

**SPECIAL IMMIGRATION APPEALS COMMISSION**

Appeal No: SC/187/2021  
Hearing Date: 5 October 2023  
Date of Judgment: 12 October 2023

Before

**THE HONOURABLE MR JUSTICE CHAMBERLAIN  
UPPER TRIBUNAL JUDGE KEITH  
MRS JILL BATTLE**

Between

**PAWEL GOLASZEWSKI**

Appellant

and

**THE SECRETARY OF STATE  
FOR THE HOME DEPARTMENT**

Respondent

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**OPEN JUDGMENT**

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The Appellant did not appear and was not represented

**Andrew Deakin** (instructed by the Government Legal Department) appeared on behalf of the Secretary of State

**Gareth Weetman** (instructed by Special Advocates' Support Office) appeared as Special Advocate

## **Introduction and summary**

- 1 This is an application by the Home Secretary pursuant to rule 11B of the SIAC (Procedure) Rules 2003 (SI 2003/1034, “the Rules”) to strike out a notice of appeal on the ground that it is an abuse of the Commission’s process. The appellant was not represented and did not appear. We nonetheless considered the application at a hearing and indicated that we would give our ruling in writing.

## **Background**

- 2 The appellant is a Polish national. On 26 June 2013 he was granted an EEA residence permit. He lived and worked as a security officer in Leeds. On 19 February 2019, he was stopped by counter-terrorism police. Following searches of his car and home, police seized two electronic devices. On these were found documents with the following titles: *21 Silent Techniques of Killing*, *The Anarchist Cookbook version 2000*, *The Big Book of Mischief*, *Improvised Reemissions Handbook*, *Murder Inc. The Book* and *The Mini Manual of the Urban Guerilla*. Police found material demonstrating an interest in Islamophobia, racial supremacy and extreme right-wing beliefs together with knives, handcuffs, smoke grenades, double-looped wire wraps, a torch with a concealed knife, a tracker device and surveillance equipment. He was arrested on suspicion of possessing documents of a kind likely to be useful to a person committing or preparing an act of terrorism, contrary to s. 58 of the Terrorism Act 2000 (“the 2000 Act”).
- 3 The appellant was charged and remanded in custody. On 18 September 2019, at the Central Criminal Court before HHJ Poulet QC, he was convicted on six counts of possession of documents contrary to s. 58 of the 2000 Act. On 20 September 2019 he was sentenced to a custodial term of 26 months’ imprisonment, with an extended licence period of 1 year and made subject to a counter-terrorism notification order for 10 years. Applications for leave to appeal against conviction and sentence were refused by the single judge and then on 24 November 2020 by the full Court of Appeal, which made a loss of time order with the effect that he was required to spend an additional period of 56 days in custody: see [2020] EWCA Crim 1831.
- 4 Meanwhile, on 8 October 2019, the Home Secretary had notified the appellant that he was liable to deportation. On 15 January 2021, having considered three sets of representations from him, the Home Secretary decided to make a deportation order on grounds of public security under regs 23(6)(b) and 27 of the Immigration (EEA) Regulations 2016 (SI 2016/1052). The OPEN reasons for this decision included an assessment that he posed a risk of conducting a violent terrorist attack.
- 5 The appellant appealed. On 22 November 2021, the Home Secretary certified under reg. 38(2) that the deportation decision had been taken in part on the basis that removal from the UK would be in the interests of national security and, accordingly, the appeal lay to SIAC.

## **The appeal and the appellant’s conduct**

- 6 The appellant’s Notice of Appeal to SIAC was filed under cover of a letter dated 25 November 2021. On 8 December 2022, SIAC wrote to the appellant conveying the strong recommendation of the Chairman that he should instruct a lawyer to represent him. A list of experienced solicitors was included. It was pointed out that, ordinarily, legal aid is available. Thereafter, the appellant, who was then detained under immigration powers, agreed to return to Poland and was removed to that country on 29 December 2022. He has continued to represent himself.

