CO/649/2000-CO/3712/2000

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IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

Royal Courts of Justice
Strand
London WC2

Wednesday, 3rd December 2003

B E F O R E:

LORD JUSTICE BUXTON

MR JUSTICE JACKSON

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HER MAJESTY'S ATTORNEY GENERAL

(CLAIMANT)

-v-

PURVIS

(DEFENDANT)

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MR S KOVATS (instructed by TREASURY SOLICITORS) appeared on behalf of the CLAIMANT
The Defendant did not appear and was not represented

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J U D G M E N T

1. LORD JUSTICE BUXTON: There is no appearance by Mr Purvis. Is that right? The matter has been called outside, that is correct? Thank you. Mr Kovats, we have an application from Mr Purvis for this hearing to be adjourned which the Court is not minded to grant, for reasons which it will indicate in a minute. On that basis we will then hear the substantive application. We will not need to call on you on that application unless you want to tell us anything. We will then proceed to Mr Purvis' renewed application for judicial review of the decision of His Honour Judge Baker in Exeter in 1999.

2. LORD JUSTICE BUXTON: There are two matters before the Court. The first is an application by Her Majesty's Attorney-General for the respondent, Mr Paul Purvis, to be declared a vexatious litigant in respect of all civil proceedings. That application was originally moved as long ago as October 2000. The reasons for the delay since then will become apparent in the course of the various judgments the Court is going to have to deliver this morning.

3. The second matter is a renewed application by Mr Purvis for permission to move for judicial review of a decision of the Crown Court taken in the year 1999, permission having been refused on paper by Moses J as long ago as the 12th April 2000. There has been some correspondence between Mr Purvis, the Attorney-General and the Court with regard to the adjournment of today's proceedings. The application was originally made by Mr Purvis' son, ostensibly on his behalf, and was rejected by me on paper. As a result of that Mr Purvis has now himself submitted a lengthy, that is to say five page, application, seeking to adjourn this case. My Lord and I have carefully considered that application. We are not minded to grant it. There are two different types of reason why we do not grant the application. The first is that the material relied on by Mr Purvis, in support of this application, is plainly insufficient. Secondly, and quite separately, having given considerable attention to the history of this case, it is absolutely clear that Mr Purvis has no intention whatsoever of attending at any hearing at which his responsibilities might be finally determined.

4. We deal with those two matters in turn. The first is as to the inadequacy of the present application. Mr Purvis first says, as had his son on his behalf, that he is not fit to attend let alone to conduct a hearing, in other words he asks for the matter to be adjourned on grounds of ill-health. He said in his previous application that he had been recently admitted to hospital, that is on 19th November and was then "still a patient". No information is given in this application as to the nature of Mr Purvis' disability or the circumstances of it. More particularly, there is no medical evidence, not even a note of his admission to hospital, adduced in support of this application. In view of Mr Purvis' repeated history in making claims about his health which have turned out not to be justified, we are not prepared, and in any event would not be prepared irrespective of Mr Purvis' history, to act on those assertions without any form of medical evidence whatsoever.

5. When we speak of Mr Purvis' history in this regard, it is necessary to mention that the principal proceedings were held up for some 2 years by reason of Mr Purvis claiming ill-health but not producing any, or certainly not adequate, evidence thereof, with the result that the Court ordered he should be medically examined by a doctor appointed by the Attorney-General. There were endless difficulties about making those arrangements. We have looked at the history of them carefully and we are quite satisfied that Mr Purvis deliberately caused difficulties in order to avoid attending a medical examination. Furthermore, evidence that is now before the Court, filed in February 2003, demonstrates that, during the period when Mr Purvis was claiming that he was medically unfit to appear in this Court, he was actively conducting litigation in other courts. The history of that is summarised in an affidavit, dated 26th February 2003, sworn by Mr Edward George Holder. That recites a number of appearances in 2002 by Mr Purvis in various courts, all of which are verified from court documents, which we have inspected. Putting it shortly, it is known that between 9th May and 22nd August 2002 Mr Purvis attended court on five occasions, twice in the Magistrates' Court in Cornwall, twice in the Royal Courts of Justice (in this very building) and once in the Bristol District Registry.

6. None of that of course establishes he is fit to be here today. What it does show, bearing in mind that throughout the period the issue of Mr Purvis' health was said to be relevant to whether he could appear in this Court, is that no assertion as to his health can be accepted without proper evidence. Proper evidence in this case is not available.

