has since degenerated into a Mexican standoff characterised by the refusal of the defendants to pay benefit and the refusal of the claimants to provide supporting evidence to establish that the children are still living with them.
11. The claimants decided to attempt to resolve the impasse by seeking to challenge the defendants' decision to make no further discretionary CTC payments by way of judicial review. The defendants continued to resist the claimants' demands for redress contending, in particular, that the exercise of their discretion with respect to the payment of CTC was entirely rational and, in any event, that the claimants had an alternative remedy within the statutory scheme which rendered judicial review unnecessary.
12. The claimants' application for permission to bring judicial review proceedings was considered on paper by Farbey J on 11 December 2018. She ordered that the matter should be listed for an oral hearing on Monday 17 December 2018 with both parties expected to attend. Her concerns were in respect of two matters one of which was the adequacy of the statutory appeals scheme as an alternative remedy.
13. Unhappily, the court office in Manchester sent the judge's order to the wrong email address as a result of which the claimants first learnt of the Monday hearing when the defendants' bundle for the hearing arrived in physical form on their doorstep early in the weekend before the Monday of the hearing. The contents of the bundle were voluminous

and I have no difficulty in accepting that the claimants, as litigants in person, would have struggled to prepare adequately for the hearing. On the Monday morning, the claimants made a formal application by email to adjourn the hearing but, unwisely, failed to turn up at the Civil Justice Centre in Manchester to argue their corner on the issue. Farbey J proceeded to refuse leave to appeal in the absence of the claimants.

14. The claimants have now sought to set aside the order of Farbey J and to reopen to the question of permission before me.
15. I took the provisional view that, bearing in mind the fault of the court in misdirecting the email, the volume of material which fell to be considered and the status of the claimants as litigants in person, it would be harsh not to grant the claimants the indulgence of a full permission hearing before me. The defendants, reasonably in my view, agreed to proceed on this basis.

DISCUSSION

16. The issues central to the determination of this application for permission are straightforward and would be expected normally to have been dealt with in a short extempore judgment. However, this case was, very unusually for a permission hearing, generously listed, at the behest of the claimants, with a time estimate of four hours. The reason for this is that the claimants have now sought to use this case as a platform from which to launch wide ranging attacks not only upon the defendants but upon the constitution of the United Kingdom as a whole. I have deferred my consideration of the deleterious impact of such a stance and the proper response of the Court thereto until after I have dealt with the matters directly relevant to the issues between the claimants and the defendants.
17. Notwithstanding the flawed way in which the defendants set about communicating the reasons for putting a stop to the payment of provisional credits, it was rational for them subsequently to seek information from the school said to be attended by the claimants' children in order to satisfy themselves that the defendants continued to fulfil the statutory criteria. The claimants refused and continue to refuse to provide any such information claiming that they are fearful for the safety of their children if such information were to be disclosed. They cite previous conflicts with the education system and, in particular, false allegations they allege to have been raised against them by a former head teacher of the local primary school.
18. The position, therefore, is that the claimants have provided no satisfactory information or documentary evidence to the defendants showing that their children continue to live with them.
19. The defendants have a duty to the public purse not to make payments to claimants in circumstances where such payments are not due. If claimants were entitled to receive CTC merely by asserting their rights, whilst refusing, upon request, to provide any information substantiating their continued entitlement, then the system would be reduced to a scheme under which payments were simply to be handed out on demand without more. This state of affairs has only to be stated to be rejected.
20. It was thus entirely rational for the defendants to refuse to exercise their discretion to make provisional CTC payments to the claimants whilst the latter maintained their refusal to provide the requisite information in support of their assertion that the children continued to live with them.

21. Furthermore, I am satisfied that the claimants have a suitable alternative remedy. By letter dated 15 January 2019, the defendants wrote to the claimants in the following terms:

“Dear Mr and Mrs Awodiya

Your tax credits claim

I wrote to you on 6 December 2016 because I needed to check the information in your tax credit claim

I’m unable to award your claim because you have not provided HMRC with any of the requested evidence

What this means

As I am unable to confirm that you and your partner are responsible for any qualifying children. I am unable to award you any Child Tax Credit from 7 April 2018 onwards.

