



Neutral Citation Number: [2019] EWHC 1954 (QB)

Case No: 2019/PI/11247

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BRISTOL DISTRICT REGISTRY

Bristol Civil Justice Centre
Bristol BS1 6GR

Date: 22/07/2019

Before :

THE HONOURABLE MR JUSTICE STUART-SMITH

Between :

**THE CHIEF CONSTABLE OF AVON AND
SOMERSET CONSTABULARY**

Applicant

- and -

BENJAMIN GRAY

Respondent

Mr Jonathan Dixey (instructed by Legal Services, Avon and Somerset Constabulary) for the
Applicant

The Respondent appeared in person

Hearing dates: 6th June 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.

.....

THE HONOURABLE MR JUSTICE STUART-SMITH

Mr Justice Stuart-Smith :

Introduction

1. The Chief Constable of Avon and Somerset Constabulary [“the Applicant”] issued an application on 6 November 2018 requesting the Court to extend a General Civil Restraint Order [“GCRO”] made against Mr Gray. The GCRO was originally made by Teare J in November 2014 and was extended by Warby J in November 2016 to expire on 17 November 2018. For reasons that do not affect the outcome of the application, it has been heard on 6 June 2019. The GCRO had been extended to the date of the hearing and, on 6 June 2019 I extended it to the date when any order made after the hearing of the present application takes effect.

Recusal

2. On 11 June 2019 Mr Gray wrote to the Court raising the “issue of Recusal ... in the light of [my] involvement in R v Gray (Crown Court ref T20180341) Transfer of venue matter.” He raised the issue on the basis of a letter from HMCTS dated 5 February 2019, which included the following:

Ms Ball has refused to obtain/provide details of the Presiding Judge who refused to accept a transfer of your case to the SE Circuit.

There has been no refusal. This information is not readily available on the papers – the Crown Court log simply states that a presiding Judge had refused to accept the transfer.

...

I have undertaken a detailed examination of the Crown Court papers and I can see an indication that it was Mr Justice Stewart-Smith who had refused the transfer. You may wish to confirm with the Crown Court that this was the case – it is information that they hold.

3. Mr Gray’s letter to the Court said:

Indeed, Mr Justice Stewart-Smith may recall I raised the complaint about the transfer from Bristol to Cardiff (T20180341) with him at the hearing on 6th June 19, including and especially my inability to obtain legal representation of any description from any firms in S.Wales (due to conflict of interest with Albion chambers), and not only did the judge fail to mention that he was the judge who had blocked the case from the SE circuit, but clearly if he had done so I would immediately have sought his recusal under Article 6.1 of my right to have this matter determined by an “Independent and impartial” tribunal, as Mr Justice Stewart-Smith has a glaring

conflict of interest, in that he is being asked to determine earlier case management decisions that he himself has made and that are absolutely fundamental to my allegations of fixed trials etc.

Clearly any decision to amend or effectively over-rule Dingemans J's hearing needed to involve a final hearing, and in any event the very basis of the reason for transfer, namely to assist my obtaining legal representation due to bad blood with Albion chambers barristers, as in fact agreed by the CPS themselves at the hearing before Dingemans J, was rendered otiose by referring the case to Cardiff CC where Albion chambers have a long standing history with local firms and the court itself (including a junior judge in the form of Albion chambers member Ignatius Hughes QC).

Indeed, there can be no dispute that Mr Justice Stewart-Smith deliberately referred the case to Cardiff CC, in order both to keep the matter "in-house" and rob me of my basic right to independent legal representation not denied even to evil child killers etc, as can be seen by the desperate efforts to keep even the identity of the judge making the decisions to block the case from the SE made known.

After asking whether I "have any position on the matter", Mr Gray continued:

It is clearly unlikely that Judge Stewart-Smith had "forgotten" that he was in fact the judge who, to use layman's terms, "fixed" the proceedings in Cardiff CC to rob me of my right to legal representation and saddle me with local corrupt court appointed barristers, Ergo it must follow that the judge has already decided to continue with the case, albeit he almost certainly knows it is illegal for him to do so under HRA law and ancient principles of natural justice (in part on the basis that I did not know that he was the judge in T20180341), so it falls to me to raise it with him now that his earlier involvement has come to light and in respect to the above details.

4. Although Mr Gray's letter says it is not a formal or detailed application for recusal in open court, the allegations are so serious and baseless that they should be addressed now.
5. In March 2018 Dingemans J, who was then Presiding Judge on the Western Circuit, asked me (as Presiding Judge on the South Eastern Circuit) if I would accept the transfer of a case against Mr Gray which involved allegations of breaching an injunction and assault. I was told that details appeared on the Crown Court Digital Case system but did not look them up. I was told that there were difficulties in listing the case on circuit, which included that he was not able to find any firm of solicitors or any local barristers to act for him. I was also told that HMCTS had written a letter banning him from Court buildings in Bristol unless he had a hearing listed there because of alleged incidents in the past and that Mr Gray was concerned that he would not get a fair trial in Bristol. Dingemans J told me that he had heard the PTPH

and had agreed that it was a suitable case for transfer off Circuit. He said there was a possibility that Mr Gray may be able to get representation from a firm of solicitors in London and also that, because of his limited funds, travelling to a Crown Court in London would be much easier for him. I was not told that there was or would be difficulty instructing solicitors in South Wales.

6. In reply I said that if Mr Gray was Bristol-based (as appeared to be the case), it seemed slightly implausible to me that London would be the best or most economic location for Mr Gray's next trial. My immediate reaction was that, if the case was not to be heard on the Western Circuit, either Cardiff or Reading would be best. I pointed out that, if the case came to London, a Court in Central London would seem to be the best, but that would be quite a hike from Paddington and not ideal whether Mr Gray came from Bristol or elsewhere on the Western Circuit. I therefore said that it was not clear to me that the South Eastern Circuit in general or London in particular was the right place for Mr Gray's next trial.
7. Dingemans J replied with information about bus fares to Central London or Cardiff and told me that Mr Gray would travel to London. He then asked if I would like him to ask the Wales Presiders to take his case. I replied that I would. That was the last I heard of the suggestion that the case should come to the South Eastern Circuit.
8. I did not refuse to take the case to be tried on the South Eastern circuit, though I accept that my response may have had the effect of diverting the case to Wales; nor did I have any information to suggest that Wales was not an appropriate venue for Mr Gray's trial. In particular I had no information about Mr Gray's concerns about Albion Chambers or to the effect that his concerns about Albion Chambers meant that he would be unhappy if the trial was listed in Wales. I made no case management decision. I did not overrule Dingemans J either effectively or at all. I did not refer the case to Cardiff. I merely raised the suggestion for Dingemans J to consider whether Cardiff (or Reading) might be more appropriate than London, which he then did. I heard no more about the matter until reading the papers for the present application, when I learned of what Mr Gray describes in his letter as "bad blood with Albion Chambers". For the avoidance of any doubt, I had no prior information or knowledge about any actual or asserted links between Albion Chambers and either local firms in Cardiff or the Crown Court at Cardiff. I had not read and did not read any of the earlier judgments by other judges (up to and including Warby J) about the CRO that I am now asked to extend. I neither heard nor knew that Mr Gray's case had in fact been assigned to Cardiff until the start of my involvement with the present application, when it (and Mr Gray's concerns) became clear on reading into the papers.
9. There is no basis for Mr Gray's assertion that I deliberately referred the case to Cardiff CC "in order to keep the matter "in-house" and to rob [Mr Gray] of [his] basic right to independent representation" and the assertion is untrue. The assertion that I had "fixed" the proceedings in Cardiff CC is equally without foundation and untrue. It was not and is not illegal for me to hear the case on 6 June 2019 or to rule upon it now.
10. In these circumstances, my position on the matter is that no fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that I was or would be biased in dealing with the present application.

The Legal Framework

11. The legal framework for the present application is derived from CPR r.3.11 and PD 3C, which provides:

General civil restraint orders

4.1 A general civil restraint order may be made by –

- (1) ...
- (2) a judge of the High Court; or
- (3) ...

where the party against whom the order is made persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate.

4.2 Unless the court otherwise orders, where the court makes a general civil restraint order, the party against whom the order is made –

- (1) will be restrained from issuing any claim or making any application in –
 - (a) ...
 - (b) the High Court or the County Court if the order has been made by a judge of the High Court; or
 - (c) ...
- (2) may apply for amendment or discharge of the order provided he has first obtained the permission of a judge identified in the order; and
- (3) may apply for permission to appeal the order and if permission is granted, may appeal the order.

4.3 ...

4.4 A party who is subject to a general civil restraint order may not make an application for permission under paragraphs 4.2(1) or 4.2(2) without first serving notice of the application on the other party in accordance with paragraph 4.5.

