

NEUTRAL CITATION NUMBER: [2020] EWHC 2765 (QB)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Thursday, 30 July 2020

BEFORE:

MR JUSTICE LAVENDER

BETWEEN:

ZEHOUR CHELFAT

Claimant

- and -

COMMISSIONER OF POLICE FOR THE METROPOLIS
and Others (listed in the Schedule hereto)

Defendants

MR ROBERT TALALAY appeared on behalf of the Commissioner of Police for the Metropolis

MR MATTHEW FLYNN appeared on behalf of the Ministry of Justice and the Crown Prosecution Service

MR JAMES BEATON appeared on behalf of Primark Stores Limited and Lodge Security Limited

The Claimant did not attend and was not represented

JUDGMENT

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1. MR JUSTICE LAVENDER: The purpose of this hearing was to allow for the oral reconsideration of various orders which I have made in response to applications made by Ms Zehour Chelfat and to deal with an issue arising in her claim against Primark Stores Limited and Lodge Security Limited. Many of the applications to which I have referred were applications for permission to issue claims or make applications, permission which Ms Chelfat required because of the general civil restraint order which I made on 2 October 2019.
2. Paragraph 4.6(3) of CPR Practice Direction 3C provides that such applications will be determined without a hearing. The effect of that provision is that I ought not to have indicated in my orders of 21 January and 6 February 2020 that Ms Chelfat could apply for those orders to be set aside, varied or discharged. Indeed, in my most recent order on 3 July 2020, I said that Ms Chelfat could not apply for the order to be reconsidered at a hearing. That was in accordance with paragraph 4.6(3) of the practice direction and I will do the same in any future such orders.
3. In respect of my earlier orders however, having directed that Ms Chelfat could apply for them to be set aside, I considered that it was only fair that she should have that opportunity. Ms Chelfat did not issue application notices asking for my orders to be set aside, but she communicated with the court, and in particular she wrote a letter to the court dated 13 May 2020 in which she asked for hearings in respect of each of the six orders which I made between January and April this year, ie, on 21 and 22 January, 6 February, 17 March and 2 and 15 April 2020.
4. In my order of 20 May 2020, I directed that Ms Chelfat should be treated as having applied for the reconsideration of each of those orders and that they would be reconsidered today. Ms Chelfat has thus had over two months' notice of this hearing and of the scope of this hearing. During that time she has made a number of applications and submissions and sent a considerable number of emails to the court, even after I made an order on 26 May 2020 that she must not send any email to any office, member of staff or judge of the High Court or of any county court. (The reason for that order was that Ms Chelfat had repeatedly sent abusive emails to the court, including one on 21 May in which she said that I was a racist judge, known to be a paedophile, that a court official was racist as well and, indeed, that the whole Royal Courts of Justice was racist, except for a few.)
5. In my order of 20 May 2020, I also directed that any defendant who wanted to attend this hearing must give notice to the court and to Ms Chelfat by 4 pm on 12 June 2020 and that any defendant who wanted to file submissions, evidence and/or other documents for consideration at this hearing must do so by the same date. This direction was intended to give Ms Chelfat ample notice of what the defendants wanted to put before the court.
6. The defendants who are represented before me today are: the Commissioner of Police for the Metropolis, represented by Mr Robert Talalay; the Ministry of Justice and the Crown Prosecution Service, represented by Mr Matthew Flynn; and Primark Stores Limited and Lodge Security Limited, represented by Mr James Beaton.

7. Ms Chelfat has not attended today's hearing. She has not sent a message to indicate why she is not attending, despite my causing an email to be sent to her shortly after the hearing was called on at 10.30 inviting a response by 11.30. She has, however, in a number of recent emails which I have seen, asserted that she is unwell and too ill to deal with this matter and she has on a number of occasions invited me to adjourn this hearing on that basis. However, I bear in mind what I said in paragraphs 4 to 8 of my order of 21 January 2020:

“4. In the Second and Third Applications the Claimant asserts that “I had some disruption between September and October which did not allow me access to the Court”. This statement is misleading and untrue. The Claimant had access to the Court during that period. In particular:

- (a) She sent several emails to the Court in connection with a hearing on Thursday 26 September 2019.
- (b) She issued an application on Wednesday 25 September 2019 by which she sought the adjournment of the hearing on the following day. She made a four-page witness statement in support of that application.
- (c) On Friday 27 September 2019 she attended the Royal Courts of Justice for a listing meeting in the Court of Appeal.

5. On that occasion the claimant was arrested by the tipstaff because she had failed to attend the hearing which she should have attended on Thursday 26 September 2019, the purpose of which was to determine whether or not she had been in contempt of court in the way in which she had conducted herself in a number of hearings in the County Court at Central London. She represented herself before me on Friday 27 September and Wednesday 2 October 2019 and showed herself to be quite able to do so. She was keen to attend a further hearing in one of her cases which was listed for 9 October 2019.

