Neutral Citation Number: [2019] EWHC 3228 (QB)

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
LEEDS DISTRICT REGISTRY

The Combined Court Centre, Oxford Row, Leeds

Date: 14/11/2019

Before :

THE HONOURABLE MR JUSTICE BUTCHER

- -

Between :

Case No: D04LS180

IAN MICHAEL KERRY	**Claimant**
- and -	
Y	**Defendant**

Between :

Case No: D00YO548

IAN MICHAEL KERRY	**Claimant**
- and -	
X	**Defendant**

Between :

Case No: F90LS906

IAN MICHAEL KERRY	**Claimant**
- and -	
CHIEF CONSTABLE OF HUMBERSHIRE POLICE	**Defendant**

- -
- -

Hearing dates: 29 October 2019

- -

Approved Judgment

Mr Justice Butcher:

1. There are three matters which I am concerned with. All relate to civil restraint orders imposed on Ian Michael Kerry.

2. I heard argument on these matters on 29 October 2019. Mr Kerry represented himself. The Defendants to the various actions were not represented, though the Defendant in F90LS906 sent an email to the Court, making various points, to which Mr Kerry responded.

Appeal against Order of HHJ Richardson of 4 February 2019

3. The first matter is that Mr Kerry appeals with the permission of Her Honour Judge Sarah Richardson against her order dated 4 February 2019. By that order HHJ Richardson struck out the Notice of Appeal lodged by Mr Kerry against an order of DJ Pickering dated 11 October 2018, on the basis that the application for permission to appeal against DJ Pickering's order was one which Mr Kerry would only have been permitted to make had he previously obtained the permission of Lavender J or another High Court Judge. This was because of the terms of an extended civil restraint order made by Lavender J on 23 February 2018, to which I will refer as "the ECRO".

4. It is necessary to say something in rather more detail about the facts which have led to the current appeal.

5. Mr Kerry pleaded guilty on 13 November 2016 at Hull Crown Court to certain sexual offences involving Ms X. He told me that the charges to which he had pleaded guilty involved only offences relating to indecent images. It appears that he was sentenced to 9 months custody. He was subsequently refused permission to appeal against conviction and sentence in July 2017. He has continued to protest, however, that his convictions were wrongful. He says that he only pleaded guilty because he was faced with a choice between pleading guilty to some lesser (indecent image) offences or facing trial for much more serious offences. Both sets of allegations, the lesser as well as the greater, were, he contends, unfounded. He has a number of complaints about the way in which the investigation was conducted by the police and the prosecution, and as to the way in which they have subsequently conducted themselves.

6. On 24 October 2017 Mr Kerry applied for an injunction against the mother of Ms X ("Mrs Y") with whom Mr Kerry had had a relationship. He contended that he had been harassed by Mrs Y, and sought that the harassment should be prohibited pursuant to the Protection from Harassment Act 1997. On 6 December 2017 Mr Kerry issued an application seeking similar relief against Ms X. The actions in which those applications were made now have the numbers D04LS180 (Mrs Y) and D00YO548 (Ms X).

7. It is of some importance to understand the nature of the allegations of harassment which Mr Kerry was making. The most significant can be summarised as follows:

   (1) In relation to Mrs Y:

(a) That she had made claims about him in August 2015, which were investigated by Humberside Police, which 'came to naught'.
(b) That she informed others of the complaints against him 'to create bad feeling' towards him.
(c) That in early 2017 she started posting adverse comments about Mr Kerry, using as a basis an article from the Hull *Daily Mail*, which had itself related to the criminal prosecution of Mr Kerry.

(2) In relation to Ms X:
(a) That in July and August 2016, while he was awaiting his criminal trial and was on bail, Ms X, pretending to be someone called Ms A, sought to make him breach his bail conditions by contacting Ms X.
(b) That, apparently shortly thereafter, Ms X, again as Ms A, had sent him sexual material and tried to contact him by phone.
(c) That Ms X posted harassing messages on Instagram, including, on 4 August 2016, a picture of herself on the steps of Hull Crown Court, with captions, this being a clear taunt to Mr Kerry, whose case was expected to come on for trial on 12 December 2016.
(d) That in the period July to November 2016, Ms X posted pictures on Instagram which were similar to photographs taken by Mr Kerry.
(e) That in the same period, Ms X tagged Instagram photographs close to the home location where Mr Kerry lives, and on 8 October 2016 posted a photograph of her father, with the caption "Watch out", which Mr Kerry took to be a threat.

