IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
MEDIA AND COMMUNICATIONS LIST
[2024] EWHC 606 (KB)

No. KB-2024-000256

Royal Courts of Justice

Friday, 16 February 2024

Before:

MRS JUSTICE STEYN

B E T W E E N :

TIMOTHY ROBERT HULL PATTINSON — Claimant

-and-

ROBERT IAN WINSOR — Defendant

MR H SAMUELS (instructed by Paris Smith LLP) appeared on behalf of the Claimant.

THE DEFENDANT appeared In Person (via telephone).

J U D G M E N T

(A hybrid hearing)

MRS JUSTICE STEYN:

1 On 2 February 2024, I granted the claimant's application for an interim injunction against the defendant at a without notice hearing: see *Pattinson v. Winsor* [2024] EWHC 230 KB. This is the return date hearing. In this *ex tempore* judgment, I will not repeat the matters set out in my earlier judgment: they should be read together.

2 Prior to today's hearing, I acceded to the defendant's request to attend the hearing by telephone. Consequently, this has been a hybrid hearing, with counsel for the claimant, Mr Samuels, attending court in person, and Mr Winsor attending by telephone.

3 Mr Winsor has provided numerous sets of written submissions in the time since 2 February. His main skeleton argument is a document entitled, "Defendant's response to the claimant's skeleton argument highlighting fatal factual errors", dated 12 February 2024. But, in addition to that, among other matters, his submissions and documents include:

a. two sets of submissions from 2 February, one entitled, "Defendant's statement of defence: public inquiry", and the other, "Public interest disclosure grounds to maintain communications to Hargreaves Lansdown and fraud authorities and DJ Pattinson's line managers re two National Fraud Intelligence Bureau references".
b. There are comments on the injunction dated 7 February 2024;
c. there are submissions addressed to me, dated 8 February 2024; there are submissions headed "Judge X anonymised by a fellow judge", dated 9 February 2024, and described as "NFIB and CPS Tipping Off";
d. there is an email to KB Judges Listing Office and the UKSC Registry, copied to City of London Police and the CPS, dated 13 February 2024.
e. I have also taken into account an update to the defendant's main skeleton argument dated 13 February and a response to the claimant's skeleton argument, which was sent yesterday, 15 February.
f. In addition, the defendant has submitted a document entitled, "Forensic Science Report re. examination of request for dismissal of an appellant's notice by Stephen Coslett BSC prepared for Mr Winsor" and dated 8 June 2020; an undated document addressed to the Attorney General and a letter from Mr Winsor of 25 October 2023 identifying the subject as "JCIO report against the nameless HCJ".

4 Master Pester described the defendant's pleadings in the will proceedings as "Long and unfocused": see *Pattinson v. Winsor* [2023] EWHC 3169 (Ch), [4]). In *Winsor v Vale* [2014] EWHC 957 (Ch), [23], Henderson J, as he then was, described his own experience of "*being bombarded with repetitive and confusing emails sent by Mr Winsor to all potentially interested parties with very little regard for the propriety of doing so in given instances*". The submissions I have received from Mr Winsor have similarly been long, unfocused and repetitive. Nevertheless, I have read them all and I have sought to distil the key point that the defendant seeks to make. In addition, I have, of course, heard the defendant's submissions this morning.

5 As anticipated, at the hearing on 2 February 2024, Mr Winsor opposes the continuation of the interim injunction, in essence, on the basis that the allegations he has been making and

continues to make are true, and it is in the public interest that he should be able to make them. However, that is subject to the caveat that, in his oral submissions today, Mr Winsor has directed his allegations very much against people other than the claimant, and the allegations he has maintained orally amount to the claimant being pulled into allegations that Mr Winsor has, for more than a decade, been directing elsewhere.

6 In my earlier judgment, I stated at [14],

> "In 2013, the Defendant was made bankrupt for failing to pay the costs order in relation to the 1975 Act claim. The Defendant pursued appeals to the High Court and the Court of Appeal. An extended civil restraint order was imposed upon the Defendant by Peter Smith J on 23 October 2013, continued by Henderson J on 27 January 2014, and permission to appeal in respect of that continuation was refused by Arden LJ on 22 January 2015."

