Appeal No. A2/2015/2839 A

IN THE COURT OF APPEAL
CIVIL DIVISION
BETWEEN

(1) STEPHANE PARIS
(2) ANGEL GARDEN

Applicants/Claimants

-and-

(1) ANDREW LEWIS
(2) MELANIE BYNG

Respondents/Defendants

GROUNDS FOR RECUSAL OF LORD JUSTICE PEREGRINE SIMON

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1. This is a formal application for recusal of Lord Justice Peregrine Simon. Contrary to his Order (made without properly responding to our request), he was asked to recuse himself from case A2/2015/2839A on 14/11/2016 immediately when it was discovered that he would be dealing with this application.

2. There are several reasons for this, beginning with an earlier complaint after the permission to Appeal Hearing in March 2016 for case A2/2015/2839, in which, as well as demonstrating perceived bias in his obviously unequal treatment of the parties, which included refusing to postpone the hearing to allow the Applicants to get legal representation which had just been offered to them, he then undeniably materially misrepresented the Applicants' Grounds of that Appeal in an absolutely blatant fashion by denying that a Ground of appeal at point 28 was actually part of the Applicants' claim [AB-14] and points 91-98 of their skeleton argument [AB-38-40], and therefore dismissed it:

   "Well, that is not a ground of appeal that you have raised."

   (see attached said letter, sent on the 14/11/2016 [AE-7-10]).

3. The Ground of Appeal thus wrongly denied as existing clearly demonstrated provable criminal evidence tampering by Barrister Jonathan Price, deliberately altering sentences in an Open Letter which has existed unaltered in the public domain since 2011, in order to create a non-existent paedophile smear out of an actual clear documentation of cultic grooming, a lie upon which the case was erroneously and prejudiciously judged.

4. Further, Lord Justice Simon misrepresented the facts in his judgement refusing the Applicants' permission to appeal, even when said facts were presented at the hearing and in the Applicants' skeleton, Lord Justice Simon ignored that evidence and reverted to a pre-written judgement during his closing.

5. There are numerous examples of this, but the Applicants will focus on just three here. This does not mean that those are the only two examples however, but they have chosen this as a means of achieving brevity.

6. In their first example, Lord Justice Simon quoted HHJ Seys Llewellyn's judgement that:

   "However in my judgment the consistent thread of communications by the second defendant is to encourage people not to engage publicly with the claimants in relation to allegations of what did or did not transpire in relation to the ill-fated holiday in France."

7. This was despite showing Lord Justice Simon incontrovertible proof that the consistent thread of communications by the second defendant had nothing to do with what happened in France but was in fact all about smearing the Applicants in order to portray them as untrustworthy, unreliable and unethical with regard to their experience and work on exposing Steiner education including attempts to sabotage the Human Rights Process.

8. Their second example focuses on Professor Richard Byng, and Lord Justice Simon's ruling that:

   "It is sufficient to observe that the judge was entitled to the view that this was a deliberate attempt to damage his reputation with his employers on a wholly unjustifiable basis"

9. Yet this assertion went against the evidence provided which showed Professor Richard Byng, in full knowledge of the family's bereavement, obviously involved in covertly smearing and attacking the Respondent, incontrovertible evidence of which was shown at the hearing and in the bundle of exhibits, but was wholly ignored by Lord Justice Simon.

10. It must also be stressed that reading a pre-written judgement which ignores all presented evidence can only be seen as a clear indication of bias with the decision having already been made prior to the hearing having been heard.

11. The third example concerns a long quote of an email from the 2nd Respondent to the 1st Respondent, which HHJ Seys Llewellyn used in his judgement. That quote had been painstakingly deconstructed at trial and shown to be riddled with inaccuracies, damaging insinuations the 2nd Respondent knew or ought to have known were untrue, and outright lies. Without stating this was the case anywhere in the judgement, and considering the Respondents were vindicated by HHJ Seys Llewellyn, the Applicants argued that any reasonable person reading this passage would be encouraged to believe this quote was a true depiction of the Applicants as opposed to the complete and extremely damaging fabrication it was shown to be at trial. Lord Justice Simon disagreed with this obvious fact, stating instead:

    "I do not think you are right about that. He is simply setting out in his judgement something that was said by one party which was thought to be relevant"

12. When the Applicants wrote to Lord Justice Simon asking him to recuse himself on the 14th of November 2016, they did not hear back from him, merely getting a response from someone called V Cahill nine days later stating that their correspondence had been noted. [AE-11]

13. Having failed to reply to the Applicants' request for his recusal, or acknowledge his earlier obvious errors, Lord Justice Simon then made a further unfair and unjust Order demonstrating further clear bias by making several further misrepresentations:

    a) he claimed the Applicants' recusal request was solely *"a response to my order that the respondents be given an opportunity to answer the application."* In fact, the request for recusal was sent urgently the moment he revealed himself as dealing with this new application, despite the Applicants having complained about his prior bias after he heard their original permission to appeal back in March 2016. Had the Applicants been made aware Lord Justice Simon was dealing with the case earlier, they would've submitted their request for recusal then. His comment is therefore inaccurate in a manner demonstrating further clear bias.

