

Edward Ellis v His Majesty's Solicitor General

**RESPONDENT'S CORE BUNDLE
FOR HEARING ON 3 MAY 2023**

Document	Pages
1. Sealed Appellant's Notice	2
2. Appellant's Grounds of Appeal	14
3. Sealed Committal Order dated 8 March 2023 under Appeal	18
4. Transcript of Judgement of Kerr J dated 8 March 2023	20
5. Respondent's Skeleton Argument dated 28 April 2023	31

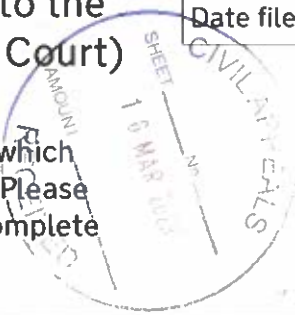
Appellant's notice

(All appeals except small claims track appeals and appeals to the Family Division of the High Court)

For Court use only	
Appeal Court Ref. No.	
Date filed	19 Apr 2023



Notes for guidance are available which will help you complete this form. Please read them carefully before you complete each section.



CA-2023-000569
SEAL Filed date 27 March 2023

Section 1 Details of the claim or case you are appealing against

Claim or Case no. Fee Account no.

Help with Fees - Ref no. (if applicable)

Name(s) of the Claimant(s) Applicant(s) Petitioner(s)

Name(s) of the Defendant(s) Respondent(s)

Details of the party appealing ('The Appellant')

Name

Address (including postcode)

Tel No.	07788371717
Fax	
E-mail	edward.w.ellis@gmail.com

Details of the Respondent to the appeal

Name

Address (including postcode)

Tel No.	
Fax	
E-mail	<DSPLContemptSharedMailbox@governmentle

Details of additional parties (if any) are attached Yes No



Section 2 Details of the appeal

From which court is the appeal being brought?

- The County Court at
- The Family Court at
- High Court
- Queen's Bench Division
 - Chancery Division
 - Family Division
- Other (please specify)

What is the name of the Judge whose decision you want to appeal?

What is the status of the Judge whose decision you want to appeal?

- District Judge or Deputy Circuit Judge or Recorder Tribunal Judge
- Master or Deputy High Court Judge or Deputy Justice(s) of the Peace

What is the date of the decision you wish to appeal against?

Is the decision you wish to appeal a previous appeal decision?

Yes No

Section 3 Legal representation

Are you legally represented? Yes No

If Yes, is your legal representative (please tick as appropriate)

- a solicitor
- direct access counsel instructed to conduct litigation on your behalf
- direct access counsel instructed to represent you at hearings only

Name of your legal representative

The address (including postcode) of your legal representative

Tel No.	
Fax	
E-mail	
DX	
Ref.	

Are you, the Appellant, in receipt of a Civil Legal Aid Certificate? Yes No

Is the respondent legally represented? Yes No

If 'Yes', please give details of the respondent's legal representative below

Name and address (including postcode) of the respondent's legal representative

Attorney General 5 - 8 The Sanctuary SW1p 3JS

Tel No.	
Fax	
E-mail	<DSPLContemptSharedMailbox@governmentle
DX	
Ref.	

Section 4 Permission to appeal

Do you need permission to appeal?

Yes No

Has permission to appeal been granted?

Yes (Complete Box A)

No (Complete Box B)

Box A

Date of order granting permission

Name of Judge granting permission

Box B

the Appellant('s legal representative) seek permission to appeal.

If permission to appeal has been granted **in part** by the lower court, do you seek permission to appeal in respect of the grounds refused by the lower court?

Yes No

Section 5 Other information required for the appeal

Please set out the order (or part of the order) you wish to appeal against

The Liability Trial Validity Investigation Denial + Invalidity Finding Denial + Counterclaim Contempt Liability Finding Denial and Remedy Denial + Denial Omissions + Claim Liability Finding + Imprisonment Order + Claim Costs Order

See the

2023 03 15 Court of Appeal Trial Fraud Appeal Grounds + Representations + Remedy Proposals of Equity Lawyer v Solicitor General + Cabinet

+

2023 03 15 Court of Appeal Contempt Trial Fraud Appeal Pending Remedies Enforcement Stay Protection + Discovery Order for Equity Lawyer Mr Ellis v Cabinet

Have you lodged this notice with the court in time?

(There are different types of appeal - see Guidance Notes N161A)

Yes No

If '**No**' you must also complete **Part B of Section 10 and Section 11**

Section 6 Grounds of appeal

Please state, in numbered paragraphs, **on a separate sheet** attached to this notice and entitled 'Grounds of Appeal' (also in the top right hand corner add your claim or case number and full name), why you are saying that the Judge who made the order you are appealing was wrong.

I confirm that the grounds of appeal are attached to this notice.

Section 7 Arguments in support of grounds for appeal

- I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' are set out **on a separate sheet** and attached to this notice.

OR (in the case of appeals other than to the Court of Appeal)

- I confirm that the arguments (known as a 'Skeleton Argument') in support of the 'Grounds of Appeal' will follow within 14 days of filing this Appellant's Notice. A skeleton argument should only be filed if appropriate, in accordance with CPR Practice Direction 52B, paragraph 8.3.

Section 8 Aarhus Convention Claim

For applications made under the Town and Country Planning Act 1990 or Planning (Listed Buildings and Conservation Areas) Act 1990

I contend that this claim is an Aarhus Convention Claim Yes No

If Yes, and you are appealing to the Court of Appeal, any application for an order to limit the recoverable costs of an appeal, pursuant to CPR 52.19, should be made in section 10.

If Yes, indicate in the following box if you do not wish the costs limits under CPR 45 to apply. If you have indicated that the claim is an Aarhus claim set out the grounds below

Section 9 What are you asking the Appeal Court to do?

I am asking the appeal court to:-
(please tick the appropriate box)

- set aside the order which I am appealing
- vary the order which I am appealing and substitute the following order. Set out in the following space the order you are asking for:-

See the
2023 03 15 Court of Appeal Trial Fraud Appeal Grounds + Representations + Remedy Proposals of Equity Lawyer v Solicitor General + Cabinet
+
2023 03 15 Court of Appeal Contempt Trial Fraud Appeal Pending Remedies Enforcement Stay Protection + Discovery Order for Equity Lawyer Mr Ellis v Cabinet

- order a new trial

Section 10 Other applications

Complete this section **only** if you are making any additional applications.

Part A

- I apply for a stay of execution. (You must set out in Section 11 your reasons for seeking a stay of execution and evidence in support of your application.)

Part B

- I apply for an extension of time for filing my appeal notice. (You must set out in Section 11 the reasons for the delay and what steps you have taken since the decision you are appealing.)

Part C

- I apply for an order that:

See the
2023 03 15 Court of Appeal Trial Fraud Appeal Grounds + Representations + Remedy Proposals of Equity Lawyer v Solicitor General + Cabinet
+
2023 03 15 Court of Appeal Contempt Trial Fraud Appeal Pending Remedies Enforcement Stay Protection + Discovery Order for Equity Lawyer Mr Ellis v Cabinet

(You must set out in Section 11 your reasons and your evidence in support of your application.)

In support of my application(s) in Section 10, I wish to rely upon the following reasons and evidence:

Statement of Truth

This must be completed in support of the evidence in Section 11

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

- I believe** that the facts stated in section 11 are true.
- The Applicant believes** that the facts stated in section 11 are true. **I am authorised** by the applicant to sign this statement.

Signature



- Applicant
- Litigation friend (where applicant is a child or a Protected Party)
- Applicant's legal representative (as defined by CPR 2.3(1))

Date

Day	Month	Year
15	09	2023

Full name

Equity Lawyer Mr Edward William Ellis

Name of applicant's legal representative's firm

If signing on behalf of firm or company give position or office held

Section 12 Supporting documents

To support your appeal you should file with this notice all relevant documents listed below. To show which documents you are filing, please tick the appropriate boxes.

If you do not have a document that you intend to use to support your appeal complete the box over the page.

In the County Court or High Court:

- three copies of the appellant's notice for the appeal court and three copies of the grounds of appeal;
- one additional copy of the appellant's notice and grounds of appeal for each of the respondents;
- one copy of the sealed (stamped by the court) order being appealed;
- a copy of any order giving or refusing permission to appeal; together with a copy of the judge's reasons for allowing or refusing permission to appeal; and
- a copy of the Civil Legal Aid Agency Certificate (if legally represented).