7 Mr Winsor alleges that the claimant's claim that he was made bankrupt because he failed to pay costs orders is false. The defendant's assertion is obviously wrong, as is made clear in Henderson J's judgment in *Winsor v. Vale*. In that judgment, Henderson J gave his reasons for continuing an extended civil restraint order ('ECRO') imposed upon Mr Winsor, in his absence, by Peter Smith J.

8 On 1 April 2010, Veronica Vale, the defendant's partner, died intestate. She was one of three children adopted by Roger Vale and his wife, Loretta Vale (or Fleming). The other children being David Vale and Rosalyn Vale, who was described as having suffered since early childhood from severe mental incapacity, which meant that she was unable to manage her own affairs. Veronica Vale's parents survived her, but died not long afterwards. Loretta Vale died on 2 October 2010 and Roger Vale died on 1 February 2012. The beneficial interest in Veronica Vale's estate was divided: 25 per cent in favour of David Vale; 25 per cent in favour of Rosalyn Vale; and 50 per cent in favour of the estate of the late Roger Vale (Henderson J, [7] and [9]).

9 On 3 November 2011, Senior Judge Lush, after a contested hearing, appointed David Vale as Rosalyn's litigation friend and deputy to look after her property and affairs: Henderson J, [9]).

10 On 20 July 2012, District Judge Malek refused Mr Winsor's application for David Vale to be removed as the administrator of Veronica Vale's estate, certifying it as totally without merit, and he ordered Mr Winsor to pay Mr Vale's costs, summarily assessed on an indemnity basis in the sum of £9,823.80. That is the costs order which, in due course, founded the bankruptcy proceedings. It gave rise to a certificate of costs which, in turn, founded a statutory demand issued on 12 September 2012. An application to set aside the statutory demand by Mr Winsor was dismissed by District Judge Smart on 20 December 2012. In due course, a bankruptcy petition was issued and, on 3 April 2013, District Judge Clarke made a bankruptcy order against Mr Winsor: Henderson J, [12] and [16]).

11 Meanwhile, on 7 December 2012, District Judge Aiken dismissed Mr Winsor's claim under section 1(1A) of the Inheritance (Provision For Family and Dependants) Act 1975 in respect of the estate of Veronica Vale. She held that, although Mr Winsor had in many respects lived with and supported Veronica, particularly during the prolonged illness which ultimately led to her death, nevertheless, he did not satisfy the statutory test in section 1(1A): Henderson J, [8].

12 On 21 November 2013, Colin Nicholls and Andrew Shackleton were appointed joint trustees in bankruptcy for the defendant.

13 In the litigation against David Vale, which led to his bankruptcy, Mr Winsor sought to appeal to the Court of Appeal. However, his appeal was dismissed on being withdrawn by the trustees in bankruptcy. One of Mr Winsor's core allegations in these proceedings, which is repeated across the many documents he has submitted, is that the dismissal application was a forgery and that his consent to what he describes as a £176,000 counter-bankruptcy appeal being dismissed was "faked". It is in support of this allegation that he has adduced the forensic science report to which I have referred. However, as is made clear in the letter from Mr Shackleton, one of the joint trustees in bankruptcy, to the Court of Appeal dated 28 January 2014, the application for dismissal was made by the trustees in bankruptcy, the right of action having *vested* in the trustees in bankruptcy. It is simply nonsense to suggest that Mr Winsor's consent was faked. No consent from the bankrupt was required for the trustees in bankruptcy to seek dismissal of his appeal.

14 In *Winsor v Vale* [2014] EWCA (Civ) 1125, McFarlane LJ refused Mr Winsor's application for permission to appeal. He noted that the request for dismissal had not been properly completed by the trustees in bankruptcy. Nevertheless, it was clear that the trustees in bankruptcy requested dismissal of the proceedings ([2]). McFarlane LJ's judgment explains that Deputy Master Meacher made an order dismissing the appeal on 31 January 2014. Mr Winsor asked for a reconsideration. McFarlane LJ dismissed the application on the papers, which he then reviewed at an oral hearing attended by Mr Winsor, upholding his decision.

