



Neutral Citation Number: [2020] EWHC 2987 (QB)

Case No: QB-2020-000286

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 06/11/2020

Before:

MR JUSTICE JAY

Between:

HM SOLICITOR GENERAL

Claimant

- and -

EDWARD WILLIAM ELLIS

Defendant

Mr Aiden Eardley (instructed by **GLD**) for the **Applicant**
The Respondent in person

Hearing date: 3rd November 2020

Approved Judgment

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

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MR JUSTICE JAY

MR JUSTICE JAY:

1. These are proceedings for contempt of court brought by HM Solicitor General against Mr Edward William Ellis. It is said that he has acted in breach of a General Civil Restraint Order imposed by May J on 22nd February 2018.
2. I started hearing HM Solicitor General's application on Tuesday 3rd November 2020. Mr Ellis made an application that I recuse myself on the ground of bias. I refused that application and gave a brief extempore judgment. Mr Ellis made a number of other applications during the course of the day which I also refused.
3. Mr Aiden Eardley briefly opened the facts and the law to me, and I then invited Mr Ellis to present his case.
4. It is unnecessary for me to comment on any aspect of Mr Ellis' submissions. I have ordered that an audio file of the proceedings be made available; and should another court order it, a transcript could also be prepared.
5. Mr Ellis informed me that he is undergoing dialysis on a bi-weekly basis, that his next appointment was the following day (the Wednesday), and he was feeling tired. Without necessarily accepting this I decided that the right course was to adjourn the proceedings for a hearing in December with a two-day time estimate. I also gave some case management directions.
6. Over the last two or three days, I have reflected on Mr Ellis' recusal application.
7. It was unclear whether the application was being advanced on the basis of actual or apparent bias, or both. Mr Ellis' basic point was that I had prior involvement in this case on 19th July 2016 and that this disqualified me from hearing the present contempt application. Mr Ellis further submitted that the whole court system has conspired against him to have me chosen as the judge to hear this case.
8. As I made clear to Mr Ellis during the hearing, I did not really recall what happened in July 2016 although reading the transcript has served to refresh my memory to some extent. I have a better recollection of an application I heard in May 2015 in *Berry v The State* which culminated in Ms Berry calling 999 from Court 37 asking the police to arrest me for treason. I understand that Mr Ellis was not in Court on that occasion. I mention this because Ms Berry clearly has some involvement with Mr Ellis: she was in Court 14 on Tuesday last, and was also in court on 19th July 2016 as one of the four claimants.
9. The transcript shows that Mr Ellis was in Court 37 where I was sitting on 19th July 2016. Proceedings had been brought by Mr Paterson and

three others against the Ministry of Justice bearing claim no HQ-2016-X01495. The claim alleged a conspiracy to pervert the course of justice using “allegation of fraud and arrest fraud and arrest event perjury and tape perjury, proved concealment frauds,” etc. There were apparently reasonable grounds to suspect a criminal conspiracy in relation to “a discredit fraud” and “dismissal fraud” against the Prime Minister.

10. These claims were different to those forming the basis of the current contempt application, although the references to various frauds ring a bell. What is more important is that at paras 23-27 of the judgment I gave on 19th July 2016 I said the following:

“23. We have, finally, the position of Mr. Ellis, which is, in my judgment, serious. He is the subject of a civil restraint order, which is quite clear in its terms, that he is restrained from issuing claims on behalf of others or from assisting others to bring claims in contravention of the Legal Services Act 2007. In my judgment, there is a strong prima facie case that he has acted in breach of that order. It is an order dated 8th March 2016.

24. The evidence comprises the following. First of all, all the documents have identical typeface. Secondly, Mr. Paterson told me, in terms, that he has been assisted by Mr. Ellis. Thirdly, the documentation which Mr. Ellis tried to file at Lewes Crown Court on Friday, 15th July, contains an email from him dated Friday, 8th July, which makes it plain that he has been assisting others in relation to bringing litigation. There are no doubt other matters too. He is the driving force behind this.

25. Also, and I should put this in the judgment so it is absolutely clear, that when a particular difficulty arose in relation to Mr. Paterson he asked to talk to Mr. Ellis in support of his case. I then gave Mr. Paterson a clear warning that he might be exposing Mr. Ellis to the risk of proceedings for contempt of court. There was then a huddle at the back of the court and Mr. Ellis clearly driving the decision making.

26. So, the evidence direct and inferential demonstrates that Mr. Ellis is probably in breach of the civil restraint order and it follows that proceedings for contempt of court should be brought against him. It is not for me to rule on the

application but the Government Legal Department will take steps now under Part 81.10 of the Civil Procedure Rules to bring a committal application against Mr. Edward William Ellis on the basis that he has acted in breach of the CRO. Whether in fact he has acted in breach of the CRO or whether he has a good explanation or a defence, will be for another judge to decide. It is for me to decide simply that there is a good arguable case and I am so satisfied.

27. Now, Mr. Ellis, when that application is served on him, will be well advised to take legal advice rather than try and bat this through alone since he, frankly, is not as well equipped to deal with the law as he thinks he is. The consequences of a finding of contempt of court in these circumstances are likely to be serious. The whole system depends on people obeying orders, that if a civil restraint order is made and is then breached, the consequences are extremely serious.”

11. I reject the contention that the foregoing material gives rise to the inference of actual bias. As for the appearance of bias, the relevant law is well-established. Would a fair-minded observer conclude that there was a real possibility of bias? This hypothetical individual is deemed to be in possession of all relevant facts.
12. On 3rd November 2020 I rejected the contention that the fair-minded observer would apprehend that there was a real possibility of bias in the light of the history. This was because (a) the potential contempt of court related to a different CRO and the evidence was different, and (b) I made no finding of contempt in July 2016. I merely held that there was an arguable case.
13. However, since the hearing I have reflect further on this and have re-read the transcript of the extempore judgment I gave. I have also seen a transcript of the proceedings. I have also reflected on the history.
14. I am convinced that it is right to be cautious in this sort of situation. On 19th July 2016 I did say that Mr Ellis was probably in breach of the CRO imposed by Senior Master Fontaine. The whole of what I said needs to be considered. It is true that the evidence relied on now by HM Solicitor General is different, but I can see that it might be observed that there is a pattern of behaviour by Mr Ellis which can be traced back to July 2016 and possibly before. I cannot rule out the possibility that a fair-minded observer might think that in these circumstances I might be predisposed to find in favour of the

Applicant because I had already formed a view about Mr Ellis and his *modus operandi*.

15. Another consideration is that I am unaware of the nature of Mr Ellis' defence to this contempt application. The issues are undefined, and it would be very regrettable if something came out during the course of his giving evidence which called into question my continued involvement in this case.
16. These proceedings are extremely serious for Mr Ellis and the need for caution – but not timorousness – is obvious.
17. On balance, I have decided that it would be prudent for me to recuse myself on the ground of apparent bias. HM Solicitor General's application will now be heard on 14th December 2020 before a judge with no previous knowledge of Mr Ellis. I will ensure that the case is not listed before May J or Turner J.