In the Court of Appeal:

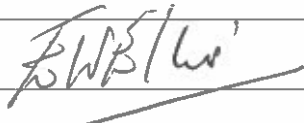
- three copies of the appellant's notice and three copies of the grounds of appeal on a separate sheet attached to each appellant's notice;
- one additional copy of the appellant's notice and one copy of the grounds of appeal for each of the respondents;
- one copy of the sealed (stamped by the court) order or tribunal determination being appealed;
- a copy of any order giving or refusing permission to appeal together with a copy of the judge's reasons for allowing or refusing permission to appeal;
- one copy of any witness statement or affidavit in support of any application included in the appellant's notice;
- where the decision of the lower court was itself made on appeal, a copy of the first order, the reasons given by the judge who made it and the appellant's notice of appeal against that order;
- in a claim for judicial review or a statutory appeal a copy of the original decision which was the subject of the application to the lower court;
- one copy of the skeleton arguments in support of the appeal or application for permission to appeal;
- a copy of the approved transcript of judgment; and
- a copy of the Civil Legal Aid Certificate (if applicable)
- where a claim relates to an Aarhus Convention claim, a schedule of the claimant's financial resources

Reasons why you have not supplied a document and date when you expect it to be available:-

Title of document and reason not supplied	Date when it will be supplied
An Equity Standard Investigation is needed to identify and get production of All Relevant Evidence	When the Investigation Order is made and executed

Section 13 The notice of appeal must be signed here

Signed



Appellant('s legal representative) 11

Find out how HM Courts and Tribunals Service uses personal information you give when you fill in a form.

<https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/personal-information-charter>

Crown Parliament The People v Top Judges Corruption Remedy Royal Commission
Court of Appeal Equity Lawyer v Cabinet Trial Fraud Appeal
Royal Commission + Trial Fraud Appeal Grounds + Remedy Proposals 15th March 2023

Without Prejudice to Invalidity Arguments + Contempt and Terrorism Penalty Warning

Corruption Remedy Special Measures Test Case Notice

Appeal against the Criminal Conspiracy by Supervision Judges and Case Management Judges of the High Court, Court of Appeal and Supreme Court that used the Contempt Case 2023 003098 for Systematic Bias Frauds + Resource Equality Denial Fraud + Validity Investigation Denial Bias Fraud + Validity Investigation Denial Fraud + Justice Office Neutrality Qualification Application Denial Fraud + Justice Office Conflict Disqualification Denial Fraud + Remedy Only Jurisdiction Limit Denial Fraud + Superior Jurisdiction Enforcement Stay Protection Breach Fraud + Superior Jurisdiction Usurpation Fraud + Corruption Case Priority Denial Fraud + Evidence Frauds + Validity Presumption Denial Fraud + Credibility Rebuttal Proof Denial Fraud + Evidence Audit Denial Fraud + False Evidence Admission Frauds + True Evidence Concealment Frauds + True Evidence Exclusion Frauds + Evidence Interpretation Frauds + Evidence Probity Frauds + Defence Application Hearing Denial Frauds + Reasonable Notice Denial Ambush Frauds + Cross Examination Sabotage Frauds + Representations Sabotage Frauds + Time Allocation Bias Frauds + Criminal Jurisdiction Usurpation Frauds + Liability Finding Fraud + Proportionality Investigation Denial Fraud + Double Penalty Fraud of a 6 Months Imprisonment Fraud and 6 Months Suspended Sentence Activation Consecutive Sentence Fraud making a 12 Months Total with a 6 Months Custody Sentence and 6 Months Licence Sentence and a 2 Months Activation Delay that gives time for a Fraud Appeal Revocation Decision by the Court of Appeal + Costs Assessment Order Fraud + £10,000 Costs Limit Fraud on 8th March 2023 by High Court Justice Mr Kerr

Grounds: Fraudulent Breaches of Natural Justice + Human Rights + Overriding Justice Objective

Representations

The 2022 Parliament Session Priority is Corruption Remedy Special Measures against the State, Profession Authorities and Law Courts. It needs Personal Responsibility Proof against Identifiable Judges for Known Court Frauds. Hearing Denial Frauds by Top Judges created a need for issue of Claim 2022 003098 by the Cabinet against Equity Lawyer Mr Ellis to get Forced Hearings and Audio Records that are Trial Fraud Proof against Identifiable Judges. It validates Old Case Re-openings and New Criminal Investigations

Proposals

1. Pending Adjudication Enforcement Stay Protection Order for the Equity Lawyer against the Cabinet
2. Agent Status Finding + Principal Status Finding + Claimant Substitution Order for the Equity Lawyer against the Cabinet in place of the Solicitor General for the Stated Reason that Effective Accountability needs Remedy Management Powers for the Law Courts against the Principal.
3. Fundamental Law Findings + Injustice Remedy Jurisdiction from Political Management Jurisdiction Separation Failure Finding + Injustice Remedy Jurisdiction Separation Denial Finding over Political Management Jurisdiction Superiority Denial Finding + Investigation, Prosecution, Trial Adjudication and Appeal Adjudication Justice Office Jurisdiction Separation Failure Finding + Justice Office Conflict Disqualification Recusal Failures Finding + Parliament Session Jurisdiction Superiority Denial Finding + Parliament Session Investigation Jurisdiction of the Citizen Denial Finding + Pending Process



Enforcement Stay Protection Rights from Superior Jurisdictions for the Citizen against all Inferior Jurisdictions Denial Findings + Case Priority for the Corruption Case of the Citizen against All Cases of the State Denial Finding + Conflict Jurisdiction Qualification and Case Priority Qualification and Jurisdiction Limit Validity Investigation Denial Finding + Superior Jurisdiction Pending Remedies Enforcement Stay Protection Entitlement and Entitlement Denial Finding + Validity Presumption for the Citizen Denial Finding + Incredibility Rebuttal Proof for the Citizen against the State Exclusion Finding + True Evidence Exclusion Finding + Obviously False Evidence Interpretation Finding + Cross Examination of the Government Lawyer that got a Fundamental Law Knowledge Denial Finding + 2022 003098 Medical Records Access and Defence Application Hearing Refusals Finding + Hearing Refusal Given Reason that the 2022 002595 Restraint Renewal Order vested 2022 003098 Defence Case Management Powers in the 2022 002595 Case Judge Finding + Bias Finding + 2022 003098 Permission Hearing Fraud and Trial Fraud Finding + Contempt Counterclaim Process Denial Finding + Bias Finding + Conspiracy Finding + Contempt Finding + + Fraud Finding + Proof Burden Reversal Entitlement Finding + Fraud Presumption on everything else subject to Rebuttal Proof Finding + Rebuttal Proof Impossibility Finding + 2022 003098 Claim Liability Revocation + Claim Costs Revocation + Counterclaim Contempt Liability Order + Reputation Restoration and Liberty Restoration and Estate Restoration Entitlement Finding + £10,000,000 Interim Damages Immediate Payment Order for Equity Lawyer Mr Ellis against the Solicitor General and Cabinet

4. Reputation Recovery Preliminary Orders

4.1. High Court 2022 002595 Re-opening and Claim Dismissal Revocation and Restraint Renewal

Revocation and Contempt Liability Order and Claim Costs with Indemnity Assessment Order for the Equity Lawyer against Former Prime Minister Mr Johnson, the Attorney General, Ministry of Justice and Opposition Leader Sir Keir Starmer

4.2. Canterbury County Court 4CT04079 and 969 + 406 OF 2007 Reopening Order and Income Tax

Liability Revocation and Claim Costs Revocation and Counterclaim Contempt Liability and Counterclaim with Indemnity Assessment Order and All Other Liability Declarations Revocations and All Other Costs Revocations for Equity Lawyer Mr Ellis against HM Revenue & Customs

4.3. 2022 003098 3rd Party Status Order + All Law Profession Fitness Case Reopening Orders +

Discovery Order for the Equity Lawyer against the Law Society that the Chief Executive Officer of the Law Society, Solicitors Regulation Authority and Solicitors Disciplinary Tribunal do within 7 days file and serve Statements that explain why the court should not make Complaint Finding Revocations + Liability Declaration Revocations + Costs Revocations + Counterclaim Contempt Liability Orders + Defence and Counterclaim Costs with Indemnity Assessment Orders + Positive Publicity using Television and Radio and National Newspaper Orders + Order Breach Contempt Warnings to All Relevant Officers