8. At much the same time as Mr Kerry issued the applications for injunctions to which I have referred above, he issued two sets of proceedings seeking Judicial Review. On 10 November 2017 he issued proceedings (CO/5247/2017) naming the CPS as defendant. The decision to be judicially reviewed was stated to be "The decision of CPS Humberside and CPS Appeals Unit to not supply information known to exist in case No. URN 16BW0308015 [that is the criminal proceedings against Mr Kerry in Hull Crown Court] and to which the Claimant is entitled under both CPR 5.7, Information Rights and to enable an appeal." In the application it was stated that the "breach is ongoing as the correct supply of the disclosure requested from CPS would enable the Claimant to appeal his wrongful conviction to the Court of Appeal." It appears from the Detailed Statement of Grounds and Statement of Facts, that Mr Kerry was seeking to challenge the decision of the CPS not to produce certain unused material showing sexual activity of Ms X with older men, her pursuit of older men, and information on the supply of drugs to her.

9. The other proceedings seeking Judicial Review were action CO/5693/2017 issued on 7 December 2017, naming the Chief Constable of Humberside Police as defendant. The decision to be reviewed was stated to be "Failure of Defendant to investigate correctly complaints put via IPCC; Failure of the Defendant to action a Data Protection Act request and its retention of information; Failure to action entirely a separate complaint." From the Statement of Facts it emerges that the complaint to the IPCC was made by Mr Kerry on 28 April 2017, and consisted of 35 or so issues "most of [which] had a cause of action arising from an investigation carried out by Humberside Police into case no. 16BW0308015 at the Hull Crown Court." It was alleged that the investigation had been passed to Humberside Police, but had not been properly investigated or considered.

Amongst the complaints which Mr Kerry had sought to be investigated were complaints that, while he was on bail, Humberside Police had "pushed North Yorkshire Police to reveal excess information to a third party, breaching information rights legislation". There was also a complaint that Humberside Police had failed to record and action a complaint as to their having failed to investigate alibis given by Mr Kerry in relation to certain of the charges in 16BW0308015.

10. It appears that permission to bring these two applications for judicial review was refused and each was certified as totally without merit. On 23 February 2018 the court (Lavender J) on its own initiative made the ECRO. The Claim Nos. specified in the order were CO/5247/2017 and CO/5693/2017. The order was in the following terms:

> "It is ordered that you be restrained from issuing claims or making applications in any court specified below concerning any matter involving or relating to or touching upon or leading to the proceedings in which this order is made without first obtaining the permission of
>
> Mr Justice Lavender OR If unavailable another High Court Judge".
>
> The "court specified below was "any court". The order further stated:
>
> "It is further ordered: For the avoidance of doubt, this order extends to any application concerning any matter involving or relating to or touching upon or leading to the criminal proceedings against Ian Michael Kerry and the appeal therefrom."

That order has not been set aside or varied.

11. On 21 August 2018 DJ Pickering heard Mr Kerry's applications for injunctions against Mrs Y and Ms X in the Great Grimsby County Court. Neither Mrs Y nor Ms X participated. On 11 October 2018, DJ Pickering gave judgment. He found, in summary:

    (1) That Mr Kerry was correct to say that all the online communications of which he complained were authored by Mrs Y or Ms X. That was a finding that Mrs Y or Ms X had deliberately used aliases to make them appear to be other people than they were.

    (2) Having reviewed each of the instances of alleged harassment in turn, none had been shown actually to constitute harassment.

    (3) Accordingly, the applications were dismissed.