7. The other grounds that Mr Purvis sets out I am not going to go through verbatim, because if needs they can be viewed to his application dated yesterday. They include the following:

1. Complaints about the failure of the Legal Services Commission to advance community funding to him. The Legal Services Commission made an order in 2001 that no further application would be accepted from Mr Purvis for a period of 5 years, because his conduct had been abusive of the community - funding provisions. Mr Purvis has on a number occasions said he intends to seek judicial review of that order. He has not done so. The order was of course an extreme one. We have no doubt that the Legal Services Commission would not have made it

unless they had grounds for having the very gravest concern about Mr Purvis' calls one of public funds.

2. He complains that he has not received notice of this hearing. We are not prepared to act on that assertion. First of all, even if he did not receive the original notice he is well aware now of the hearing. Secondly, he appeared before this Court, presided over by Lady Justice Hale, on 12th March 2003, on which occasion the Court not only indicated that the matter would have to be heard sooner rather than later, so Mr Purvis was in a position where he needed to get on and make such preparation as he could do so; but also various orders were made, including that Mr Purvis should file evidence, in so far as he wished to rely on it, within a short period of time. Mr Purvis has made no attempt whatsoever to comply with that order, so even if he were here today, it is more likely than not that the court will not be prepared to hear him.

3. He complains that various papers and documents are held either by his trustee in bankruptcy or by the police, having been seized for various purposes which Mr Purvis does not specify. Mr Purvis gives no indication at all of what there is or might be in those documents that would assist him in meeting this claim by the Attorney-General, nor does he appear to have given any such indication to this Court when he appeared before it on 16th March.

8. In all these circumstances, therefore, Mr Purvis' grounds for an adjournment are unacceptable and we do not grant them.

9. We have already said that, separately and independently, we would not be prepared to adjourn this matter further. Mr Purvis has a history of failing to attend, and of seeking to avoid going to trial on medical grounds, which dates back before these proceedings were launched. That is clear from the judgment of the Court of Appeal (Criminal Division) on 31st January 2001, in an appeal by Mr Purvis against his conviction at the Crown Court for various offences of dishonesty. The chronology of that case and the chronology of the trial, including various matters of recourse to medical complaint, is set out in great detail in paragraph 36 of the judgment in that appeal, delivered by Rose LJ. It is quite clear that Mr Purvis' attitude was evasive from start to finish. Secondly, while we are not going to go into the detail of the difficulties that have been created by him with regard to the medical inspection that was ordered by this Court, we have already pointed out that his conduct was completely inconsistent with his repeated claim that he was physically unfit to appear in a Court in this building.

10. Even therefore, if there were otherwise arguable grounds for adjourning this matter today, we would not be prepared to adjourn it. The application for adjournment is therefore dismissed.

11. I now turn to the application by Her Majesty's Attorney-General. In dealing with this matter, I do not intend to set out in detail the incidents on which the Attorney-General relied in his application, as long ago, as we have said, as 10th October 2000. They are set out in an affidavit sworn on 9th October 2000 by a Mr Roger Lutterodt on behalf of Her Majesty's Attorney-General. I will, however, refer to the respects in which, in my view, it is amply demonstrated that the history of litigious behaviour shown by Mr Purvis justifies the application that the Attorney-General makes.

12. This is not case, like some cases that come before this Court, where a person has become so obsessed about a single incident that he or she has engaged in multifarious litigation aimed at one single person or one single circumstance. Mr Purvis appears to be somebody who litigates, almost at will, about every matter that he considers to inconvenience him. In so doing he has displayed a number of characteristics that fall fully within the category of vexatious litigation. I will go through those categories in turn.

13. First of all, Mr Purvis has pursued a number of civil cases dishonestly. That is particularly the case in respect of his litigation against the Norwich Union Fire Insurance company under reference number TA602465 which is the third incident referred to by Mr Lutterodt. In that litigation Mr Purvis claimed, firstly, that items belonging to him had been stolen from third party premises on the 2nd July 1994. Investigation showed that the corroboration of Mr Purvis' ownership of those items came from a person who was said to be a Mr Warren who was Mr Purvis' accountant. That was untrue. Mr Warren was an alias adopted by Mr Purvis. In the Crown Court proceedings, to which we have already referred, that false claim formed count 1 of the indictment upon which Mr Purvis was convicted. Secondly, Mr Purvis claimed that cash and a gold watch had been stolen from him, Mr Warren again providing corroboration of that fact. The Norwich Union in fact paid that claim and had to counterclaim in respect of it in the proceedings to which I have already referred.

14. Those false statements formed count 3 of the indictment in the Exeter Crown Court in respect of which Mr Purvis was also convicted by the jury. He also sued, in respect of a claim which the Norwich Union had refused to pay. The Norwich Union did not accept that the claim was genuine and they were right to do so, the nature of that claim having formed count 5 on the indictment in the Crown Court at Exeter.