- 7 The appellant has since engaged in correspondence with the Home Office, GLD and SIAC which has been increasingly abusive in tone and content and has included express and/or implied threats to harm or kill police officers, Home Office personnel, GLD staff and members of SIAC.
- 8 In a letter to SIAC dated 14 February 2023, the appellant refused to confirm or deny that he was in the UK and asked that correspondence be sent to a designated email address. He said that disclosing his location could put him at risk of “corrupt and criminal actions from the SIAC, the Home Office, Police, CPS, etc.” and reserved his right to disclose “your details in public interest to prevent crime or in appeal to public for victims of your (or your partners’) crimes”.
- 9 On 24 February 2023, the appellant replied to an email from GLD calling the (unidentified) writer “human trash, scum or trash”, “an idiot or native scumbag” and referring to the Home Office caseworker dealing with his case as “that piece of scum”. He added that he “could defecate on any paperwork from corrupt Home Office as everyone knows that it is body like septic tank”. He went on to threaten to “publish relevant names” and “use addresses” and warned that “you are not anonymous and you will pay for your corrupt conduct and criminality”.
- 10 The correspondence continued in scatological vein. In an email to SIAC dated 24 February 2023, the appellant said of GLD’s email to him, “GLD can stick in their famously fat British arses” and invited SIAC to print it out and “use to wipe your asses”. There was reference to “human trash from the SIAC, Home Office, Police, CPS and corrupt British judges who are worth less than their weight in the worst meat my dog would eat”. The appellant made clear that SIAC judges were not alone in this respect: judges from the Court of Appeal and Central Criminal Court were “the same as SIAC – human trash”.
- 11 On 28 February 2023, the appellant wrote to Counter-Terrorism Policing North East (“CTPNE”) (copying in the Home Office, SIAC and SASO), giving them 48 hours to return items which he said had been stolen from his flat when he was arrested, failing which he would take “swift and robust action”, which would include “return to the UK immediately and physical challenge if required”. A refusal would mean that “you accept all consequences (material, physical, financial etc.) which you and all your officer may face shortly in course of recovery operation”. The letter concluded: “Next time you may hear from me in person and you may not like it. This is a final warning” (underlining in original).
- 12 On 12 April 2023, the appellant wrote to the National Crime Agency (“NCA”) (copied to CTPNE, SIAC, SASO and the Home Office), again about what he referred to as the theft of his property from his address in 2019 and 2021. He asked for the names and dates of birth of the officers involved, saying: “I am in possession of most of home addresses of these criminals, but more information and intelligence would assist me in assessing situation, amount of arm, staff and support I need to bring to the scene”. The appellant continued by saying that he would need to use “all reasonable force and any method required to neutralise (also permanently if required) if any of these mentioned will try to cover up their crime, stop recovery of stolen property”. The appellant said that this would enable him to complete “intel reports, information about their families, their assets, their cars etc.”. He continued as follows:

“My staff tasked to visit these people is not responsible for any loss of West Yorkshire Police staff, their work property, their personal property, their family members, their family members’ property... Some loss you will not be able to recover as not everything you can buy for money. I am sure you know what I mean. I will appreciate if you provide me some heavy duty black bags for trash I want to feed my dog. She is eating any pigs, scrum [sic], native scum.

Members of public are happy with neutralising wild and corrupt pigs – especially after what you have done to Sarah Everard.”

The email then listed police officers by name and number and concluded: “Is there any more filthy pigs involved in crimes who want to make profits from my property? I would like to make an example of them, show how to deal with pigs, scum and other human trash.”

- 13 On the same day, 12 April 2023, the appellant emailed SIAC (copied to the NCA, CTPNE, the Home Office and SASO) asking for more information about “the person responsible for decisions in my case... Mr Robert Jay”. The email gave his date of birth and continued as follows:

“Obviously to obtain his home address, information about assets, information about possible investigations of his conduct, family situation etc., I do not need any more information, however it will be appreciated if you can assist me with any above information and confirm that his recent picture is published at [a website address].

I would like to publish his details and details of his corrupt decisions, involvement in handling stolen (in 2019, 2021) from my property items, which I require to prepare my appeal against [sic] unlawful deportation decision.

