Neutral Citation Number: [2023] EWHC 2018 (KB)

Case No: QB-2021-003315

IN THE HIGH COURT OF JUSTICE
KINGS'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 2 August 2023

Before:

BRUCE CARR KC
(Sitting as a Deputy Judge of the High Court)

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Between:

GODSTIME BASSEY IDNEKPOMA	**Claimant**
- and -	
AMAZON UK SERVICES LIMITED	**First Defendant**
PMP RECRUITMENT LIMITED	**Second Defendant**

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Judgment

Addendum to Judgment handed down on 15 June 2023

This judgment was handed down remotely at 10.30 am on 02 August 2023 by circulation to the parties or their representatives by e-mail and by release to the National Archives

Introduction

1. Following the handing down on 15 June 2023 of Judgment in this matter on the Claimant's application to set aside the consent order that he had entered into with PMP, Eversheds, solicitors acting on behalf of Amazon UK Services Limited ("**Amazon**") wrote to the Court on 19 June 2023 making a number of observations relating both to this Judgment and consequential orders and the steps that had been taken in compliance with the Order made on 25 November 2022 ("**the November 2022 Order**"). It is clear from the contents of the Eversheds letter, that significant parts of the Order made on 15 June 2023 ("**the June 2023 Order**") were made in error and in ignorance of the steps that had in fact been taken in compliance with the November 2022 Order. It was also made without having sight of the further letter of 13 June 2023 sent to the court by Eversheds in which they had noted that they had received no communication relating to the consequential orders that were set out in the November Order, particularly on the issue of costs and the making of a Civil Restraint Order ("**CRO**"). For those reasons, I will revoke those parts of the June 2023 Order which on their face applied to Amazon or required Amazon to take action in these proceedings.

Compliance with the November 2022 Order – the Claimant's response

2. Under paragraph 3 of the November 2022 Order, I directed that, within 14 days of the hand-down date, the Claimant should provide written representations as to first, why a CRO should not be made (and/or as to the terms of any such order) and secondly, as to why he should not pay Amazon's costs of the applications it made to strike out the Claimant's substantive claim and his subsequent contempt application. Amazon was directed to provide its response within a further 14-day period, with the Claimant being given the opportunity to respond, again, within 14 days thereafter. The intention was then that I would consider any representations that had been made before making any further order either as to costs or a CRO itself. When I handed down Judgment on 15 June 2023, on the Claimant's further application to restore PMP, to the proceedings, I did so in the incorrect belief that none of the steps contained in the November 2022 Order and that the only response to that order appeared to be that the Claimant had issued his application relating to PMP.

3. In fact, the correct position is as follows:

- On each of 25, 26, 27 and 28 November 2022, the Claimant sent a series of emails to the Court.
- In his email of 25 November 2022, the Claimant stated that his "response to paragraph 3 of the order" was "DUTY of care by defendant" and stating that:

> "The court really don't need to pursue restraint order because I am exhausted. I won't be disputing anything the court or judges say moving forward as I really have decided in focussing on my peace and health by taking time for myself and those I cherish most in life…….The order may have come as a shock but after few hours I actually felt liberated and I think this is a sign that this case although my answers may not be answered and my lost earnings not retrieved but still I will sleep well each day knowing I tried to look for answers to why I had to be deceived into an unknown term of employment."

- In his email of 26 November 2022, in an apparent change of heart overnight, the Claimant stated that he should not be required to pay Amazon's costs as he was making an application "to void the agreement we had due to being induced by misrepresentation. PMP

Recruitment should be liable for amazon cost as amazon admitted it agent lied to me by making false promises. (sic)"

- In his email of 27 November 2022, the Claimant made reference to the fact that he had made the application to set aside the consent order that he had entered into with PMP, claiming (again) that that order had arisen as a result of a misrepresentation. The application to set aside, completed by the Claimant on 27 November 2022 and stamped by the Court on 9 December 2022, sought to both set aside the consent order with PMP and add PMP as a second defendant to these proceedings. I dealt with this application in the judgment handed down on 15 June 2023;
- In his email of 28 November 2022, the Claimant stated that "as soon as the consent order is set aside and the court decide (sic) not to put a civil restraint order on me I will be making an application to add a claim of defamation against both defendants."

