

Neutral Citation Number: [2014] EWHC 2937 (Admin)

CO/3452/2007

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Thursday, 31 July 2014

B e f o r e:

LORD JUSTICE DAVIS

MR JUSTICE CRANSTON

Between:
GREGORY

Claimant

v

CITY UNIVERSITY LONDON & OTHERS

Defendant

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(Official Shorthand Writers to the Court)

The Claimant did not appear and was not represented

Mr P Gott, QC (instructed by Solicitors Regulation Authority) appeared on behalf of the
Interested Party

J U D G M E N T
(As approved by the court)

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1. **LORD JUSTICE DAVIS:** By the provisions of Rule 3.3 of the Civil Procedure Rules the court is empowered, broadly speaking, to make orders of its own motion. The court is further empowered by the provisions of Rule 3.11, which in effect incorporates the

provisions of practice direction 3C, to make a civil restraint order in the terms and on the bases there provided.

2. At the beginning of June 2014, the court wrote to Mr Kevin Gregory indicating that it was minded to make a civil restraint order against him with regard to various matters which had been before the court and which were the subject of a schedule which was in due course provided to Mr Gregory. He was given the opportunity to respond to this proposal at a hearing listed for 12 June 2014. In the event an adjournment was requested by Mr Gregory and was granted, the matter being rescheduled for re-hearing on 8 July 2014.
3. In the meantime, similar letters had been sent to entities closely connected with Mr Gregory, being Charles Henry & Co, which is the trading name of a charity called Legal Action, a company limited by guarantee of which Mr Gregory is currently a trustee, and Augustine Housing Trust, also a registered charity and also in respect of which Mr Gregory is currently a trustee. In the event, the hearing was scheduled for 8 July was further adjourned and has since been listed for hearing today before this court.
4. In the interim period Mr Gregory has again written letters to this court seeking an adjournment. Amongst other things, he said that he had been in communication with his legal expenses or indemnity insurers, who he says were asking for details which he claims he was unable to provide in the absence of further details being provided by the court itself. Notwithstanding a request from the court, Mr Gregory declined to name those insurers. In the event, and very courteously, those insurers have attended before us today, not to address us through counsel or solicitors or anything like that, but by Mr Court, and he has identified them as Plexus Law. We understand that they provide certain trustee indemnity insurance for Legal Action and Augustine Housing Trust, and also professional indemnity insurance for Charles Henry & Co, the trading name of Legal Action.
5. Yesterday and today, yet further letters have been received from Mr Gregory seeking an adjournment. Initially he had written on 25 July setting out why he wanted an adjournment and claiming that, in effect, he had not been provided with enough details enabling him to know the case he had to meet. We are entirely unimpressed by that. Mr Gregory, as we will come on to account, is a person well-versed in the ways of the law and of the courts. He has had the schedule, he has had the communications of the court, he knows perfectly well the case he has to meet respectively.
6. By letter dated 30 July, Mr Gregory wrote a further letter to the court saying:

"No disrespect is intended and I request that my attendance be excused as I am suffering from stress and anxiety because of this matter and will be seeing a doctor about my condition."

He then goes on to say that this has been compounded by, as he says, his fiancée having

received a distressing letter concerning the medical condition of their child.

7. Reasons for making his request, that is his request that he be excused from attendance, further included his assertion that he had not received various documents and other information. In his previous letters he also made a suggestion that his Article 6 and Article 14 rights were being violated or were at least engaged and he said that various other matters should be taken into account. He also said that he had been advised that various cases in the list had been "taken back" by the clients now acting in person. He also says:

"Moreover, again, I wish you to note that our insurers have said that they are unable to act for us in a representative capacity as they just do not know what this is about. I have not seen any orders mentioned in the schedule and have seen any documents in court in regard to this matter."

Mr Gregory repeats his suggestion that the court has not provided sufficient information to him, a suggestion which, speaking for myself, I would reject.

8. A yet further detailed letter, notwithstanding the stress and anxiety he claims to be suffering, was sent by Mr Gregory today. This now encloses a medical certificate. The certificate is from a medical practice in Romford. It is signed by a doctor, albeit he is not one of the partners named as being partners in the practice. It says that Mr Gregory is suffering from stress and anxiety. The certificate is dated 30 July but, perhaps rather oddly, the dates of incapacity are given as 31 July to 4 August.
9. In addition to relying on that, Mr Gregory in effect repeats his previous requests, which are to be taken as a request for an adjournment and not simply a request to be excused for his non-attendance, relying not only on his asserted ill-health but also making points about proposals that trustees, or new trustees, are being appointed in respect either of Legal Action or of Augustine Housing Trust or both; and it is said there has been no time for the trustees of Legal Action to convene the necessary meetings and, likewise, it is to be inferred, nor have Augustine Housing Trust. Various other points are made in support of his request for an adjournment of the hearing today.
10. So far as Mr Gregory himself is concerned, I am not impressed by these grounds for an adjournment. As I have said, he knows perfectly well the case he has had to meet. He has never, until very recently, suggested that he was suffering from any kind of medical incapacity such that he cannot attend. I am not persuaded that the materials he has now put forward are sufficient to warrant an adjournment and he has always been in a position to instruct, for himself, solicitors and/or counsel to appear on his behalf. I am not prepared to grant an adjournment so far as he is concerned.
11. So far as the two charities are concerned, the position does, in the light of what Mr Gregory says, potentially stand on a somewhat different footing: although I must say I have a degree of scepticism about what is said. However, so far as those two bodies are concerned, we do stand on a different footing; and, having regard to what Mr Gregory