I have no spare staff and arms to dispatch for no reason. To conduct operation successfully it would be appreciated also to know if he could be armed, assisted by other corrupt officers from Home Office CT Police or Wayne Couzens.”

The email was signed by the appellant, “location: undisclosed”.

- 14 In a second email to SIAC later on the same day, 12 April 2023, the appellant applied for the suspension of the SIAC proceedings “indefinitely” because of alleged failures by CTPNE and HMP Leeds to return items of his property and the alleged failure of the Home Office to respond to a subject access request. He continued:

“There are actions I have to take, bring arms, bring personnel, visit certain addresses to discuss some issues with all involved in person, use any means available to persuade you to act in accordance with the law. Currently I am assessing what electronic support, arms and amount of staff I need to send to you to recover stolen property and obtain information I requested lawfully (for example SAR). I am not sure how long it will take, but amount of arms must be sufficient to stop corrupt authorities from unlawful actions.

...It would be appreciated if you arrange date for me so I can come and visit you in person in your offices or outside offices. I am sure that I can find the way to appeal to your brains.”

- 15 In a third email sent on the same day, 12 April 2023, the appellant asked for his “application for bail to be heard in person”. This seems to have been a reference to his request for return of property (something which he appears to have thought SIAC had jurisdiction to order). He continued:

“it is not recommended if you invite any CT Police or other filthy pigs like Wayne Couzens or Ben Lister without notifying me or my staff so we can bring more socialistic equipment.

I believe this could be opportunity to make an example of dealing with utter scum and pigs in public place. Public would learn how to deal with Wayne Couzens or similar officers invited for official hearing.

No response will mean that my offer of attendance in person is accepted and I will be available in person on the date of hearing.”

16 On the following day, 13 April 2023, the appellant emailed SIAC again, giving the web links to his Facebook account and Twitter feed.

17 On 28 April 2023, he emailed SASO (copied to SIAC) in the following terms:

“I would like to discuss your issues in person, by my representative who will attend your offices with relevant enforcement to make you acting in accordance with law.

It would be appreciated if you provide me with full address of your office (working hours, personnel expected to be in your office), otherwise I will dispatch someone to your home addresses to discuss differences. Also, it would be appreciated if my people could assess amount of tools they should bring to defend themselves in case when you start assaulting them so they can neutralise you.”

Further abuse followed. Then this:

“Finally, please remember I am not longer behind the door so you will not hurt me or my family/friends as I will neutralise you quickly in person when you decide to do so or break the law. You could break the law when you put law abiding citizen behind the bar, but now it is time to pay for everything. And you together with other corrupt scumbags and native retards will pay for everything. I hope that you realised finally that you are shit, nothing more.

If you decide to send me some of your filthy pigs I ensure that they will taste their own medicine – I am very different than Sarah Everard, you brainless idiots with no real authority. I feed dirty pigs to my dog, no one else would touch pigs (or as you call them scumbags or Police).”

Under the appellant’s name the appellant put “address: England (undisclosed for security purposes)”.

18 Screenshots taken in April 2023 from the Facebook page and Twitter account referred to in the appellant’s email included the following:

“We will not forgive  
We will not forget  
We will hunt you down  
and make you pay” (Twitter, 29 March 2023)

“Learn from my experience and use any item available at your home to make sure criminals in police uniform end up in nice black bag (don’t leave a mess in your house [smiley emoji]” (Facebook)

The Facebook page also included a list of individual police officers said to be “not complete yet”, followed by: “any information intelligence about them welcome”; a request for specific information about two officers, including their “date of birth, home address, work address, family situation (children, partners etc, car (make model colour and registration number picture where it is parked when not in use etc) assets (properties homes houses) or stolen from my home property

in 2019 please send it on”; and a request for “everyone who is a victim of” Jay J to contact him on email.

- 19 On 12 May 2023, the appellant sent an email to SIAC, addressed to Jay J (the Chairman) in abusive and threatening terms. It included this:

“Please remember about your family and your house etc. when you do what GLD or Home Office ask you to do...

I would like to visit you in your office, but apparently it is impossible according to your staff.

Therefore the only option we have is meeting at your location.

...