6. I found her to be in contempt of court and committed her to prison for four weeks, two of which she will have spent in prison. For those two weeks, she will have had difficulties in conducting her civil litigation. For the remainder of September and October 2019, however, she has had access to the court. For example, she sent four emails to the court on 21 and 22 October 2019 in response to an order made on 21 October 2019 by HHJ Dight in claim number DO2CL725.

7. It is instructive for present purposes to consider the reasons which the Claimant gave in support of her claim that she could not attend the hearing on Thursday 26 September 2019.

- (a) She said in her emails that she had to go abroad to care for a sick relative. She did not identify that relative in her emails to the court. At the hearing she told me that the relative was her mother who had been unwell for years, but whom she had not visited for years. She did not identify any urgent need for her to visit her mother.
- (b) She said in her emails that she had to go abroad for an operation, but she provided no medical evidence to support this claim.

(c) Despite her claim that she was unable to attend court on Thursday 26 September, she attended the Royal Courts of Justice on Friday 27 September 2019.

8. It follows that no reliance can be placed on unsupported assertions made by the Claimant.”

8. What I said then is reinforced by the fact, of which I subsequently became aware, that in paragraphs 136 to 151 of his judgment in *ZC v Royal Free Hospital NHS Foundation Trust* [2019] EWHC 2040 (QB) Julian Knowles J found, following a trial, that Ms Chelfat was dishonest and fraudulent and had engaged in a pattern of dishonest and fraudulent behaviour in connection with litigation which she had brought, specifically when she sought to obtain evidence to support a private prosecution. I observe as an aside that Ms Chelfat has asserted in correspondence that there is in force an order prohibiting the identification of her as the claimant in that case, but she has not provided a copy of that alleged order. The trial of that action took place in public and Julian Knowles J refused an application for anonymisation of his judgment, but anonymised it on a temporary basis until the time for appeal against his decision not to order anonymisation had expired, which was a long time ago.
9. It is also relevant to note that, as I recorded in paragraph 1 of my order of 21 January 2020, Ms Chelfat had made 16 applications which judges other than myself had adjudged to be totally without merit before I made the general civil restraint order on 2 October 2019. In other words, Ms Chelfat is someone who uses litigation to waste the time of the court and therefore to waste public money and also to put the defendants to her many claims to unnecessary expense. An adjournment of this hearing would result in a further waste of money.
10. Ms Chelfat has not produced a letter from her GP or any other independent evidence that she is unwell or so unwell as to be unable to represent herself at today's hearing. I note moreover that she has had over two months in which to prepare for this hearing and that during that period she has been very active.
11. In particular, she prepared a submission dated 14 July 2020 entitled “Appeal in writing to the Court of Appeal pursuant to the order of Lavender J dated 3 July 2020”. This submission was 31 pages long. Although its particular focus was my order of 3 July 2020, the reconsideration of which is not before me today, it dealt in detail with all of the orders which I have made since January. I have considered that submission very carefully. It is quite likely that, if Ms Chelfat had appeared today, her oral submissions would not have gone beyond what she had already set out at such length in that document.
12. In all the circumstances I considered it appropriate to continue with today's hearing, despite Ms Chelfat's non-appearance, which I am satisfied is deliberate.
13. I do not propose to say anything in detail about her applications to set aside my orders. I should say that in each of them I gave detailed reasons for making those orders. Nothing which Ms Chelfat has said in her various written submissions since I made those orders has persuaded me that I was wrong to make them. Indeed, on further

reflection it occurs to me that there was an additional reason for making my orders of 21 January and 6 February 2020 in which I dismissed Ms Chelfat's applications for permission pursuant to the general civil restraint order to make applications or issue a claim in nine actions.

14. Paragraphs 4.4 to 4.6 of CPR Practice Direction 3C provide as follows:

“4.4 A party who is subject to a general civil restraint order may not make an application for permission under paragraphs 4.2(1) or 4.2(2) without first serving notice of the application on the other party in accordance with paragraph 4.5.

4.5 A notice under paragraph 4.4 must -

- (1) set out the nature and grounds of the application; and
- (2) provide the other party with at least 7 days within which to respond.

4.6 An application for permission under paragraphs 4.2(1) or 4.2(2) -

- (1) must be made in writing;
- (2) must include the other party's written response, if any, to the notice served under paragraph 4.4 ...”