5. Contempt Investigation + Resourcing Orders for the Equity Lawyer against the Cabinet

6. Contempt Remedy Directions 1 Hour Hearing in Royal Court 3 at 2 p.m. on March 2023

Before Lord Justice

Upon reading the Appeal Papers

1. Pending Adjudication Enforcement Stay Protection Order for the Equity Lawyer against the Cabinet for the Stated Reason that
 - 1.1. Integrity Test Management for the Superior Jurisdiction of the Coronation Oath Enforcement Authority got Citizen Status and Equity Lawyer Status and Superior Jurisdiction Pending Remedy Enforcement Stay Protection for Mr Edward William Ellis against the Inferior Jurisdictions of the State, Profession Authorities, Law Courts and Cabinet.
 - 1.2. Use of Contempt Claim 2023 003098 to assist Integrity Test of the Law Courts was not a Protection Breach Contempt by the Cabinet, but use of it for any other purpose was a Protection Breach Contempt
 - 1.3. Appeal Filing got Pending Adjudication Enforcement Stay Protection from the Superior Jurisdiction of the Supreme Court for the Equity Lawyer against the Inferior the State, Profession Authorities and Inferior Law Courts
 - 1.4. The 2023 003098 Trial on 8th March 2023 was a Protection Breach Contempt by the High Court of the Superior Jurisdictions of the Supreme Court and the Coronation Oath Enforcement Authority
2. Discovery Order for the Equity Lawyer against the Cabinet that the Secretary of State for Justice do within 3 days file and serve a Statement that explains what happened to the Supreme Court Appeals against Court of Appeal Decisions 2022 002522 and 2023 000127 + 000128 and why the Equity Lawyer did not have a Supreme Court Appeal Case Reference in time for the High Court Trial on 8th March 2023 and for inclusion in the Appeal Papers for the Court of Appeal
3. Discovery Order for the Equity Lawyer against the Cabinet that the Attorney General do within 7 days file and serve a Statement that explains why the Court of Appeal should not make and the Findings and Orders as follows:
 - 3.1. Agent Status Finding + Principal Status Finding + Claimant Substitution Order for the Equity Lawyer against the Cabinet in place of the Solicitor General for the Stated Reason that Effective Accountability needs Remedy Management Powers for the Law Courts against the Principal.
 - 3.2. Fundamental Law Findings + Injustice Remedy Jurisdiction from Political Management Jurisdiction Separation Failure Finding + Injustice Remedy Jurisdiction Separation Denial Finding over Political Management Jurisdiction Superiority Denial Finding + Investigation, Prosecution, Trial Adjudication and Appeal Adjudication Justice Office Jurisdiction Separation Failure Finding + Justice Office Conflict Disqualification Recusal Failures Finding + Parliament Session Jurisdiction Superiority Denial Finding + Parliament Session Investigation Jurisdiction of the Citizen Denial Finding + Pending Process Enforcement Stay Protection Rights from Superior Jurisdictions for the Citizen against all Inferior Jurisdictions Denial Findings + Case Priority for the Corruption Case of the Citizen against All Cases of the State Denial Finding + Conflict Jurisdiction Qualification and

Case Priority Qualification and Jurisdiction Limit Validity Investigation Denial Finding + Superior Jurisdiction Pending Remedies Enforcement Stay Protection Entitlement and Entitlement Denial Finding + Validity Presumption for the Citizen Denial Finding + Incredibility Rebuttal Proof for the Citizen against the State Exclusion Finding + True Evidence Exclusion Finding + Obviously False Evidence Interpretation Finding + Cross Examination of the Government Lawyer that got a Fundamental Law Knowledge Denial Finding + 2022 003098 Medical Records Access and Defence Application Hearing Refusals Finding + Hearing Refusal Given Reason that the 2022 002595 Restraint Renewal Order vested 2022 003098 Defence Case Management Powers in the 2022 002595 Case Judge Finding + Bias Finding + 2022 003098 Permission Hearing Fraud and Trial Fraud Finding + Contempt Counterclaim Process Denial Finding + Bias Finding + Conspiracy Finding + Contempt Finding + + Fraud Finding + Proof Burden Reversal Entitlement Finding + Fraud Presumption on everything else subject to Rebuttal Proof Finding + Rebuttal Proof Impossibility Finding + 2022 003098 Claim Liability Revocation + Claim Costs Revocation + Counterclaim Contempt Liability Order + Reputation Restoration and Liberty Restoration and Estate Restoration Entitlement Finding + £10,000,000 Interim Damages Immediate Payment Order for Equity Lawyer Mr Ellis against the Solicitor General and Cabinet

3.3. Reputation Recovery Preliminary Orders

3.3.1. High Court 2022 002595 Re-opening and Claim Dismissal Revocation and Restraint Renewal Revocation and Contempt Liability Order and Claim Costs with Indemnity Assessment Order for the Equity Lawyer against Former Prime Minister Mr Johnson, the Attorney General, Ministry of Justice and Opposition Leader Sir Keir Starmer

3.3.2. Canterbury County Court 4CT04079 and 969 + 406 OF 2007 Reopening Order and Income Tax Liability Revocation and Claim Costs Revocation and Counterclaim Contempt Liability and Counterclaim with Indemnity Assessment Order and All Other Liability Declarations Revocations and All Other Costs Revocations for Equity Lawyer Mr Ellis against HM Revenue & Customs

3.3.3. 2022 003098 3rd Party Status Order + All Law Profession Fitness Case Reopening Orders + Discovery Order for the Equity Lawyer against the Law Society that the Chief Executive Officer of the Law Society, Solicitors Regulation Authority and Solicitors Disciplinary Tribunal do within 7 days file and serve Statements that explain why the court should not make Complaint Finding Revocations + Liability Declaration Revocations + Costs Revocations + Counterclaim Contempt Liability Orders + Defence and Counterclaim Costs with Indemnity Assessment Orders + Positive Publicity using Television and Radio and National Newspaper Orders + Order Breach Contempt Warnings to All Relevant Officers

3.4. Contempt Investigation + Resourcing Orders for the Equity Lawyer against the Cabinet

3.5. Contempt Remedy Directions 1 Hour Hearing in Royal Court 3 at 2 p.m. on March 2023

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Claim No. KB 2022003098

BEFORE: The Honourable Mr Justice Kerr

B E T W E E N:-

HIS MAJESTY'S SOLICITOR GENERAL

AND

EDWARD WILLIAM ELLIS



KB-2022-003098

ORDER FOR COMMITTAL

UPON the Claimant's contempt application dated 29 July 2022, brought with the permission of Mr Justice Soole granted on 28 November 2022

AND UPON HEARING Leading Counsel for the Claimant and the Defendant in person on 8 March 2023

AND THE COURT being satisfied that, by procuring the making of the applications listed in the Claim Form, the Claimant breached the General Civil Restraint Order dated 22 February 2018 and extended on 12 February 2020, and thereby on each occasion committed contempt of court

IT IS ORDERED THAT

1. For his contempt of court set out above, the Defendant shall be committed to prison for a period of 6 months from the date of his apprehension.
2. The suspended order for committal made by Mrs Justice Cutts on 16 April 2021 be activated in part, for a period of 6 months, to be served consecutively to the order for committal set out in paragraph 1.

3. The orders made in paragraphs 1 and 2 shall not take effect until Tuesday 9 May 2023.
4. The Defendant shall pay the Claimants' costs of this committal application to be assessed if not agreed, such sum not to exceed £10,000.
5. The Defendant has the right to appeal against this Order without requiring permission. The court before which any appeal must be brought is the Court of Appeal (Civil Division). Any notice of appeal must be filed in the Court of Appeal within 21 days of the date of this Order.
6. The judgment of the Court given today is to be transcribed and published on the website of the Judiciary of England and Wales.

Dated this 8th day of March 2023

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Royal Courts of Justice
Strand, London WC2A 2LL

[2023] EWHC 604 (KB)

Before THE HONOURABLE MR JUSTICE KERR

IN THE MATTER OF

HIS MAJESTY'S SOLICITOR GENERAL (Claimant)

-v-

EDWARD WILLIAM ELLIS (Defendant)

MR AIDAN EARDLEY KC appeared on behalf of the Claimant
THE DEFENDANT appeared in person

JUDGMENT

8th March 2023, 14.03 – 14.41, 15.08 – 15.10
(APPROVED)

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

MR JUSTICE KERR:

Introduction

1. The claimant applies in a part 8 claim brought on 29 July 2022 for an order under CPR 81.3(3) and (5), punishing the defendant for contempt of court by interfering with the due administration of justice otherwise than an existing High Court or County Court proceedings. The claimant has obtained the permission of Soole J in an order made on 28 November 2022 to bring the application. The defendant appears in person, as he has done at previous hearings. The claimant appears by leading counsel, Mr Aiden Eardley KC.
2. The defendant made a preliminary objection to the hearing proceeding. He submitted that I should not hear the matter today because the matter is not ready for trial. I reject that preliminary objection. The parties are aware of the hearing and both are present. The documents are in order.
3. The defendant interrupted the hearing several times to assert that I should recuse myself on the ground of bias. I did not accede to any of those applications. As I said at the hearing, there were no grounds that I could see for a supposed reasonably informed observer thinking there was a real possibility of bias. The defendant asserted, among other things, that Mr Eardley KC was guilty of fraud and “perjury”, although Mr Eardley did not give evidence.
4. The claimant relies on two alleged breaches of a general civil restraint order (**the GCRO**) originally made by May J on 22 February 2018 for two years until 21 February 2020; and then, on 12 February 2020, extended by May J for a further two year period, until 21 February 2022.
5. The GCRO has since been extended by Eyre J for a further two years by an order made (after expiry on 21 February 2022 of May J’s second GCRO) on 16 August 2022, extending the GCRO from that date until 21 February 2024. So, it has nearly a year still to run and will then be subject to further extension if appropriate.
6. The defendant has appeared in person and, as I understand his position, denies liability for contempt. He submits that this court and our courts generally are corrupt. The claimant accepts that I have to find the allegations proved to the criminal standard.
7. The defendant is currently subject to a suspended sentence of nine months’ imprisonment, suspended for two years, for nine breaches of May J’s GCRO. The sentence was imposed by Cutts J on 16 April 2021. If the breaches are proved, possible activation of part or all of that suspended sentence would become an issue.