15 At [7] McFarlane LJ said,

> "I have listened to the submissions. On four or five, and it may be six, occasions I have spelled out to Mr Winsor the narrow focus of the task that I have today, and in particular what seems to me the brick wall that unfortunately he meets in dealing with this which arises from the fact that he is not able to conduct this litigation himself because of the unfortunate intervention of the bankruptcy, and that therefore the trustees stand in his shoes. Therefore the point is that they had, it seemed to me in March, the right to pull the plug on the proceedings as they sought to do. Despite my requests Mr Winsor simply has not addressed that point".

16 It is readily apparent that the Court of Appeal was aware of the circumstances in which the dismissal applications were made and that the paperwork itself was not fully completed; nonetheless, the Court of Appeal clearly understood that the trustees in bankruptcy were seeking to withdraw the appeal and it was properly dismissed in accordance with the judgment of McFarlane LJ. Mr Winsor remains unable to accept the point that the had no right to conduct the appeal himself once he had been made bankrupt.

17 The defendant claims, "There are no costs orders - because it is fraudulently claimed that I dismissed the appeal and, secondly, Master Meacher sealed an order that there are no order as to costs" [sic]. First, as I have said, the appeal was no longer vested in Mr Winsor; secondly, there was no order as to costs in respect of the order dealing with the dismissal of the application, but that order, obviously, did not have the effect of setting aside the earlier costs orders that had been made against Mr Winsor in the *Winsor v.*

Vale case. In any event, there is nothing in the defendant's materials that provides any support for the allegations that he has repeatedly made against the claimant, who had no involvement in the *Winsor v. Vale* case or the bankruptcy proceedings.

18 Mr Winsor's second core allegation is that the sum of £78,867.87 was payable to HMRC as Capital Gains Tax, following the sale of the Pimlico flat, and that it was never paid. On the basis of this, he has made allegations of tax fraud against the claimant repeatedly in the emails that he has sent.

19 It appears, from the materials that the defendant has provided, that it was initially assessed that such Capital Gains Tax liability was due on the bankruptcy estate. However, the defendant himself quotes from the insolvency report in which the trustee in bankruptcy is reported to have written,

> "I instructed a specialist firm of tax accountants to advise on CGT and I entered into protracted [discussions] with HM Revenue and Customs. I was severely hampered by the debtor. I concluded that the debtor's occupation of the property was such that no CGT was due. In January 2017, HM Revenue and Customs confirmed that they would accept my position, no CGT was payable."

20 There is nothing in the materials before me to support the contention that the trustees in bankruptcy were wrong to contend that no CGT was payable or that HMRC was wrong to accept that contention. In any event, there is not a shred of evidence before me that would even begin to support an allegation of tax fraud, still less by the claimant, who had no involvement in the matter.

21 Mr Winsor's third core allegation is that the sum of £130,000, which was paid by the trustees in bankruptcy to his late mother, was "surplus bankruptcy". As a matter of law and logic, this allegation must, it seems to me, be based on a contention that the defendant's mother was not owed that sum by the defendant as a result of money she had put forward for the purchase of the Pimlico flat, and so the trustees in bankruptcy should not have paid it to her. That is not something that the defendant has expressly alleged against his late mother or the trustees in bankruptcy. Instead, he directs his allegation against the claimant, claiming that he has hidden £130,000 surplus bankruptcy in his mother's estate. There is no support at all in the evidence before me for the defendant's assertion that £130,000 should have been treated as surplus remaining to him after the trustees in bankruptcy had paid his creditors, rather than as a sum owed to his mother and paid by the trustees in bankruptcy to her. What is clear is that the trustees in bankruptcy did pay £130,000 to the defendant's mother and that money, undoubtedly, forms part of the defendant's mother's estate. The payment made by the trustees in bankruptcy to the defendant's mother was a matter between the trustees in bankruptcy and the defendant's mother. Again, there is no evidence of the claimant being involved.

