Neutral Citation Number: [2022] EWHC 2482 (Admin)

Case No: CO/3307/2021 and CO/3368/2021

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

33 Bull Street,
Birmingham, B4 6DS

Date: 5th September 2022

Before:

HIS HONOUR JUDGE TINDAL

- -

Between:

THE QUEEN ON THE APPLICATION OF ONYMOUS	**Claimant**
- and -	
MOJ	**Defendant**
THE QUEEN ON THE APPLICATION OF ONYMOUS	**Claimant**
- and -	
COMMISSIONER OF THE METROPOLITAN POLICE	**Defendant**

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THE CLAIMANT appeared In Person

MR ZANDER GOSS of Counsel appeared for the **Commissioner of the Metropolitan Police**

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APPROVED JUDGMENT

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2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP.
Telephone No: 020 7067 2900. DX 410 LDE
Email: info@martenwalshcherer.com
Web: www.martenwalshcherer.com

HIS HONOUR JUDGE TINDAL :

1. This is an application for oral renewal in claim number CO/3307/2021. The Defendant is the Ministy of Justice ('MoJ'). The Claimant, who represents themselves, is referred to in their correspondence as "Anonymous" or "AN Onymous" and at certain points has called themselves "aflukeskywalkerlookalikewhopreferredtoremainanonymous". For those reasons, I am sure it will be clear why I refer to them simply as the Claimant. I will also respect their wishes to be referred to with gender neutral pronouns.

2. From a GP's report dated 1 March 2019, has been diagnosed with Asperger's syndrome and according to Dr Langstaff, the Claimant:

> "Has an aversion to reciprocal social interaction and at times exhibits elective deaf-mutism. These symptoms lead to idiosyncratic clothing and behaviour, including concealing identity and wearing head coverings which conceal their facial features. It also leads to a compulsion to keep paperwork. They are regarded as disabled within the context of disability discrimination legislation and reasonable adjustments may therefore be necessary to accommodate their needs and preferences. Please note the provision of pen and paper will aid communication and it then provides an example of their handwriting."

Whilst the doctor does not specify this as a feature or an aspect of the Claimant's disability, for those reasons, the Claimant has appeared before me today covering their face and has also communicated entirely through handwriting. So, I asked my clerk (to whom I am very grateful) to write down what I was saying and the Claimant then read it and responded in handwriting.

3. The Claimant would doubtless say that this was a laborious process and that is the reason why they asked for LiveNote facility to be provided. For whatever reason, that facility has not been provided and I apologised to the Claimant.

4. This is directly relevant to the Claimant's claim for judicial review against the MoJ which I am currently considering. It essentially relates to the Claimant's challenge to the policies and practices of HM Court Service ('HMCTS') and, in their contended failure to make reasonable adjustments for the Claimant.

5. The Claimant has a history of litigation against a number of public bodies. They describe themselves as a conscientious objector and their communications are characterised not only by being in handwriting but by long and detailed and, if I may say so, articulate but not always entirely focused expressions of opinion and concern about the British State and the way in which it is run. The Claimant lives in Bath and is a regular litigant in their local main Court centre in Bristol. They have sued a number of public bodies all over the country and a number of orders have been made in Bristol.

6. In the course of all that litigation, the Claimant has become quite frustrated at what they consider to be the inflexibility of HMCTS procedures. At times, HMCTS has objected to the Claimant 'footnoting' Court forms. What I mean

by that is that rather than filling out forms in what might be considered the ordinary way, the Claimant prefers to use 'footnotes' to give what they consider to be the required amount of detail at certain points. So, for example, in the Claimant's claim form in this case, rather than filling out their name and address in the boxes for the purpose on that form, the Claimant has used numbers referring to another document, where under the same numbers they give their name and address - and so on in respect of all the different information on the Judicial Review claim form. I accept this is a 'management strategy' for the Claimant's disability, but is not always accepted by HMCTS.