Facts

8. It has become customary in this long running saga to quote May J, explaining the background as she helpfully did in her judgment of 27 February 2018 in *Spivac v Ministry of Justice, Ministry of Justice v Ellis* [2018] EWHC 798 (QB) at paragraphs 1 to 3:

‘1. Mr Ellis is an ex-solicitor. He has a fully formed and apparently internally consistent belief system focused on corruption. He believes that some - perhaps all - previous Prime Ministers, all judges and magistrates, the Government Legal Service and Ministry of Justice together with “State officers”, by which I took him to mean police and court staff, and probably all sorts of

other people and institutions, are corrupt and that the decisions they make are, without exception, fraudulent; hence his designation of judicial decisions as “frauds”: for instance, an “evidence irrelevance fraud” when I refused to consider a sheaf of documents he handed up as being of no relevance to the issues I had to decide on this application, or a “jurisdiction fraud” when I determined that I did have jurisdiction to hear the application. The list goes on.

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

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

9. The order of Senior Master Fontaine to which May J referred restrained the defendant from: issuing claims on behalf of others or from assisting others to bring claims in contravention of the Legal Services Act 2007.”

10. I can take up the story from then on by, again, shamelessly borrowing from judgments of my brother and sister judges, this time from Soole J granting permission on 28 November 2022 at a hearing attended by the defendant and leading counsel for the claimant’ see *HM Solicitor General v Ellis* [2022] EWHC 3164 KB at paragraphs 5 to 13.

‘5. By that Order of 22 February 2018 Mr Ellis was restrained from issuing any claim or making any application in the High Court or any county court without first obtaining the permission of May J or, if unavailable, any High Court Judge or Deputy High Court Judge. Importantly, the Order continued as follows:

“1. The reference above to issuing any claim or making any application extends to procuring any other person to issue any claim or make any application.

2. Any Claim Form or Application Notice with any of the following features shall be treated as falling within paragraph 1 above:

(a) Reference to an ‘equity lawyer’ or similar;

(b) Reference to the Claimant/Applicant as ‘citizen’;

(c) Use of the phrase ‘Corruption Claim’ or ‘Corruption Remedy’;

(d) Use of the phrases ‘Notice Fraud’, ‘Arrest Fraud’, ‘Prosecution Fraud’, or any similar combination of a noun and ‘Fraud’;

(e) Use of the phrase ‘Proof Sets’;

(f) Any other features that provide reasonable grounds for believing that the Claim Form or Application Notice has been prepared by or on behalf of Mr Ellis”.

6. The order was for a 2-year period expiring 21 February 2020. On the same occasion, May J had found Mr Ellis to be in contempt of court for 7 breaches of an order imposed by Senior Master Fontaine dated 8 March 2016 whereby he was "... restrained from issuing claims on behalf of others or from assisting others to bring claims in contravention of the Legal Services Act 2007". May J imposed a sanction of 3 months' imprisonment suspended for 1 year.

[I interject that the suspension period therefore expired in February 2019.]

7. On 12 June 2018 the Court of Appeal dismissed Mr Ellis' appeal against the findings of contempt and the sanction imposed and refused permission to appeal against the GCRO. In the course of its judgment the Court of Appeal rejected Mr Ellis' submissions to the effect that the whole process was a fraud; that May J had no jurisdiction in the matter; and that she should have recused herself.

8. On 12 February 2020, pursuant to an application by the Solicitor General and at a hearing attended by Mr Ellis, May J made the extension order, namely a further GCRO for a period of 2 years commencing immediately upon the expiry of the existing GCRO and thus expiring on 21 February 2022. The extension order repeated the provision which I have recited as to the extension of the restraint to procuring any other person to issue any claim or make any application and the associated "shall be treated" provisions. The order also recorded that May J had refused Mr Ellis' application made orally at the commencement of the hearing that she should recuse herself.

9. As with the original GCRO, the extension order included the standard form penal notice but contained no order dispensing with personal service. By error, the extension order included the Court of Appeal as well as the High Court and any county court within the list of courts which were the subject of restraint on Mr Ellis. There being no jurisdiction in the High Court to make an order in respect of the Court of Appeal, that error was corrected through the slip rule.

10. By a letter dated 24 February 2020 the Government Legal Department (GLD) sent by post and email to Mr Ellis a copy of the extension order. The letter drew attention to the error and stated that variation by the slip rule had been requested. By attachment to an email to Mr Ellis dated 27 March 2020 the GLD sent him an electronic copy of the extension order as varied through the slip rule. The email stated: "Whilst writing, I also attach an electronic copy of the amended GCRO which I understand the Court will previously have sent you".

11. On 17 June 2020 Goose J granted the Solicitor General permission to make a committal application in respect of alleged breaches of the original GCRO dated 22 February 2018. The substantive hearing on the committal application was held before Cutts J on 14 and 16 December 2020 and was attended by Mr Ellis. At the conclusion on the second day Cutts J held that Mr Ellis had breached the GCRO dated 22 February 2018 on each of the 9 occasions alleged. Her reasons are contained in her approved judgment dated 18 December 2020.

12. As that judgment makes clear, each of the 9 breaches was in respect of the extended restraint against Mr Ellis procuring the issuing of claims or the making of applications by others. Each of the 9 claims or applications had been dismissed and 7 of them had been marked totally without merit. Of particular relevance, Cutts J stated in her judgment at para. 30: "I am satisfied so that I am sure that the Respondent was the driver of all nine meritless claims and applications issued in the names of other persons, the subject of this application and that he procured each of them to do so".

13. At this stage Mr Ellis's application for permission to appeal the permission order of Goose J was - because of administrative delays for which Mr Ellis bore no responsibility whatsoever - still pending consideration by the Court of Appeal. In consequence Cutts J adjourned the question of sanction until that application had been determined. Following the

Court of Appeal's refusal of Mr Ellis' application, the sanction hearing then took place on 16 April 2021. Cutts J imposed a committal order of 9 months' imprisonment suspended for 2 years.'

11. Thus, when Cutts J made her suspended committal order on 16 April 2021, the GCRO as extended by May J up to 21 February 2022, still had about 10 months to run.

12. It was very much in force as at 5 November 2021 when an appellant's notice was issued with appeal court reference CH-2021-000238, applying for permission to appeal to the Chancery Division of the High Court. The claimant's case is that it was the defendant who issued that appellant's notice.

13. It has been called "the Haztunc application" because the appellant was named as "Citizen" Mr Ediz Haztunc, the defendant below in the Central London County Court. The application has some distinct and unusual features to which I will return.

14. May J's GCRO, as extended, was also still in force when on 7 January 2022 another appellant's notice was issued in what has been referred to as the Sood application, in the name of, "Citizen Father Mr Sham Pal Sood", the defendant in proceedings below, also before the Central London County Court. That appellant's notice too has some distinct features.

15. On 4 February 2022, Roth J dismissed the Haztunc application and declared it totally without merit. He treated Mr Haztunc as a litigant in person and gave him seven days to apply to vary or set aside his order, as it had been made without a hearing.

16. On 17 February 2022, just before the GCRO expired, the Government Legal Department (**GLD**) wrote a letter before action to the defendant indicating an intention to bring contempt proceedings against him. In the letter, the GLD also referred to (among other things) the defendant's right to non-means tested legal aid under the criminal legal aid scheme.

17. The GCRO then expired four days later on 21 February 2022. Afterwards, further attempts were made to issue two sets of proceedings in the defendant's own name or, to be precise, in the name of "Equity Lawyer Mr Edward William Ellis"; one in the High Court, Queen's Bench Division and one in the Romford County Court. I need not go into the detail of those claims because they were not in breach of the GCRO, as it had expired.

18. The present Part 8 application was then brought on 29 July 2022. As explained above, the GCRO was then extended by Eyre J in August 2022 for a period that will run until 21 February 2024.

19. The application for permission came before Soole J. As I have said, he granted permission on 28 November last year. He gave the defendant until 23 December to file any evidence. The defendant sent a plethora of documents to the claimant, which are included in the supplementary bundle that is before me. They occupy pages 23 to 643 of that bundle. They are a mix of miscellaneous documents emanating from the defendant and including various court documents.

20. On 23 February 2023, Bean LJ refused the defendant permission to appeal against Soole J's order.

21. At the hearing this morning before the short adjournment, I heard oral evidence from Ms Joanne Arnold on behalf of the claimant, who had also filed an affidavit; and from the defendant on his own behalf.

22. All I need say about the evidence is that the defendant did not deny authorship of the two applications, the Haztunc and Sood applications. He was unwilling to answer the questions when asked whether he was the author of the two documents, describing the questions as “invalid” because as he contended, the absence of the court’s jurisdiction had to be recognised before the matter could proceed further.