What happens next

We’ll send you another letter which will explain this decision and your right to appeal. Please read it carefully.

If we can't agree with you, or you're not satisfied with how we've dealt with you, you'll have to write to us. Use the address at the top of this letter and ask us to look at the decision again. You must do this within 30 days of date of the decision notice. We call this 'mandatory reconsideration'.

When we've looked at our decision again, we'll send you a notice to tell you the outcome of the mandatory reconsideration. If you still don't agree, the notice will tell you how you can appeal.

For more information, go to www.gov.uk/tax-credits-appeals-complaints

It's important that you give us accurate information when you claim tax credits and you tell us about any changes in your circumstances. If you don't, you may not get all the money you are entitled to, or we may be paying you too much money which you'll have to pay back. We may also charge you a penalty.”

22. The information to be found at the link provided includes the following:

“Disagree with a tax credits decision

Call the Tax Credit Office if you think your tax credits are wrong. They can check your award and may be able to change it if it's wrong.

If they do not change it or you still think it's wrong

You can ask for the decision to be reconsidered by filling in a WTC/AP form. This process is called ‘mandatory reconsideration’. You can fill in the form online or print it and send it to the Tax Credit Office.

You need to do this within 30 days of getting your award notice unless there are exceptional circumstances, for example you were in hospital.

If you disagree with the result

If you’re in England, Scotland or Wales you can appeal to the Social Security and Child Support Tribunal.”

23. Thus it was that, when the matter came to be argued before me, there were at least six days left within which the claimants remained entitled to require a review and, if appropriate, appeal thereafter. When this route was drawn to their attention during the course of the hearing they declined to follow it on the ground that they distrusted the “internalisation” of the dispute resolution procedure. As at the time of handing down this judgment, the claimants still have time to pursue a mandatory review. I urge them to take this opportunity if they remain confident in the justice of their cause; otherwise they risk losing the right to any redress.
24. In these circumstances, I have no hesitation in concluding that the claimants have not exhausted their alternative remedies and that it would be inappropriate to permit them to circumvent, through the mechanism of judicial review, the statutory procedures now open to them.
25. It must follow that this application for leave is refused.

REMAINING MATTERS

26. In presenting their case before me, the claimants were articulate, courteous and restrained. They accepted that a number of collateral complaints which they had raised were not suitable for determination before me. Their oral presentation was, however, at odds with the confrontational tone and inordinate length of their written evidence and submissions.
27. For example, in their joint witness statement, appended to and served in support of their application before me, the claimants sought the following redress:

“THE CORRUPTION REMEDY

The Corruption Remedy Process got Judicial Office Unfitness Cases in Parliament. Top Judges made Protection Fraud demands, corrupt MPs made Protection Fraud Promises, top Judges were satisfied they were credible promises. They ignored the Judicial Office Unfitness Cases and Conflict Disqualifications, committed Conflict Qualification Frauds to keep control of cases, and committed Court Frauds for State Officers and demanded Discredit Frauds and Intimidation Frauds against the Unfitness Case Witnesses. The result is Fraud Proof for Citizens, Crown and Parliament against organised

criminals, state officers and Law Court Judges including the Unfitness Case Defendants.

Citizens Mr Franklin Awodiya and Mrs Victoria Awodiya are Special Witnesses involved in the Remedy Process. The hearing of Claim: CO/4029/2108 on 17/12/18 has been used for Protection Notice to the Parliament as it got Criminal Conspiracy Proofs against the Administrative Court in Manchester and the defendant, HMRC who has been suing false representation and Witness Intimidation Frauds, Financial Ruin Frauds, Misuse of Personal Data in an improper collusion with corrupt officers within other government agencies. The Remedy Process Files are kept by the Director of Public Prosecutions for the Citizens, Crown and Lord Bishops.