15. Mr Purvis applied for summary judgment in those civil proceedings. The case was eventually struck out, but in the course of those proceedings he swore that the allegations that he made were true. They were not; they were false. The fact that he was convicted in the Crown Court does not of course directly affect the present application but what it does demonstrate, beyond peradventure, is that the proceedings with which I am presently dealing were not only vexatious but also dishonest.

16. Secondly, there are proceedings between Mr Purvis and the Abbey National Building Society under reference PZ00935, that is item 10 in Mr Lutterodt's affidavit. These proceedings came before His Honour Judge McIntosh on 21st July 1999. They took the bizarre form of an application by Mr Purvis to intervene in possession proceedings that had been brought by the Abbey National against Mr Warren. Mr Warren, as will be recalled, does not exist. He was found by the Crown Court to be a fiction invented by Mr Purvis. The judge's judgment, which I have read, did not have the benefit of knowing that that was so. Nevertheless, Judge McIntosh, at considerable length, indicated that even without that element to it, the proceedings were vexatious. But the real point about them is that the proceedings were not only vexatious but fraudulent through and through, and indeed admirably calculated, not only to harass the Abbey National Building Society but also to waste the time of the court, proceeding as they did on a wholly false basis.

17. The third direct example of dishonesty is to be found in proceedings between Mr Purvis and the Commissioners of Customs & Excise, in the Crown Office, the Crown Office 1257 of 1997. This was an application to appeal out of time against a decision of VAT tribunal. Mr Purvis' application was on the basis that he had never received notice of the tribunal hearing: it will be recalled a claim that he makes in respect of this hearing, and indeed as was made in respect of many hearings over the years. In support of that application Mr Purvis made an affidavit dated 26th February 1998, in which he swore the application was true. One of the trustees in bankruptcy, who by that time had Mr Purvis' papers, being, as he put it, in his own affidavit suspicious of this claim, which on its face seemed unlikely, found within those papers the actual notice that had been served on Mr Purvis. It was clear therefore that the claims made in the action that I have just mentioned were not only vexatious but also dishonest.

18. Secondly, actions had been brought in order simply to harass other persons. This is particularly the case in respect of the case of Purvis v Fawn which ended up under the title BS600818 and is item one in Mr Lutterodt's affidavit. I do not intend to set out the details of this case. It is quite clear that it was an unreasonable dispute with a neighbour, who was merely trying to lay a water course to his own property. Mr Purvis had no basis in law to object to that. He brought repeated proceedings in respect of the work. He sought wrongly to commit his opponent to prison. He sought to appeal out of time for a review of taxation costs that were awarded against him on the committal application. He sought many inappropriate orders for specific discovery and, in the action itself, he failed to pursue the matter making at least four applications for an adjournment, in front of different judges, and never getting on the with the matter, frequently again seeking an adjournment on the grounds of ill health. Those proceedings were, in my view, correctly regarded as the being abusive.

19. Thirdly, Mr Purvis has taken proceedings against or in respect of his trustees in bankruptcy which have caused wholly unnecessary expense to the detriment of Mr Purvis' creditors. The two cases to which I would draw attention are first his action Purvis v The Official Receiver & Ors, that is item 5 in Mr Lutterodt's affidavit, under unique identification number Ch 208 of 1997. Again, I am not going to go through the proceedings in detail. They included claims alleging failure to deliver up tools of trade at a time when Mr Purvis said he was unfit to work, and claims that assets held by trustees belonged to third parties. Mr Purvis swore a number of affidavits in support of those allegations. The claims included wholly irrelevant and fanciful allegations not about what the trustees had done but about the conduct of the son of one of the teachers working at the school that Mr Purvis had been in charge of before being declared bankrupt. All these claims struck out by Jacob J in 1995 and 1997. On the latter occasion he awarded costs against Mr Purvis on an indemnity basis and made a Grepe v Loam order requiring further application to be made in writing to any Chancery judge. I would say in parenthesis that the cost order against Mr Purvis was one of an innumerable costs order often on indemnity basis made against him over the years. There was no reason to think that any single one of those orders has ever been obeyed.

20. Mr Purvis then sought to remove the solicitors acting for the trustee, a wholly inappropriate application. That application was equally struck out by Jacob J, with the award of indemnity costs. Mr Purvis sought also and vexatiously to appeal against orders made by His Honour Judge Weeks QC, the Chancery Judge in Bristol who bore the burden of dealing with many of Mr Purvis' applications in respect of public examination and the bankruptcy. Mr Purvis stated, in that application, that he had been made bankrupt on the petition of Her Majesty's Customs and Excise and that he had an appeal against the relevant debt, due to be heard in the Divisional Court. He so swore. He thereby, on the basis of that application, persuaded a single judge of this Court to grant a stay on all bankruptcy proceedings until after that hearing. The truth was that Mr Purvis had not been made bankrupt on the petition of Her Majesty's Customs but on petition of the Royal Bank of Scotland. No debt owed to the Customs & Excise could affect the validity of the bankruptcy. The Official Receiver had to go

to the trouble of coming to this Court to make that claim and demonstrate to this Court that Mr Purvis had not told the truth when he appeared before the Single Judge. This Court discharged the stay that had previously been awarded.

