



Neutral Citation Number: [2025] EWHC 161 (Admin)

Case No: AC-2022-LDS-000276

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN LEEDS

Friday, 31st January 2025

Before:
FORDHAM J

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| Between: | |
| THE KING | <u>Claimant</u> |
| (on the application of ANTHONY MCGILL) | |
| - and - | |
| NEWCASTLE MAGISTRATES' COURT | <u>Defendant</u> |
| - and - | |
| (1) HAIZHE HUANG | <u>Interested</u> |
| (2) CROWN PROSECUTION SERVICE | <u>Parties</u> |
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The **Claimant** in person
Paul Jarvis (instructed by CPS) for the **Second Interested Party**
The **Defendant** by written submissions filed by Government Legal Department

Determination on the papers

Judgment on Costs

FORDHAM J

Note: This judgment will be handed-down virtually at 10am on 31.1.25
by circulation to the parties and uploading to the National Archives.

FORDHAM J:

1. These are judicial review proceedings in which I allowed the claim on 21 May 2024 and quashed the target decision of Newcastle Magistrates' Court ("the Defendant Court") taken on 11 October 2022, refusing to issue a summons in respect of a count of forgery of a shareholding agreement. I timetabled costs submissions. See R (McGill) v Newcastle Magistrates' Court [2024] EWHC 1207 (Admin) [2024] 1 WLR 4857 §§61-62. Costs submissions were duly made by the Claimant, the Defendant Court and the Interested Party ("CPS"). But then something went wrong within the Court. The contested costs issue, which had crystallised for my decision, was overlooked within the system. That was notwithstanding a series of proper and courteous chaser emails by the Claimant, which received neither a response nor an acknowledgement. The Claimant was owed, and has received, an apology for that. The matter was referred to me on 17 January 2025 and here is my ruling.
2. The Claimant's application is for costs in an aggregate sum of £6,150.80. Within that there are disbursements totalling £1,543.30. The rest (£4,607.50) is a detailed breakdown of the hours which the Claimant says he has spent on this case at different times, starting from his application for the summons (12.9.22) up until the costs submissions (4.6.24). The Claimant has taken the hourly rate of £19 applicable to a self-represented litigant, in respect of "work" done on the case which would have been allowed if done by a legal representative, in circumstances where he cannot prove financial loss: see CPR 46.5(3)(a) and (4), read with CPR PD46 §3.4. The nature of the breakdown provided by the Claimant gives me clarity as to what hours, and therefore what amounts for work, the Claimant agrees are to be attributed to different periods of time within the overall chronology.
3. The submissions filed by Mr Jarvis for the CPS, while acknowledging that the CPS was an Interested Party who unsuccessfully resisted the claim, contain detailed analysis as to why the available and appropriate order is that the Claimant's relevant costs – including both disbursements and in respect of work done – are properly recoverable from central funds as "expenses properly incurred" by a "prosecutor" in "proceedings" which are "in respect of" an "indictable offence", pursuant to s.17(1)(a) of the Prosecution of Offences Act 1985. Within that analysis is Mr Jarvis's submission that, since forgery is an "indictable offence" (s.17(1)(a)), the problem does not arise regarding a Divisional Court alone – and not a single judge – having the costs jurisdiction in relation to a "summary offence" (see s.17(1)(b) and Admin Court JR Guide 2024 at §25.11.4).
4. Having considered all the submissions made, the decision at which I have arrived is as follows. It is appropriate to make an order for costs. The appropriate costs order is costs of a self-represented private prosecutor, pursuant to s.17(1)(a) read with CPR 46.5. The appropriate period for the "expenses properly incurred by [the Claimant] in the proceedings" falls after the target decision (11.10.22) up to and including the costs submissions (4.6.24). I accept what the Claimant agrees were his disbursements (£1,543.30) and relevant "work" (£4,294 for the hours from 11.10.22 to 4.6.24). That gives an amount which I will fix (pursuant to s.17(2B)(a)) in the sum of £5,837.30.
5. This means I need to explain the following points. First, I have accepted the legal analysis of Mr Jarvis as to the applicability to these judicial review proceedings of s.17 read with CPR 46.5. Secondly, I have reduced the costs for work done by £313.50. That corresponds to 16.5 hours undertaken by the Claimant in September 2021 (9 hours) and