15. Ms Chelfat did not comply with paragraphs 4.4 and 4.5 of the Practice Direction in respect of any of her applications for permission under the general civil restraint order. I should have dismissed all of her applications on that ground alone. Instead, I dismissed five of her applications on their merits and four on the basis that she had improperly combined five separate applications in one application notice as a device to avoid paying the fee due for each application. On either basis, it was right to dismiss her applications.
16. I turn now to claim number G00CL635, a claim brought in the County Court at Central London by Ms Chelfat against Primark Stores Limited and Lodge Security Limited. This concerns an incident which took place in the Primark Store in Oxford Street on 6 March 2014. There was an altercation between Ms Chelfat and another customer. She claims that she was falsely imprisoned by a security guard employed by Lodge Security. She asserts in the claim form causes of action in negligence, occupier's liability, trespass to the person and false imprisonment. In her Particulars of Claim, she adds also claims under the Protection from Harassment Act and the whistleblowing provisions of the Employment Rights Act 1996. She did not have permission to add those additional claims.
17. The claim is clearly totally without merit. Neither Primark nor Lodge Security are responsible for the fact that two of Primark's customers got into a fight. The police were called and Ms Chelfat and the other customer remained until the police arrived and a security officer remained with each one of them. The claim that this involved false imprisonment or trespass to the person depends solely on Ms Chelfat's word and that, as I have said, is not to be relied on. It was not the responsibility of Primark or Lodge Security to ensure that the other person was prosecuted. Indeed, having viewed the CCTV footage, Lodge Security took the view that Ms Chelfat was the one to blame

for the accident. That is something which Lodge Security was entitled to do. Ms Chelfat has, moreover, a conviction for assault which arose out of an incident here at the Royal Courts of Justice on 7 February 2017.

18. Ms Chelfat made a complaint to the defendant shortly after the incident. This was rejected. She then remained silent for nearly six years. One of the applications which Ms Chelfat made by her application notice of 20 January 2020 was an application for permission to issue a claim against Primark and Lodge Security. As I have said, she did not comply with paragraphs 4.4 and 4.5 of the Practice Direction before making that application. Pursuant to my order of 22 January 2020, that application was automatically dismissed when Ms Chelfat sent her email of 27 January 2020, as I confirmed in my order of 6 February 2020. For no good reason, Ms Chelfat waited for a further month, until 2 March 2020, before renewing her application, again without complying with paragraphs 4.4 and 4.5 of the Practice Direction. By then the six year limitation period was about to expire, the three year limitation period for a personal injury claim having expired nearly three years before.
19. The application was placed before Saini J and, by his order of 2 March 2020, he gave Ms Chelfat permission to issue and serve the claim form, but he imposed a stay on the claim, he ordered her to serve a copy of his order on the defendants at the same time as she served the claim form and he directed that the defendants should, if they wished, file written submissions by 2 April 2020 indicating their position in relation to the claim.
20. The order was made in this form because the application had been made urgently to Saini J just before the limitation period was about to expire. He was willing to make an order which allowed her claim to be brought without being statute barred, but he clearly wanted there to be further consideration of whether the claim should be allowed to proceed.
21. Regrettably, Ms Chelfat did not comply with the direction that she serve a copy of the order of 2 March 2020 on the defendants. This led to further costs being wasted. By my order of 15 April 2020, I gave directions for the determination of the issue whether she should be permitted to pursue the action which Saini J had permitted her to commence and, by my order of 20 May 2020, I ordered that the hearing of the issue identified in the order of 15 April 2020 would be determined at this hearing.
22. Looking at the claim against Primark and Lodge Security, I am satisfied that Ms Chelfat has not demonstrated that there are good reasons why this claim should be permitted to proceed. On the contrary, as I have said, the claim is totally without merit and she did not comply with paragraphs 4.4 and 4.5 of the Practice Direction before obtaining the limited permission which she did obtain. I therefore strike the claim out on the basis that permission ought not to be given under the civil restraint order for her to progress the claim, both having regard to the claim's lack of merit and her failure to comply with the practice direction and, in the alternative, I grant summary judgment to the defendants.

SCHEDULE OF DEFENDANTS

Claim Number 1 COMMISSIONER OF POLICE FOR THE METROPOLIS	County Court Claim Number E77YM451
Claim Number 2 SPORT DIRECT INTERNATIONAL PLC	County Court Claim Number F01WI314
Claim Number 3 (1) IRAJ ALMASI (2) SIDCUP DENTAL SPA	County Court Claim Number F01WI315
Claim Number 4 (1) SWISS COTTAGE SURGERY (2) KAREN McCLAY (3) DANIEL BECK (4) PHILLIP SMITH	County Court Claim Number F03CL265
Claim Number 5 (1) MINISTRY OF JUSTICE (2) CROWN PROSECUTION SERVICE	County Court Claim Number E02CL037
Claim Number 6 PRIMARK STORES and Another	Claim Number Unspecified
Claim Number 7 MINISTRY OF JUSTICE	Claim Number QB-2019-001795
Claim Number 8 CHAUDHRY'S RESTAURANT	Appeal Number QA-2019-000037
Claim Number 9 COMMISSIONER OF POLICE FOR THE METROPOLIS	County Court Claim Number D00CL557
Claim Number 10 (1) HEATHROW AIRPORT LIMITED (2) TUNISAIR UK	County Court Claim Number D02CL725
Claim Number 11 LONDON DENTAL SMILES	County Court Claim Number F02CL535
Claim Number 12 (1) PRIMARK STORES LIMITED (2) LODGE SECURITY LIMITED	County Court Claim Number G00CL635

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