Compliance with the November 2022 Order – Amazon's response

4. Amazon duly responded on 21 December 2022. Their Skeleton Argument dealt with both the CRO and the issue of costs. As to the CRO, Amazon made the following points:
    a. The Court should, at the very least, make an Extended Civil Restraint Order ("**ECRO**") pursuant to CPR 2.3(1)(b) – it was said that the threshold for making such an order had been crossed as represented by:

- The underlying High Court claim against Amazon filed on 20 October 2021 which was dismissed under the terms the November 2022 Order; and
- The Claimant's application for contempt made against Amazon on 10 May 2021 which was dismissed under the terms of the same order; and
- The Claimant's claim against Amazon in the Employment Tribunal ("**ET**") which was dismissed by Regional Employment Judge Taylor ("**REJ Taylor**"). In her written reasons, REJ Taylor had described the Claimant's conduct in bringing the proceedings in the ET as being "scandalous, unreasonable and vexatious".

    b. The Claimant posed a high risk that, if unrestrained, would issue further claims or applications – as to the latter, Amazon referred to the application that the Claimant had issued on 26 November 2022, to have set aside, the consent order with PMP as well as his email of 28 November 2022 in which he had said he would be adding "a claim of defamation against both defendants."
    c. The making of a Limited Civil Restraint Order ("**LCRO**") would be inadequate as it would only extend until the current proceedings have ended. Given the length of time that the Claimant had been litigating against Amazon, a General Civil Restraint Order ("GCRO") should be considered;
    d. In support of that submission, Amazon noted that it had been involved in litigation with the Claimant for nearly 4 years, in circumstances in which he had worked for it for a period of only 8 weeks ending in December 2018. It also observed that the Claimant had made "very serious allegations of forgery, corporate conspiracy and a bizarre (and completely unfounded) allegation that

"amazon managers had developed a habit of humiliation black Africans with EEA right"";

e. A further justification for a GCRO was said to be that an order "restraining the Claimant in respect of certain courts and certain claims is probably not going to be sufficient since the Claimant has already demonstrated, by his behaviour, that he tends to bring any and every claim that occurs to him in any venue that he can."

5. Turning to the question of costs, Amazon's submissions were as follows:
   a. Amazon was the successful party to the litigation and the Claimant was the unsuccessful party;
   b. The Claimant's conduct certainly justified an award of costs on the standard basis – his conduct possibly justified an award on an indemnity basis but this was not being pursued;
   c. The Claimant should therefore be ordered to pay its costs of both strike out applications (ie. the substantive claim and the contempt application) on the standard basis;
   d. The costs claimed – solicitors fees of £88,746.23 and counsel's fees of £33,955.40 were proportionate and reasonably incurred;
   e. The reasons advanced by the Claimant for not making an award of costs, namely his 'exhaustion' and 'anxiety' together with an assertion that PMP should pay Amazon's costs, were not in fact reasons why he should not have an award made against him;
   f. The Claimant had refused to engage with Amazon's reasonable attempts to settle his claim – Amazon provided a clip of without prejudice correspondence to support that assertion - and did not give consideration to any realistic settlement proposal.

Compliance with the Order of 15 June 2023 – the Claimant's response

6. Following the handing down of my judgment on 15 June 2023, the Claimant provided a further email dated 15 June 2023 with written representations attached in which he set out his position on costs and the making of a CRO as follows:
   a. He had now made an application "to add cordant people, and Mr Jamie Reynolds as they were the people with significant amount of control at the time of MR Ashwin their representee deliberate act of fraud, and at the time of my alleged fraudulent employment with the company **03485614**"
   b. He was in court "due to a fraudulent misrepresentation by MR Ashwin Vara of PMP recruitment now of Challenge TRG recruitment……..My stance is I was deceived into the temporary role with the promise of a permanent job and amazon even admit to support my claim that pmp recruitment did lied to me" (sic)
   c. He then set out lengthy submissions asserting that based on the judgment of REJ Taylor in his ET claim "**I STILL REMAIN AN EMPLOYEE OF PMP RECRUITMENT NOW CHALLENGE TRG RECRUITMENT.**" In the course of his submissions, he made repeated reference to the Grounds of Resistance that had been filed by PMP in the ET."