The hearing failed to get Remedy Co-operation but instead got Hearing Notification and Exclusion Frauds, Natural Justice Denial Frauds and Protection Breach Contempt Fraud from High Court Judge. Subsequent hearing outcomes will be relevant evidence for Remedy Process and Fraud Appeals.

On 17/12/18, the citizens served Remedy Process + Office Unfitness Cases + Protection Breach Contempt Fraud Investigation notice (signed criminal witness statement) on Honourable Mrs Justice Farbey via the Admin Court. Email.

The Citizens and The Remedy Process require the Court Audio Record / Transcript of the hearing of 17/12/18 as they serve as Fraud Proof for the Citizens, Crown and Parliament against defendant and the High Court Judge.

The Remedy Process Co-operation, Standard Evidence Offers and Corruption Damage Statements entitle Citizens Mr and Mrs Awodiya to:

- Remedy Process Citizen Protection Rights from the Crown and Parliament.
- Remedy only jurisdiction limits for the citizens against all inferior jurisdictions of the state, professional authorities and lower courts including the High Court.
- Use of conflict powers by inferior jurisdiction against the citizens is Protection Breach Contempt of Superior Jurisdictions.”

28. I am in no doubt that the claimants have no more idea of what all this is supposed to mean than I do. The reason is clear. This impenetrable screed comes not from the pen of the claimants but from the imagination of one Mr Edward Ellis, formally a practising solicitor, who was suspended from practice indefinitely in circumstances set out in full

in *Ellis v The Law Society* [2008] EWHC 561 (Admin). Mr Ellis, who now styles himself “Equity Lawyer Ellis”, has achieved notoriety through his frequent and mischievous interventions in the legal claims of others in furtherance of what he calls his “UK Mass Remedy Process”.

29. I am grateful to May J for her description of Mr Ellis’ modus operandi in the case of *Ellis v Ministry of Justice* (22 February 2018 unreported¹):

“1. (Mr Ellis) has a fully formed and apparently internally consistent belief system focused on corruption. He believes that some - perhaps all - previous Prime Ministers, all judges and magistrates, the Government Legal Service and Ministry of Justice together with “State officers”, by which I took him to mean police and court staff, and probably all sorts of other people and institutions, are corrupt and that the decisions they make are, without exception, fraudulent; hence his designation of judicial decisions as “frauds”: for instance, an “evidence irrelevance fraud” when I refused to consider a sheaf of documents he handed up as being of no relevance to the issues I had to decide on this application, or a “jurisdiction fraud” when I determined that I did have jurisdiction to hear the application. The list goes on.

2. These beliefs would have just been sad had Mr Ellis not acted upon them or if his “philosophy” (his word) had not attracted adherents. But he has acted, unceasingly and voraciously over many years, and persons with grievances against the justice system have been attracted and recruited. The result is that claim forms, application notices, appeals are issued and documents purportedly filed or served at various courts, bearing all the hallmarks of Mr Ellis's unmistakable drafting. These are prolix, tendentious, mostly incomprehensible screeds, making the same assertions of fraud and corruption again and again.

3. Consistent with his activity in drafting and promoting the issue of claims, Mr Ellis would also attend hearings in courts and tribunals with litigants to conduct cases on their behalf, using the occasions to repeat in oral representation the turgid, inchoate passages made in documentary form. Increasing and unwelcome familiarity with Mr Ellis in the Masters Office led Senior Master Fontaine to issue her order of 8 March 2016.”

30. The Order of the Senior Master to which May J was referring took the following form:

“UPON it being brought to the attention of the court that.