Submissions

23. The claimant made detailed submissions on the nature of the contempt alleged against the defendant and whether it was by its nature civil or criminal. Mr Eardley KC, for the claimant, submitted that a paradigm case of civil contempt would be breach of a court order made at the instance of the opposing party to protect the latter’s right. The purpose of the civil contempt jurisdiction, he said, is primarily remedial.

24. The essence of a criminal contempt, Mr Eardley submitted, is that it involves interference with the administration of justice more generally which may, but need not, involve or include breach of a court order or orders. The purpose of the criminal contempt jurisdiction is primarily punitive, to uphold the strong public interest in seeing that due administration of justice is safeguarded.

25. There can be cases, Mr Eardley noted, where elements of both kinds of contempt are present. I was referred to the judgment of Lord Toulson JSC in *Director of the Serious Fraud Office v O’Brien* [2014] AC 1246 at paragraphs 23 and 35 to 42; and to the 5th edition of *Arlidge, Eady & Smith on Contempt* at paragraphs 3-13 to 3-15.

26. Mr Eardley invited me to treat the present case as one of criminal contempt because of the wide ranging nature of the defendant’s litigious activities, which were not confined to particular cases but were activities done in furtherance of a campaign to disrupt the work of the civil courts.

27. I am content to proceed, in line with the claimant’s submission, on the basis that the contempts that are alleged in the present case bear the character of a criminal contempt rather than a civil contempt because they consist of alleged breaches of civil restraint orders, which are made to protect the administration of justice generally.

28. I do not find it necessary to embark on a lengthy analysis of the cases but am conscious that there are indications that breach of a CRO is a civil contempt (see *HM Solicitor General v Ellis* [2020] EWHC 3505, per Cutts J at paragraph 8; *HM Solicitor General v Millinder* [2022] EWHC 2832, per Andrews LJ (with whom Cavanagh J agreed) at paragraph 78; cf. *HM Attorney General v Crosland* [2021] 4 WLR 103 (judgment of the court by Lord Lloyd-Jones, Lord Hamblen and Lord Stephens, JJSC) at paragraph 23.

29. Accordingly, as Mr Eardley submitted, the conduct of the defendant must attain a certain threshold of seriousness for his conduct to amount to a contempt in the sense of the criminal contempt jurisdiction; see *O’Brien* per Lord Toulson JSC, paragraph 39; *Attorney*

General v Yaxley-Lennon [2019] EWHC 1791, DC, per Dame Victoria Sharp PQD giving the judgment of the court at paragraph 85.

30. Mr Eardley took me on a tour through some of the authorities bearing on the required *mens rea* in cases involving interference with the due administration of justice. I do not find it necessary to rehearse that body of case law here.

31. The required *mens rea* is, as I accept in line with Mr Eardley's submission, that the defendant must have, first, knowledge of the terms of the GCRO and what it prohibits. That requisite knowledge may be inferred from the circumstances. Second, there must be an intention to act in a manner which in fact breaches those terms.

32. The claimant need not show that the defendant knew that in fact and law, what he did was in breach of the terms of the GCRO. It is not a defence if the contemnor honestly believed that what he did was not a contempt. An intention to interfere with the administration of justice can be inferred from the circumstances and is sufficient even if the contemnor was motivated by seeking what he believed to be a just outcome.

33. As regards the first breach, Mr Eardley submitted that it was the work of the defendant. It was sealed and issued by the High Court. He submitted there are many of the hallmarks of the defendant's drafting, as had been noted by May J in her judgment and listed in paragraph 3 of the GCRO.

34. Mr Eardley submitted that the Haztunc application did not assist Mr Haztunc at all. The order appealed against was a simple adjournment decision which could not usefully have been challenged on appeal, as pointed out by Roth J when he dismissed the application and declared it totally without merit.

35. The appellant's notice, Mr Eardley said, does not address the order challenged at all. Instead, it is merely used to ventilate the defendant's usual complaint of corruption and so forth.

36. As for the Sood application, the claimant submits that the same points about the style of drafting arise; that it does not properly identify the order appealed against or what is said to be amiss with it; and that it is being used simply as a vehicle to advance the defendant's usual complaints, rather than providing any material assistance to Mr Sood.

37. The claimant submits therefore that there are here clear breaches of the GCRO, proven to the criminal standard. And Mr Eardley further submits that the breaches are sufficiently serious, seen in their context, to cross the threshold of seriousness required for a criminal contempt.

38. In the case of the Haztunc application, it wasted the time of the judge who dealt with it. In respect of the Sood application, an order was made refusing a stay of execution on 9 February 2022 and the balance of the application was due to be placed before a judge at the time when the present contempt application was issued in July 2022.

39. The defendant made detailed closing submissions on liability. He touched on the Glorious Revolution of 1688 and various subsequent political events. He referred at great length to what he believes to be the true legal order which, conveniently, effectively puts him and his actions in this matter above the law.

40. He referred to something he called the Coronation Oath Enforcement Authority. The gist of his argument appears to be that the court is a corrupt organ of the state with no jurisdiction over his actions.

41. He did not however deny performing the acts that are said to constitute contempt, namely the issuing of the two applications; nor did he deny that he knew of the GCRO and what it prohibits.

Reasoning and conclusions

42. I am satisfied so that I am sure that the two breaches of the GCRO alleged are proved. The drafting is plainly that of the defendant. In the Haztunc application, Mr Haztunc is referred to as “Citizen”. The opposing lawyers are referred to as “Lawyers Black Graf LLP.” The request for permission to appeal in box B is marked, “I do without prejudice to Invalidity Arguments.”

43. That is the same phrasing as has been used before me today by Mr Ellis on frequent occasions. Asked whether the claim is an Aarhus Convention claim, the writing in the box reads “The Citizen Appellant does not know what the Aarhus Convention is.” The relief sought is described as a variation of the order below and in the box there is written “See the Directions and Costs Appeal Grounds and Protection Breach Contempt Fraud Appeal Grounds + Remedy Proposals”

44. That again fits with May J’s points characterising the defendant’s drafting style. Indeed, the phrase “fraud appeal grounds” is repeated lower down. And, as if that were not enough, reliance is placed in section 11 on a “Draft Remedy Order of the Citizen Tenant”, an expression that is then repeated. The appellant’s notice is then completed with a reference to a document not supplied, described as “an Equity Standard Criminal Investigation is needed to identify and get production of All Relevant Evidence.”

45. Following that appellant’s notice and attached to it is a page of typed A4 script using trademark phrases and expressions of the defendant, including “Corruption Remedy”, “Royal Commission”, “Citizen Mr Haztunc”, “Corruption Remedy Process”, “Equity Lawyer Mr Ellis,” who is said to have provided “Investigation Services.” There is then mention of many of the phrases used verbally before me today including “Sale Sabotage Frauds” and a “Sabotage Fraud Plan.”

46. Turning to the Sood application, that too is unmistakably the work of the defendant. It refers to Mr Sood Snr, the defendant in the proceedings below as “Citizen Father Mr Sham Pal Sood.” The request for permission to appeal is again endorsed with the phrase “Without Prejudice to Invalidity Arguments.” The phrases, “Royal Commission” and “Fraud Appeal Grounds” appear in section 5, which is supposed to state the order appealed against.

47. In relation to the Aarhus Convention question, the answer given is, “The citizen needs Judicial Assistance to explain an Aarhus Convention Claim.” The phrases I have already mentioned are repeated on other occasions later in the appellant’s notice.

48. For those reasons, I am in no doubt that the two applications are the work of the defendant. Further, he has not denied authorship of the documents in the Haztunc and Sood applications.

49. Next, I am in no doubt that the threshold of seriousness for a criminal contempt is met. A very large amount of judicial time has had to be wasted on the defendant and his applications, to the detriment of litigants in genuine need of the court's precious resources and services. It is fair to include in the assessment of judicial time spent in dealing with the CROs, this GCRO, the making of it, the reasons for making it, the judicial time expended on that and on this and previous contempt applications.

50. For those reasons, I find the breaches are proved to the criminal standard and I find the defendant in contempt of court.

[A discussion followed about whether the issue of sanction should be adjourned, as the defendant wanted or dealt with the same day, as the claimant advocated. The court concluded that an adjournment would be futile because the defendant would not obtain legal representation or a medical report; on the return date, the court and the parties would be in the same position. This part of the hearing has not been transcribed.]

51. I turn to the question of sanction. The claimant has drawn my attention to the applicable principles and invites the court to deal with the breaches found as the court thinks fit. The principles are set out conveniently in *Liverpool Victoria Insurance Company Co Ltd v Khan* [2019] EWCA Civ 392, [2019] 1 WLR 3833 at paragraphs 57 to 71 and are helpfully summarised in Mr Eardley's skeleton argument at paragraph 32.

52. The claimant properly acknowledges at paragraph 37 of the skeleton argument that no specific harm appears to have been done to the interests of any of the parties in the cases in which the two infringing applications were made, in breach of the GCRO.

53. The claimant tells me that he is 70 years old. He says that he has huge assets but that they have no value due to fraud perpetrated on him. As available assets, he has only his pension and would not be in a position to pay any fine.

