

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
The Strand
London, WC2A

Tuesday, 27 October 2015

BEFORE:

MR JUSTICE WILLIAM DAVIS

BETWEEN:

PETER REYNOLDS

Claimant

- and -

CHRIS BOVEY

Respondent

MR REYNOLDS appeared in person

MR GREG CALLUS appeared on behalf of the Respondent

Proceedings

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A

(2.02 pm)

MR CALLUS: My Lord, I appear for the defendant and respondent to this application. My name's Callus. Mr Reynolds is the claimant and now appears in person. I imagine you'll want to hear from him first.

B

MR JUSTICE WILLIAM DAVIS: Yes. Has he seen the folder that you provided to me at some point this morning?

MR CALLUS: We had a hearing earlier on this morning, my Lord, and we gave him the bundle immediately afterwards.

MR JUSTICE WILLIAM DAVIS: Right. All right. Thank you very much.

C

Submissions by THE CLAIMANT

MR REYNOLDS: Good afternoon, my Lord.

MR JUSTICE WILLIAM DAVIS: Yes.

D

MR REYNOLDS: I believe you've got all the papers you need.

MR JUSTICE WILLIAM DAVIS: Yes.

E

MR REYNOLDS: I was asked to provide a bundle, but only on the day, I suppose I should have, and only received the letter asking me to provide the bundle on the day --

MR JUSTICE WILLIAM DAVIS: Well, it's all right. I've got your witness statement and all the various attached documents.

F

MR REYNOLDS: Thank you. I should also make the point that I have discovered I made an error in that the act I'm making this application under is not the prevention from harassment act, of course, it's the Protection from Harassment Act.

MR JUSTICE WILLIAM DAVIS: Yes. Well, I don't think that's going to be crucial.

G

MR REYNOLDS: And also, reading the act itself, I see that, although I'm applying for a anti-harassment injunction, in the Act itself it's I think referred to as a non-harassment injunction.

MR JUSTICE WILLIAM DAVIS: Yes.

H

MR REYNOLDS: So this case concerns a campaign of harassment, abuse and defamation which I've been subjected to for some three and a half years now. It's had a massive impact on me, my family, my colleagues. There was a particularly intense period of nine months, the last nine months of 2012, which resulted in me

A receiving a diagnosis of post-traumatic stress disorder from my doctor. The harassment has -- I then decided I had to issue proceedings or take some action to stop it and I therefore issued four claims for defamation against the defendant and three of his accomplices or members of his gang. Despite that, the campaign of abuse and harassment has been continued, not in such direct terms, but certainly by the publication of a hate website called Peter Reynolds Watch, which has continued throughout and makes a whole host of extraordinary allegations of having been a pervert, a paedophile, a fraudster. It's more a question of what it doesn't make allegations about than what it does.

B Forgive me.

MR JUSTICE WILLIAM DAVIS: That's all right.

C MR REYNOLDS: My claim was struck out, my claim against the defendant was struck out and the other three claims, two of them were settled by the agreement not to repeat the words that I complained off. The one against Bovey was struck out. The fourth one is of interest, because I obtained a default judgment against the defendant there which he applied to set aside, and he was represented by a very well respected firm of libel lawyers.

D MR JUSTICE WILLIAM DAVIS: So, this isn't Mr Bovey, this is someone completely different.

MR REYNOLDS: No, this is Mr Dehotu(?). This is one of his --

MR JUSTICE WILLIAM DAVIS: Yes. Well, we need to concentrate on Mr Bovey, because that's who this claim is --

E MR REYNOLDS: Yes, I appreciate that, my Lord. I think it's of interest because the pleadings were virtually identical in this case and another master said that he regarded those pleadings as sufficient and in fact His Honour Judge Maloney also denied leave to appeal against that default judgment and he was sufficiently convinced by my pleadings, which were also identify to the Bovey case to grant an injunction with a penal notice. So as a lay person, it's very difficult for me to understand how one master and one judge can consider my pleadings, which were almost identical, to be sufficient and another can see them as being struck out.