12. An application was made to DJ Pickering for permission to appeal. DJ Pickering refused this application on 5 November 2018. It appears that DJ Pickering was unaware of the ECRO at that time.

13. An application was then made for permission to appeal to the County Court. On 4 February 2019, HHJ Richardson made an order which provided, in part, as follows:

> "Upon considering:
>
> (a) the Appellant's Notice filed on 26 September 2018;
>
> (b) the allegations of harassment set out by Mr Kerry in his particulars of claim received by the Great Grimsby Combined Court Centre on 15 March 2018 in claim D00YO548 (against [Ms X]);
>
> (c) the statement of Ian Michael Kerry dated 7 March 2018 filed in proceedings D04LS180 setting out the allegations of harassment against [Mrs Y];
>
> (d) the court files in both actions;
>
> (e) the extended civil restraint order issued against Mr Kerry on 23 February 2018;
>
> (f) Mr Kerry's judicial review claim forms and other documents in claims CO/5247/2017 and CO/5693/2017
>
> Recitals
>
> …
>
> 4 The extended civil restraint order restrains Mr Kerry from issuing claims or making any applications in any court concerning any matter involving or relating to or touching upon or leading to the proceedings in which the extended civil restraint order was made without first obtaining the permission of Mr Justice Lavender or another High Court Judge. It was further ordered that:
>
> 'for the avoidance of doubt, this order extends to any application concerning any matter involving or relating to or touching upon or leading to the criminal proceedings against Ian Michael Kerry and the appeal therefrom.'
>
> …
>
> 11 The matters in claims D00YO0548 and D04LS180 involve, relate to or touch upon matters in the criminal proceedings against Mr Kerry.

12 It is therefore abundantly clear that had claims D00YO0548 and D04LS180 been issued after 23 February 2018 Mr Kerry would have required the permission of Mr Justice Lavender or another High Court Judge to issue such claims.

13 It is acknowledged that in light of the chronology of events, no such permission was required and for the purposes of the present application the court is prepared to work on the basis that the trial of the claim was not an 'application' to which the extended civil restraint order applied. This is on the basis that both the issue of a claim and the making of an application require the filling in of formal documents (a claim form or application form) and it would be at such stage that the issue of permission arose. Mr Kerry did not require permission when he issued his claim form, and once issued his applications for injunctive relief were before the court.

14 However, this is not the case in relation to the application for permission to appeal the decision of District Judge Pickering. Such an application is a formal application made after the making of the civil restraint order. It relates to matters that involve, relate to or touch upon the criminal proceedings against Mr Kerry.

15 Mr Kerry was not obliged to make the present application for permission to appeal. Having done so, he should have been aware that he was subject to the extended civil restraint order and of the scope of the same. He has not disclosed the existence or scope of the extended civil restraint order within proceedings D00YO0548 or D04LS180 or the present application for permission to appeal.

16 The purpose of the extended civil restraint order is to apply a filter to those claims and applications that fall within its ambit, against a background where the court has found that Mr Kerry has persistently issued claims or made applications which are totally without merit. This court cannot consider the application for permission to appeal without Mr Kerry having first received permission to make the application. He has not received such permission.

17 Pursuant to paragraph 3.3 of Practice Direction 3C Mr Kerry's application for permission to appeal is automatically struck out or dismissed.

IT IS ORDERED THAT

1 The Notice of Appeal is struck out."

14. On 19 February 2019, HHJ Richardson made an order granting permission to appeal against her order of 4 February.

15. I should also record that, as Mr Kerry accepted, no application has, up to the present, been made by him to Lavender J (or another High Court Judge) for permission to bring the application for permission to appeal against DJ Pickering's order.

16. Mr Kerry has put forward various grounds on which it is said that HHJ Richardson's decision was wrong. At least as put forward in writing, these included a number of points which were clearly unfounded, such as the suggestion that HHJ Sarah Richardson may be related to HHJ Jeremy Richardson who had, so Mr Kerry asserts, "denied [him] the contents of a case file to assist with appeal into wrongful conviction". In fact there is no relationship between the two.