Please remember that I use principle of reciprocity in my dealing with so called authorities (native scum). Therefore relevant names will be publish on-line, relevant addresses, relevant information will be published and/or made available on-line (or on request).”

The email concluded: “Best wishes for you and your family” and “See you at yours Mr Jay (because kind words do not work with you)” before repeating the web links to the appellant’s Facebook page and Twitter account.

- 20 On the same day, 12 May 2023, there was a further email containing abusive material, sent to the Home Office. Also on that day, the appellant sent copies of some of the documents possession of which had formed the basis of his conviction to GLD, SIAC and the Home Office. In particular:

- (a) He emailed SIAC, GLD and the Home Office a handwritten covering letter and a copy of *21 Techniques of Silent Killing*. The covering letter the recipients to “familiarise yourself with this document”.
- (b) He emailed SIAC, GLD and the Home Office a handwritten covering letter and a copy of *Anarchy Cookbook Version 2000*. The covering letter stated: “I believe also that [a named Home Office official] may find it useful in her ‘civil serving’ in the Home Office”.
- (c) He emailed a handwritten covering letter and a copy of *The Mini Manual of the Urban Guerilla* to SIAC, GLD and the Home Office. The covering letter stated: “I believe also that [the same named Home Office official]’s family can benefit from this document in their assimilation in the UK”.
- (d) He emailed a handwritten covering letter and a copy of *The Big Book of Mischief* to SIAC, GLD and the Home Office. The covering letter stated: “I hope [the same named Home Office official] and her family also find them useful in the UK and in their country of origin. Given that majority of real terrorists in UK prisons are British or from [her] country I am sure all 6 documents will be interesting for them”.
- (e) He emailed a handwritten covering letter and a copy of *Murder Inc. The Book* to SIAC, GLD and the Home Office.

- 21 On 17 May 2023, the appellant sent a further email to the Home Office about the same named official. It read as follows:

“I would like to see the above person face to face either in your office or at her home location soon....

Does she have police protection yet? Because I am not sure how many representatives I should send to her and with what tools.

...

She is vile piece of shit as we all know.

She will pay relatively big price...

There is no more time for fun but time for paying the price.

I dream about above mentioned Subject person with 9mm justification for her criminal actions... It is just dream, I am entitled to.

But if criminals who call themselves ‘authority’ think they are above the law then law abiding citizens have to take justice in their hands.

The public supports me in fight against criminals like you and nobody will cry for you when I finish with you and present whole case and fake justifications you are providing to me.

...

Think about your life, your families.

I am here for justice and neutralisation of scum so you cannot harm law abiding citizens in the future. Sooner or later this will happen.

Soon you will be praying for day when I look into your eyes to never come.

You will regret that your dirty mothers did not abort you when it was the best time so you cannot commit crime (theft, fraud etc.)”

### **The present application**

- 22 The application now before us was filed on 24 May 2023.
- 23 On 15 June 2023, Chamberlain J (Deputy Chairman of SIAC) directed pursuant to rule 49(1) of the Rules that all communications to the appellant be served to a specific email address (this was something the appellant had himself asked for in a letter dated 14 February 2023) and all communications to GLD be served to a specific email address created to receive correspondence on this case. Pursuant to rule 39(1) of the Rules, he directed that GLD and SASO could respond to the applicant’s emails using a generic email footer and without identifying the name of the sender. A timetable was set for the appellant to respond to the application in writing and a direction given for the application to be considered on the papers thereafter. The parties were given liberty to apply to vary or revoke the directions.
- 24 The applicant responded on the last permitted day with a written application for the directions to be revoked. It objected to GLD and other departments being permitted to “hide behind generic e-

mail footers” and contained abuse similar to that contained in previous communications. In particular, it said this:

“1... If SIAC continues corrupt and criminal conduct to cover other criminals action will be taken and if required team of operator specialised in dealing with scumbags like you or your friend Wayne Couzens will be dispatched to your office with no further notification. If require I send team to your place of living as no further criminal activity can be accepted...

2. visiting your address may be required to identify if any stolen from my property in 2019 are stored at your address... If any electronic devices or valuable stolen from my property by Police (perhaps acting in collusion or on your instruction) you will face consequences.