4.5 A notice under paragraph 4.4 must –

- (1) set out the nature and grounds of the application; and

(2) provide the other party with at least 7 days within which to respond.

4.6 An application for permission under paragraphs 4.2(1) or 4.2(2) –

(1) must be made in writing;

(2) must include the other party's written response, if any, to the notice served under paragraph 4.4; and

(3) will be determined without a hearing.

4.7 ...

4.8 Where a party makes an application for permission under paragraphs 4.2(1) or 4.2(2) and permission is refused, any application for permission to appeal –

(1) must be made in writing; and

(2) will be determined without a hearing.

4.9 A general civil restraint order –

(1) will be made for a specified period not exceeding 2 years;

(2) ...

(3) ...

4.10 The court may extend the duration of a general civil restraint order, if it considers it appropriate to do so, but it must not be extended for a period greater than 2 years on any given occasion.

4.11 ...

12. The normal rules about fee exemption do not apply to applications by a person who is subject to a GCRO for permission to bring proceedings pursuant to PD 3C 4.2(1) or (2). Paragraph 19 of Schedule 2 to the Civil Proceedings Fees Order 2008 as amended provides:

19.— Vexatious litigants

(1) This paragraph applies where—

(a) a restraint order is in force against a party; and

(b) that party makes an application for permission to—

(i) issue proceedings or take a step in proceedings as required by the restraint order;

- (ii) apply for amendment or discharge of the order; or
 - (iii) appeal the order.
- (2) The fee prescribed by this Order for the application is payable in full.
- (3) If the party is granted permission, they are to be refunded the difference between—
- (a) the fee paid; and
 - (b) the fee that would have been payable if this Schedule had been applied without reference to this paragraph.

The use of the phrase “Vexatious Litigants” in this context does not appear to be a term of art. The paragraph makes clear that it applies to all who are subject to a restraint order, which includes a restraint order made pursuant to CPR r.3.11.

13. On enquiry from the Court office in Bristol I am informed that the appropriate fee that would be required by the Court to be paid by a person under a restraint order who wishes to make an application for permission pursuant to PD 3C 4.2 [“the GCRO Application Fee”] is £255. The effect of paragraph 19 of Schedule 2 of the 2008 Order for a person who would otherwise be fee-exempt is that she or he has to raise and pay the GCRO Application Fee of £255 up front, and must bear cost unless and until their application is granted, at which point it should be refunded. If the application is unsuccessful there is no refund.
14. The test for imposing a GCRO is stated by [4.1] of PD 3C to be that “the party against whom the order is made persists in issuing claims or making applications which are totally without merit, *in circumstances where an extended civil restraint order would not be sufficient or appropriate.*” In *R (Kumar) v Secretary of State for Constitutional Affairs* [2007] 1 WLR 536 at [60] the Court of Appeal said that this language:
- “... is apt to cover a situation in which one of these litigants adopts a scattergun approach to litigation on a number of different grievances without necessarily exhibiting such an obsessive approach to a single topic that an extended civil restraint order can appropriately be made against him/her.”
15. The test when the Court is asked to extend a GCRO pursuant to [4.10] of PD 3C is different and is that the Court “considers it appropriate” to do so. That test must be read in the light of the criteria for imposing a GCRO in the first place, since the restriction upon the party’s right to bring litigation is the same during the original term of a GCRO or during its extension. In briefest outline, the question either on an original application for a GCRO or on an application for an extension is whether an order (or its extension) is necessary in order (a) to protect litigants from vexatious proceedings against them and/or (b) to protect the finite resources of the Court from vexatious waste. This question is to be answered having full regard to the impact of any proposed order upon the party to be restrained. The main difference between an original application for a GCRO and an application for an extension is that, on an

application for an extension, the respondent will have been restrained from bringing vexatious proceedings during the period of the existing GCRO.

The Current GCRO

16. The original GCRO made by Teare J in November 2014 was in conventional terms. Warby J extended the GCRO in language that differed in form but, subject to one point, not in substance. As originally made and as extended by Warby J the GCRO prohibits Mr Gray from issuing any claim or making any application in any court without first obtaining the permission of a High Court Judge. It reflects the terms of [4] of PD 3C about the need to notify the other party before making any application for permission, which is to be made in writing, and for automatic dismissal if he issues without obtaining permission first.
17. The one point of substantial difference between the GCRO as imposed by Teare J and as extended by Warby J was in response to Mr Gray's submission to Warby J that the imposition of a GCRO in conventional terms would operate as a complete bar to him bringing proceedings because he could not afford the up-front payment of the GCRO Application Fee. Warby J ordered that, if Mr Gray were to make an application for permission to bring proceedings and it was refused because he was not entitled to fee remission and had not paid or offered to pay the GCRO Application Fee for such an application, then Mr Gray would not need separate permission pursuant to the terms of the GCRO in order to make an application to the Administrative Court for permission to bring judicial review proceedings if the ground of the proposed judicial review were that he is unable to pay the GCRO Application Fee and has therefore been unlawfully denied access to justice.

Procedural Background

18. Mr Gray's GCRO history up to the time of Warby J's order is set out in Warby J's judgment at [8]-[13]. I do not set it out in detail here. Teare J made the order of his own initiative on 4 November 2014 having found that Mr Gray persisted in issuing claims or making applications which were totally without merit ("TWM") in circumstances where an ECRO would not be sufficient or appropriate.
19. The application to Warby J was supported by a witness statement from Susan Dauncey who had been employed as the in-house solicitor to the Chief Constable of Avon and Somerset Constabulary for 30 years. As is clear from the extracts that Warby J included at [16] of his judgment, Ms Dauncey recognised that there had been occasions where Mr Gray had brought proceedings that were well-founded and succeeded so that compensation was paid to him. That fact was also recognised by Warby J in his summary of the relevant procedural history up to the time of Teare J's judgment that is at [26]-[28]. As a matter of record, and excluding some matters which had led MacDuff J to impose a GCRO on Mr Gray in 2013, between 2010 and the imposition of the GCRO by Teare J, there were 7 TWM findings made against Mr Gray with an eighth being made by Longmore LJ when refusing permission to appeal against the orders made in the trial before HHJ Cotter QC. During that period, Mr Gray had won two claims against the present Applicant, the first resulting in an award of damages of £5,025 which was paid in September 2013 and the second resulting in what was reasonably described as a pyrrhic victory before HHJ Cotter QC in

September 2014 when Mr Gray established liability, was awarded damages of £1 but was also ordered to pay 90% of the Chief Constable's costs.

20. Warby J's reasoning is set out in full in his judgment, which itself is a matter of record. I include certain paragraphs to illustrate the basis of his decision, but his judgment should be read in full and with care by anyone concerned to understand it properly. In the course of his judgment he said:

37. It is clear from the evidence, and from my observations of Mr Gray at the hearing before me, that he remains the obsessive and highly unreasonable litigant which his history suggests, and which other judges have found him to be. There is every reason to believe that if he were not restrained or restricted in some way he would persist in making applications which are TWM. He has issued claims which are TWM before, and I see a real risk that he would do so again.

...

43. ... Mr Gray has certainly put forward a vigorous statement of his right to take legal action if treated unlawfully, and there is nothing wrong with that. But he has gone further, and accused professional standards and the Independent Police Complaints Commission of "hopeless" corruption. I agree that when these assertions are considered in their full context they indicate clearly an intention to pursue legal claims over any interaction with the police, based on a fixed expectation that any such interaction will be actionable. There is good reason to believe that any claim would be likely to be accompanied by the same kind of extravagant and ill-founded claims about the conduct of the police generally that have featured in past cases brought by Mr Gray. There is good reason to fear that a claim would involve applications that are misconceived or have no discernible merit.

45. Mr Gray is wrong to characterise the Chief Constable's application as based on the fact that he is making allegations of corruption against judges. The application is based on his history of persistent abuse of process by TWM applications, and the clear risk that he will issue claims or make applications that are TWM. It happens that Mr Gray's history of TWM applications includes two which falsely impugned the integrity of a Judge. There is a plain and obvious risk that he will do so again, by way of a TWM application.

46. The fact that Mr Gray has been ordered to pay nearly £100,000 in legal costs to the Chief Constable which he is unable to or has failed to pay, is also a factor that supports my conclusion. Mr Gray's objection to the Chief Constable's reliance on this point is misplaced. The argument is not simply that his claims are costly. Nor is it said that his rights must be

restricted just because he has a debt. The relevance of the costs bills is threefold.

(1) First, they show that Mr Gray has lost claims and applications, having caused the Chief Constable to incur substantial costs in the process.

(2) Secondly, the costs bills tend to show that the litigation to date has been disproportionate. Mr Gray has recovered damages of £5,026. The costs recoverable by the Chief Constable in respect of failed claims or applications are nearly 20 times that sum.