22 Before she died, the defendant's mother had transferred her savings and investments from a Nationwide savings account to Hargreaves Lansdown. The defendant's reliance on this in support of his array of allegations against the claimant is also, obviously, irrational and baseless. The £130,000 was part of the deceased's estate, whether it was held in a Nationwide savings account or with Hargreaves Lansdown, and it makes no difference to the beneficial interest in her estate where it is held.

23 The defendant has sought to rely upon what he describes as reports from the NFIB. In fact, there is not a report as such. What there is is a letter dated 24 February 2015 addressed to Mrs Fleming, but giving the defendant's email address, in which it is stated,

> "The National Fraud Intelligence Bureau (NFIB) has reviewed the information and have found sufficient viable lines of enquiry for a possible police investigation. I am pleased to inform you your report has been sent to Derbyshire Constabulary who have recorded it under…"

Then it is stated that they are awaiting the local reference number to be allocated.

24 In addition, Mr Samuels informs me that there was a second letter from the NFIB in the hearing bundle before Master Pester. That was, essentially, to the same effect, merely updating the defendant, but it was not a report as such. The reality is that there is nothing more than a document, which is now nine years old, in which the NFIB found that there was a sufficiently viable line of enquiry for the matter to be referred to Derbyshire Constabulary. It is plain, on any assessment of the facts, that there is nothing in the matters raised, certainly nothing in the allegations made against the claimant, and that letter from the NFIB does not suggest that the police have at any stage found that there was.

25 The defendant has also today suggested that the scope of the injunction, which encompasses his MP, is unconstitutional. Here he submits that he should not be prohibited from writing to his MP. The injunction, of course, is not a blanket prohibition preventing him from writing to his MP. What it prohibits him from doing is making an allegation, statement or suggestion that the claimant has, in connection with his role as executor of the estate of the deceased, committed fraud or been engaged in money laundering or has committed theft or any other criminal offence or has done anything which would be regarded as misconduct if done by a member of the judiciary.

26 It seems to me that the question of constitutionality does fall to be assessed by reference to section 12 of the Human Rights Act 1998 and Article 10 in assessing whether to continue the injunction. The defendant's Article 10 right to freedom of expression is clearly an important factor to be weighed in the balance and, insofar as the injunction prohibits him from making certain statements to his MP, I bear in mind the added importance of his Article 10 rights in that context. Nonetheless, that has to be considered against the fact that what he seeks the right to be able to allege is, obviously and plainly on the evidence before me, false and that very significantly detracts from the weight to be given to his Article 10 rights to make those statements.

27 In my earlier judgment, at para.29, I said,

> "I am satisfied that it is likely the Claimant will succeed at trial in showing that the barrage of emails sent by the Defendant to the Claimant, copying in a large cast of third parties, amounts to harassment of the Claimant and that the Defendant ought to have known that it amounts to harassment. The Claimant is also likely to succeed at trial in showing that the emails are irrational, and that the Defendant cannot benefit from the defence in s.1(3)(a) of the 1997 Act."

28 The plethora of documents filed by the defendant since he was notified of the injunction does nothing to rebut this. There is nothing in the material that I have seen that shows the claimant having any involvement at all in the process by which the defendant's mother received funds from the defendant's trustees in bankruptcy or in their

negotiations with HMRC to persuade them that CGT was not payable or in the process of requesting dismissal of the appeal in *Winsor v. Vale*.

29 Having reminded myself of the need to have particular regard to the importance of the Convention right to freedom of expression and having reconsidered the questions whether (a) the claimant will probably succeed at trial, (b) damages would be an adequate remedy for a party injured by the court's grant of or its failure to grant an injunction and (c) where the balance of convenience lies, I am satisfied, for the reasons that I have given in this judgment (read together with my earlier judgment), that the interim injunction should be continued.

CERTIFICATE

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This transcript has been approved by the Judge.