September 2022 (7.5 hours). I am not satisfied, in all the circumstances, that these are properly to be regarded as “incurred ... in the proceedings” (s.17(1)). Thirdly, I am allowing – within the relevant period – the entirety of the disbursements claimed and hours of work done. I can see nothing there which should be excluded. Neither the Defendant Court nor the CPS – against each of whom a costs order was sought – have made any point about any particular element. Fourthly, having identified the relevant period and decided to allow the entirety, I am satisfied that I can and should fix the amount as reflecting what for the relevant period the Claimant “agrees” (s.17(2B)(a)), but if this is a “lesser amount” I can fix it on that alternate basis (s.17(2A) and (2B)(b)). Fifthly, although s.17 uses the language of “expenses” I agree with the Claimant and Mr Jarvis that this extends to CPR 46.5(3)(a)(i) “work” and not just CPR 46.5(3)(a)(ii) “disbursements”. The rule allows for a self-represented litigant’s “costs” to include the same “work” as would have been allowed if done by a legal representative on their behalf. The private prosecutor’s lawyer’s work was within the costs ordered from central funds as “expenses” in R (Charlson) v Guildford Magistrates’ Court [2006] EWHC 2318 (Admin) [2006] 1 WLR 3494 at §26(4).

6. Finally, I need to explain why I am not ordering any costs to be paid by the Defendant Court or the CPS. In the alternative to costs from central funds, the Claimant invited me to order costs against them. As to the Defendant Court (see the JR Guide 2024 at §25.12.1) he identified the period to 25.10.23, emphasising the number of communications urging his position and trying to avoid unnecessary costs. As to the CPS (JR Guide 2024 at §25.12.2) he identified the period from 26.10.23, emphasising that the CPS in its Detailed Grounds of Resistance from that date positively supported the target decision and positively resisted the judicial review claim.
7. There was a proper basis for the invitations made. This was, in the end, a straightforward case with a readily identifiable injustice. The Claimant could show he had made clear attempts – including on 9.9.21 and 18.2.2 – to have the CPS consider the shareholding agreement forgery, alongside the bank documents forgery allegation. He could show that, unknown to him, it had not been treated as within the scope of the CPS’s discontinuance decision of 31.3.22. He could show that it was then deliberately put to one side, as being distinct, in the VRR decision on 7.9.22. The ideas held against him in the Defendant Court’s decision – a decision defended by the CPS – were in essence that he was taking a second bite at the cherry, having stood back. But he was not taking a second bite, and he had not stood back. He had put the shareholding agreement forgery forward, and he was entitled to lawful decisions about it. The Defendant Court was neutral in the judicial review. But it did file submissions of substance (6.1.23) and then revised submissions of substance (26.7.23). The CPS could have assisted, by pointing out to the Defendant Court that the shareholding agreement forgery allegation was deliberately distinct and had not been within any decision-making process, through no fault of the Claimant, who had taken clear steps to try to make sure that it had been considered alongside the bank documents forgery allegation. The justice of the situation is brought into sharp focus by the fact that the Claimant pursued the very forum which the Defendant Court had referenced on 28.10.22, namely judicial review of the CPS. That proved to be a dead end. It left him on the receiving end of a costs order in the sum of £2,276, when permission for judicial review was refused on the papers on 14 June 2023, which he subsequently paid. The Claimant emphasises that in various contexts courts have regarded the prospect of adverse costs orders against public authorities as beneficial on the basis of encouraging

better decision-making and a more realistic approach to defending claims. He asks that there be some action by the Court, standing as a deterrent for the future.

8. Notwithstanding that there was a proper basis for the invitations made, I concluded that this is not an appropriate case to make any costs order against the Defendant Court. That is an exceptional course and the circumstances here do not justify it. I also concluded that this is not an appropriate case in which to make any costs order against the CPS. The CPS did not take an “underlying administrative decision which led to ... proceedings before the [Defendant] Court” (Guide §25.12.2). They have resisted judicial review, as an interested party, but that and the circumstances I have described, is insufficient to justify a costs order.
9. My Order (made on 28.1.25) records that, upon the Court (a) considering the costs submissions filed in accordance with the directions ordered on 21.5.24 and (b) giving reasons set out in this judgment on costs and (c) being satisfied pursuant to s.17(1)(a) of the 1985 Act that this Order is reasonably sufficient to compensate the Claimant for expenses properly incurred by him in High Court proceedings in respect of an indictable offence and that it is appropriate to fix the amount pursuant to s.17(2B), it is ordered that there be payment out of central funds to the Claimant of an amount fixed at £5,837.30.