(3) Thirdly, costs orders are normally a disincentive for litigants, and set some limits on what they are prepared to do. But that form of control does not apply in the case of Mr Gray. As Mr Talalay submits, the position as regards costs tends to show that the situation is one that demands preventative steps, rather than after-the-event remedies.

21. In the course of his judgment Warby J expressed concern about the submission raised by Mr Gray that the imposition of a GCRO amounted in practice to a complete bar on his access to justice because he could not afford to pay the application fee up-front and therefore could not apply even in respect of a well-founded claim. Warby J said in relation to this point, at [51] of his Judgment:

51. But as I have said, there is no evidence to support Mr Gray's point. He has produced nothing other than assertion to support a conclusion that the imposition of a GCRO would in fact prevent him from seeking permission. The assertion does not become any more persuasive by virtue of its frequent repetition, or the vitriolic terms in which it is put. I cannot accept, without more, that he would be so prevented. No detail has been provided. Mr Gray has demonstrated an ability to pursue claims and applications without legal assistance in the past. He does not appear to have been impeded by limits on the available funds. There is no evidence, nor even an assertion, of any particular occasion on which he has tried to apply for permission to bring a claim while subject to a GCRO, and been prevented on financial grounds. And if there was a problem over an inability to pay the right response would not be to refrain from making a GCRO. The solution would be to tackle the access to justice problem, once established, in a different way.

22. As already mentioned at [17] above, the solution that Warby J devised to deal with Mr Gray's concerns about access to justice was to open the way for him to challenge the lawfulness of any refusal of permission to bring proceedings because he had not paid the application fee. Accordingly, after adding a post-script to his judgment he included in the GCRO as extended for the next two years a provision that:

Authorised Judicial Review Claims

8. This order does not prohibit nor does it require [Mr Gray] to obtain the permission of a Judge designated [in the GCRO] to bring proceedings in the Queen's Bench Division Administrative Court seeking judicial review of a decision to refuse to issue an application for permission [to bring proceedings in accordance with the GCRO] ("a Refusal Decision") if
- a) The Refusal Decision is made on the basis that the Respondent is not entitled to fee remission and has not paid or offered to pay the fee for such an application;
 - b) the grounds of review are that the Respondent is unable to pay such fee and has thereby been unlawfully denied access to justice.
23. Mr Gray has not presented any application for permission pursuant to the GCRO as extended by Warby J, either with or without proffering payment of the application fee. The mechanism for challenging the legality of the requirement that Mr Gray pay the application fee if he can show that he cannot pay it has therefore not been implemented or tested in practice.
24. There has been no appeal against the orders of Teare J and Warby J, which stand as matters of record. It is no part of my function to act as any form of an appellate court in relation to those decisions and orders. In the same way, it is no part of my function to second guess the various other orders that have been made over time. They stand as matters of record and provide part of the context in which I must make my independent decision about the position as it appears now. I start with no preconception or prejudice about whether the GCRO should be extended. For the avoidance of any doubt, my decision whether it is appropriate to extend the GCRO depends upon my assessment of the admissible evidence that i During the hearing, Mr Dixey addressed the amount of the GCRO Application Fee on two occasions. On the first occasion, just before the short adjournment, he raised the possibility that the fee might be £55. He suggested that the fee may in fact be £55 rather than £255. The Court suggested that this point should be sorted out after the short adjournment: see page 67 of the transcript. After the adjournment, Counsel submitted that he did not know what advice an individual would obtain as to what the fee would be; and he suggested that there might be at least two different fees, one of £255 and £55. In this state of the submissions, the draft of this judgment was prepared on the basis that the advice the Court had been given was correct. In response to the draft judgment, Counsel submitted a note s available to me. That evidence may include, but is not limited to, matters of record about past proceedings and applications.
25. One of the matters of record that I can and should take into consideration is the fact that other judges have held that applications by Mr Gray have been TWM, not least because of the provisions of CPR 3.11 and the Practice Direction.
26. In the analogous context of applications by the Attorney-General under s. 42 of the Supreme Court Act 1981 it has been held by the Court of Appeal that the Court

considering the application is entitled to rely upon previous findings by other Courts that a litigant's conduct has been vexatious. The reason was explained by Lord Donaldson MR in *AG v Jones (Marcus David)* [1990] 1 WLR 859 at 863D:

“The fifth and last issue of law arose out of Mr. Jones' wish to challenge the conclusion of various judges in the underlying proceedings that his conduct in those particular proceedings had been vexatious or had involved an abuse of the process of the court. We ruled that he was not free to do so. If any such conclusion was, or was thought by Mr. Jones to be, erroneous, the remedy was to appeal in those proceedings or, where it was said that the judgment was vitiated by the fraud of other parties, to take appropriate steps to have the judgment set aside. But if that was not done, the decision must stand and is capable of forming the basis for the court being satisfied upon an application under section 42 that Mr. Jones had habitually and persistently and without any reasonable ground acted in the manner referred to in subsection (1)(a) and/or (b).”

This principle has recently been followed and reaffirmed by the Divisional Court in *AG v Sheikh* [2019] EWHC 763 (Admin) at [10]. It applies by parity of reasoning to applications such as the present.

27. The Court's approach should include that the evidential significance of findings of TWM may alter with the passage of time, depending upon all the circumstances. Because Mr Gray has brought no civil proceedings or applications since the order of Warby J extending the GCRO, the various findings of TWM now provide part of the historical context for the CROs that have been made in the past; but there are no recent findings of TWM to provide contemporaneous evidence of recent unmeritorious civil proceedings or applications.
28. For the present application, the Applicant has served and relied upon a witness statement of Mr Andrew Knight that was dated 7 November 2018, to which I refer below.
29. On 20 December 2018 Warby J made an interim order for directions including that the GCRO be extended until after judgment on the present application or further order in the meantime and that if Mr Gray wanted to rely upon written evidence he must file it and serve it no later than 4.30pm on 17 January 2019. In the event Mr Gray was in custody during the period to 17 January 2019 and thereafter until 1 March 2019. In the light of written representations from Mr Gray dated 5 January 2019, which included a request that Warby J recuse himself and a request for extension of the timetable, Warby J refused to recuse himself and on 16 January 2019 extended Mr Gray's time for serving any evidence upon which he wished to rely until 18 March 2019.
30. Mr Gray did not file any materials until the day before the hearing. On 5 June 2019 he filed by email (a) his skeleton argument at 9.15 am in the morning and (b) a (short) witness statement and documentary evidence which started to be received by the Court shortly after 4.15 pm. His explanation to the Court for the late service of documents was that (a) he considered that Warby J's further involvement in the case

was unlawful; (b) he considers the present process to be in breach of Article 3 ECHR and to constitute mental torture and immensely distressing and so he wanted to leave it until he absolutely had to deal with it; and (c) that most of the material was not new to the Applicant and that the Applicant had not objected to it yet. Acting on behalf of the Applicant, Mr Dixey did not object to Mr Gray relying upon the materials he had submitted and the hearing went ahead on that basis. I have therefore read all the materials submitted by Mr Gray and have taken them into account.

The Issue on this Application

31. The issue is whether I consider it appropriate to extend the GCRO. In deciding that issue I shall adopt the approach I have summarised above.

The Applicant's Case

32. The Applicant's case may be shortly stated. He submits that the evidence put forward in support of his application shows that Mr Gray is and remains an obsessive and highly unreasonable litigant as previous judges have found him to be. He therefore submits that there is every reason to believe that, if not restrained by the continuation of the GCRO, there is a substantial risk that (as found by Warby J in 2016) he would persist in bringing actions or making applications that are totally without merit. He points to the fact that Mr Gray has continued to raise complaints "which suggest an unchanged and fantastical view of the world where he considers himself to be the victim of a multi-agency conspiracy aimed at denying him his rights and victimising him." He submits that Mr Gray, being unable to issue civil proceedings, uses statutory complaints processes as an alternative. If the possibility of issuing civil proceedings is restored, the Applicant submits that Mr Gray will almost certainly restart his campaign against the Applicant and other persons protected by the GCRO.
33. In making these submissions, the Applicant expressly disavows any suggestion that the Court should carry out a factual analysis of whether the complaints made by Mr Gray, which formed the bulk of the documentary evidence produced by Mr Knight, were true or well-founded. But he submits that the Court can have regard to (a) the types of allegations being made by Mr Gray, which are extreme, (b) the number of complaints being made, and (c) the fact that most of his complaints have not been upheld.
34. In oral submissions the Applicant submitted that Mr Gray's written Skeleton Argument for the hearing demonstrates that he remains convinced that there is a grand conspiracy in which Judges (including Warby J) are involved. That is relied upon as support for the proposition that, if the GCRO is lifted, there will be a flood of unjustified litigation. He also points to Mr Gray's use of extremely vituperative language as showing a settled animus against the Applicant and all those involved in the administration of justice who do not agree with him or do what he wishes.