7. Consistently with that, in the Claimant's claim form under the box to provide details of the decision to be judicially reviewed, the Claimant has written "14" and when one looks down to item '14' in the handwritten attachment, it says:

> "The decision I want the Court to review is actually twofold and it happens to be a decision that is notable by its absence, indeed objectionable because of its absent decision to allow yet more absences. Firstly, the MoJ or MoJ/Her Majesty's Court Service, HMCTS, has determined not to provide the Claimant with the letter with which they can better explain to HMCTS office staff why such claim forms as this very claim form are composed in the way they are, that this unusual deviation from the habitual and requested format is the result of the Claimant's disability and/or their conscientious objection and note that the two strands are tightly interwoven. See the Claimant's declarations to the DWP in 2005. This deviation and its causes can be far better assisted by the defendant if they simply write the Claimant a letter that they can place with any cover letter accompanying a claim form or fees remission. The Claimant has met such hostility at times that they have requested a letter (inaudible) but to no avail, indeed with no response. The Court is asked to determine the legitimacy of this ahead of any disability human rights contestation. Secondly, the defendant, as is the case with more and more government departments, has adopted a telephone and emails only advanced booking system which totally excludes the Claimant from any ability to make advanced bookings, the Claimant having an aversion to the British State as mentioned above."

8. The Claimant then goes on in some considerable detail over many pages, but that is the nub of their two challenges to HMCTS policy. Firstly, refusing to provide the Claimant with a letter authorising their completion of Court forms with 'footnotes' as a reasonable adjustment for their disability. Secondly, HMCTS policy to require telephone booking or email booking appointments rather than offering a walk-in service as use to be available. However, it is not explicitly said by the doctor in the 2019 GP letter that the Claimant has to communicate in handwriting due to his disability, nor that they are disadvantaged in booking an appointment by telephone or email.

9. So on the face of it, the two adjustments which the Claimant seeks in the HMCTS procedures are not adjustments which derive from a substantial disadvantage that the Claimant suffers by comparison to people who are not

disabled, which is the test in the Equality Act 2010. Be that as it may, when the matter came on on the papers before Dove J on 10 February 2022, he refused permission and made no order for costs for the following reasons:

> "The Claimant's first ground is that HMCTS have unlawfully failed to write a letter to them in relation to the issue of whether they can be permitted to complete Court forms using the technique which is described in the action, in the application. The Claimant is unable, in my judgment, to identify any public law duty requiring HMCTS to require a letter to them and therefore this part of the claim is not arguable. The second element of the claim is that it is unlawful for HMCTS to require the Claimant to book an appointment by phone or email or in advance of them attending at the public counter. I accept that there is medical evidence, including in the bundle the report from the Claimant's GP, which establishes that the Claimant has a disability which would affect them being able to use the telephone. That medical evidence does not, however, suggest the Claimant would be unable to use written forms of communication such as email. On the evidence presently before the Court, the claim is therefore not arguable. Permission must be refused for the reasons set out above. In the event that there is an application for renewal in this case, HMCTS must be joined as a party since the points raised by the Claimant are directed at them. I make no order for costs."

10. My first observation is that while Dove J took the view that the GP's letter implicitly 'establishes that the Claimant has a disability which would affect them being able to use the telephone', I would respectfully put it slightly differently. On my reading of it, the GP's letter establishes the Claimant has a disability that would affect them from undertaking reciprocal social interaction. It is not explicitly said to prevent the Claimant using the telephone, although clearly it is an understandable inference that this would be something that the Claimant may struggle to do.

11. My second observation is that Dove J said that if there is an application for renewal in this case, as there has been, HMCTS should be joined as a party since the points raised by the Claimant are directed at them. HMCTS have not been joined as a party for whatever reason. However, HMCTS obviously fall under the auspices of the MoJ, which has decided that it does not wish to attend and make any representations. That is the right of any defendant faced with an application for oral renewal in a judicial review claim. It would be inappropriate to summon the MoJ or HMCTS and insofar as HMCTS have not been joined as a party, that simply means that the Court does not have the benefit of HMCTS' views. The reality of the situation is the onus is on the Claimant at this stage to explain why this claim for judicial review is arguable and the claim must be taken at its highest in the absence of the representations from the MoJ or HMCTS. No one has asked me to, nor do I think it would be appropriate, to adjourn this hearing so to try again to join HMCTS as a separate party when its governing department the MoJ chose not to participate.