(1) Mr Edward William Ellis, not being an authorised person entitled to carry on a reserved legal activity or a legal activity under the Legal Services Act 2007, has issued claim forms and

¹ But cited with approval in the judgment of Moylan LJ in *Ellis v Ministry of Justice* [2018] EWCA Civ 2686 at paragraph 6.

applications in the above and other proceedings on behalf of others and

(2) The claim forms issued by Mr Edward William Ellis and the particulars of the claim therein have been declared to constitute an abuse of process and a number of claims have also been found to be wholly devoid of merit.

It is ordered that:

1. Mr Edward William Ellis is restrained from issuing claims on behalf of others or from assisting others to bring claims in contravention of the Legal Services Act 2007."

31. It was in respect of alleged breaches of this Order, following an application by the Ministry of Justice, that the matter came before May J at the contempt hearing in February 2018. Following a three-day hearing, May J made a committal order of three months' imprisonment suspended for one year and a general civil restraint order prohibiting Mr Ellis from issuing any claim or making any application in the High Court or County Court or procuring others to do so for a period of two years.
32. It is clear that Mr Ellis remains unable to contain his enthusiasm for promoting his unorthodox views through deliberate interference in the claims of others. His influence in the case before me has been characteristically baleful.
33. Even after I had heard the respective submissions of the parties to this application, but before I had handed down judgment, Mr Ellis purported to make further submissions not only to the Court but disseminated more widely to over a hundred recipients:

"Prime Minister, Opposition Leader, Honourable Members, State Officers and Law Court Judges,

Best Advice for the State Tax Officers and High Court Justice Mr Turner:

1. A Conflict Disqualification Admission + Remedy Only Jurisdiction Limit Admission for Citizens Mr and Mrs Awodiya against the State

2. Contempt Investigation Order + Investigator Appointment Case Reference to the Prime Minister and Cabinet for the Stated Reasons:

2.1. The Citizen, Crown and Lord Bishops have Corruption Control Jurisdictions that govern Parliament Session Powers. The Ultimate Sanction is a Mass Publicity for Corruption Proof and Remedy Denial Proof that validates a Parliament Session Refusal and gets a Forced General Election. They use the Corruption Remedy Proof Standard. It is Official Records that are Justice Proof for Honourable Officers or Guilt Proof against Corrupt Officers and Credibility Irrelevance Proof for the Victim. An Equity Lawyer is anyone who has the expertise and

commitment to get Proof Sets that meet the Corruption Remedy Proof Standard, and knows what to do with it.

2.2. The European Dictator Plan needed termination of the Equity Monarchy Trusts. Valid Termination needed Governance Referenda. The Dictator Politicians dare not hold Governance Referenda because they would be an Education Process that got Referenda Votes for Equity Governance against Dictator Governance. They made an Equity Monarchy Redundancy Plan. It needed a Silence Conspiracy by Law Lecturers and Law Court Judges until no one knew how to service the Equity Monarchy Trust and then forgot they existed. The Roman British Gnostic Christians developed the Common Law. When the Roman Legions withdrew they got Universal Acceptance of the Common Law in England and Wales. When the Norman Invasion imposed Dictator Governance they masterminded the Gradual Reduction of Dictator Powers and unified England and Wales under one Crown. They masterminded the Glorious Revolution that created the Equity Monarchy Trusts. They masterminded an Equity Recovery Plan to counter the European Dictator Plan. It needed a Big Citizen. Equity Lawyer Mr Ellis prepared himself to serve as Big Citizen.

2.3. In 2004 Extradition Frauds against a British Citizen discovered top Police and Top Customs and Top Judges had a Drug Import Business that used the Kent Ports. Equity Lawyer Mr Ellis got the Corruption Proof, served Corruption Notices on the Crown and Parliament. It revived use of the Equity Monarchy Trusts and started a Corruption Remedy Process that has continued ever since. It got Big Citizen Recognition for the Equity Lawyer by the Crown and Lord Bishops.