Mr Gray's Response

35. Mr Gray's written skeleton argument was prepared in the mistaken belief that the present application would be heard by Warby J. Turning to the substance of this application, Mr Gray made the following main points:

- i) He submits that an independent and impartial tribunal should not rely upon the history of his complaints over the past years as evidence of his “world view” or “mindset” without resolving whether or not the complaints he makes are well-founded, which the Applicant cannot and does not prove in the evidence for this hearing;
- ii) He submits that, since the Applicant does not accept that his complaints are well founded, he is by implication asserting that Mr Gray is “relentlessly making false criminal allegations against various individuals” including police officers and the Applicant himself. He submits that “the real antidote to those who make criminal allegations that are TWM is via criminal investigation and prosecution for the common law indictable offence of making false criminal allegations.” To support this submission, Mr Gray’s short statement made on 4 June 2019 stated that all the complaints he has made that are referred to in Mr Knight’s statement (including those made against High Court, Circuit and District Judges) were intended to be taken seriously by the police and to lead to arrest, interview caution, charge and prosecution/conviction. He takes the fact that he has not been prosecuted for making the allegations that underpin his complaints as evidence that his allegations are well-founded;
- iii) In any event, in addition to asserting that all the complaints recorded in the Applicant’s evidence are well-founded, he relies upon his previous successes in criminal and civil cases as showing that he is the victim of injustice and has good claims that he should be allowed to bring now;
- iv) Mr Gray goes further and submits that, because Counsel for the Applicant has not referred Mr Gray for investigation by the police to see whether he has been “wasting huge amounts of police resources in investigating false criminal allegations against those named in [his] complaints”, Counsel is “by definition ... colluding in the offence of perverting public justice himself ... if he believes he has evidence of such a litany of offences”;
- v) He submits that it is wrong to take into account the fact that there are outstanding costs orders against him as a reason for imposing a GCRO that prevents him from bringing cases based upon breach of Article 5 ECHR. On this basis he submits that any CRO should include an exemption for claims that involve allegations that Mr Gray has been detained (however briefly);
- vi) He submits that, whilst he is living on unemployment benefits, he cannot afford to seek written permission to bring claims of any description.

Evidence in the Present Application

36. Since the extension of the GCRO by Warby J, Mr Gray has made or continued 23 complaints against the police and individuals associated with the police during 2017 and 2108 up to the date of issue of the present application. He has also made complaints about Judges and others associated with the administration of the Courts. The Applicant’s approach has been to exhibit Mr Gray’s letters of complaint and the documents that track their subsequent treatment. The documents include examples of Mr Gray’s response to decisions taken in the course of dealing with his complaints.

37. The Applicant relies upon these documents to show that Mr Gray continues to consider himself the victim of a wide-ranging conspiracy involving the police, Judges and others involved in the administration of justice. Mr Gray's response is that it is not open to this Court to determine whether or not his underlying complaints are well-founded or not, since there has been no trial of the issues he has attempted to raise by his complaints. I agree that it is not open to this court to make findings of fact where, for example, the documents demonstrate that there are competing versions of the events that have given rise to Mr Gray's complaints. However, the number and range of complaints provide clear evidence about the state of Mr Gray's mind in and arising out of his dealings with the police and the Court system.
38. It is beyond the scope or needs of this judgment to set out all the evidence upon which the Applicant relies. The sheer number of complaints to the PSD and the seriousness of the allegations Mr Gray makes in those complaints are, on any view, remarkable and well out of the ordinary. This may be illustrated by taking two months, January and March 2018.
39. In January 2018:
- i) On 2 January 2018 Mr Gray complained that two police officers were guilty of collusion in harassment, corruption, perverting public justice and threatening to kidnap him arising out of their attendance at an incident at an employment agency on 18 December 2017. Mr Gray considered that he had been the victim of harassment by the agency because they had called him in to complete papers with a view to employment but, when he got there, the only prospect was a possible job being available after Christmas. The police officers took the view that there was no evidence of criminal harassment by the agency, which Mr Gray took to be collusion with what he considered to be criminal harassment and to be corruption and perverting the course of public justice;
 - ii) On 3 January 2018, Mr Gray submitted a complaint of perverting the course of public justice and misconduct in public office against one chief inspector and two others arising out of their investigation of an earlier complaint Mr Gray had made about an incident that occurred at Bristol Crown Court. I refer to this below at [41];
 - iii) On 19 January 2018, Mr Gray submitted another complaint alleging that a Chief Inspector and a Superintendent were guilty of misconduct in public office, corruption and perverting the course of public justice arising out of the conduct of the investigation into the same incident at Bristol Crown Court.
40. In March 2018:
- i) On 7 March 2018 Mr Gray made a complaint against a Detective Sergeant alleging collusion in attempted murder, perverting the course of public justice by concealing the commission of an offence, abuse of public office, witness intimidation and making threats to kill. This also arose out of the incident at Bristol Crown Court;
 - ii) On the same day, 7 March 2018, Mr Gray made a complaint against a call handler alleging that the call handler had perverted the course of public justice,

abused their public office and was guilty of criminal harassment. There is a transcript of the conversation in the papers. Mr Gray was trying to pursue an allegation that the listings manager at Bristol Magistrates Court was perverting the course of public justice by not responding within 10 days to a letter he had sent requesting the transfer of a case. In the course of the conversation the call handler said “In that case if Avon and Somerset Police have nothing to do with the fact that these guys are refusing contact with you, the fact that they refuse to change anything or contact you or receive calls from you, that’s not anything that we’re going to be able to fix. If you feel that it’s a perversion of the course of justice that’s something that you’re going to need to get someone to look into on a civil side, you’re going to need to speak to a solicitor or another professional body to get that done.” Mr Gray’s complaint to the PSD was that the call handler (who Mr Gray accepted was not a lawyer or a police officer) “concocted” the assertion that his complaint was a civil matter and in doing so was perverting the course of justice and abusing their public office;

- iii) On 16 March 2018 Mr Gray complained that an Inspector and a Superintendent were guilty of perverting public justice, and of colluding in or covering up attempted murder and threats to kill, and of abuse of public office. This arose out of their involvement with another incident (which had already generated at least one other complaint to the PSD) on 19 September 2017 when Mr Gray considered that a driver had deliberately attempted to run him over. After investigation, the inspector wrote to Mr Gray that no further action was going to be taken against the driver as the evidence available and Mr Gray’s account would provide insufficient evidence to proceed. Mr Gray said that as he had not been accused of perverting the course of public justice by making false allegations the CCTV available to the police “must perforce have supported my criminal allegations of assault.” On this basis he asserted that the Inspector’s statement that there was insufficient information was “manifestly ... utter concoction intended to cover up the driver’s attacks both inside and then outside his vehicle” and must have been made with the connivance of the Superintendent;
- iv) On 18 March 2018 Mr Gray complained that the Detective Sergeant about who he had complained on 7 March 2018 was guilty of perverting the course of justice and misconduct in public office in not charging the person who Mr Gray said had assaulted him in the incident at Bristol Crown Court. This was in response to an email telling Mr Gray that no further proceedings were to be taken either against the other person or against him;
- v) The following day, 19 March 2018, Mr Gray complained that an officer who had arrested him on 6 March 2018 after an incident at Bristol City Council was guilty of kidnap, torture, assault occasioning actual bodily harm, colluding in robbery and assault occasioning actual bodily harm, perverting the course of public justice and abusing public office and that another Police Constable and Inspector were colluding in and covering up kidnap, perverting public justice, torture, assault occasioning actual bodily harm, and were abusing their position. Mr Gray had been arrested after what he described as an altercation with Bristol Council Staff about a council tax summons. On his account, which he says is recorded, a minor disagreement escalated out all proportion as

a result of which the police were called and Mr Gray was arrested. He described the circumstances of his arrest as “vile and deliberate torture” whether or not the arrest was legal. His reason for complaining about the Inspector appears to have been that it was “obvious” that he was attempting to cover up and generally obstruct any investigation into the arresting officer’s “torture” by simply directing that another Police Constable investigate what had happened.