F
G
H Nevertheless, when they were struck out, obviously Mr Bovey obtained a costs order against me. There were some extraordinary delays in this, largely to do with the court say, well, they hadn't received various documents, but I was able to show to the court, because I've unfortunately had to take the practice of sending everything by recording delivery, I was able to show the court that in fact it had received the documents, and arising directly out of the costs order Bovey started his complain of abuse and harassment again, directed specifically at me, also my son and also one of my colleagues, and this took the form of emails, clearly sent in a state of some intoxication at sort of half past three in the morning, half past four in the morning. He started posting the same abuse, repeating the same defamatory allegations on various websites, and I decided again that I had to do something about this. I mean, let me be clear, Bovey has no chance of getting his costs from

A me, because I am completely insolvent. I mean, he has destroyed my health, he's destroyed by ability to earn a living, because, if you Google my name, all that comes up is this terrible website, which makes allegations against me which are completely unprovable and I've tried to obtain employment, but I simply cannot because my reputation is completely besmirched. So he's destroyed my reputation, my health and my ability to earn a living.

B So I've decided to try and stop this by getting a anti-harassment injunction. I scoured the Civil Procedure Rules to try and see whether there was any guidance in that for me. I couldn't find anything and, as this new harassment had arisen directly out of the costs order, it seemed to me entirely promote to make it within the context of this case. I mean, that seemed to me to be a more completely reasonable and more sufficient use of the court's time, in terms of this thing which I understand is called the overriding objective that everything must be dealt with efficiently and as speedily as possible.

C So I made this application. I believe it is largely made out on the papers. The harassment is defined as actions which cause alarm or distress and Lord Phillips said harassment is a word which has a meaning which is generally understood and describes conduct targeted at an individual, which is calculated to produce the consequences described in section 7 of harm and distress and which is oppressive and unreasonable.

D The defendant may well claim that the reason for his harassment is because I am a debtor, because I owe him money, and I accept that entirely. However, there is a clear dividing line between what is reasonable in terms of trying to collect debts and when it becomes harassment. I refer to the Administration of Justice Act 1970, where it suggests that, if somebody harasses the other with demands for payments which in respect of the frequency or the manner or occasion of making any such demand or any threat or bad publicity by which any demand is accompanied, calculated to subject him or members of his family or household to alarm, distress or humiliation and I submit that from the exhibits you'll see that that's exactly what he was doing.

F In addition to that, the Citizens Advice Bureau issues guidance on what counts as harassment by a creditor and it states specifically that pursuing people on social networking sites such as Twitter or Facebook will be considered harassment, which is exactly what he's done, threatening me physically or verbally, certainly I've been threatened verbally, trying to embrace you in public, which is precisely what he's done again and again, and telling someone else about your debts or using another person to pass on messages such as a neighbour or family member, which again is exactly what he's done, both of my son and my colleagues.

G So, I mean, I can take you through the individual --

MR JUSTICE WILLIAM DAVIS: No, I've read what you've called the schedule of harassment. Yes, I've read that.

H MR REYNOLDS: So, I mean, I submit that the case. I think it clearly is harassment. Is clearly is harassment and, even though I'm a debtor, goes beyond the boundaries of

reasonable conduct and I would ask you to grant an injunction preventing him from continuing it.

A

MR JUSTICE WILLIAM DAVIS: Right. You obviously have had at least some chance to read what the defendant says.

MR REYNOLDS: I have.

B

MR JUSTICE WILLIAM DAVIS: I mean, it all really revolves around the fact that you have brought this application within the claim that, at least as currently stands, has been struck out.

MR REYNOLDS: Yes.

C

MR JUSTICE WILLIAM DAVIS: Which in any event, as far as I can see from the particulars of claim, was a claim entirely in defamation.

MR REYNOLDS: Yes.

