

R (on the application of Palmer) (Appellant) v Northern Derbyshire Magistrates Court and another (Respondents)

Case ID: 2021/0233

Case summary

Issue

Whether an administrator appointed under Part II of the Insolvency Act 1986 is an "officer" of the company within the meaning of the phrase "director, manager, secretary or other similar officer of the body corporate" so as to fall within s194(3) of the Trade Union and Labour Relations (Consolidation) Act 1992

Facts

Mr Forsey was the sole director of West Coast Capital (USC) Ltd ("USC"). On 23 December 2014, Mr Forsey resolved to take steps to place USC into administration. Three joint administrators were subsequently appointed, one of whom was Mr Palmer. USC went into administration of 13 January 2015. The following day, the employees who worked at USC's warehouse in Dundonald in Scotland were given a letter by Mr Palmer informing them that they were at risk of redundancy and of USC's intention to consult with them at a staff meeting that day. Shortly afterwards, the employees were handed a further letter signed by Mr Palmer which informed them that they were dismissed with immediate effect.

The Trade Union and Labour Relations Consolidation Act 1992 ("TULRCA") s193(1) and (2) provides that where an employer proposes to dismiss at least 20 employees as redundant within 90 days it is required to give notice to the Secretary of State at least 30 days before any dismissals take effect. TULRCA s194(1) and (3) provide that any "director, manager, secretary or other similar officer of the body corporate" is guilty of an offence if the company fails to notify the Secretary of State with their consent, connivance or, as a result of their neglect. Mr Palmer and Mr Forsey were each charged with an offence contrary to that provision. Both pleaded not guilty.

Mr Palmer argued (inter alia) that he had not committed an offence because an administrator appointed under Part II of the Insolvency Act 1986 ("IA") is not an "officer" within the meaning of TULRCA s194(3). The Northern Derbyshire Magistrates Court (the "NDMC") rejected this argument. Mr Palmer sought to challenge that decision by way of judicial review. On 12 November 2021, the Divisional Court rejected Mr Palmer's judicial review application. The Divisional Court also rejected Mr Palmer's application for permission to appeal (although it certified the issue in the instant application as a point of law of general public importance). Mr Palmer now seeks permission to appeal to the Supreme Court.

Judgment appealed

[\[2021\] EWHC 3013](#)

Parties

Appellant(s)

Robert Stephen Palmer

Respondent(s)

Northern Derbyshire Magistrates' Court and another

Appeal

Justices

Lord Reed, Lord Hodge, Lord Burrows, Lady Rose, Lord Richards

Hearing start date

8 March 2023

Hearing finish date

8 March 2023

Watch hearing

8 March 2023 [Morning session](#) [Afternoon session](#)