41. On numerous occasions, the rejection of one complaint has led to the making of another, this time against those who have been involved in the rejection of the earlier one. I take one sequence of complaints as illustrative of this phenomenon:
- i) According to Mr Gray, on 17 October 2017 he was standing outside Bristol Crown Court “distributing public information leaflets concerning allegations of collusion in attempted murder and perverting justice, corruption of various ASC officers, ASC PSD, Bristol CPS Officers and various Bristol circuit judges. Included in these publication is reference to” a Mr Bell who was employed by the CPS and who prosecuted Mr Gray before Recorder Qureshi and a jury in February 2016 for common assault on a driver who, according to Mr Gray, had driven his car at Mr Gray at speed and knocked him off his bike. Mr Gray had been convicted. Mr Gray is convinced that a Police Officer who attended the scene took relevant photographs of the position of the driver’s vehicle as well as a photograph of an injury he had sustained in the incident.
 - ii) Mr Gray recognised one of the people who took a leaflet as being the Mr Bell who had prosecuted him. According to Mr Gray, he spoke to Mr Bell to identify him as the person who had been involved in the earlier trial and Mr Bell responded aggressively, including swearing at him at close range and jabbing his finger almost into Mr Gray’s eye. When Mr Bell went into the reception area of the court, Mr Gray went too. According to Mr Gray, Mr Bell continued to berate him and he told Mr Bell he had blood on his hands. Eventually Mr Bell went away, accompanied by an Asian woman. Mr Gray complained to the police about the incident and gave a witness statement to a PC Theobald.
 - iii) What happened next was that another officer viewed the CCTV covering the Court’s reception area and recorded it on his bodycam; and PC Theobald made a DPA application for the original CCTV footage. Mr Gray took issue with the need to make a DPA application and, on 13 November 2017 sent an email to Sergeant Hendy (PC Theobald’s superior) saying that he should have relied upon powers under PACE to seize the CCTV without such an application. For reasons that do not appear from Mr Gray’s account, he concluded that the failure to use his preferred approach “appears to be an attempt to pervert justice or at least a misconduct matter” on the part of PC Theobald. PS Hendy did not act on Mr Gray’s suggestion that PACE provided a swifter route to the CCTV. Mr Gray’s reaction to this was that “clearly therefore, Hendy is utterly refusing to address my point that s.19 of PACE gave police powers to seize any evidence that assists a criminal investigation and Theobald is deliberately stalling the investigation Moreover his reference to having to rely on the DPA evidence is manifestly concoction.”

Mr Gray therefore wrote to another officer who wrote on 17 November 2017 that he would ask Inspector Golding to contact Mr Gray.

- iv) Mr Gray's first formal complaint to the PSD was on 4 December 2017 and was that Inspector Golding, Sergeant Hendy and PC Theobald were guilty of perverting public justice, abuse of public office and trust and collusion with harassment or fear of violence from Mr Bell. His stated grounds of complaint against Mr Golding were that he had not heard further from either Mr Golding or Mr Hunt "and so this officer too is clearly conniving in the bold faced concoction from Theobald and Hendy that they needed to submit a DPA form to obtain [vital] evidence... ." Later in his complaint he wrote that "it is also clear that Golding, Bell, Theobald et al are acting [in] this brazen manner, subjecting me to a bombardment of threats and verbal filth in broad daylight in front of several CCTV cameras on the doorstep of the Bristol Crown Court (to say nothing of the collusion in attempted murder re the Feb 16 trial that Bell was connected to)...";
- v) In early January 2018 Mr Gray contacted the PSD and asked a Ms Delgard for the name of Inspector Golding's superintendent. Ms Delgard replied the same day that she was "not able to assist [Mr Gray] further in this matter until we have received a response from the IPCC." Mr Gray interpreted this as "deliberately withholding not only the name and contact details of Golding's senior officer to Golding et al, but also the fact that Golding et al are indeed subject to the current PSD investigation from Golding's senior officer, in order to ensure that there is no possibility that Golding and his two colleagues are removed from the investigation, and she is perverting public justice and committing misconduct in public office in so doing." In addition to his complaint about Ms Delgard, he made the same allegations against (a) another person at the PSD who provided him with some information and (b) DI Stephens on the basis that he was responsible for decisions taken by Ms Delgard and was "therefore included as a co-conspirator in the allegation that he and others from PSD are interfering with the criminal investigation" This complaint was made on 3 January 2018;
- vi) Sixteen days later, on 19 January 2018, Mr Gray lodged another complaint. This complaint alleged misconduct in public office, corruption and perverting public justice against Chief Inspector Norrie and Superintendent Corrigan because, although PC Theobald had been removed from the investigation as requested by Mr Gray, Inspector Golding and Sergeant Hendy had not been. It appears from the investigation report that, in fact, Mr Golding and Mr Hendy had no continuing involvement in the investigation; but that is not confirmed by Mr Gray and I make no finding about it;
- vii) On 17 March 2018 Mr Gray made a complaint that PS Toms was perverting the course of public justice and had abused his public office and trust by suppressing evidence of threatening behaviour from Mr Bell to Mr Gray. His complaint was because PS Toms had written to inform him that, having reviewed the CCTV evidence, he had determined that Mr Bell should be visited as a potential victim and witness. The police had recorded a crime in respect of an offence under s. 4 of the Public Order Act with Mr Bell as the victim; but Mr Bell had refused to support a prosecution. Therefore in respect

of the crime alleged by Mr Gray against him and the crime recorded against Mr Bell, the decision had been taken that there was insufficient evidence to proceed further;

viii) I note in passing that, while this sequence of complaints was developing arising out of the incident on 17 October 2017, Mr Gray was pursuing a separate series of complaints arising out of the suggestion that photographs had been taken by PC Green at the time of the underlying incident in 2015 for which Mr Gray had been convicted with Mr Bell acting as prosecutor in 2016. Those complaints included complaints of perverting the course of public justice against a Circuit Judge and the recorder who had presided over the trial of Mr Gray as well as against Mr Bell for allegedly failing to disclose the additional photographs. It appears from the investigation of these complaints that, when asked, the person who Mr Gray thought had taken additional photographs said that she had not done so.

42. Another series of complaints bears repeating in a little detail as illustrating Mr Gray's approach when people do not act in a way that conforms with his wishes and convictions. The history is as follows:

i) There was an incident and altercation at Bristol Central Library on 10 February 2015. There was a previous history of difficulties involving Mr Gray when at the library. On 10 February Mr Gray called the police in advance to tell them he was going there. Two PCSOs and, later, two police constables attended the library. Mr Gray was charged with a public order offence, the central allegation being that he had called a woman in the library a "fucking ugly bitch". He was arrested, handcuffed and taken into custody. The custody CCTV recorded Mr Gray saying "I didn't tell her to fuck off, just that she was a fucking ugly something or other, can't remember the words I used ...";

ii) The case came before DJ Taylor on 30 September 2015. Mr Gray, who denied using the words "fucking ugly bitch", had recorded the incident. His recording was played during the prosecution case. Each of the four officers gave evidence that he had used the offending words. Their evidence was challenged on the basis that the offending words could not be heard on the recording and therefore had not been said. According to the subsequent investigation, what could be heard clearly was Mr Gray saying "well, do I want an ugly thing like you coming in my face" which, while still offensive, is of a different order of offensiveness and materially different from what was being alleged against him;

iii) The Judge dismissed the case at half time;

iv) Subsequent investigation showed that there were apparent discrepancies because the PCSO's original notes did not record the offending words. It appears from the record of the PSD investigation that some or all of these apparent discrepancies were identified during the prosecution case, but that is not entirely clear on the materials I have seen;

v) Apparently Mr Gray contacted the Judge and asked him why he had not reported the officers for the "patently false allegations" against him. On Mr

Gray's account, he asked why the judge "had not referred the clear evidence that all 4 officers had patently concocted the "Fucking Ugly Bitch" allegation in order to trump up a charge against me and justify my illegal and brutal detention (and sexual assault) ... given that the concoction clearly amounted to perjury under oath before the said judge, as an attempt to pervert public justice and an abuse of public office?"