D

MR JUSTICE WILLIAM DAVIS: And therefore, says the defendant, through his lawyers, you're asking for an interim remedy based on a cause of action which is not pleaded and in any event it's based on a cause of action relating to proceedings which have been struck out and so --

MR REYNOLDS: I understand that, my Lord. I mean, what I would say is I would repeat what I've said, which it seems to be entirely apposite to bring them within this case, it's the same issues involved.

E

MR JUSTICE WILLIAM DAVIS: Right. Well --

MR REYNOLDS: Now, having said that --

F

MR JUSTICE WILLIAM DAVIS: I'm afraid I'm not sure -- I don't think I can agree with you there. I mean, I've read your particulars of claim. I mean, leaving aside whether the master was right to strike it out for the reasons he gave, obviously it sets, at least in part, not these facts, because they postdate the pleading.

MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: But matters of a broadly similar nature.

G

MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: But it's not described as harassment, it's not explained why it's harassment and it's a completely different type of action. Can I just ask this? Have I understood correctly, and you tell me straight away if I'm wrong, that the Master, having struck out the proceedings, you applied for permission to appeal.

H

MR REYNOLDS: Yes.

A MR JUSTICE WILLIAM DAVIS: And a judge of the High Court refused you permission.

MR REYNOLDS: On paper. Yes, my Lord.

MR JUSTICE WILLIAM DAVIS: On paper, and do I understand you've renewed that application.

B MR REYNOLDS: I've renewed that application and I am in fact, as of just a fortnight ago, now represented by counsel. He can't be here today because his chambers have just taken this other case in High Wycombe and --

MR JUSTICE WILLIAM DAVIS: Well, and in any event he would say I'm representing Mr Reynolds in relation to the defamation proceedings.

C MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: And when is that listed?

MR REYNOLDS: November 4.

D MR JUSTICE WILLIAM DAVIS: Right.

MR REYNOLDS: So next week. My counsel --

MR JUSTICE WILLIAM DAVIS: That's Wednesday?

E MR REYNOLDS: Yes, that's right.

MR JUSTICE WILLIAM DAVIS: Yes, I see.

MR REYNOLDS: My counsel tells me that he does believe there are two or three significant points of law --

F MR JUSTICE WILLIAM DAVIS: Well -- please. I'll assume for the moment -- well, I don't have to assume. I know that there's going to be a renewed application for permission and has it been ordered that the appeal will follow straight away if permission's granted?

MR CALLUS: No, my Lord. Nothing's been ordered about that.

G MR JUSTICE WILLIAM DAVIS: Right. I see. Are you instructed in that?

MR CALLUS: I'm instructed in the libel action. Normally a respondent to a oral renewal from a decision of the master wouldn't get costs for such a hearing. So, as much as we've submissions on paper, I may not attend in person.

H MR JUSTICE WILLIAM DAVIS: No. I see. Yes, I follow.

A MR REYNOLDS: So what I would say, my Lord, is, in the alternative -- I mean, I understand and I have had a brief conversation with my counsel about the fact that yet again -- I mean, as a layman, you understand my point of view that Bovey seems to be able to avoid any of the substantive issues by simply defending on the basis of procedural grounds, which as a layman I find immensely frustrating. But in the alternative, I am at liberty at any time, as I understand it, to make an application to the High Court, which is what I've done on notice. The defendant is not disadvantaged or prejudiced. He's had an opportunity to see these proceedings and I would ask you therefore in the alternative to look upon this as an entirely separate and new standalone application.

B MR JUSTICE WILLIAM DAVIS: Well, you're entirely correct, you're entitled to do that. You could start a new action by means of the appropriate form. A part 8 claim this would be, wouldn't it?

C MR CALLUS: Yes.

D MR JUSTICE WILLIAM DAVIS: Absolutely no doubt at all about that, but an injunction of this kind, I'm sure that a judge would require to see a pleaded case before he granted the injunction and I suspect, given the period of time we're talking about, this isn't, as it were, something that happened yesterday that's got to be stopped straight away.