54. He tells me, although there is no medical report before the court, that he has a medical condition that requires dialysis. He does not have caring responsibilities for relatives but he says that, as he put it, the NHS keeps him alive by means of dialysis treatment. He does not say that he has any history of mental problems or psychiatric problems.

55. What other mitigation is available to the defendant? Is he remorseful? It does not appear so. Is he under a misapprehension about the nature of the legal system? Very probably but there is no medical evidence about how that operates on his mind and he has had many opportunities over a period of several years to seek either or both of legal representation, which he disdains, or a medical report, which he has not sought to commission.

56. I have no power to order a pre-sentence report, as I would if this were a criminal case; nor a psychiatric or other medical report. As far as I am aware, the defendant has no criminal record. I do not know in what circumstances he ceased to be a solicitor.

57. The context of these breaches is a long history of flouting orders of this court since 2016. Those orders were made to protect the administration of civil justice against the defendant's campaign of disruption. The GCRO and other previous orders were made primarily not to protect party rights but to protect the due administration of civil justice.

58. It is a serious aggravating feature that the defendant has used actual litigants to pursue his campaign, probably giving them false hopes and expectations. He is not entitled to represent anyone and his applications issued in the names of others misleadingly present them as if they were litigants in person, although with his idiosyncratic drafting allows the initiated to see through that.

59. The defendant was using these litigants in a manner a bit like a human shield to veil, albeit thinly, his own involvement in the two infringing applications. I am sure it is no coincidence that he issued two further applications in his own name within months of the GCRO expiring.

60. Those are factors relevant to culpability and they can be summarised as knowledge, persistence and determination to disrupt the civil justice system and to disrupt cases brought by other individuals.

61. As for the degree of harm caused, I have already said when deciding that the threshold of seriousness is crossed, that the defendant has been successful in diverting a large amount of judicial time and resources to his spurious and meritless applications and breaches of the CROs to which they led and now of the GCRO.

62. In short, the defendant has caused serious damage to the operation of a major public sector resource, an undertaking funded by the taxpayer. As part of that course of conduct, the defendant asserted many times at the hearing before me today that this court has no jurisdiction over his conduct, that judges were behaving fraudulently and receiving financial benefits from criminal conduct and were corrupt; and he asserted other sundry wrongdoings by the judiciary.

63. He asserted that he was exempt from sanctions or contempt. I asked him why he should be above the law when I and others in court are not. I did not understand his answer but I think it was to the effect that I could not sanction him for contempt because I am a corrupt office holder and he has a special exemption of some kind.

64. It is clear that, particularly having enquired the defendant about his means, that a fine is not sufficient. It would have to be a very hefty one at the very least and I do not get the impression that he has access to substantial funds. There is then the matter of the previous suspended sentences. On 21 February 2018, May J imposed a sanction of three months' imprisonment suspended for one year for seven breaches of Senior Master Fontaine's order of 8 March 2016. That suspended sentence was not activated but it means that the defendant has "form."

65. A further aggravating feature is the suspended sentence imposed by Cutts J. These breaches were committed during the period of the suspension; it had not yet ended when the breaches were committed. For the moment, I disregard them to avoid any double counting in the event that Cutts J's sentence falls to be activated, which I will consider shortly.

66. I am quite satisfied that only a custodial penalty meets the gravity of the situation. The two other judges who passed the suspended sentences have already so found and I agree with them. Subject to avoiding any double counting, which I keep in mind, the gravity of these contempts is greater now than then because of the repeated conduct after being twice given a chance by means of those previous suspended sentences.

67. Balancing the above factors, I conclude that the appropriate sentence is one of six months' imprisonment for these two breaches. It is not appropriate to suspend that sentence in view of the previous suspensions, including the one that is liable to be activated.

68. In my judgment, it should be activated in part. The activation constitutes punishment for the prior breaches for which the initially suspended sentence was imposed. I will activate six months of the nine month sentence imposed by Cutts J, to run consecutively to the six months for these two breaches. That makes a total of 12 months' imprisonment.

69. Subject to what I am about to say, Mr Ellis, you will serve half that period in custody and the other half in the community on licence. But that sentence will not take effect until two months from now, which is 8 May 2023 or if that is a weekend day, on the first weekday thereafter.

70. If an appeal is brought now in time to the Court of Appeal, then whether or not that sentence takes effect or not, at the expiry of two months from now, will be subject to any order of the Court of Appeal. That is the sentence of the court. I postpone its taking effect in the way that I have just said and that will be reflected in my order.

71. The GCRO, let it not be forgotten, remains in force until 21 February 2024, Mr Ellis. So, if you serve your sentence starting in a couple of months' time, it will still have some time to run when you get out. And if you were to breach the GCRO further, either now, before you go to custody, or while in custody, or after you get out on licence but before 21 February 2024, then you will be in further contempt of this court. And that could, if you are on licence at the time, lead to your recall to prison.

72. That is the decision of the court this afternoon and it will be reflected in the court's order.

This transcript has been approved by the Judge

IN THE COURT OF APPEAL (CIVIL DIVISION)

CA-2023-000569

ON APPEAL FROM

THE HIGH COURT OF JUSTICE

Claim No. KB 2022 003098

KING'S BENCH DIVISION

(THE HONOURABLE MR JUSTICE KERR)

B E T W E E N:-

HIS MAJESTY'S SOLICITOR GENERAL

Claimant/Respondent

AND

EDWARD WILLIAM ELLIS

Defendant/Appellant

RESPONDENT'S SKELETON ARGUMENT

28 APRIL 2023

References in the form [CB/-/] [PB/-/] and [SB/-/] are to tab and page number in respectively, the Core Bundle prepared by the Respondent for this appeal; the Permission Bundle used below and the Supplementary Bundle used below. References to the paragraphs in the judgment of Kerr J are in the form J.

Suggested pre-reading:

- *Order of Kerr J [CB/3/18]*
- *Judgment of Kerr J [CB/4/20]*

- *Grounds of Appeal* [CB/2/14]
- *Part 8 Claim Form* [PB/1/3]
- *Grounds of committal* [PB/1/6]
- *Affidavit of Joanne Arnold* [PB/2/9]
- *Order extending the GCRO* [PB/3/90]
- *The “Hastunc Appellant’s Notice”* [PB/3/141-151]
- *The “Sood Appellant’s Notice* [PB/3/152-158]
- *Skeletons*

Pre-reading time estimate: 2 ½ hrs

Hearing time estimate: ½ day

Introduction

1. On 08.03.23, Kerr J found that the Appellant (A) had procured the making of two applications in breach of a general civil restraint order (GCRO) and had thereby committed contempt of court. He committed the A to prison for 6 months for these contempts and activated in part a suspended order of committal made by Cutts J for similar breaches, resulting in an overall penalty of 12 months imprisonment which, he ordered, was to commence on the first working day after 08.05.23 (so, Tuesday 09.05.23). He also ordered the A to pay the Respondent’s (R) costs, not to exceed £10,000. In the course of the hearing on 08.03.23, Kerr J rejected the R’s ad hoc applications that he should recuse himself.

2. The Grounds of Appeal are not easy to follow but the R assumes that the A seeks to challenge (a) the two findings of contempt, including on the basis that Kerr J should have recused himself; (b) penalty, including Kerr J’s decision to activate in part the suspended order for committal; and (c) costs.

3. This skeleton is structured as follows:
 - A. Background and chronology
 - B. The hearing before Kerr J, his judgment and order
 - C. Liability for contempt - legal principles

- D. Liability for contempt - submissions
- E. Recusal
- F. Penalty – legal principles
- G. Penalty - submissions
- H. Costs – principles
- I. Costs – legal submissions

A. BACKGROUND AND CHRONOLOGY

4. May J gave a pithy account of the A’s beliefs and activities in her judgment in February 2018 at [1]-[2] & [14]-[15] **[PB/3/30 @ 31 & 33]**. In brief summary, A “recruits” (his word) vulnerable individuals whom he uses to issue nonsensical claims and applications which are then routinely struck out or dismissed as totally without merit. He believes that doing this provides him with evidence that the courts are corrupt. He believes he has been tasked by a “royal commission” to obtain such evidence, and is devoted to doing so on a huge scale.