12. Against that background, I turn to my third observation on Dove J's reasons. I respectfully agree with them. I agree that HMCTS are not under a public law duty to provide a letter to authorise the Claimant to footnote Court forms, nor does their refusal disclose any form of irrational or unreasonable failure to make an exception. It is notable the Claimant's challenge is not to HMCTS rejecting footnoted Court forms (although I assume that has happened on occasion). Even if it were, it is not clear on what basis the Claimant would say it was unlawful for HMCTS to expect litigants to use Court forms in the way in which they have been designed to be used. That would not be a challenge on any of the classic grounds for Judicial Review

13. Doubtless, the Claimant would allege that a rejection of footnoted Court forms – or a refusal to supply a letter authorising them - was a failure to make a reasonable adjustment for their disability. However, in law a claim against HMCTS that it has failed to make reasonable adjustments is not the same as a claim for judicial review. It possibly could, I express no view on the point, constitute either a complaint against HMCTS (which I have seen the Claimant has done on more than one occasion), or secondly as a claim under the Equality Act 2010 against HMCTS as a public service-provider. However, such a claim for alleged breach of reasonable adjustments, is not in itself a ground for judicial review. Even if it were, as I have said, it is far from clear that the HMCTS policies in question – to require the 'ordinary use' of Court forms, or to require 'counter appointments' to be booked substantially disadvantage the Claimant by comparison to people without their disability.

14. Insofar as the Claimant's ground for judicial review is a complaint that HMCTS has failed to comply with its Public Sector Equality Duty under s.149 Equality Act 2010, in my judgement, after a shaky start, HMCTS has now given due regard to the Claimant's disability once it has been understood. Since the Claimant's challenge in September 2021, the HMCTS Cluster Manager for Avon and Somerset in January 2022 provided letters acknowledging the Claimant's disability to explain their appearance to facilitate admittance to Courts; and HHJ Lethem, of whom more later, has written a letter confirming that that Claimant can fill out Court forms with footnotes. For the same reasons, it now seems to me that the Claimant's challenge is essentially academic – HMCTS have done as the Claimant asked. It may have taken a while, but any problem has now been addressed.

15. The second element of the claim is that it is unlawful for HMCTS to require the Claimant to book an appointment by phone or email. However, even on the assumption that the Claimant is disadvantaged in using a telephone due to his disability (about which I am not convinced for the reasons I have given), as Dove J has said, that does not prevent the Claimant from sending an email. The Claimant's aversion to technology is manifest from the Claimant's voluminous handwritten correspondences in this case. Nevertheless, it is not said in relation to the Claimant themselves or in the GP letter that this is related to their disability. It appears to be a preference. In any event, even if the Claimant is disadvantaged by their disability in using email, it is open to them to arrange others to email, or indeed telephone if required.

16. I have a strong sense that this second challenge is less about the Claimant's – disability and more their generalised attack on the direction of travel towards greater use of technology in the Court system. Perhaps many litigants might have some sympathy with the Claimant's position. But that is the direction of travel and if the challenge is to HMCTS procedures generally, that is a challenge raising questions of resources and government policy which the Court is ill-equipped to adjudicate. Even if the challenge is narrowed down to focus on the Claimant's specific experiences of trying to book an appointment, whilst it is clear that HMCTS has not always been as good at responding to the Claimant's disabilities as it appears to be now, that is a far cry from finding there has been some form of unlawful conduct which breaches public law. The Court always takes seriously citizens' constitutional right of access to the Court *(*see *Unison v Lord Chancellor [2017] UKSC 51*), but the Claimant has hardly been denied or even impeded in access to Court. He is a serial litigant.

17. The Claimant's access has not always been as easy as they would like it to be. HMCTS' response to their correspondence is not always as helpful as they would like it to be but that is something which I can tell from the Claimant's own recent statement that HMCTS are now working hard on.

18. Therefore, I have come to the same conclusion as Dove J to refuse permission, as for the reasons I have given, the two claims the Claimant has brought in relation to HMCTS policy are not arguable, or alternatively not suitable for adjudication by this Court. This is notwithstanding the Claimant reacting to Dove Js' decision by refocussing their challenge onto reasonable adjustments in a very long oral renewal submission. I have taken those into account and addressed the Claimant's arguments already. I refuse the application for renewal. The no order for costs stands in relation to that application.

(For proceedings after judgment see separate transcript)

I turn to the second application for oral renewal, in case number CO/3368/2021 where the Defendant is now the Commissioner for the Police of the Metropolis (which I shall refer to as 'the Met'). As I have explained in dismissing the Claimant's claim against the MoJ, the Claimant has a disability and describes themselves as a conscientious objector against the British State. I add that one aspect of this stance is an objection to contributing financially (including taxes) to what the Claimant considers to be a failed political system. I also mentioned in addressing the Claimant's challenge to HMCTS Court procedures that the reason they are such a frequent litigant is that they bring claims against public bodies. The Met is one of them.