E MR REYNOLDS: Well --

F MR JUSTICE WILLIAM DAVIS: Forgive me, Mr Reynolds. It's been going on a little while and you haven't done anything about it until now. I suspect the judge would say I'm not going to give interim relief without the other side being heard and then, quite right, Mr Bovey would have to descend to the substance of the case, and what he'd say about that I have no idea.

G MR REYNOLDS: So, to be clear, my Lord, what I'm asking is, if my application fails on the technical procedural grounds that have been in the skeleton and were referred to, then I would ask you in the alternative to accept this as an application on its own, a standalone application.

H MR JUSTICE WILLIAM DAVIS: Yes.

MR REYNOLDS: And the defendant has had notice. They've seen the evidence that I have and so they're not disadvantaged or prejudiced by it.

MR JUSTICE WILLIAM DAVIS: Right. Anyway, that's your argument on that point.

MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: Yes, I see. All right. Anything more you want to say?

MR REYNOLDS: I don't think so.

MR JUSTICE WILLIAM DAVIS: No, all right. Yes. Well, I will hear from Mr Callus then.

A

Submissions by MR CALLUS

MR CALLUS: My Lord, you've got my submissions on paper and I don't imagine I need to go through them. It is technical grounds but there are actually good reasons why the part 8 procedure should be followed in harassment claims.

B

Mr Reynolds says that we're on notice. We're on short notice for this application. We'd get an awful lot more time to provide evidence in reply were this is a part 8 claim. Obviously there's the matter of issue fees being very different, but one of the reasons in a recent Court of Appeal case on harassment, *Levi v Bates*, the reason it took two years to reach the Court of Appeal was because the claim had been transferred from part 8 to part 7. Especially in the county court, whether or not the claim has been started in the right way and in the right place affects routes of appeal, it affects all of the procedure that follows and, as we see it, there would actually be prejudice in terms of enforcing cost judgments by keeping alive those proceedings in a claim that was never one of the original causes of action. We say that would cause us prejudice. That doesn't stop Mr Reynolds from issuing a part 8 claim should he so wish. That would be a bridge to cross. We say it would be inappropriate for the High Court to set a precedent by allowing it through application notice.

C

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I'm instructed that this was also reported to the police but was not crimed. The CPR are available --

MR JUSTICE WILLIAM DAVIS: Forgive my saying so, Mr Callus, that doesn't entirely surprise me.

E

MR CALLUS: No.

MR JUSTICE WILLIAM DAVIS: They would regard this as a falling out between people who once upon time were of like mind.

F

MR CALLUS: Which is what we say it is, and I think this --

MR JUSTICE WILLIAM DAVIS: It doesn't stop it being civil harassment.

MR CALLUS: It doesn't stop it being civil harassment. My point is that Mr Reynolds has other means of preventing harassment other than bringing an application in libel proceedings that have been shut out. So we say that --

G

MR JUSTICE WILLIAM DAVIS: Well, forgive me for interrupting, your position is there is in reality no extant claim here.

MR CALLUS: No.

H

MR JUSTICE WILLIAM DAVIS: In as far as there ever was an extant claim --

MR CALLUS: It want in this cause of action.

A MR JUSTICE WILLIAM DAVIS: -- it couldn't have been used as a means by which to obtain an injunction under the 1997 Act.

B MR CALLUS: No. You saw how obviously all of the powers under section 31 of the Senior Courts Act, if it were truly necessary, we just say it's not necessary. This is essentially a defamation claim dressed up as harassment. The majority of the publications indeed are not necessarily directed to Mr Reynolds, they are about Mr Reynolds, and for that reason we say it would be abusive to try and revive in harassment what was struck out in defamation.

So for the reasons that I've put in my skeleton argument, we say just on procedural grounds we think that this application has to be struck out.

C MR JUSTICE WILLIAM DAVIS: Yes, I see.

MR CALLUS: Unless there's any way in which I can assist you any further.