    b) The Lord Justice adopted all the Respondents' misrepresentations without any question, including their claim as to the privileged nature of an admission of using a doctor's credentials to spread a bogus mental health diagnosis. In fact it is materially incorrect to claim that the admission is privileged as it has been specifically referred to in open court when case C00SA374 was heard in the County Court. This was mentioned in the Applicants' response to

the Respondents' Response [AE-22-27] which the Applicants sent just a day before receiving Lord Justice Simon's order. The Respondents sent a solicitor to that hearing so they knew full well this quote was referred to in open court, and their insistence that it was still privileged and confidential despite that fact, is not only moot but yet another attempt to deceive the Court of Appeal.

c) He further adopted the misrepresentations of the opposing barrister that the Applicants are somehow at fault for not having brought up this new information earlier, citing Unilever PLC v The Proctor & Gamble Co that any privilege in "without prejudice" communications cannot *"act as a cloak for perjury, blackmail or other "unambiguous impropriety""*. The Lord Justice unquestioningly adopted Jonathan Price's claim that the Applicants should have brought this up earlier, despite the fact that the Applicants were forcefully admonished *not* to release this admission prior to trial, by:
- the respondents' representatives;
- their own representatives;
- at the pre-trial review by Judge Seys-Llewellyn, who while making much of telling the Applicants that the opposing Barrister, as well as himself, had a duty to inform them of any relevant case-law that may have a bearing on the case, refused point blank the specific request to release the harassment from confidentiality so that it could be put in front of the CPS without mentioning the above case at all even though the Applicants could not be expected to know about it.

The relevant case, now cited by Barrister Jonathan Price was not mentioned until now by any of those claiming a duty to so inform the Applicants, although it very obvious should have been mentioned at the PTR as powerful reason to re-amend the harassment claims back into the case. Lord Justice Simon's adoption of this excuse therefore amounts to using this very case precisely to cover up the admission of lying in court about the use of the doctor's credentials to smear, and to make sure this admission stays covered up. This shows bias.

d) Lord Justice Simon's Order adopts wholesale the perverse denial by the Respondents that an admission of having made "understandably distressing" and "untrue" comments falsely using the medical credentials of a doctor to lever stigma in persuading others that someone is mentally ill [AD-15], is not such an admission at all, and his Order falsely states it is exactly the same as the Respondent's fervent denial of having made any such statements under specific questioning from the Judge in court [AD-36].

14. This blatant denial of a frank admission of lying, i.e. his immediate adoption of Barrister Jonathan Price's deliberate ignoring of the sentence:

    "Any comments I have made which might suggest otherwise are untrue and understandably distressing to Ms Garden",

    to obfuscate an obvious fraud being committed upon the court, is clearly not only biased but also a severe infringement of the Applicants' Human Rights Articles 2, 3, 6, 8, 9,10,11,14 and 17.

15. Judicial denial that an admission of lying was made which contradicts what was said in court can in no way disguise the truth of that admission of lying, which is blindingly obvious, and the Applicants prevail upon the Court of Appeal to require recusal of this Judge, and put fresh eyes on this case, including this admission of fraud, to achieve justice.

16. The test for determining bias approved by the House of Lords at paras 102/3 following Porter and Magill [2002] has not been applied in this case:

    "*The court must first ascertain all the circumstances which have a bearing on the suggestion that the judge was biased. It must then ask whether those circumstances would lead a fair-minded and informed observer to conclude that there was a real possibility … that the tribunal was biased"*.

    As a result, Lord Justice Simon, who denied legal representation before provably failing to properly understand the Grounds of Appeal in court when dealing with this case in March 2016, simply refused to recuse himself with no proper communication. He then went on to make further damaging misrepresentations when dealing with case A2/2015/2839A. Porter V Magill 2002 makes it clear that this should not be a matter merely of the discretion or preference of the Judge facing such a request.

17. In all these specifics, this Judge has shown actual and perceived bias in a matter so weighing heavily on the Applicants and their family, in the context of cult abuse, that they have lost their home, in clear breach of their Human Rights. He should not have been allowed to sit on this case further, having already refused to acknowledge his unmistakeable earlier bias. This demonstrates a perverse mind-set and creating an unnecessary and untenable conflict of interest.

18. This is not justice and discriminates against the Applicants as LiPs, as a family, as publishers, and as people, as well as punishing the Applicants' children for the knowing fraud of others by awarding the perpetrators their home.

19. The public interest cannot be served in this manner and is clearly indicated in a case examining highly topical and pressing matters concerning the preservation of freedom of speech in open publication with right of reply versus covert campaigns of harassment based on mental health smearing as per CPS guidelines. His refusal to recuse himself is unjust and itself proof of bias. His order for case A2/2015/2839A must be overturned, and a different unbiased judge must look at the facts in this case.

20. The Applicants also submit that, in view of the judicial bias evidenced to date, including the misrepresentation of grounds and evidence, that their reasonable re-request (in a separate application with this bundle) for recusal of Lord Justice Simon is not again merely given to him to refuse, but that a new judge should also look again at the evidence submitted on 4th October 2016 [AD-1 - AD-73], including the response to the Respondents' response sent on the 29th November 2016, both of which are already in the court's possession. How can justice be seen to be done if the judge accused of bias is the only one to examine the evidence of his perceived and actual bias, and can therefore simply ignore or deny it? The Judge's statement that an admitted lie is the same as denying a lie is perverse and clearly not true. If bias is not rejected and such obvious misrepresentations undone, then unfortunately misrepresentations are being held up as justice.

27th February 2017
Stéphane Paris
Angel Garden