7. On the same day, he sought to issue yet another application in these proceedings, notwithstanding that his claims against Amazon had been dismissed under the terms of my order dated and his claims against PMP had been compromised under the terms of a

consent order which he had unsuccessfully applied to have set aside. The next day, 16 June 2023, he sent a further email to the Court stating as follows:

> "Please disregard my previous application form as I have just discovered the companies my employers were hiding under to commit fraud against me are now dissolved which means I have to catch them individually for the act of fraud. These individuals are my alleged employers and they all should be served."

8. The Application Notice, which was date stamped by the Court on 20 June 2023, names 4 individuals in respect of whom the Claimant invites the court to "add both defendant to ongoing proceedings" – without of course recognising that, save with regard to costs and a possible CRO, the proceedings are not ongoing. He stated (in box 10 of his application) that:

> "Cordant people limited was the person with significant amount of control of the company which fraudulently promised me a job and also the company whom have deceived the employment tribunal by stating I was still an employee. I believe I was a victim of fraud and MODERN-DAY slavery.
> I have been looking for my alleged employers in proceedings and I have finally caught them!!!!!!!!!!!!!"

He then listed no less than 13 names of those who he presumably was claiming to be his employers.

9. On 18 June 2023, the Claimant appears to have issued yet another application, this time listing 5 names as Defendant's to his application and seeking "permission to bring a claim of contempt against defendant." Despite having recorded 5 names in his application form, he described – at Box 10 of the form – the basis of that application as being:

> "THE THREE DEFENDANT (sic) HAVE PRODUCED STATEMENTS BOTH WRITTEN AND VOCAL STATEMENT THAT HAVE INFLUENCED PROCEEDING.
> All defendant (sic) have lied in their statement. They have all allegedly corrupted the administration of justice."

10. In a further email sent to the Court later on 18 June 2023, the Claimant wrote as follows:

> "I believe with my response to the order there should be enough evidence for the judge to ask my horrible employers to release all the money they owe me which is £105,600 from 2019 to present…….
> Considering the amount is more than £50,000 I would like to know if I should make a separate application to the high court or the judge could consider this asap. As we all know this is not an award but an assets of mine illegally seized by my employers or slave masters.
> ……..

> They have made me redundant illegally for those years and I have just calm down gently but I have now decided to go after my legal right since they know to be masters of illegal activities."

11. On 29 and 30 June 2023, the Claimant sent a series of emails to the court as follows:

- At 13.16 on 29 June, he wrote raising a concern about whether his written representation of 15 June 2023 (referred to above) had reached the court and suggesting that he feared that PMP:

> "may have people hijacking and deleting my responses and writing to the judge. This is not my accusing the court of any wrongdoing, I'm just being careful considering both defendants are without any care or any fear by indirectly admitting to corrupting the employment court proceeding with their produced fraudulent p.45."

- At 05.36 on 30 June, he wrote as follows:

> "First, I will like to apologise for outburst and plead for the court to have mercy on me. I am ready to move on with this case and will be happy with any decision to court decide it's fair.
> ……..
> I have decided to accept my fate because I have actually been acting like the court owe me something or is obliged to help me. It's still a civil matter at the end of the day and the court as I have read will not take any side.
> ……
> The claims may not go my way and the first defendant may get their cro application but I will always be proud looking back I made top Lawyers sweat their pants defending a cause they know fully well their clients would all be in prison if it wasn't classified civil.
> I thank the court for its patience with me, and also tolerating my outburst. I am ready to move on."

- At 10.36 on 30 June, he wrote suggesting that a CRO "won't be fair" and suggesting that Amazon should:

> "pay for all my losses. And it's very heartless of them to even try applying for that cro. Very very heartless and the court should increase my loss by %25 for their inhumane heartlessness."