5. The Court has made orders designed to control the A on a number of occasions, with limited deterrent effect. The salient events in the chronology are these:
 - 08.03.16 Senior Master Fontaine makes an order providing that D *“is restrained from issuing claims on behalf of others or from assisting others to bring claims in contravention of the Legal Services Act 2007”* (‘the March 2016 Order’) **[PB/3/325]**

 - 22.02.18 On an application by the Ministry of Justice (‘MOJ’), May J finds D in contempt for 7 breaches of the March 2016 Order and makes a committal order for 3 months’ imprisonment, suspended for 1 year. She also makes a general civil restraint order (‘GCRO’) providing that, for a period of 2 years, the D *“be restrained from issuing any claim or making any application in [the High Court and any county court] without first obtaining the permission of [May J or another High Court Judge or deputy Judge]”*. The GCRO further provides that *“the reference to issuing any claim or making any application extends to*

procuring any other person to issue any claim or make any application”
[PB/3/47]

- 12.06.18 The CA dismisses D’s appeal against the committal order and refuses permission to appeal against the GCRO [PB/3/76]
- 12.02.20 May J makes an order extending the GCRO for a further 2 years (so, until 21.02.22). It is slightly amended under the slip rule on 17.02.20 [PB/3/90]
- 18.12.20 Cutts J finds D in contempt for 9 breaches of the GCRO. Sentencing is adjourned;
- 16.04.21 Cutts J makes a committal order for 9 months imprisonment, suspended for 2 years. [PB/3/135]
- 05.11.21 An application for permission to appeal is filed in the High Court in the case of *Eastnow Estates Ltd v Mr Ediz Hastunc* (‘the Hastunc Appellant’s Notice’) [PB/3/141-151]]. It bears the hallmarks of the D’s drafting. This is the first alleged breach of the GCRO (as extended) relied upon in the contempt application heard by Kerr J.
- 07.01.22 An application for permission to appeal is filed in the High Court in the case of *Mr Vishal Sood v Mr Sham Pal Sood* (‘the Sood Appellant’s Notice’) [PB/3/152-158]]. It too bears the hallmarks of the D’s drafting. This is the second alleged breach of the GCRO (as extended) relied upon in the contempt application heard by Kerr J.
- 16.08.22 Eyre J further extends the GCRO [SB/1/5]
- 20.09.22 The present contempt application is issued [PB/1/3]. It is served personally on the A on 10.10.22. A certificate of service is at [PB/4/306].
- 23.11.22 Soole J grants permission for the application to proceed and gives directions: He also dispenses with the requirement for personal service of the GCRO (the

A having been aware of its terms at all material times): Order at [SB/2/7]; judgment at [SB/3/9].

23.02.23 The CA refuses permission to appeal against the Order of Soole J: [SB/5/21].

08.03.23 Hearing before Kerr J

B. THE HEARING BEFORE KERR J, HIS JUDGMENT AND ORDER

6. The A represented himself at the hearing. As the Judgment records (**J16**), he had been advised of his right to legal aid but (consistent with his stance on previous occasions) did not avail himself. At the outset, the A objected unsuccessfully to the hearing going ahead (**J2**), and he made a number of impromptu recusal applications in the course of the day that were rejected (**J3**). Joanne Arnold, the author of the affidavit relied upon by the R, was tendered for cross-examination but the A's questioning did not appear to be pertinent to the issues in dispute.
7. Kerr J gave an extempore judgment on liability. The judgment needs to be read with that in mind. There was then discussion as to whether he should deal with penalty immediately or adjourn for medical evidence. Kerr J decided that this would be futile given the A's indication that he could not/would not obtain such evidence (see summary of non-transcribed part of hearing, beneath **J50**).
8. Kerr J dealt with penalty at **J51-J72**. He postponed the commencement of the order for committal until 08.05.23 or the first working day thereafter. This was out of a concern that, if he were imprisoned immediately, the A would struggle to exercise his right of appeal.

C. LIABILITY FOR CONTEMPT – LEGAL PRINCIPLES

Civil or criminal contempt?

9. Kerr J accepted the R's invitation to treat the case as one of criminal contempt on the basis that breach of a GCRO interferes with the administration of justice generally and concerns more than a party's non-compliance with an order made for the benefit of the opposing party : **J23-J29**. That is the more favourable analysis from the A's point of view since, at the very least, it imposes a threshold of seriousness that is not a feature of

civil contempt: *Director of Serious Fraud Office v O'Brien* [2014] AC 1246 at [39]. Arguably (though not on the R's case) it also imposes a higher *mens rea* standard.

10. Since the analysis cannot affect the outcome of this appeal in a manner detrimental to the A, it is suggested that the CA should defer consideration of this issue for the time being.

Mens rea

11. The R submitted, and Kerr J appeared to accept (**J31**) that the applicable *mens rea* for a criminal contempt of this nature consists in (a) knowledge of the terms of the GCRO and (b) an intentional act which, as a matter of fact breaches those terms (whether or not the alleged contemner knew/believed/intended that their conduct would breach the terms).
12. That is a lower *mens rea* standard than that which is often identified as applicable in criminal contempts, namely a specific intention to interfere with the administration of justice.
13. Support for the lower standard is found in *Solicitor General v Cox* [2016] 2 Cr. App. R 15 and *Attorney General v Crosland* [2021] 4 WLR 103. In *Cox* a Divisional Court held at [66] that “*The circumstances in which contempts of court arise are too varied, in our judgment, for one mens rea to be applicable to all forms of contempt. Nor is that the law. [...]*” and went on to hold that, in the case of “*acts which fall into the broad category of contempt in the face of the court or contempts closely related to such contempts*” (*ibid*) there is no requirement for specific intent where the conduct is a criminal offence or contravenes an order of the Court of which the contemnor knows: [69]-[74]. In *Crosland* (which concerned breach of the embargo on publication of draft judgments) the Supreme Court broadened this principle so that it is no longer confined to contempts in the face or similar: see [28]¹.
14. In any event, as Kerr J acknowledged at **J32**, a specific intent to interfere with the administration of justice (if that is what is required) can be inferred from the

¹ There was an appeal to a 5-member panel of the Supreme Court ([2022] 1 WLR 367) but the first-instance panel's decision on this point was not challenged.

circumstances² and it makes no difference that the alleged contemnor may have been seeking what he believed to be a just outcome³.

D. LIABILITY FOR CONTEMPT - SUBMISSIONS

15. The GCRO [PB/3/90] provides that the A “*be restrained from issuing any claim or making any application ...*” but also “*procuring any other person to issue any claim or make any application*”. It then sets out in para 3 a number of features typical of the A’s drafting which, if present, will result in a claim/application being deemed as one made or procured by the A. This is to assist court staff to recognise such claims/applications and then either decline to issue the document or apply the automatic striking out provisions in CPR PD 3C, para 4.3. Evidently, the procedure does not always work, since the Court issued sealed copies of both the Hastunc and Sood Appellant’s Notices and they had to be dealt with by judges.

² *Attorney General v Newspaper Publishing Plc* [1988] Ch 333, 374 (Sir John Donaldson MR): “*Such an intent need not be expressly avowed or admitted, but can be inferred from all the circumstances, including the foreseeability of the consequences of the conduct. Nor need it be the sole intention of the contemnor. An intent is to be distinguished from motive or desire...*”²; *Attorney General v Newspaper Publishing Plc* [1989] 1 FSR 457, 487 (Morritt J): “*I have no doubt that it was the intention of Mr. Neil to interfere in the administration of justice by publishing extracts from Spycatcher. He did not wish to be in contempt of court and because there was no injunction against the Sunday Times he believed genuinely, but wrongly, that he could not be in contempt of court. But, for the reasons that I have given, that cannot in the circumstances be a defence.*”

³ see e.g. *Attorney General’s Reference (No.1 of 2002)* [2002] EWCA Crim 2392, where (in a case concerning the offence of perverting the course of justice) a police officer had prepared a false statement for the victim of a burglary in order to avoid having to call an elderly and reluctant witness to give the necessary evidence. See further *Connolly v Dale* [1996] QB 120, where a police officer was held in contempt when, seeking to ensure the integrity of a possible ID parade, he prevented the solicitor for the accused from showing the accused’s photo to third parties in an attempt to track down alibi witnesses.

16. The R did not rely on the “deeming” provision in para 3 of the GCRO to prove its case that the A made or procured the two applications in dispute. The R accepted that it must satisfy the Court to the criminal standard that the A did in fact make or procure each of these applications. The presence of features described in para 3 of the GCRO were however highly pertinent to that task.
17. Also, the R did not rely solely on indications that the A had drafted the two appellants’ notices. It is accepted that this in itself would have been insufficient to prove that the A made or procured the applications. Rather, the R’s case was that, whoever actually made the applications, in the sense of filing them with the court, the A at the very least “procured” them to be made: i.e. he persuaded or caused someone to make the application; produced that result by his endeavours or, more colloquially, put someone up to it⁴. Kerr J was aware of and accepted this case: see **J34-J36** & **J58-J59**.
18. Kerr J was right to find that the A was the drafter of both documents (**J42-J48**) and right to find that the A had procured the applications to be made.
19. As to the Hastunc Appellant’s Notice [**PB/3/141-151**];
- (1) The Notice was sealed and issued by the High Court;
 - (2) It bears many of the hallmarks of D’s drafting as noted by May J in her judgment and listed in para 3 of the GCRO (see in particular the attachment at [**PB/3/151**]);
 - (3) It does not assist Mr Hastunc at all. The Order appealed against was a simple adjournment decision which could not meaningfully have been challenged on appeal (see the Order of Roth J dismissing the application as totally without merit: [**PB/3/267**]). The Notice does not address the Order under challenge at all;
 - (4) Instead, the Notice is used to ventilate the D’s usual complaints of corruption etc
20. As to the Sood Appellant’s Notice [**PB/3/152-162**]

⁴ See the Judgment of Cutts J at [22]/

- (1) The same points about the drafting style arise;
 - (2) The Notice does not properly identify the Order appealed against, nor what is said to be wrong with it. Again, the Notice would appear to be simply a vehicle for the D to advance his usual complaints rather than providing any material assistance to Mr Sood.
21. Kerr J was further correct to decide (**J49**) that the threshold of seriousness was crossed, especially when viewed in the context of the A's past conduct to like effect. In the case of the Hastunc Appellant's Notice, a High Court Judge had to spend time considering it and writing a notice declaring it to be totally without merit. At the time this contempt application was filed, the Sood Appellant's Notice was due to be placed before a Judge: Arnold [32] [**PB/2/19**].
 22. The A did not dispute that he was aware of the terms of the GCRO at all material times. If it is necessary to prove that he had a specific intention to interfere with the administration of justice, then that can be inferred. The purpose of his "mass remedy process" is to overwhelm the courts with hopeless applications so as to obtain orders which, in his view, demonstrate corruption. That is self-evidently an intention to interfere with the ordinary functioning of the courts.