D MR JUSTICE WILLIAM DAVIS: What happens if Mr Justice X, or indeed Mrs Justice X, on 4 November gives permission to appeal and then, however long it is, a couple of months later, one hopes before Christmas, Mr or Mrs Justice Y allows the appeal and therefore the proceedings are back in train. Presumably even then you would say that the orders sought on this application notice would be inappropriate.

E MR CALLUS: The claim as it stand, with he would say that. If Mr Reynolds gets permission to appeal, if he succeeds in that appeal and his particulars of claim are restored, he could then make an application to add a further cause of action under harassment and then he would be entitled to make an application. But we say those are the steps that he has to go through if he wants to add it in these proceedings. But, as I say, there's nothing to stop him, except perhaps the costs of an issue fee and we would say good sense and proportionality, there's nothing to stop him issuing a part 8 claim in harassment, but we say it's not appropriate to bring it in these proceedings.

F MR JUSTICE WILLIAM DAVIS: Yes, I see. Yes.

MR CALLUS: For obvious reasons, I've not deigned to go into sort of the merits and I'm happy to if your Lordship would like me to, but our submissions essentially rest there.

G MR JUSTICE WILLIAM DAVIS: Yes, I see. Thank you very much.

Submissions in reply by THE CLAIMANT

MR REYNOLDS: The only point I'd make in relation to that, my Lord, is, as counsel correctly says, it's all been reported to the police and in fact the police have said --

H MR JUSTICE WILLIAM DAVIS: I'm really sorry, would you speak a little louder?

A MR REYNOLDS: I apologise. This was reported to the police, these latest incidents, and in fact Devon and Cornwall Police have confirmed that they will be issuing a formal written warning to Mr Bovey that he faces arrest if it continues. I know that this doesn't bind this court in any way whatsoever. I will simply return to my request that you might view this as a new stand alone application. If the pleadings need to be amended, my counsel will, I hope, be able to give proper attention to this in the next few days and certainly if this is struck out as it stands, then I know that we will be renewing it probably through the county court.

B MR JUSTICE WILLIAM DAVIS: Yes.

MR REYNOLDS: And I understand we can go back six years.

MR JUSTICE WILLIAM DAVIS: Sorry, renewing what?

C MR REYNOLDS: Well, if I fail in today's applications, then we will be making a new claim for anti-harassment injunction and damages and I understand we can go back six years.

MR JUSTICE WILLIAM DAVIS: Well, you can rely on events over the last six years.

D MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: Whether you can get an interim injunction based on events six years is rather less likely.

MR REYNOLDS: Well, if it is extant over six and a half year, but --

E MR JUSTICE WILLIAM DAVIS: Yes, all right. Yes. Thank you very much.

MR CALLUS: Thank you.

(The judgment followed)

F MR CALLUS: My Lord, there is a costs schedule which has been submitted. Perhaps in light of the part 71 hearing this morning, more in hope than in expectation, but we do seek our costs of today.

MR JUSTICE WILLIAM DAVIS: Yes. I see. I'm very sorry, I should have mentioned, Mr Reynolds, there's a second paragraph of your application which makes reference to the process there was this morning.

G MR REYNOLDS: Yes.

MR JUSTICE WILLIAM DAVIS: You didn't address it in argument and I hope you're mollified by the fact that there is no way in which publication could be made of that --

H MR REYNOLDS: I now understand, that my Lord.

A MR JUSTICE WILLIAM DAVIS: Yes, all right. Anyway, do you want to say anything about the costs of today, which --

MR REYNOLDS: I can't object to the defendant filing for costs of today. They already know from the examination on me which took place this morning that I'm not in a position to meet any costs bill in any event.

B MR JUSTICE WILLIAM DAVIS: Yes, I see. Well, I'm asked summarily to assess costs. I have been provided with a schedule, which to me appears to be entirely reasonable and I shall summarily assess the costs in the sum of £2,072.40.

MR CALLUS: Thank you, my Lord. Unless there's anything further.

C MR JUSTICE WILLIAM DAVIS: No. Thank you. You can both leave. Thank you very much indeed for your help.

(2.35 pm)

(The hearing concluded)

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