17. In essence, however, and particularly as argued before me, I considered that there were four principal grounds on which Mr Kerry was contending that the appeal should be allowed. They were:

    (1) That the ECRO did not, on its terms, apply to an application for permission to appeal in the actions brought against Mrs Y and Ms X, because they were unrelated to the Judicial Review proceedings in which Lavender J had made the ECRO.
    (2) That the ECRO could and did not apply to applications in actions which were already in existence at the time of the making of that order.
    (3) That the ECRO breached Mr Kerry's Article 6 rights.
    (4) That the ECRO had the effect of depriving Mr Kerry of his right to protection from harassment.

18. I will take each of these points in turn.

19. As to the first, I consider that HHJ Pickering was correct to conclude that the application for permission to appeal in the actions against Mrs Y and Ms X for harassment fell within the terms of the ECRO of 23 February 2018. That order applied to "applications in any court". An application for permission to appeal was an application. Furthermore, it appears to me clear that the complaint in the actions against Mrs Y and Ms X, in relation to which permission to appeal was sought, did "concern any matter involving or relating to or touching upon or leading to the criminal proceedings against Ian Michael Kerry." Those are wide words. The various complaints of harassment clearly, to my mind, "involved" or "related to", and perhaps most clearly "touched upon" the criminal proceedings against Mr Kerry. The nature of the complaints of harassment was intimately bound up with the criminal prosecution.

20. I do not regard this as a technical point as to the precise wording of the order. In truth, the allegations of harassment against Mrs Y and Ms X are part of a wider series of attempts by Mr Kerry to put right what he regards as the wrong done him in the criminal proceedings, or at least to obtain some sort of vindication or retaliation in relation to them. Another part of the series was constituted by the applications for Judicial Review which were the immediate cause of Lavender J's making of the ECRO. It was (and is) appropriate that each should be subject to the restriction imposed by the ECRO.

21. As to the second, I consider that this argument is misconceived. If it were correct, it would mean that the court could not make any civil restraint order in an action which had been commenced before the date of the civil restraint order. That the court can do so is, however, apparent from its power to make limited civil restraint orders, which are expressly confined to future applications in an existing action: see CPR 3C PD, para. 2.2(1). The court's power to make such an order stems from its inherent jurisdiction to prevent abuse of its own process: see Bhamjee v Forsdick (No. 2) [2003] EWCA Civ 1113.

22. Insofar as this point is put, not on the basis of a lack of jurisdiction in the court, but as a matter of construction of the ECRO – ie that the order should be construed not to cover applications in existing proceedings – I do not consider that to be correct either. The order applies not just to the making of claims, but to the making of applications, which on its terms applies as much to applications in existing proceedings as in new proceedings. Furthermore, the wording "any application concerning any matter..." is sufficiently wide and clear to mean that this suggested argument of construction is untenable.

23. I should also record that Mr Kerry supported his arguments in this area by saying that there had been other cases involving proceedings initiated prior to the making of the ECRO, in which it had not been suggested by the court since the making of the ECRO that applications in those proceedings could not be made because of non-compliance with the permission requirement of the ECRO. I did not consider that this assisted Mr Kerry. As he confirmed to me, he had not himself informed those other courts of the existence or terms of the ECRO. In any event, I do not consider that the (in)action of courts in other proceedings gives rise to any sort of estoppel or otherwise precluded the court from applying the ECRO in the present case.

24. As to the third, this appeal is not against the ECRO, but against the striking out of the application for permission to appeal on the basis that the ECRO had not been complied with. In any event, I do not consider that there is any breach of Mr Kerry's Article 6 rights in requiring him, in circumstances where he has made applications which are wholly without merit in relation to a particular subject matter, to obtain permission from a High Court Judge to bring an application for permission to appeal in a matter which relates or is connected thereto. The right of access to a court enshrined in Article 6 is not absolute and may be subject to limitations provided that they are clear and proportionate. These may include restrictions on the circumstances in which litigants who have brought hopeless claims may pursue proceedings (see Ebert v Venvil [2000] Ch 484 at 497). I was not shown any authority which suggested that the terms of the ECRO would infringe Mr Kerry's Article 6 rights.