3. Mr Chamberlain or whoever you are, you are showing no respect to any application, to fact that you are involved in criminal activity and the same as other individuals in this case...

...Obviously you are too stupid to understand anything, exactly the same as that retard who play chairman in your shit organisation. For some reason people call it cesspool. You should know what you can find in cesspool – shit with no brain like you.

Obviously one more person to visit does not change situation, but you should think about your family and consequences for them due to your criminality...

...Please be assured that I go public and there is much more to come against corrupt shitheads from SIAC. Switching person responding and issuing directions does not change anything.”

The appellant invited SIAC to determine the Home Secretary’s application at a hearing rather than on paper. There was some more abusive content and the document ended with this:

“All people who know this case dream about putting bullets in your heads. This is only dream unfortunately, but I hope and wish that shit like you all die from cancer, covid or any other disease.”

The appellant’s location was again said to be “undisclosed for security reasons” but he added “I am going to invite you to certain location so we can discuss all above issues”.

- 25 On 14 August 2023, having considered this response, Chamberlain J directed that the application be considered at a hearing on 5 October 2023 and set a deadline by which the appellant could apply in writing to be heard remotely, in which case he should specify the location from which he proposed to attend.
- 26 On 29 September 2023, GLD filed a witness statement from an official, which was served on the appellant in anonymised form. GLD applied for an order under rule 39(5)(h) of the Rules that the maker of the statement be permitted to remain anonymous. The statement explains that the appellant’s conduct in naming a Home Office official in correspondence with the Home Office and in social media posts has caused the official “serious distress” and been “highly disruptive of her work as well as impacting on the work of other colleagues (who have witnessed the abusive conduct)”. The official has expressed concern that the appellant could act on his threats and has been required to take steps to mitigate that risk. Other individuals have felt significant unease

when attempting to progress this and other cases involving high risk individuals. As a result, the Home Office has put in place other mitigations to protect staff.

- 27 There has been no response from the appellant to Chamberlain J's direction of 14 August 2023.
- 28 The appellant did not attend the hearing on 5 October. We heard submissions from Mr Deakin for the Home Secretary. Mr Weetman, Special Advocate, was present and confirmed that he had considered the papers and had no substantive submissions to make. We considered whether we should proceed in the absence of the appellant. We decided that we should, because the appellant had been given the opportunity (i) to be represented (see SIAC's direction of 8 December 2022); (ii) to respond in writing to the application (see Chamberlain J's Directions Order of 15 June 2023); and (iii) to attend this hearing either in person or remotely (see Chamberlain J's Directions Order of 14 August 2023). The appellant had taken the opportunity to file written submissions, part of which we have quoted above. Nothing would be gained by any further delay in dealing with this application.
- 29 At the hearing we indicated for the record that the threats received by SIAC in this case had been reported to the police and advice taken about appropriate security measures. We had also considered some CLOSED material which had been sent to SIAC (and copied to the Special Advocate) by GLD. Chamberlain J explained that he had considered whether it was appropriate for him to continue to hear the application given that the appellant's written submissions included threats against him and his family. He explained that he had concluded that it was appropriate for him to hear the application. Indeed, there was no practical alternative, since the history of this case demonstrated that the appellant was wont to direct the same kind of abusive and threatening correspondence at whoever was dealing with his case. In those circumstances, the law did not require recusal. Mr Deakin said that he considered this the correct approach. Mr Weetman did not demur.
- 30 We accordingly heard brief oral submissions from Mr Deakin. These were in line with the written submissions at paras 27-39 of the application, which the appellant has seen. We granted the application that the Home Secretary's witness be entitled to remain anonymous. Rule 39(5)(h) confers an express power to do this. Although its exercise derogates from the principle of open justice, and must accordingly be convincingly justified, there were strong and cogent reasons for such an order in this case. The history of the appellant's correspondence to date indicates that he makes threats against almost everyone involved in the case. There is no need to add another name to the list of those who have been the targets of such threats. In any event, the witness's name is not likely to be of any use to the appellant, or interest to the public.

### **The power to strike out an appeal**

- 31 Rule 11B provides as follows:

“The Commission may strike out:

...