2.4. The Protection Fraud Network needed Case Management Sabotage Frauds against Citizens. The Legal Services Act 2007 created Legal Assistance Crimes and Prosecution Powers. They needed Career Blackmail Powers to get Case Management Sabotage Frauds by Qualified lawyers against Citizens. The Blackmail Powers needed an Obvious Disqualification Fraud. They used the 2006 Profession Unfitness Case 9254 Findings as Obvious Disqualification Fraud Proof.

2.5. The Remedy Process used Protection Arrangements for Equity Lawyer Mr Ellis to enable him to service the Remedy Process. A Legal Assistance Crime Prosecution Prohibition. It forced the use of Court Contempt Trial Frauds with Law Court Judges signing All Major Decisions. A Listing Delay reserved the Restraint Breach Contempt Trial until the Remedy Process needed it.

2.6. In April 2017 the Remedy Process got completion of a Criminal Conspiracy Proof Set against Top State Officers and

Law Court Judges. They used it to decide the Corruption Remedy Conditions for the Parliament Session Agreement. They needed an Election Free Period for to enable a Long Session for Remedy management. Prime Minister Mrs May had the choice of a Surprise General Election called by her or a Parliament Session Refusal and Forced General Election with Mass Publicity for the Corruption Proof. She chose the Surprise General Election.

2.7. The Key Decision then was Responsibility Apportionment between Mass Remedies by Parliament and Case Remedies by the Law Courts. Remedy Co-operation Tests from General Election Day for 6 months got Criminal Conspiracy Proof against Corrupt officers and Remedy Unfitness Proof against the Law Courts.

2.8. The Criminal Conspiracy Proof included the Royal Courts Building Exclusion Fraud against the Equity Lawyer to stop him managing the Remedy Co-operation Tests. It failed. He prepared Test Papers for the Citizens. The use of Various Cases in which the Equity lawyer did not have Party Status for Restraint Frauds and Restraint Breach Contempt Prosecution Frauds against him

2.9. On 6th November 2017 High Court Justice Mr Turner sat for the Corruption Claim HQ16X00733 Contempt Trial of Equity Lawyer Mr Ellis. The Royal Courts Building Exclusion Fraud stopped the Equity Lawyer attending the Trial Event. High Court Justice Mr Turner used the Appearance failure for a No Appearance Finding Fraud and In Absence Trial Fraud. He wanted a Secret Trial and used a Public Gallery Clearance Order to get it. Citizen Ms Berry was a few minutes late. She found the Witnesses outside the Court Room. They told her about the Public Gallery Clearance Order. She walked into the Court Room and found the In Absence Trial in progress. She told the Witness to take Public Gallery Seats and gave Oral Notice of the Exclusion Fraud. It got a Trial Adjournment while a Security Guard went to get the Equity Lawyer. He broke the confidence of High Court Justice Mr Turner to complete the Trial Frauds that day. The case got Trial Fraud Proof and Appeal Fraud Proof that completed the Criminal Conspiracy Proof set against Corruption Controllers. On 12th June 2018 it was used for Notice to parliament of a Judicial Office Unfitness Case against High Court Justice Mr Turner and All Other Relevant Judges.

2.10. Citizens Mr and Mrs Awodiya report that the Tax Fraud Review CO 4029 2018 Hearing Audio Record in Manchester Court Room 43 on 8th February 2019 is Conflict Qualification Fraud Proof and Bias Fraud Proof and Corruption Remedy Sabotage Fraud Proof for the Citizens, crown and Parliament against the State Tax Officers and High Court Justice Mr Turner

3. Further discovery, enquiry, relief and remedy the cause of justice needs

Equity Lawyer Mr Ellis”

34. It is unacceptable for anyone repeatedly and contumeliously to appropriate and then subvert the claims of others and thereafter abuse the court process by deploying litigation, in which he has no legitimate interest, as a tool to promote his own political agenda. The resources of the court are limited and Mr Ellis’ interventions are seriously prejudicial to achieving fairness and justice in the various civil claims in which he continues to seek to meddle.
35. I will be referring the papers in this matter to the Attorney General.