- vi) The Judge is reported to have responded that: "I made no finding of perjury but, in view of the discrepancy between the officer's evidence and the sound recording I was not made sure that the entire phrase "fucking ugly bitch" was used by Mr Gray. This entire phrase was a significant part of the prosecution case and it was partly as a result of this that I was not satisfied that the case had been proved to the criminal standard. I therefore acquitted Mr Gray";
- vii) On 23 September 2017 Mr Gray wrote to the Chief Constable complaining of criminal collusion and connivance in perjury and perverting the course of public justice on the part of the Judge and the prosecutor because they had not referred the four officers to the police or elsewhere for consideration of prosecution. Mr Gray said that, in the absence of some rational explanation, there was "an air tight case of perjury perverting justice abuse of public office against the officers in question, but moreover against DJ Taylor who had an absolute duty to refer the complaint of perjury to the police for an independent investigation in regards to those offences and he himself should now be investigated for collusion and cover up of the same, along with [the prosecutor] ..." Mr Gray argued that his complaint should be referred to an outside force for investigation;
- viii) When Mr Gray did not receive a response within what he thought was a reasonable time, he complained to the PSD on 22 October 2017 alleging that whoever had received his letter of 23 September 2017 was perverting the course of public justice and abusing public office by suppressing evidence and his complaint. He asserted that it was "clear" that Ms Sue Dauncey "has received both my emails and my phone calls and is deliberately refusing to forward on my criminal complaint letter ... in order to prevent a criminal investigation into these parties and pervert public justice." On investigation it was reported back to Mr Gray that his complaint had been referred to the Chief Constable's office on 26 September as requested and that a reply had been sent to him by DI Stacey on 21 October 2017;
- ix) On 21 October 2017 Mr Gray was sent a response from DI Stacey which stated that the Judge "made no finding of perjury and did not identify any other criminal wrongdoing";
- x) On 6 November 2017 Mr Gray lodged a complaint against DI Stacey alleging collusion in perverting justice, perjury and misconduct in public office. He complained that DI Stacey's response was meaningless and that "in whitewashing the basis of my criminal complaint against DJ Taylor he is overtly colluding in the officers corrupt and malicious concoctions and attempts to pervert justice in precisely the manner complained of against the judge himself."

- xi) The IPCC directed that the complaint should be investigated locally. The local investigation concluded that there was no case for DI Stacey to answer. Mr Gray appealed to the IPCC complaining of concoctions by DI Stacey and whitewash by the local investigation. On 29 January 2018 the IPCC decided not to uphold his appeal.
43. Mr Gray's conviction that any conduct with which he does not agree is the result of a conspiracy against him and to be interpreted in the worst possible light is illustrated by a sequence of events concerning the proposed listing of a hearing in front of HHJ Evans, a Circuit Judge based in Taunton. Mr Gray made an application to vary a restraining order that had been made against him in March 2011 after he had been convicted of criminal damage and a public order offence concerning his neighbours. It was decided that the application should be heard by a judge who was not connected with Bristol Crown Court. Thereafter:
- i) On 20 January 2017 a listings officer from Bristol Crown Court wrote to Mr Gray that "The listing decision – which follows from Judge Hart deciding to recuse himself – is made following consultation by Judge Hart with the resident judge, HHJ Blair QC and it is considered that the hearing should be before HHJ Evans who is a judge with no Bristol connections;
 - ii) Mr Gray made "various enquiries" and found a reference on the internet to HHJ Evans having appeared as a Crown Court Judge at Bristol at least once before. He therefore wrote to the listing officer's senior manager at Bristol Crown Court pointing this out;
 - iii) The senior manager replied on 8 May 2017 that "I can confirm that His Honour Judge Evans has sat at this court as Recorder on a number of occasions over the past couple of years. Clearly the letter from [the listing officer] should have used the words "little connection with this court". I apologise for this.";
 - iv) On 17 May 2017 Mr Gray was sent a further letter, this time by Ms Sharon Boreham who wrote that "the information provided by Mr Apps was on the instruction of HHJ Hart having consulted with HHJ Blair QC, the Resident Judge at Bristol Crown Court. Yes the information was incorrect but I do not agree that the information was provided with malicious intent and I apologise for this incorrect information. We should have responded to say there was little connection.";
 - v) This was sufficient for Mr Gray to send a complaint to the Chief Constable on 31 May 2017 alleging "evidence of perverting public justice and misconduct in public office re Bristol Crown Court Judges Evans, Ticehurst, Blair, Hart and Mr Justice Dingeman [sic] and listings officers Sharon Boreham Terry Ashley and David Apps." In his letter of complaint he drew this conclusion because Ms Boreham had not explained how the original information could have been other than a lie (i.e. knowingly untrue) given that "both [Mr Apps and HHJ Hart] must have known that Judge Evans has connections to Bristol CC when they wrote to me stating that he had none at all... ." He accused Mr Apps of "lying to corruptly manipulate the judicial listings process to ensure a crony and acquaintance friend of Judge Hart heard the application ..." and asserted

that “the lie was clearly intended to cover up the fact that Judges Blair and Hart have transferred the application to Judge Evans in order to ensure that a friend, associate and crony of theirs hears the application and there can be no independent decision making on the allegations set out in the application.” He accused Ms Boreham of “utter concoction”. He included HHJ Ticehurst simply because he was a more senior judge at Taunton who had previous connections with Bristol and included Dingemans J on the basis that he had been told that an application to transfer the application off the Western Circuit had been referred to that Judge “who has final authority over such matters” and that Dingemans J had “refused any hearing or to provide any comments on the issues raised herein. The incorrect information that HHJ Evans had no connection with Bristol CC is characterised by Mr Gray as “egregious concoction”;

- vi) It appears that Mr Gray’s complaint was referred to Inspector Herbert, because on 27 July 2017, Mr Gray submitted a complaint that he was colluding in conspiracy to pervert public justice and guilty of misconduct in public office on the grounds that he had refused to investigate Mr Gray’s complaint. He described Inspector Herbert’s description of his original complaint as “utter concoction” and as a “complete fabrication”. He asserted in support of his complaint against Inspector Herbert that “the evidence proving that Judge Blair et al are lying in their corrupt teeth that Judge Evans had no Bristol CC connections to ensure that my application was considered by a crony and ally of Judge Hart is so straightforward and compelling that Mr Herbert ... has no choice but to whitewash the complaint and evidence to replace it with his own fabricated evidence of both. Ergo the fabricating of my complaint is itself evidence that Inspector Herbert is perverting public justice and abusing his position of trust....”;
 - vii) Mr Gray appealed the rejection of his complaint by the PSD to the IPCC. His appeal was “predicated on the straightforward piece of evidence that Bristol Crown Court administrative officer David Apps had lied in his letter to me dated 20 January 2017...”. His appeal was rejected by the IPCC on 23 November 2017.
44. The clearest evidence of Mr Gray’s mindset comes from a recording on the body-worn camera of a police officer who was called to the incident at the employment agency on 18 December 2017, to which I have referred above. In the course of speaking to the officer Mr Gray said:

“I’m living out some terrible – I’m blackballed from everybody and my name is mud (inaudible). I’ve got scars on me inflicted by you that are supposed to be protecting people. I’ve got loads and loads of cases with the PSD and the IPCC and in the courts and the criminal courts concerning ongoing matters. I’m costing the tax payer – can I just explain, all I want to do is get a job. I cost the tax payer about £100,000 a year in court cases because I’m roaming the streets creating all kinds of kerfuffle with all kinds of people, if your here acting as their defendants straight away, everyone else takes the same policy, they do

what they like to me and you come in to defend them, its basically me against anybody who wants....”

A little later he said:

“You know me, you think you know me, you think you know me, what I enjoy is the truth, what I enjoy is right and wrong and I certainly enjoy taking bent coppers to task. That’s what I love. I love for, that’s my religion and my God when I wake up in the morning.”

I have no doubt at all that these statements accurately reflect Mr Gray’s outlook on life.

45. There is clear evidence to support the Applicant’s submission that Mr Gray is likely to bring proceedings if the GCRO is lifted. Specific examples are set out below and also evidence Mr Gray’s state of mind and attitude with regard to the Applicant, his force, and others concerned with the administration of justice:

- i) In an email to Mr Budd, who has carried out a number of the internal Avon and Somerset Constabulary investigations in to Mr Gray’s complaints, on 12 August 2017, Mr Gray wrote: “I have not submitted any JR claim letter to the IPCC legal dept as yet because I have a current Civil Restraining Order imposed against me until at least 2018, but in the meantime the CRO does not effect my right or ability to pursue a private prosecution Pending a response to my combined JR and PP pre-action letter to the IPCC legal dept, I intend to submit at least one private prosecution application to a London Magistrate’s court in the next few weeks” [As a matter of record, Mr Gray submitted an information to the Westminster Magistrates’ Court, dated 31 August 2017, naming eight proposed defendants ranging from a security manager for Tesco’s, one civilian investigator for Avon and Somerset Police, four police officers in rank up to Chief Inspector and two employees of the IPCC, for offences all of which were alleged to stem from a collision with another customer in Tesco and the events that followed.];
- ii) In his complaint dated 23 September 2017 about DJ Taylor Mr Gray wrote: “I am unable to bring any civil action at present, at which point I was intending to canvass the criminal element.....”
- iii) In an email to Mr Budd on 27 June 2018 Mr Gray wrote: “I know that you, Toms et al regard the civil restraining order preventing my suing the blood-stained shirt of [the Chief Constable’s] back as a licence to have your way with me and can kidnap and assault me whenever the mood grabs you, but bear in mind that the CRO has no currency in the criminal courts, and I have been in front of enough criminal court judges to know that they are only going to put up with so much trampling on the rule of law before you, Toms et al reap the whirlwind for the evil lying, torturing and blood-stained vermin that you are.”;
- iv) On 20 July 2018 Mr Gray wrote to the Legal Services department of the Avon and Somerset Constabulary: “you will be aware that the GRO against me courtesy of Warby J expires in just over three months time and I would be

grateful if you could inform me whether you intend to ask for the GRO to be renewed, which presumably you are going to want to do in advance of the expiry date. Meanwhile the kidnaps of and injuries to myself courtesy of your clients are continuing on reasonably regular basis, but clearly this is little point in engaging in pre-action protocol until the issue of a further GRO is entertained and/or sought by your client, so we would save us both time and money if you indicated your/your client's position on the GRO.”