(b) a notice of appeal or a notice of application for review if it appears to the Commission that it is an abuse of the Commission's process.”

- 32 This rule is framed in terms similar to CPR 3.4(2)(b), which allows the court to strike out a statement of case if it is “an abuse of the court's process or is otherwise likely to obstruct the just disposal of the proceedings”.

- 33 *Masood v Zahoor (Practice Note)* [2009] EWCA Civ 650, [2010] 1 WLR 746, was a case where a party sought to have the claim against him struck out on the basis that it was based on fraudulent evidence. At [71], Mummery LJ (handing down the judgment of the Court) made clear that “where a claimant is guilty of misconduct in relation to proceedings which is so serious that it would be an affront to the court to permit him to continue to prosecute his claim, then the claim may be struck out for that reason”. He continued:

“The question whether it is appropriate to strike out a claim on this ground will depend on the particular circumstances of the case. It is not necessary for us to express any view as to the kind of circumstances in which (even where the misconduct does not give rise to a real risk that a fair trial will not be possible) the power to strike out for such reasons should be exercised.”

At [73], he said that one of the objects to be achieved by striking out the claim was “to *stop* the proceedings and *prevent* the further waste of precious resources on proceedings which the claimant has forfeited the right to have determined” (emphasis in original).

- 34 *Alpha Rocks v Alade* [2015] EWCA Civ 685, [2015] 1 WLR 4534 was another case about fraudulent or deliberately exaggerated evidence. At [22], Vos LJ (with whom Moore-Bick and Fulford LJ agreed) said that the court should exercise caution in striking out the entirety of a claim on the ground that part of it had been improperly or even fraudulently exaggerated. The court should consider whether lesser sanctions, such as costs and interest penalties, would suffice. He continued: “The court is not easily affronted, and in my judgment the emphasis should be on the availability of fair trial of the issues between the parties.”

- 35 In *Senna v Henderson* [2021] EWHC 453 (QB), Julian Knowles J applied these principles in a case where the claimant had suborned perjury and repeatedly threatened violence against other parties and their lawyers. This, he held, “easily satisfies the *Masood* test, even exercising due caution in the exercise of the draconian power to strike out”: see at [120]. At [121], he said this:

“The Court is affronted by such behaviour. It is just not acceptable for a litigant to conduct himself as the Claimant has done. If a party who has been sued seeks to defend themselves, and they and their lawyers are then threatened with violence for doing so by the opposing party, then the very rule of law is threatened. The Court must impose severe and deterrent sanctions in response. A litigant who behaves in such an extreme manner forfeits his opportunity to come to court to vindicate his rights. That is because the right to ask the court for justice comes with responsibilities – the most fundamental of which is to behave in a proper and lawful fashion in the conduct of the litigation. If that responsibility is jettisoned in a serious enough manner, then the court is entitled to say to the litigant that their right may not now be exercised. That point has been reached in this case.”

Julian Knowles J did not rely on anything directed against judges, since this was “merely vulgar abuse, as opposed to anything more serious”: see at [127].

- 36 In *McDonald v Excalibur & Keswick Groundworks Ltd* [2023] EWCA Civ 18, [2023] 1 WLR 2139, Nicola Davies LJ (with whom William Davis and Peter Jackson LJ agreed) reviewed the authorities and noted that, when an application is made to strike out a claim as “likely to obstruct the just disposal of the proceedings”, the question for the court was whether the litigant’s conduct was of such a nature and degree as to corrupt the trial process so as to put the fairness of the trial in jeopardy: see at [42]-[49]. That, however was a case far removed from this one, where the

conduct in question consisted in giving an account in a witness statement which differed from that given in a statement of case.

