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IN THE HIGH COURT OF JUSTICE
SENIOR COURT COSTS OFFICE
[2022] EWHC 1609 (SCCO)



No. SC-2021-APP-001507

Thomas More Building
The Strand
London, WC2A 2LL

Friday, 11 February 2022

Before:

SENIOR COSTS JUDGE BROWN

B E T W E E N :

STEVEN MLUNDIRA

Claimant

- and -

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

MR J. TRUSSLER appeared on behalf of the Claimant.

MR D. O'CONNOR appeared on behalf of the Defendant.

J U D G M E N T

(via Microsoft Teams)

(Please note this transcript was prepared without the aid of documentation)

THE SENIOR COSTS JUDGE:

- 1 I am now asked to assess the costs. As I have already said, I do have some sympathy for a litigant in person facing an order which made costs subject to detailed assessment proceedings. I believe that I have addressed that matter. The difficulty I have already addressed however is that notwithstanding the defects/problems with the Bill were pointed out to Ms Okedia, I think, in emails, the claimant continued to maintain his claim initially and not to engage with the defendant about the defects. In this matter he has raised a large number of other things, including a misconceived application.
- 2 Various allegations have been made, which Mr Trussler – who has been here providing me with nothing but genuine assistance in very difficult circumstance – I should say, says are really somewhat extraneous to the issues that are at large or in issue. There is, it seems to me, something in that. There is something in also the point that some of the work supposedly wasted is not truly wasted because it was used in relation to the points of dispute.
- 3 However, nonetheless, notwithstanding the offer/s of an attempt to compromise it or a way forward, these were rejected and my concern is, as Mr O'Connor pointed out, by insisting that points of dispute were served, as indeed was the case, the defendant was then exposed to the possibility that the claimant might apply for a default costs certificate. This was not, in other words, a party saying that it did not understand, that it needed some assistance. Further, a wholly misconceived application has been made.
- 4 My view, nonetheless, is that whilst I do think some significant costs have been incurred by the defendant with multiple witness statements and the like, the sheer amount of time spent in relation to what seems to me an utterly simple and straight forward issue does seem to me disproportionate and unreasonable, in part. I have to, however, make allowances for the fact that this application, by reason of (inaudible), has been much more strenuously fought on both sides really than might have been anticipated.
- 5 I think the appropriate award to make is £1,800 inclusive of everything before the application of the 20 per cent. I do think ultimately, notwithstanding all those matters, the costs are disproportionate to a straightforward matter, time spent on bundles and that sort of thing, witness statements and the like, and skeleton arguments and the like, when the issues are really relatively straightforward.
- 6 That is my final order. I am not proposing to make those costs payable now. So I will defer any enforcement or payment in relation to those costs until resolution of the costs payable in the detailed assessment proceedings but it will be 80 per cent of the figure that I have given you.

MR TRUSSLER: 14-40, sir.

MASTER BROWN: 14-40. Thank you very much, Mr Trussler, and I take it Mr O'Connor does not disagree with that figure.

MR O'CONNOR: No. No, that is correct.

L A T E R

- 7 I am not going to grant permission to appeal. I recognise, as Mr Trussler has quite rightly said, that feelings run high in relation to this and that is, perhaps, entirely understandable. However, I have to consider here the stance that was taken in these costs proceedings. To my mind, notwithstanding no strikeout order was ultimately made, the question I have to ask is was it reasonable to make an application of that sort. To my mind, it plainly was because of the threat of a default costs certificate with all its uncertainties.
- 8 Anyway, I am going to refuse permission to appeal and that is my decision.
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CERTIFICATE

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This transcript has been approved by the Judge.