



20 December 2021

Press Summary

Her Majesty's Attorney General (Respondent) v Crosland (Appellant) [2021] UKSC 58 *On appeal from [2021] UKSC 15*

Justices: Lord Briggs, Lady Arden, Lord Kitchin, Lord Burrows, Lady Rose

Background to the Appeal

Mr Crosland disclosed the outcome of a judgment of the Supreme Court to the public while it was still in draft and subject to embargo, knowing that such disclosure was prohibited. He had formed the view that it was misleading and that breaching the embargo would generate a higher level of publicity for his complaints. The Attorney General made an application to the Supreme Court alleging that Mr Crosland had acted in contempt of court. On 10 May 2021, a three-justice panel of the Supreme Court (the “**First Instance Panel**”) found Mr Crosland in contempt of court and imposed a fine of £5,000 and ordered him to pay a proportion of the Attorney General’s costs.

The following issues arise. First, whether the Supreme Court has jurisdiction to entertain an appeal against orders of the Supreme Court acting as a court of first instance in the exercise of its contempt jurisdiction. Second, whether the First Instance Panel was correct to hold Mr Crosland in contempt of court and to order the amount of costs that it did.

Judgment

Jointly, Lord Briggs, Lord Kitchin, Lord Burrows and Lady Rose (Lady Arden dissenting) find that the Supreme Court has jurisdiction to hear this appeal. Mr Crosland’s appeal is unanimously dismissed on the merits.

Reasons for the Judgment

Jurisdiction

The majority holds that section 13 of the Administration of Justice Act 1960 gives a right of appeal from an exercise by the Supreme Court of its contempt jurisdiction, acting at first

instance. Section 13 gives such a right of appeal from any court (subject to irrelevant exceptions) and expressly includes the Supreme Court within the meaning of 'court'. It is not a conceptual impossibility to appeal from one panel of the Supreme Court to another larger panel. ([30]-[53])

Lady Arden considers that the Supreme Court does not have jurisdiction under section 13 to hear Mr Crosland's appeal. She considers that the Supreme Court has inherent jurisdiction to review an order should it consider that there has been an injustice of a particularly serious nature. The threshold of seriousness is not passed in this case and the inherent jurisdiction should not be exercised. ([96]-[136])

Merits

The First Instance Panel made no material error in their consideration of the factual context of Mr Crosland's actions. They were right to find that Mr Crosland's conduct amounted to a criminal contempt of court. While the embargo and finding of contempt interfered with Mr Crosland's right to freedom of expression under Article 10 of the European Convention on Human Rights, that interference was justified within the terms of Article 10 because it was prescribed by law and was in pursuit of a legitimate aim. It was also proportionate because it did not prevent Mr Crosland from expressing publicly his disagreement with the judgment at any point after its hand down. (The majority [54]-[77]; Lady Arden [138]-[147]; [148])

The First Instance Panel was an independent and impartial tribunal and there was no apparent bias. The decision to bring proceedings for contempt was taken by the Attorney General, not by the Supreme Court itself. Further, the First Instance Panel did not include any of the justices who sat on the appeal relating to the judgment which was disclosed. (The majority [78]-[86]; Lady Arden [149]-[150])

The Attorney General was not in breach of any obligation to Mr Crosland by failing to disclose to him that the Government may have been in breach of a court embargo in July 2020. That related to a separate case and was not relevant to Mr Crosland. (The majority [87]-[89]; Lady Arden [151])

The ruling on costs was not oppressive or unjust. The award of costs is a matter for the discretion of the First Instance Panel and they made no error of legal principle which would warrant setting aside their order. Nor did the court give reason to Mr Crosland to believe that costs would be decided in accordance with the rules for criminal proceedings. (The majority [90]-[94]; Lady Arden [152])

References in square brackets are to paragraphs in the judgments

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)