25. As to the fourth, the position is similar to the third. I do not accept that the imposition of the ECRO deprives Mr Kerry of protection from harassment. If the limitations on his ability to pursue claims for harassment are clear and proportionate, I do not consider that there is any unlawful curtailment of his legal entitlement to be free from harassment. If there were harassment in the future, he could apply to bring a claim/application in respect of it. I do not accept that the cost of making an application

for permission in a real case of harassment is prohibitive to Mr Kerry. He can find funds for some applications, if he chooses to do so, as is shown by the further applications which he has made and which are considered below.

26. In the circumstances, I consider that HHJ Richardson's decision to strike out the Notice of Appeal, on the basis that the application for permission to appeal was one which required, and which had not obtained, prior approval from Lavender J or another High Court Judge, was correct.

The Application to Set Aside or Vary Lavender J's order of 4 September 2019

27. This is the second matter before me.

28. Some months after the order of HHJ Pickering giving permission for the appeal against her order of 4 February 2019, an issue came before Lavender J in relation to a further set of proceedings which Mr Kerry had sought to issue on 25 November 2018, this time in the County Court Money Claim Centre, against the Chief Constable of Humberside Police.

29. On 20 May 2019 Lavender J made an order which was, in part, in the following terms:

> "1 The claim is transferred to the High Court. [It has been given the number F90LS906]
>
> ...
>
> 4 There will be a General Civil Restraint Order against the Claimant."

30. The General Civil Restraint Order (or "GCRO") which was likewise dated 20 May 2019 provided in part:

> "It is ordered that you be restrained from issuing any claim or making any application in Any Court without first obtaining the permission of Mr Justice Lavender OR If unavailable another High Court Judge. This order will remain in effect until 19 May 2021."

31. Mr Kerry subsequently applied, pursuant to that order, for permission to apply for an order adding the Ministry of Justice as a defendant to the actions against Mrs Y and Ms X.

32. The basis of that application was apparently that he wished to add the Ministry of Justice to restrain court officers from giving effect to the GCRO. The, or a, principal basis on which such an order was sought was, as I understand it, that the Court had no power to make a civil restraint order in respect of proceedings already extant at the time of the order.

33. Lavender J refused the application by order of 4 September 2019, and stated that it was totally without merit.

34. Lavender J set out reasons for rejecting the argument that the High Court had no power to make a civil restraint order in relation to actions which had already been commenced at the date of the civil restraint order.

35. At paragraph 8 Lavender J added the following:

> "8 Moreover, the application which the Claimant seeks permission to make is also totally without merit and is an abuse of the process of the court:
>
> (1) He seeks permission to add the Ministry of Justice as a defendant to these proceedings, but he has not produced a draft amended statement of claim and he has not identified any arguable cause of action against the Ministry of Justice.
>
> (2) On the contrary, the Claimant has stated in paragraph 53 of his witness statement dated 9 July 2019 that he wishes to add the Ministry of Justice as a Defendant because he wishes to seek an injunction against the Ministry of Justice to restrain court officers from giving effect to the [GCRO] and, in particular, from complying with CPR 3C PD para. 4.3(1) …
>
> (3) The proposed application is an abuse of the process of the court. If the Claimant contends that the [GCRO] should not have been made, then the appropriate procedure is for him to apply for it to be set aside, varied or discharged, as the order itself provides. So long as the [GCRO] remains in force, the Court will not grant injunctions against the Ministry of Justice or anyone else requiring them to disobey or disregard an order of the Court."

36. Lavender J's order further provided that it might be varied, set aside or discharged by the judge hearing Mr Kerry's appeal against HHJ Richardson's order of 4 February 2019 (i.e. the appeal with which I have dealt above).

37. The grounds on which Mr Kerry now contends that Lavender J's order should be set aside are, as I understand them, essentially: (1) that neither the ECRO nor the GCRO can apply to pre-existing proceedings; and (2) that the GCRO should not have been made.