12. On 1 July 2023, the Claimant issued yet another application – this time he sought an injunction against Amazon requiring them to pay:

> "……all the damages I have sustained from its agent's fraudulent misrepresentation already agreed to be known by defendant (sic) in this proceeding."

13. The terms of the order sought included that "the defendant be ordered pay (sic) me the amount of £25,000,000 for traumatising me."

14. In addition, in yet another application notice, stamped by the court on 4 July 2023, the Claimant purported to make an unspecified application under Part 8 CPR for an injunction, the terms of, and grounds for making, were not set out anywhere in the application, nor even was the name of the Defendant to the application.

The Legal Framework

15. Turning to the legal framework, and dealing first with the Court's power to make a CRO:
    a. Under CPR 2.3, there are three possible options open to the Court:

- An LCRO which prevents the making of further applications in existing proceedings;
- An ECRO which restrains a party from issuing certain claims or making applications in specified courts; and
- A GCRO which restrains a party from issuing any claim or making any application in specified courts.

    b. The threshold for the making of a CRO, is that the conduct of the relevant party must properly be categorised as "vexatious or abuse; obsessive persistence; and the refusal to take no for an answer" as opposed to "getting things wrong" - per Nicklin J in *Churchill Limited v The Open College Network [2018] 3 EWHC 1691* at paragraph 16.
    c. In *Nowak v NMC [2013] EWHC 1932*, Leggatt J (as he then was) identified (at paragraphs 63-70) a three-fold test for the making of a CRO as follows:

- Has the litigant persistently issued claims or made applications which are totally without merit?
- Does an objective assessment of the risk which the litigant poses demonstrate that, if unrestrained, he will issue further claims or make further applications which are an abuse of the court's process?
- What order, if any, is necessary and proportionate to protect the court's process from abuse? This question should be approached by asking the question "what is the least restrictive form of order shown to be required?"

16. Further assistance is to be found in the relevant Practice Direction – PD 3C.21 – which applied where the court is consider whether to make an order in the form of one of the three options outlined above. In particular, it indicates that:
    a. An LCRO may be made where a party has made 2 or more applications (in the same set of proceedings) which are totally without merit;
    b. An ECRO may be made where a party has persistently made claims or made applications which are totally without merit. "Persistently" is generally recognised as meaning on at least 3 occasions – see *Sartipy v Tigris Industries Inc [2019] IWLR 5892*, per Males LJ at paragraph 28;
    c. A GRCO may be made only where a party has persistently issued claims or made applications which are totally without merit and the circumstances are such that an ECRO would not be sufficient or appropriate. This will tend to be the case where there is evidence of a litigant making allegations across a range of claims and, following the judgment of the Court of Appeal in *R(Kumar) v Secretary of State for Constitutional Affairs [2007] 1 WLR 536* (per Brooke LJ at paragraph 60):

> "..adopting a scattergun approach to litigation on a number of grievances without necessarily exhibiting such an obsessive approach

> to a single topic that an extended CRO can appropriately be made against him/her".

17. Also relevant to this addendum judgment are the provisions of CPR 3.3(4) which gives the court the power to make an order "of its own initiative without hearing from the parties or giving them an opportunity to make representations." In addition, CPR3.3(7) provides that:

> "If the court of its own initiative….dismisses an application and it considers the application is totally without merit
> (a) the court's order must record that fact; and
> (b) the court must at the same time consider whether it is appropriate to make a civil restraint order."

The Claimant's most recent applications

18. Based on the contents of his email of 16 June 2023 (timed at 03.39) I treat the Claimant as having withdrawn his application of the previous day, relying instead on the application form attached to that email. That application – which seeks to join four named individuals (or possibly as many as 13) as additional Defendants to the proceedings, is wholly without merit and I dismiss it pursuant to the case management powers contained in CPR 3.3(4). The Claimant will not, on the face of it, move on from the fact that his claims against Amazon have been dismissed, as has his attempt to have TMP reinstated to these proceedings through his application to have set aside, the consent order that he freely entered into with them.