19. In the course of a claim against the Met in the Central London County Court, His Honour Judge Lethem on 24 August 2021 ordered the Claimant to pay the Met's costs of an application which he assessed as £2,844.42. On 14th September 2021, the Met's solicitors in that claim, Plexus Law, wrote to ask the Claimant to pay those costs. This was the prompt for the Claimant to bring this Judicial Review Claim against the Met on 4th October 2021.

20. For the reasons I have explained, the Claimant adopts a footnoting process in relation to Court forms. So in describing the details of the decision to be judicially reviewed, at footnote 14 the Claimant says this:

> "The decision I want the Court to review is the decision made by the defendant through their solicitor to demand Court costs from me. This decision was made or conveyed in a letter dated 14 September 2021 supplied with this claim form. This isn't the first time I have contested as a conscientious objector the lawfulness of my being instructed to pay the defendant, a State department and hence an agency. I have a strong conscientious objection to any Court costs. I consider the demand to make my cheque in the sum of 2,844.42 payable to Plexus Law or any other State agency an infringement of my Article 3 rights to be free from torture or, as is relevant to the specific incidents, degrading treatment or punishment. It is degrading of a conscientious objector to expect, let alone demand of them, that they subsidise the very State that they are opposed to, not least because the State is a serial abuser of people who don't have in favour of people who do have money."

21. Whilst the Claimant identifies the decision being challenged as that of a letter from the Met's solicitors, as is clear from this passage, their real objection stems from their 'conscientious objection' to paying costs to a public body, which would involve financial contribution to the state. In other words, the real target of the Claimant's challenge is not the Met's solicitor's letter, but the Court's underlying costs order that letter simply asks the Claimant to pay.

22. Indeed, after this Judicial Review claim was issued in October 2021, on 16th December the Claimant made an application in effect to vary the directions Judge Lethem made when ordering costs on 24th August. The Claimant sought to instruct an expert (apparently irrelevant to the claim), to be excused from providing medical records (despite seeking adjustments for their disability) and indeed to have the claim tried by a 'jury of anarchists', which sounds quite difficult to organise, quite aside from not being legally permissible because of the importance of selecting an impartial jury. Judge Lethem considered that application on the papers, dismissed it and certified it totally without merit. I should say that that is one of the threads which leads not only to the Met's resistance to the Judicial Review claim itself, but also to an application it has made for a Civil Restraint Order.

23. This Judicial Review claim came before Dove J on 10th February 2022 alongside the claim against the MoJ I have already addressed. Given the Claimant's real challenge in this claim is to the costs order, Dove J said this:

> "The Claimant contends, amongst other matters, that as a conscientious objector they should not be required to pay these costs. The principal difficulties that the Claimant faces is the decision under challenge is not one that is amenable to judicial review. Secondly, even if it were, I am unable to detect any basis upon which it can be challenged. Although the Claimant

> contends that the enforcement of the costs is a breach of Article 3, that is a claim which is without merit. The conduct of this case does not come anywhere close to engaging Article 3.
> Thirdly, an appropriate alternative remedy existed for the Claimant to challenge the award of costs by appealing against the order of the Central London County Court, albeit in the event it appears the Claimant did not take that course and by now an appeal would be out of time. It follows this claim is not arguable and permission must be refused. No order for costs.."

24. In a detailed application for oral renewal lodged at Court on 11th March, the Claimant essentially expands upon what they had said in the original claim form and responds to the observations of Dove J. It must be said that those grounds of renewal really read at times like an extended essay challenging the legitimacy of the British State. It again is very long, but this gives a flavour:

> "To the arguments of the judge, it has to be acknowledged how arbitrary it is to be living on this planet under British law. Most, 99 percent are not. Perhaps in a year or a decade or a century, 9 percent could be or 99.9 percent might not be. Freedom of movement is not an exclusively physical thing. We have the right to intellectually, emotionally, or spiritually disengage. That is what is being contested. Through the House of Commons at the moment a bill is being pushed to protect members of, or visitors to, a university to voice 'controversial or unpopular opinions without placing themselves as risk of being adversely affected'. Not only is the GCRO request an attempt to affront me, affect me adversely by barring me from the Courts but the defendant's general attitude to me over multiple years availing all requests on my part to address its previous failures with regard to my appearance and behaviour, this is sheer entrapment. Why would I agree to fund its continuation? Why would I continue to buy chocolates for such an abusive social led protector?
>
> As unpopular as it may be to hear it, the British State has a relationship with a British citizen akin to an arranged marriage mostly from birth which: (a) nowadays no one can argue one needs to find, no (?) thought to leave; and (b) it has an appalling track record. It's very much the tragedy squared that the British State is lurching towards a partition or multiple partitions most well deserved. That will only echo, revisit (?) that of India's (?) and why is this likely? Because it has no exit plan now and the one it latches onto in due course will be Brexit plus (?) bullets. Why couldn't the leavers or remainers just split? Why couldn't the 45 percent of Scottish pro independents take their share of the land? Why can't any group of British citizens just divorce the State and take their fair share?

> More pertinently to this claim, why should the victim of abuse have to fund the conduct of the abuser jailor? That there is no protocol, (inaudible) strategy in the (inaudible) of India, Palestine and Brexit, this is degradation and classic gaslighting style the powers, powerful gets to define the parameters. It was horseplay, it was just banter. Rome wasn't built in a day…
>
> Once a conscientious objection is raised and my first one to the DWP in 2005, that's the no fault divorce joker being played. It's not an invitation to engineer repeated wrongful arrests and assault admitted by the defendant and yet never compensated for. Rather like pouring gasoline onto a birthday cake Courtesy of officers, so-called public servants who refuse to read or write to someone trying to get them to do that in writing and today the defendant's barrister continues the trend. I've accepted their apology but still a judicial review request is for the State to recognise the socialism or barbarism dynamic taking place here. The Court recognises that conscientious objection exists though statute and (inaudible) is dotted about erected decades later, decades after the voices of reason are ignored or wrongly arrested. I can't really stress how fundamentally unjust it is that there is presently no provision for an amicable divorce here, in the USA, wherever. The lack of provision for separation is of itself the reason to conscientiously object."

25. I have read that out in full partly because it, in my mind, is an impassioned and articulate plea by the Claimant to divorce themselves, as they would put it, from the British State. But it also demonstrates that the real objection that the Claimant has to paying the Court costs that were ordered by Judge Lethem is because the Claimant would be funding the British State and, indeed, it is equally clear that whilst the challenge is directed to the defendant's letter, the real complaint is against the Court order itself. Indeed, in the light of the renewal and the grounds for renewal, it is plain that the Claimant is using this case as a vehicle or a platform in which to express his reasons for why he is a conscientious objector to the British State, as he puts it, why it is against his beliefs to express that position and, indeed, why it is against his beliefs to fund, however indirectly, the British State through payment of the costs order. That impression in the oral renewal is borne out by the written representations in similar form that the Claimant, at my invitation, has given me today.

26. Therefore, in my judgment, not only for the reasons that Dove J gave but also for those reasons that came out perhaps more clearly in the Claimant's oral renewal and the written representations they have made today, this claim for judicial review is essentially an abuse of process. It is a collateral challenge to the Court's costs order rather than an appeal, against it but it is being presented as something else: a challenge to the Met's letter seeking costs.

27. So, like the other Judicial Review claim against the MoJ, this one against the Met is not arguable and permission should be refused. However, unlike the

other claim against the MoJ, this claim appears to have little to do with the Claimant's disability and more an expression of the Claimant's political beliefs (although the Claimant has not argued those engage the Equality Act 2010 as 'philosophical beliefs'). For those reasons, I can be more direct about this Judicial Review claim and simply say it is totally without merit. At it is put in *Wasif v SSHD* [2016] EWCA Civ 82, there is a difference between an unsuccessful application for which some rational argument could be raised (such as the previous judicial review claim) and this case which is properly described as an unsuccessful application for which no rational argument could be raised. It was also legally bound to fail. For that reason, I refuse the Claimant's permission to claim Judicial Review in relation to the request for payment of the costs order and certify the claim as totally without merit.

28. I will now hear the Met's submissions as to why it seeks a Civil Restraint Order, which I will ask to be transcribed, so the Claimant can then respond to that application in writing in accordance with the order which I will give.

(For proceedings after judgment see separate transcript)

This judgment has been approved by the Judge.