has asserted and having regard also, as I will come on to say, to their somewhat lesser involvement in applications which have been certified as totally without merit, I think the right course is to adjourn this matter so far as they are concerned to a later date to be fixed. But that is not the position with regard to Mr Gregory, I repeat, and this hearing today will as against him therefore proceed and has proceeded. I should add that the names of Mr Gregory, as well as the names of the two charities, were called outside court and none has responded.

12. The background shortly put is this. Mr Gregory undoubtedly has had a longstanding involvement, both directly and indirectly, in legal disputes and litigation and, as I have already indicated, he is plainly well-versed in court proceedings. He has also been connected with various other entities or firms, including one for example called Mahoney Mea, which had acted in the context of litigation with which he has been connected. But I do not think I need dwell further on that particular aspect.
13. At all events, what did happen was that Mr Gregory in 2006 was required to appear before a panel of a Solicitors Disciplinary Tribunal in proceedings brought under s.43 of the Solicitors Act 1974. The Tribunal, after a hearing, decided on 17 July 2006 that no solicitor or other relevant practice should employ Mr Gregory without permission of the Law Society and subject to the conditions there specified. (I am not setting out the precise terms of the order made but that was broadly the gist of it.) It was found by the Tribunal, and again, I summarise, that Mr Gregory had falsely represented that he was a solicitor, or a trainee solicitor, or acting as a solicitor, although the Tribunal did not find that he had been positively dishonest in this regard. A further allegation found to be proved was that he had endeavoured to claim excessive legal costs in a particular case. Various other allegations were not ruled on for want of jurisdiction.
14. There was an appeal which came before a Divisional Court comprising Hughes LJ and Treacy J, as he then was. In giving the first judgment, which was dated 28 June 2007, Treacy J, with whom Hughes LJ agreed albeit adding certain observations, said this:

"26. I have come to the conclusion that the Tribunal was entitled to decide that a section 43 order was appropriate. I do not consider that it was wrong or unreasonable to have done so, even having regard to the mitigating circumstances it identified. The Tribunal was looking at an accumulation of conduct which led it to conclude it would not be desirable for Mr Gregory to be employed by a solicitor in connection with his practice. The reckless use of inappropriate descriptions of himself in allegation 1, coupled with the pursuit of the claim of costs which had never been the subject of any agreement, in circumstances where he used the vehicle of a solicitor's firm to pursue that unjustified claim against his former girlfriend, are capable of falling within the subsection. This is particularly so when the appellant had been party to the assignment to the solicitors, which is a document which appears to be highly questionable

and to contain one, if not two, material false statements, and when the invoice which was alleged to evidence the agreement between himself and his ex-girlfriend was also questionable in nature.

27. In the end, this was a matter for the Tribunal to assess. The level of misconduct on the part of the appellant was, to my mind, established, notwithstanding the fact that he had deluded himself into the impossible assertion which he put forward. The overall circumstances were such that a need was demonstrated, by reason of his conduct, for this individual to work under closer supervision if he is to work in the future in the employment of a solicitor. For those reasons, I would dismiss this appeal."

We understand that the s.43 order is still in force.

15. So far as Legal Action which uses the trading name of Charles Henry & Co is concerned, it is registered as a charity under number 1100780 and Mr Gregory is, as I have said, one of the trustees. It appears that the objects of the charity are, in effect:

"... To relieve impecunious persons by providing them with legal facilities, particularly in connection with a possible or actual claim or defence before a Tribunal in England and Wales for which they could not otherwise obtain by reason of their impecuniously."

16. It appears to be the case that, as a charity, Legal Action has the benefit, as it were, of operating by reference to s.23 of the Legal Services Act 2007 under the current transitional provisions. As a charity Legal Action is, it would appear, entitled to carry on reserved legal activities as defined and as such it is not regulated by the Solicitors Regulation Authority although is subject to the supervision of the Charity Commission. Mr Gott, QC has very helpfully appeared on behalf of the SRA before us today and has explained the general position: which has also helpfully been set out in a letter previously sent by the solicitors for the SRA to this court.
17. It thus seems that Legal Action as a registered charity is not required to conduct litigation with the authorisation of the SRA or to operate under its supervision or control. Further, it seems to be the case, and at all events I am prepared to accept for present purposes, that in so acting there is no infringement of the s.43 order made on 17 July 2006 insofar as it relates to Mr Gregory.
18. We have been told that the activities of Legal Action have been referred to the Charity Commission. This was, indeed, some years ago and it is somewhat disconcerting that even now, in the middle of August 2014, no firm or decisive action seems to have matured or accrued as a result: although it apparently has been said that an action plan has been proposed, albeit it may be that it has not thus far been complied with. It should perhaps also be added that it has been said that a number of individuals have been working as solicitors for Charles Henry & Co. Those solicitors do prospectively

come under the auspices of the SRA and we gather that letters have been sent to them requesting information and documentation. Those letters have not been productive. It is not necessary to go into further details today; but that remains a matter for the SRA to pursue as it sees fit.