19. The same goes for the Claimant's application of 18 June – it is again totally without merit. As are the Claimant's applications of 1 and 4 July 2023 which I again dismiss for the same reasons.

Should a CRO be made?

20. In these proceedings alone, the Claimant has made the following applications, all of which I have dismissed and all of which are, in my view, wholly without merit:
    a. His contempt application dated 1 February 2022, which was dismissed under the terms of the November 2022 Order;
    b. His application to have the consent order against TMP set aside which was dismissed under the June 2023 Order;
    c. His application of 16 June 2023 which I have dismissed as set out above pursuant to CPR3.3(4);
    d. His application of 18 June 2023, which I have dismissed on a like basis;
    e. His application of 1 July 2023, which I have again dismissed on a like basis;
    f. His application of 4 July, which is the last of the four applications dismissed under the terms of the order that I make pursuant to this addendum judgment.

21. In addition, under the terms of the November 2022 Order, I struck out the Claimant's claims against Amazon as disclosing no reasonable grounds for bringing such claims and as being totally without merit.

22. The Claimant's persistence, as evidenced by his repeated attempts to secure sums of up to £25,000,000 against those that he feels have wronged him based on the short period of his engagement with Amazon between October and December 2018, approaching five years ago, demonstrate in my mind that the first test as set out in *Nowak* is clearly satisfied. He has brought proceedings and/or made applications which are entirely devoid of merit.

23. Turning to the second *Nowak* test, given the frequency of his applications and his apparent inability to accept judgments of the Court and move on with his life, coupled with ever more desperate attempts to add yet further Defendants to his claim, in my view clearly demonstrates objectively that there is a real risk that, unless restrained, he will continue to abuse the court's process. The threshold conditions for the making of a CRO are therefore clearly satisfied and the remaining issue for me is the third *Nowak* consideration, namely what is the least restrictive order that I can properly make.

24. As to that, the frequency of his unmeritorious claims and applications is such that the threshold of persistence for an ECRO is clearly met. However, given that the Claimant's focus in these (and other related proceedings which he has brought in the Employment Tribunal) has at all times been on his alleged treatment based on his engagement with Amazon, I do not think that there is sufficient evidence of a "scattergun" approach based on a range of grievances. His approach has clearly been obsessive but at the same time focussed on single topic. I will not therefore make a GCRO but will limit myself to making an ECRO.

25. The question then arises as to the length of such an order. In the particular circumstances of this case, I take the view that an order for the maximum period is appropriate and should apply so as to restrain the Claimant for issuing claims or application in any court which involve, are related or touch upon or lead to these proceedings.

Costs

26. I turn to deal with the issue of costs. There are two sets of costs that need to be considered – firstly, Amazon's costs of the proceedings that culminated with the November 2022 Order. Secondly, PMP's costs of resisting the Claimant's application to have them reinstated to the proceedings and which culminated in the June 2023 Order.

27. As to the former, I accept the submissions that have been set out in writing on Amazon's behalf and to which I have referred above – Amazon was the successful party at the hearing before me in October 2022 and is entitled to its costs. I am also prepared in this case to make a summary assessment of costs notwithstanding the fact that the hearing which led to the November 2022 Order lasted more than one day. However, in doing so, I am conscious of the fact that the Claimant acts in person and will not have the necessary tools at his disposal to make any sort of effective challenge to the figures claimed by Amazon. Equally, I see little benefit in forcing him to engage in a detailed assessment, a process to which I suspect he would not be able to make any sort of meaningful contribution. With those considerations in mind, it seems to me that I should err on the side of caution when assessing the figure to which Amazon should be entitled and in doing so, I come to the conclusion that they should be limited to the sum of £90,000.

28. As to PMP's costs of the application to have the consent order set aside, they are the successful party and are entitled to their costs. At the hearing on 20 February 2023, they submitted a Statement of Costs which claimed a total of £18,682.10. Under a summary assessment, I take the view that the figure of £14,000 should be awarded against the Claimant for the costs of that hearing.