E. RECUSAL

23. The principles will be well known to the Court: a judge should only recuse themselves if a fair minded and informed observer, aware of all the facts, would conclude that there was a real possibility of bias.
24. At the hearing before Kerr J, the A made an initial recusal application on the mistaken basis that it was Kerr J who had extended the GCRO in August 2022 (in fact, it was Eyre J). He raised recusal at further points simply, it seems, because he was dissatisfied about how Kerr J was managing the hearing. The Grounds do not seem to identify any arguable case on apparent bias.

F. PENALTY – LEGAL PRINCIPLES

25. The available penalties include imprisonment of up to 2 years⁵ (with a power to suspend⁶) and an unlimited fine⁷. Community sentences are not available⁸.
26. The purpose of imposing a sanction for contempt arising out of breach of an order is to “punish the breach, ensure compliance with court orders, and rehabilitate the person in contempt”: *National Highways Ltd v Buse* [2021] EWHC 3404 (Divisional Court).
27. The correct approach was set out by the Supreme Court in *Crosland* at [44]:

[44] General guidance as to the approach to penalty is provided in the Court of Appeal decision in Liverpool Victoria Insurance Co Ltd v Khan [2019] EWCA Civ 392; [2019] 1 WLR 3833, paras 57–71 . That was a case of criminal contempt consisting in the making of false statements of truth by expert witnesses. The recommended approach may be summarised as follows:

- 1. The court should adopt an approach analogous to that in criminal cases where the Sentencing Council's Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and the harm caused, intended or likely to be caused.*
- 2. In light of its determination of seriousness, the court must first consider whether a fine would be a sufficient penalty.*
- 3. If the contempt is so serious that only a custodial penalty will suffice, the court must impose the shortest period of imprisonment which properly reflects the seriousness of the contempt.*
- 4. Due weight should be given to matters of mitigation, such as genuine remorse, previous positive character and similar matters.*
- 5. Due weight should also be given to the impact of committal on persons other than the contemnor, such as children of vulnerable adults in their care.*

⁵ CCA 1981 s14

⁶ CPR 81.9

⁷ See AES 14-118.

⁸ AES 14-114 to 14-117

6. *There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on Reduction in Sentence for a Guilty Plea.*

7. *Once the appropriate term has been arrived at, consideration should be given to suspending the term of imprisonment. Usually the court will already have taken into account mitigating factors when setting the appropriate term such that there is no powerful factor making suspension appropriate, but a serious effect on others, such as children or vulnerable adults in the contemnor's care, may justify suspension.*

28. There is a more extensive review of authorities containing guidance on sentencing in *Coveris Flexibles UK Ltd v Brears* [2022] EWHC 1594 at [30]-[39] but the cases all converge and it is unlikely that the Court will need to look beyond the principles set out in *Crosland*.

29. The only decision on penalty for breach of a GCRO prior to Kerr J's decision was the decision of Cutts J's decision concerning this A and the same GCRO. 9 breaches were proven and she imposed a penalty of 9 months imprisonment, suspended for 2 years. Comparison with penalties for contempt in other situations is unlikely to be instructive.

Activation of suspended sentence

30. The present breaches occurred during the operational period of the suspended committal order imposed by Cutts J. In those circumstances, the Court had a discretion to activate the suspended committal order in whole or in part, to impose a fine, or no penalty at all: *In Re W* [1969] Ch 50 at 56. Rather than activating, the Court may treat the breach of the suspended committal order as an aggravating feature when punishing for the new contempts: *Al-Ko Kober Ltd v Sambhi* [2018] EWHC 3523 at [18].

31. It may assist to look, by analogy, at the factors identified in the Sentencing Council Guidelines on breach of a suspended sentence order⁹. Note though that, in the criminal law, there is a statutory presumption in favour of activation¹⁰. There is no equivalent presumption at common law in the context of contempt.

⁹ [Breach of a suspended sentence order – Sentencing \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk/guidelines/breach-of-a-suspended-sentence-order/)

¹⁰ Sentencing Act 2020, Schedule 16, paras 13-14.

Postponing the commencement of an order of committal

32. There appears to be no authority on this, but it is submitted that the Court has a discretion to direct that an order of committal take effect from a later date than the date that it is made. Note that in crime, there is statutory recognition of a discretion to postpone the commencement of a sentence (with some limitations): Sentencing Act 2020, s384.

Appeals against penalty

33. An appeal court will intervene in the normal way if there has been some error of principle in relation to penalty, but there is limited scope for challenging a decision on penalty solely on the grounds that it was excessive. Imposing a penalty involves an exercise of judgment which is best made by the judge at first instance: *Breen v Esso Petroleum Company Ltd* [2022] EWCA Civ 1405, [16]-[17].

G. PENALTY – SUBMISSIONS

Penalty for the two breaches

34. Kerr J properly identified matters going to culpability and harm and balanced relevant aggravating and mitigating factors: **J52-66**. He rightly attached considerable weight to the A's history of similar behaviour: **J65**
35. At **J64** Kerr J mentioned the A's likely inability to pay a fine. If that were the reason that he found A's conduct to have passed the custody threshold, then it would be an impermissible one. But the other points Kerr J makes amply demonstrated the justification for a custodial penalty.
36. Accordingly, Kerr J's decision to make a committal order of 6 months imprisonment (**J67**) was not vitiated by any error of principle, nor was it so excessive as to justify intervention by the CA.
37. Given the A's history of disobedience to court orders, including during the currency of a suspended committal order, there was no scope for the order to be suspended.

Activation of the suspended committal order of Cutts J

38. When imposing the penalty for the 2 instant breaches, Kerr J was careful to disregard, as a potential aggravating feature, the fact that they were committed during the currency of Cutts

J's suspended committal order: **J65**. It was therefore open to him, in his discretion, to activate part or all of that suspended order, without engaging in any double counting.

39. His decision to activate 2/3 of the suspended committal order (6 months out of a total order of 9 months) was well within the range of decisions that a reasonable judge could have made and the CA should not interfere. The proven breaches occurred, respectively, 6 ½ and 8 ½ months into the 2 year operative period of the suspended order and were of much the same type and gravity as the breaches that had led to that order being made.

Postponing commencement of the custodial penalty

40. Kerr J's decision to postpone for 2 months the commencement of the committal order was innovative but unobjectionable. His concern was that the A, if immediately imprisoned, would struggle to exercise his (unqualified) right of appeal. In some circumstances, the High Court may grant bail pending appeal, but not where the appeal lies to the CA: see RSC Order 109, r3(1). The CA itself may grant bail pending appeal (*ibid* r4) but, while in prison, the A would have faced the same difficulties applying to the CA for bail as he would have faced in filing his substantive appeal. Kerr J's solution was a pragmatic one in the circumstances and should be upheld.

H. COSTS – LEGAL PRINCIPLES

41. The principles were confirmed by the Supreme Court in its costs judgment in *Crosland* [2021] UKSC 15 at [8]-[10]¹¹: in contempt proceedings, costs normally follow the event but the Court will seek to make an order that is fair, just and reasonable in all the circumstances. The means of the contemnor may be taken into account.
42. Costs decisions are, classically, a matter that an appellate court will be reluctant to interfere with unless there has been some identifiable error of principle.

I. COSTS – SUBMISSIONS

43. Kerr J's ruling on costs is not transcribed. However, his order, that the A should pay the R's costs to be assessed if not agreed, subject to a cap of £10,000 was well within the

¹¹ Confirmed on appeal [2022] 1 WLR 367 at [92]

boundaries of his discretion. He had noted, at **J64** his impression that the A did not have access to substantial funds.

Conclusion

44. For these reasons, the Court is respectfully invited to dismiss the appeal and confirm the Order of Kerr J.

28 April 2023

Aidan Eardley KC
5RB