38. As will be apparent from what I have said above, I consider that the first ground is misconceived, for the reasons which I have given above, and which Lavender J gave in his order of 4 September 2019.

39. As to the second, it will appear below that I do not consider that the GCRO should be set aside. Furthermore, and in any event, I consider that Lavender J's dismissal of the application to join the Ministry of Justice to the harassment actions, and his finding that that application was totally without merit were clearly correct for the reasons which he gave in paragraph 8 of his Reasons in the order of 4 September 2019 (and which I have quoted above), irrespective of whether the GCRO was subsequently set aside.

40. For these reasons I reject the application to set aside or vary Lavender J's order of 4 September 2019.

The application to set aside or vary the GCRO

41. The application to set aside the GCRO is made in Case F90LS906. This is the action which was commenced by Mr Kerry against the Chief Constable of Humberside Police, initially in the County Court Money Claim Centre, and which was transferred to the High Court, Leeds District Registry, by the order of Lavender J of 20 May 2019.

42. That claim is currently stayed by order of HHJ Gosnell of 27 September 2019, until such time as Mr Kerry has successfully obtained permission of Lavender J (or, presumably, another High Court Judge if Lavender J is unavailable) to pursue it. My understanding is that HHJ Gosnell's decision was based on the action being subject to the ECRO. I was told by Mr Kerry that HHJ Gosnell's order is itself subject to an attempted appeal.

43. The matter before me, however, is, as I have said, an application dated 24 May 2019, stamped on 17 June 2019, to set aside the GCRO imposed pursuant to paragraph 4 of Lavender J's order of 20 May 2019.

44. Before considering the grounds on which that application is brought, it is helpful to set out the reasons which Lavender J gave for imposing the GCRO. In his order of 20 May 2019 he stated:

> "5 It has come to my attention since making the [ECRO] that the Claimant had been found to have made a number of totally without merit applications before I made the [ECRO]. Moreover, the Claimant has made a number of applications which, since I made the [ECRO], have been found to be totally without merit.
>
> 6 The following orders included determinations that applications made by the Claimant were totally without merit:
>
> (1) 24 October 2013: Order of HHJ Baucher in CO/10227/2013 (application for permission to apply for judicial review against the First Tier Tribunal (Social Entitlement Chamber)).

> (2) 1 May 2014: Order of HHJ Behrens in CO/844/2014 (application for permission to apply for judicial review against Westerton Road School, Leeds Family Court and Leeds City Council).
>
> (3) 25 June 2014: Order of Mr Justice Stewart in CO/515/2014 (application for permission to apply for judicial review against CAFCASS).
>
> (4) 25 June 2014: Order of Mr Justice Stewart in CO/1654/2014 (application for permission to apply for judicial review against the First Tier Tribunal (Social Entitlement Chamber)).
>
> (5) 18 August 2014: Order of HHJ Behrens in CO/2631/2014 (application for permission to apply for judicial review against Southend County Court).
>
> (6) 23 February 2018: Order of Mr Justice Lavender in CO/5247/2017 (application for permission to apply for judicial review against the Crown Prosecution Service).
>
> (7) 23 February 2018: Order of Mr Justice Lavender in CO/5693/2017 (application for permission to apply for judicial review against the Chief Constable of Humberside Police).
>
> (8) 24 May 2018: Order of Deputy High Court Judge Anne Whyte QC in CO/253/2018 (application for permission to apply for judicial review against the Chief Constable of Humberside Police).
>
> (9) 24 May 2018: Order of Deputy High Court Judge Anne Whyte QC in CO/536/2018 (application for permission to apply for judicial review against 'HMCTS Leeds Family Court').
>
> (10) 1 June 2018: Order of Mr Justice Turner in CO/4868/2017 (application for permission to apply for judicial review against the Crown Court at Hull).
>
> 7 In the light of this persistent pattern of behaviour, it is appropriate for me to make a General Civil Restraint Order."