### Submissions

- 37 The Home Secretary submits that the *Masood* test is plainly satisfied on the facts of this case.
- 38 First, the appellant has made egregious and repeated threats of killing and/or visiting serious violence on the Chairman of SIAC, police officers (named and unnamed), GLD staff and civil servants (named and unnamed) and implicit threats to the family members of those involved. This threatens the rule of law. The seriousness of the threats must be seen against the background of the appellant's conviction and the assessment that he poses a risk of conducting a violent terrorist attack.
- 39 Second, the appellant has threatened to disclose the personal data of those involved in this appeal and their families and has made repeated attempts to gather such data. This was plainly intended to place pressure on GLD lawyers and the Home Office in their conduct of this appeal.
- 40 Third, the threats to the Chairman and Deputy Chairman (and the judiciary more broadly) and his allegations of corruption against them constitute clear contempts of court.
- 41 Fourth, the appellant's use of derogatory and discriminatory language to refer to GLD lawyers, police officers, SASO lawyers and the Commission itself are sufficient to satisfy the *Masood* test.

### Discussion

- 42 We are acutely aware that striking out an appeal is a draconian sanction. It prevents the appeal from being determined on its merits and thus nullifies the appellant's statutory right to argue before an independent and impartial tribunal that the decision appealed from was unlawful. SIAC must therefore be astute to ensure that conduct by an appellant does not trigger the exercise of the power conferred by rule 11B(b) unless it reaches a high threshold of impropriety.
- 43 In our view, there is no material distinction between rule 11B(b) and CPR 3.4(2)(b). The authorities interpreting and applying the latter are therefore directly in point. As the Court of Appeal said in *Alpha Rocks*, the court is not easily affronted. SIAC's approach to inappropriate, intemperate or abusive language directed at GLD, the Home Office or SIAC itself, must be proportionate. Ordinarily, the first response may well be to make an unless order, giving the litigant a final chance to correct his conduct and specifying consequences if he remains in default. In such cases, SIAC will sanction inappropriate conduct with a view to ensuring a fair determination of the proceedings.
- 44 However, proportionality cuts both ways. It tells against a sanction that is too harsh if a lesser one will suffice, but it also calls for a response that meets the nature of the conduct complained of. As the *Senna* case shows, in some cases, the appellant's conduct will be such that he forfeits the right to have his proceedings substantively determined. This is such a case.
- 45 First, it is possible to imagine a substantive hearing taking place, though stringent measures would be likely to be necessary to safeguard those involved. However, the appellant's correspondence over the course of this year has consisted almost entirely of abuse and threats. It is difficult to discern from this material any real interest in rational engagement with SIAC's process. If SIAC were to hold a hearing, the appellant's attitude to date indicates that it would likely be one in which the appellant played no or no meaningful part.

- 46 Second, we have to consider whether and to what extent any such hearing would be *fair*. The Home Secretary is, of course, as much entitled to a fair hearing as the appellant. One of the conditions of a fair hearing is that each party is able to give their evidence and make their submissions freely, without fear of unlawful consequences. The appellant's conduct in this case has included express threats to kill or harm GLD staff and civil servants (named and unnamed) and thinly veiled implied threats against their families (as well as threat against named and unnamed police officers and others). The threat made against a named Home Office official and her family was particularly unpleasant. The discriminatory terms in which it was couched were repellent. It is not surprising that these threats have had an adverse effect on the official and her colleagues: the only proper inference is that they were intended to have that effect. Those who respond to appeals before SIAC (whether working for the Home Office or GLD or any other department or agency) are entitled to go about their work without facing threats and abuse of this kind. We do not regard it as fair to require the Home Secretary's staff and lawyers to tolerate such threats as the price of responding to this appeal.
- 47 Third, the express or implied threats to kill or harm judicial members of SIAC, and GLD, Home Office and others involved in the case (and their families) go beyond mere vulgar abuse. *Prima facie*, they constitute serious contempts of court and are inimical to the rule of law. Those who make them should not be surprised if they forfeit their right to have their appeal determined.
- 48 Finally, the appellant's conduct in the present case was not a one-off aberration. The threats and abuse were repeated over many months against many different individuals, named and unnamed, even after receipt of the present application. The appellant has had every opportunity to modify his behaviour, but has instead repeated and doubled down on it. Anything other than an order striking out the appeal would be an inadequate response to the appellant's conduct.

#### **Decision**

- 49 For these reasons, we strike out the appellant's notice of appeal pursuant to rule 11B(b) of the Rules. This appeal is accordingly at an end.