19. Turning to Augustine Housing Trust, as we have said, that is a charity and Mr Gregory is one of the trustees. Its objects apparently include "relieving hardship, distress and need of those threatened with homelessness". Accounts for the last two years are overdue.
20. The schedule which has been provided and which has been sent to Mr Gregory as well as to Charles Henry & Co and Augustine Housing Trust show a great number of cases in which the names of Charles Henry & Co, Mr Gregory himself and Augustine Housing Trust appear and, in respect of which, numerous proceedings or applications have failed and sometimes badly so. A copy of that schedule is to be taken as appended to this judgment of mine. It also seems quite plain that Charles Henry & Co have on occasion been retained to act on behalf of the various parties named as claimants in the relevant proceedings.
21. There are numerous defects identified. These, amongst other things, include failure to comply with court orders, failure to provide proper updates to court staff on request, serious procedural deficiencies, and the like.
22. The terms of the practice direction, insofar as it relates to the power of the court to make a general civil restraint order, are set out in paragraph 4.1 and following of the practice direction. In the relevant respects, it provides:

"A general civil restraint order may be made by ... where the party against whom the order is made persists in issuing claims or making applications which are totally without merit, in circumstances where an extended civil restraint order would not be sufficient or appropriate."
23. Going through the schedule one can identify at least four cases in which Mr Gregory himself has been involved as party in claims or applications which have been so certified. The first can be taken as number 11 from that schedule. These were proceedings under title heading CO/8279/2006 and the defendant was the Department of Constitutional Affairs. By those proceedings, putting it shortly, Mr Gregory sought permission to challenge what he said had been a decision dated 10 July 2006 by the Department in response to an e-mail sent relating to s.43 of the Solicitors Act 1974. It is not necessary to go into details. Suffice it to say that the application was refused by Gibbs J on the papers on 27 February 2007 and certified as totally without merit, the judge saying that the Department's letter had not been a decision even amenable to judicial review.
24. There is then another matter, which is number 38 on the schedule. Again, Mr Gregory was the party and the defendant there was the Press Complaints Commission. Sullivan

J refused permission on the papers and certified as totally without merit on the 12 October 2007.

25. More recently, this is number 51 in the schedule, an application was made in proceedings of which Mr Gregory was party, the defendant being the Commissioner of the Police of the Metropolis. It was refused by Swift J on 11 June 2014. This related to an appeal against the decision of Master Yoxall not to grant an application for a jury trial in proceedings against the Metropolitan Police in which Mr Gregory was alleging false arrest and malicious prosecution. The application notice was refused by the judge as totally without merit was an application notice seeking to stay an appeal and pending proceedings in other cases.
26. Then, number 52 on the schedule, in proceedings brought by Mr Gregory against a Mr Benham and others on 10 June 2014, Swift J refused an application notice corresponding to the previous one and, again, certified as totally without merit.
27. It may be noted that these applications and proceedings involved a broad range of litigation against various differing parties. This also, in my view, is to be put in the background of Mr Gregory's extensive involvement, either directly or indirectly, in an amount of other litigation which had come to grief.
28. I should add that, in a number of instances, proceedings or applications have been dismissed as totally without merit involving an individual called Mr Keith Gregory. There has been some suggestion by a High Court Judge in a previous case that Mr Keith Gregory is one and the same as Mr Kevin Gregory. Mr Kevin Gregory has disputed that: although of course he has not been before us to explain himself on this. In the circumstances, for present purposes I proceed on the footing that Mr Keith Gregory is not to be quoted with Mr Kevin Gregory, although there may hereafter need to be a degree of enquiry as to that.
29. In my view the materials available indicate that this is a proper case for making a general civil restraint order against Mr Gregory. The facts and the schedule speak for themselves. He has persisted over a very lengthy period of time in issuing claims or making applications of various kinds which are totally without merit. He was doing that in 2007, he has been doing that in the course of this year. Plainly, in my view, the circumstances are such that an extended civil restraint order would not be sufficient or appropriate. In my view, therefore, it is appropriate to make a general civil restraint order against Mr Gregory in the terms as provided for under the Rules. Any application for permission in consequence thereof should be directed to Cranston J, I propose, as the nominated judge. So far as Augustine Housing Trust and Legal Action are concerned, as I have indicated, I would adjourn the matter for a later date, pending developments in their obtaining new trustees as Mr Gregory has indicated will occur.
30. I would only add this. Mr Gott has reminded the court that there are of course various other powers and remedies available to various bodies with regard to conduct and activities of the kind which seem to be evidenced here. But, for today's purposes, this

court is only concerned with its powers to make a civil restraint order as previously notified to Mr Gregory. I would make an order accordingly.

31. MR JUSTICE CRANSTON: I agree.