- v) While giving evidence and making his submissions at the hearing, Mr Gray confirmed that in relation to at least one set of circumstances that he described in detail, he considers that he has a valid case that he wishes to pursue. As I have indicated, he submitted that, as a minimum, I should exclude from any extended GCRO any claim he might have arising out of his being detained or arrested. He also made quite clear that he considers that his arrest on 10 February 2015 was wrongful and that he would wish to pursue a civil remedy if allowed to do so by the lifting of the GCRO.
46. Mr Gray was eloquent in explaining that his personal and financial circumstances do not enable him to fund an application for permission as required by the terms of the GCRO. He has a criminal record and has recently been in prison, being released on 1 March 2019 after serving part of a sentence of 51 weeks imposed by the Crown Court in Cardiff on 6 September 2018 for offences of battery and breach of a civil injunction. He is currently on benefits, though the papers contain evidence to support his assertion that he has tried to obtain work. The fact that the papers also evidence difficulties and altercations at employment offices, which has led to an extensive injunction banning him from attendance at DWP jobcentres in Bristol and surrounding towns and cities supports his evidence to the effect that his financial outlook is bleak. He told me, and I accept, that he currently receives £270 per month in benefits i.e. just £15 more than the application fee for one application. He has a house which he estimates to be worth about £200,000 but there is already a charge on that house and substantial adverse costs orders remain outstanding against him.
47. Mr Gray's conduct during the hearing suggested a high degree of agitation going beyond the normal reaction to the stresses that litigation imposes on a litigant in person. I have already referred to his explanation why he had not submitted his evidence on time: see [30] above. During the course of the hearing he intervened with what he himself described as an “outburst”. In explanation he said that he regarded the proceedings as abuses that were degrading him because they were making him relive in a methodical and inhuman and dry manner (referring to the presentation of the application by Counsel for the Applicant) “deeply emotional matters, in which I've actually got physical scars as a consequence of these incidents so it's very difficult for me to keep a lid on these issues and I can't get legal representation on any matter, whether criminal defence or civil defence... .” He then left court saying that he was “going to help everybody” and that he would come back in at the end of Counsel's submissions because he knew what Counsel was going to say. Having confirmed that he was happy for the hearing to continue in his absence, he left. About 15 minutes later he returned to sit in the public gallery before returning to his seat. Later in the hearing he again made reference to the issues before the court being “deeply distressing and emotional”. As the hearing progressed he became progressively more animated and agitated: his final submissions indicated that this

was at least in part because he considered that the Court should be more interested in perjury and perverting the course of public justice than with the continuation of the GCRO.

Discussion

48. For reasons that I will explain below, I do not regard this application as remotely straightforward even though I accept without hesitation that Mr Gray is very likely to bring civil claims, including at least some that are unmeritorious, if the GCRO is lifted. I base this conclusion partly on the specific evidence that I have identified at [45] above and partly because of Mr Gray's conviction that he is the victim of a far-reaching conspiracy which must be remedied, as shown by the evidence I have summarised at [39] to [43] above. The likelihood that at least some claims that he might make would be unmeritorious stems from a number of facets of the evidence. First, there is his utter conviction that anyone who disagrees with him or does not do what he thinks they should is corruptly conspiring against him and attempting to pervert the course of justice to his detriment. Second, and allied to the first, is that he is constantly in such a state of animation and anticipation that he is at present unable to conceive of an innocent explanation even where that possibility would be blindingly obvious to any reasonable person. Examples of this abound, but two in particular stand out on the basis of transcripts that paint a clear picture. The first is his conviction that the call handler who suggested that his complaint was a civil matter was perverting the course of justice although he knew that they were neither a lawyer or a police officer and the transcript is entirely consistent with a genuine attempt to assist Mr Gray, whether the advice was right or wrong: see [40.ii)] above. The second is his complaint about the two police officers who attended the incident at the employment agency to which I refer at [39.ii)] and [44] above. As I have made clear, I make no findings about what happened as between Mr Gray and the employment agency staff. But the transcript of the recording of the conversation between Mr Gray and the officers is entirely consistent with police officers attempting to de-escalate what should have been a minor incident without providing any evidence to support the serious criminal complaints that Mr Gray subsequently made against them. A third example is the sequence of events flowing from the letters from Bristol Crown Court which I have outlined at [43] above. No reasonable person could interpret those letters as providing good reason for the very serious allegations that Mr Gray made against all who might have had any involvement in the sending of wrong information and some (such as HHJ Ticehurst and Dingemans J) who did not.
49. The position is exacerbated by the fact that, although Mr Gray is undoubtedly clever and has acquired knowledge about the criminal law and his rights, he is often seriously mistaken in his understanding. A paradigm example is his belief that either the Judge or prosecuting counsel who were involved in the case against him on 30 September 2015 had a duty, let alone an "absolute duty" to report the police officers who had appeared as prosecution witnesses to the police for independent investigation with a view to their prosecution for perjury. His apparently complete lack of appreciation that neither the Judge nor prosecuting counsel were under such a duty coloured the entire course of his sequential complaints that I have outlined at [42] above. He is quite wrong in his belief that a failure to prosecute him for making false allegations means or implies that his allegations are accepted or proved to be true. He is also quite wrong to suggest that, because Counsel for the Applicant in this

application has not referred him to the police, Counsel is colluding in the offence of perverting public justice. The suggestion is, frankly, absurd and betrays a complete misunderstanding of the role of Counsel in proceedings such as these.

50. Unless something changes, the combination of these factors makes it highly likely, if not inevitable, that Mr Gray will come into conflict with other members of the public, police and others involved in the administration of justice, including Judges. As things stand, Mr Gray will continue to cause “kerfuffle” which will tend to escalate out of all reasonable proportion. The incident at the employment agency on 18 December 2017 is a good example of this tendency: a disagreement about whether Mr Gray had been misled about the immediate availability of work was interpreted by him as criminal harassment that led to the police being called with the almost inevitable complaints of corruption and perverting the course of public justice that followed. Having read the transcript, my reaction is that the officers gave a logical and restrained explanation why they did not regard what they understood to have happened as criminal harassment but that Mr Gray was so animated and agitated that he was unable to see the sense of what the officers were proposing.
51. It follows that I accept the applicant’s submission that the evidence suggests an unchanged view of the world where Mr Gray considers himself to be the victim of a multi-agency conspiracy aimed at denying him his rights and victimising him. I also accept, on the basis of the evidence including that which I have summarised above, that his state of mind is such that he adopts a “scattergun” approach when selecting his targets for complaint. There is obviously a risk that, if the GCRO is removed, he may be unable to restrain himself from adopting a scattergun approach to civil claims. That risk is shown by the number and types of allegations being made by Mr Gray during the period of the extension of the GCRO, both of which are extreme.
52. However, this does not paint the whole picture for a Court charged with determining whether it is appropriate to extend the GCRO for a yet further period. I do not have the benefit of medical evidence, but I have no hesitation in concluding that the mindset revealed by the evidence is way beyond normal and is now a manifestation of serious and complex mental health issues which will only be reinforced or prolonged by a further extension of the GCRO. The Court does not have the resources or the power on an application such as this to intervene or to cause steps to be taken that might address the underlying problem; but what seems certain is that, just as Mr Gray is convinced of the existence of a multi-agency conspiracy, that conviction can only hope to be addressed and ameliorated, if at all, by a multi-agency response. That said, as I have made clear, I do not think that Mr Gray is able to restrain himself. That does not mean that he is not responsible for his actions; but it is a feature to be borne in mind when considering whether a GCRO is an appropriate response to the social and resourcing problem that he presents.
53. Second, it is quite clear that Mr Gray is not going to go away. If unable to bring civil proceedings he will simply continue the conflict whenever he comes into contact with those who he considers abuse positions of power, however great or modest their powers may be. This will manifest itself in incidents of “kerfuffle” and subsequent escalation and will generate a continuation of a flow of complaints as has been the case since the extension of the GCRO. One possible advantage of civil proceedings is the possibility, despite the difficulties he has outlined, that Mr Gray might gain access to proper legal advice. Whether he would take it is another matter; but it is clear that

he would benefit from assistance in identifying what might be feasible claims and what would not be.