45. Various of the grounds put forward by Mr Kerry in support of his application to set aside the GCRO are grounds for attacking the ECRO, though the terms of the application do not themselves seek to vary or set aside that order, or are grounds for saying that the ECRO should not have applied to prevent applications in the harassment actions against Mrs Y and Ms X (D04LS180 and D00YO548), which I have already considered in the context of the appeal against the order of HHJ Richardson of 4 February 2019. The additional grounds on which it is sought to set aside the GCRO are, as I understood them in the light of Mr Kerry's oral submissions to me, as follows:

(1) That there was no justification for the grant of a GCRO in the circumstances which appertain because, as Mr Kerry contends, it was not necessary or proportionate.
(2) That there were only two realistic explanations of the making of the GCRO. They were either that it was a deliberate attempt to protect Humberside police, and incidentally Hull Crown Court, from an investigation of their failings and misconduct in relation to Mr Kerry's criminal prosecution; or that it was influenced by the fact that Mr Kerry had made a complaint to the JCIO in relation to Lavender J who was, therefore, at least apparently biased. As to the first possibility, Mr Kerry submitted that the GCRO had been "applied to prevent embarrassment in the criminal justice system" (paragraph 8 of Mr Kerry's witness statement of 4 April 2019); its "purpose … is to protect the criminal justice system and misconducting organisations within it" (paragraph 14); "it was imposed to assist the criminal justice system in the maintenance of a wrongful conviction against the Claimant" (paragraph 86); and was "to protect Humberside Police" (paragraph 74). As to the second, Mr Kerry submitted that "The GCRO is imposed as a result of intemperate and misguided thinking on the part of the responsible judge and it is entirely related to the complaint made to the JCIO in respect of his failure to respond to several requests for issue of new claims."

46. I will take the second argument or group of arguments first.

47. In my judgment there is no basis for these contentions at all. There is no warrant for the suggestion that Lavender J imposed either the ECRO or the GCRO in order to protect the police or the criminal justice system. What it appears that Lavender J was concerned to do, as his orders state, was to protect the process of the court from abuse – and thus to prevent the wastage of judicial and court time and resources – by the making of repeated applications which lacked merit.

48. As to the suggestion that Lavender J was or was apparently influenced by the complaint made to the JCIO, as a result of what Mr Kerry considered to be Lavender J's lack of responsiveness to his requests for permission to bring proceedings after the imposition of the ECRO, again I do not consider that there is any proper basis for this. The obvious explanation for Lavender J's GCRO order was his concern, in light of new information, that the ECRO might not be wide enough to subject all the unmeritorious actions/applications which Mr Kerry might seek to bring to a permission filter.

49. As I have said, however, Mr Kerry also submitted that the GCRO was unnecessary and disproportionate. He submitted that the ECRO had not been breached. As to the other examples of totally without merit applications which he had brought, he said that they were a long time in the past, were discrete and had themselves been made the subject of a civil restraint order.

50. It is right that I should remind myself that a GCRO may only be made 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*" (CPR PD 3C 4.1) (my emphasis). It could be said in favour of Mr Kerry's application that there is already a widely-framed ECRO order in place, and that this militates against the necessity for a GCRO. It is also right to record that Mr Kerry is not incapable of making correct points and arguments: as

indeed is demonstrated by DJ Pickering's upholding of his case that Ms X and/or Mrs Y had contacted him using aliases.

51. I have nevertheless come to the conclusion that the GCRO was and is justified. Mr Kerry now has a considerable track record of making applications which are wholly without merit. There is every indication that he will continue to make such applications where he considers that they in some way facilitate the righting of what he regards as wrongs done to him. He told me that he "will not give up". While it is the case that there is a widely-drafted ECRO in place, it is already apparent that Mr Kerry does not accept the width of that order, and has sought to challenge its boundaries, as has occurred in relation to action F90LS906, and indeed in his arguments in relation to the appeal from HHJ Richardson's order. In those circumstances, I consider that a GCRO is appropriate in order to provide a filter and prevent an inappropriate diversion of court resources to dealing with actions and applications which Mr Kerry may make and which are without merit.

52. For these reasons I refuse Mr Kerry's application to set aside or vary the GCRO.