54. Third, I accept that the effect of the GCRO has gone beyond being a mere permission filter and has effectively imposed a complete ban on Mr Gray's ability to bring proceedings. This is the point that concerned Warby J: see [21] above. Warby J was hampered by the absence of any evidence on the point, as he made clear at [51] of his judgment. The position today is different in two respects. First, on the evidence that is available to me, I accept that Mr Gray is on benefits such that the fee for an application for permission consumes the great majority of a month's income. On his evidence, there remains equity in his house; but it is not obvious how a person on benefits might raise cash on the basis of relatively modest equity in a house that is already subject to at least one charging order. I therefore give weight to his assertion that he cannot afford to bring an application. Second, the fact that he has not brought an application during the period of the extension demands an explanation given my finding that Mr Gray would bring proceedings if he could. While the extended GCRO is conventional in form, the only explanation that presents itself in the current state of the evidence is that it presents an effectively absolute bar to Mr Gray. Apart from lack of means, no other explanation for this effect is available. I am therefore persuaded on the evidence that is available to me that Mr Gray is right to assert that the GCRO acts as an absolute bar to him bringing proceedings.
55. In the different circumstances prevailing when Warby J made his orders, he provided the imaginative but partial relief of making it unnecessary for Mr Gray to pay a GCRO application fee as a pre-requisite to challenging the debarring effect of Regulation 19 of the Civil Proceedings Fees Order 2008 by Judicial Review. But Warby J clearly recognised that this was a partial solution. Two years on, it seems to me that it does not fully meet the problem because it requires Mr Gray to undertake uncertain judicial review proceedings if he wishes to challenge the effective financial bar that the GCRO imposes on him. Since that has not happened I have to assess whether the continuation of the GCRO is appropriate on the assumption that Regulation 19 is lawful and effective.
56. Fourth, I have referred to the risk that, if free to bring civil proceedings, Mr Gray may bring proceedings or make applications that are unmeritorious. However, the past history of Mr Gray's litigation includes two cases where his claims were substantiated, even if the victory in front of HHJ Cotter QC was pyrrhic. I am not in a position to make, and I do not make, a finding that Mr Gray would have a good claim based on any of the materials before the Court for this application. But I am not persuaded that there is no substance in any of his complaints or potential claims.
57. One response to this is to point to the incidence of costs that have been awarded against Mr Gray, which far outweigh the damages he has recovered in the past. That, however, is a consequence of the costs of litigation and does not provide an answer to whether Mr Gray should be able to bring claims in the future. In addition, although not a perfect solution, if Mr Gray has costs orders made against him, there is at present the prospect of securing a charge on the dwindling equity in his house and eventual recovery. This should act as a restraining influence upon Mr Gray, though there is no evidence at present that it does.

58. The removal of the GCRO does not remove all protection from prospective defendants. If Mr Gray brings claims that are manifestly ill-founded, it is open a defendant to apply to strike out or for summary judgment and to press for further findings of TWM; and if in the course of claims that are not subject to summary dismissal he brings applications that are TWM, the Court will record that fact.
59. It is not the intended purpose of a CRO that it should act as a total ban preventing the restrained person from bringing proceedings: it is intended to be what has been described as a permission filter. On my findings, this GCRO is therefore exceeding its intended function, and in doing so now represents a serious incursion upon Mr Gray's right to bring proceedings to vindicate his civil rights. It should not be thought that in saying this I am casting doubt on either the original making of the GCRO by Teare J or its extension by Warby J. On the contrary, though it is not necessary or particularly relevant for me to say so, my independent view is that those orders were properly and rightly made in the circumstances then prevailing.
60. Looking at the matter afresh in the light of the evidence that is available to me, however, I am not satisfied that it is appropriate to continue the GCRO for a further period. In my judgment, when one balances the risk of stifling a well-founded claim against the risk that Mr Gray may make claims or applications that are unmeritorious, the balance at this stage just tilts in favour of bringing the present GCRO to an end. Mr Gray should, however, be under no illusions that if he takes this opportunity to reach for the scattergun or to issue proceedings that are clearly unmeritorious, it is highly probable the Court will, either of its own motion or on application impose a further CRO of some description or seek the involvement of the Attorney General under the provisions of s. 42 of the Senior Courts Act 1981.

Addendum

61. The draft judgment in this case was sent to Mr Gray and to Counsel on Tuesday, 16 July 2019. Subject to typos it was in the form of [1]-[60] above and the conclusion below. It contained [13], which recorded the information about the GCRO Application Fee being £255. This information had been provided during the hearing and was the subject of submissions from the Applicant on two separate occasions. On the first, just before the short adjournment, Counsel "wondered" whether the appropriate fee was a fee of £55 pursuant to paragraph 1.8 of the Fees Order. He was asked to deal with the point after the short adjournment: the exchange is recorded at page 67 of the transcript. After the short adjournment, Counsel returned to the point at page 75 of the transcript, when he concentrated on the advice that a person would be given by the Court on making an application and frankly stated that he did not know what advice about the amount of the fee would be given. And he concluded that it may be that there were at least two different fees. The transcript is not entirely clear as to what he said, but the gist was that he was not in a position to make further submissions.
62. It was on this state of the evidence that I chose to accept the information I had about what advice Mr Gray would be given. However, in response to the draft judgment, the Applicant renewed his submission that the appropriate paragraph of Schedule 1 of the Fees Order is paragraph 1.8(a), which prescribes a fee of £55 as it would be "on an application for permission to issue proceedings." On that basis, paragraph 2.4(a), which prescribes a fee of £255 "On an application on notice where no other fee is

specified...” would not apply. Counsel submitted two documents, one issued by the Ministry of Justice and one by HMCTS, which replicate the general terms of the order but do not otherwise appear to take matters further.

63. It is regrettable that this note of submissions was not provided, if the submission was going to be made, promptly after the hearing – particularly in a case of this sensitivity – for a number of reasons:
- i) It was obvious at the hearing that the question of the quantum of the GCRO Application Fee was significant. Accordingly, if the Court was at risk of falling into error, the sooner that was identified the better to ensure that the Court’s judgment did not proceed on a false basis;
 - ii) The submission is really a firming-up of the Applicant’s position that is attributable to the fact that Counsel was not in a position to deal with the point more fully at the hearing. If a party wishes to refine or improve his submissions in that way, it should always be done promptly. Whether the Court will accept additional submissions in such circumstances will be fact sensitive and is not a certainty in all cases;
 - iii) If the further submission had been made promptly, it would have been possible to respond to it in a manner that was clearly fair to Mr Gray by inviting him to make further submissions if he wished to do so;
 - iv) The intended result of the further submission was that the Court should reconsider its decision not to extend the GCRO. Given Mr Gray’s history of interaction with the Court system, about which some detail appears in this judgment, the impact of such a change upon Mr Gray after he had been sent the draft judgment would be likely to be detrimental and much worse than if the point had been raised promptly before the draft judgment was distributed.
 - v) In the event, despite the lateness of the submission, Mr Gray submitted an email to the Court during the afternoon of Friday, 19 July 2019, in which he recounts a conversation he says he has had with someone at the High Court Administrative Office since receiving the new submission, who has told him that an application would require to be made using Form N244 and that the fee would be £255. His response was sent to me and I received it on the morning of Saturday, 20 July 2019.
64. In these circumstances, I consider that the most important thing is what Mr Gray would be told if he came to the Court to issue an application. I have no reason to doubt Mr Gray’s account of his conversation, which is consistent with the information provided during the hearing, and no means of checking or confirming it before handing down judgment on the morning of 22 July 2019.
65. However, I have also undertaken the invidious exercise of trying to work out whether my decision as set out in the paragraphs that precede this addendum would have been the same or different if I had reached and written my judgment on the basis that the GCRO Application Fee that Mr Gray would be charged would be £55. The difference is material because a fee of £55 represents the bulk of a week’s benefit whereas a fee of £255 represents the bulk of a month’s. Clearly that affects consideration of Mr

Gray's submission that the GCRO acted as a total ban, not least because he had said in submissions that he thought the fee would be £1,000 per application.

66. My conclusion is that I would still have come to the conclusion that the effect of the requirement to pay the fee up front had, in Mr Gray's case, the consequence that the GCRO was doing more than acting as a permission filter and was acting as a total ban, for the reasons (duly modified) set out above. If I had thought that Mr Gray would be asked to pay £55 rather than £255 per application for permission, I would have assessed the case as being close to the line but still just favouring the decision not to extend the GCRO.

Conclusion

67. The GCRO is not extended further and will cease to have effect on the handing down of this judgment.