21. There is no possibility that Mr Purvis did not understand the proper position. It is clear from the papers that Mr Purvis is an intelligent person. He has previously run a school, and he tells us, in a document before the Court, that he has a degree in law and also has acted as adviser to several government ministers. He had been present at the hearing of the bankruptcy petition before Chadwick J and must have known that the bankruptcy was not based upon any debt to Her Majesty's Customs.

22. Secondly in the bankruptcy proceedings Mr Purvis issued a writ in the Queen's Bench Division 1997 P267, claiming damages against the trustees in bankruptcy for trespass to land by taking possession of his school. That of course is something that they were not merely entitled but obliged to do in order to bring in the property of the bankrupt. That action also was struck out by Jacob J in 1997, again with indemnity costs - costs no doubt that have not been paid.

23. Other actions taken by Mr Purvis have been similarly vexatious. I have already referred to item 4 in Mr Lutterodt's list, that is to say Mr Purvis' action against the Commissioners of Customs & Excise. I do not need to say more than that. He also brought an action Purvis & Ors v Gledhill & Burtchaell 1997 P O94. The defendants were two people who were running the school, Mr Gledhill, the husband of the first respondent, having purchased the school from the trustees in bankruptcy.

24. Mr Purvis claimed that one of his children was in fact beneficially entitled to the Manor School. Mr Purvis had not owned it. This claim was an example of Mr Purvis' habit of using his children, or their names, in pursuit of litigious intentions. The action was a vexatious attempt to prevent these two ladies, Mrs Gledhill and Mrs Burtchaell, from carrying on the school. Here again, Mr Purvis applied for summary judgment, and swore that what he complained of was true.

25. This action was also struck out by His Honour Judge Weeks in June 1998, again with indemnity costs. The judge drew attention to the wildness of the allegations that Mr Purvis had seen fit to put forward in an entirely unspecified way. For instance, he draws attention to an allegation that malicious falsehoods and defamatory statements had been made by the two lady defendants knowing them to be false. The judge said this:

> "This is a serious allegation to level against the teachers. No particulars are given as to what has been said, when or to whom. This amended statement of claim suffers from similar defects to that of the original statement of the claim. It is hopelessly vague, it is not a document to which the defendants can properly plead."

As I have said the judge struck out those proceedings. Mr Purvis took his leave of His Honour Judge Weeks QC at the end of the proceedings in the following words:

> "Yes, well you would always do. Absolute rubbish you are. I will see the end of you long before the end of me. You think you are protected. Just think about it very, very hard."

26. Not content with His Honour Judge Weeks' judgment, Mr Purvis then vexatiously and repetitiously started further proceedings under the heading TA 9702209, which were simply a repetition of the proceedings 1997 P094 that the judge had struck out. The judge struck them out again, observing that they were indeed repetitious.

27. All of these cases show therefore an irresponsibly vexatious attitude to litigation with a substantial elements of dishonesty. They amply justify, in themselves, the order that the Attorney-General seeks.

28. The Attorney-General has filed further material indicating that Mr Purvis continued to litigate after the events to which we have made reference, including an elaborate series of actions in respect of the trusteeship of his mother's will.

29. There is one further aspect of the matter to which we should avert. When the matter originally came before this Court on 25th June 2001, the Court being presided over by Latham LJ, there was there was an application then again by Mr Purvis asking for the matter to be adjourned on grounds of ill-health. It was that application that was the source of all the difficulty about the medical examination to which we have already referred. The Court was satisfied, having seen the material to which I have already averted, that there was a very strong case for making an order. It therefore issued an order in an injunctive form up to the hearing of the application of further order in the terms of the section 42 order sought by the Attorney. It has not in my view been established, though

I did make no final decision on that point, that Mr Purvis had been in breach of that order in itself. However, after the order was made, Mr Purvis continued his litigious activities by acting as McKenzie Friend or purporting to do so on behalf of various of his children.

30. In October 2001, in a further hearing before this Court, presided over by Pill LJ, quite understandably the Treasury Solicitor expressed a concern about that practice on Mr Purvis' part. The point of departure for that difficulty was proceedings entitled Purvis, Osborne and Allen the Bristol County Court, heard on 10th August 2001, where a Mr Tristan Purvis was listed Next Friend on behalf of the claimant and a Mr Paul Purvis acted as litigation friend to the Next Friend. They are apparently sons of the Mr Purvis with whom we are concerned; one of them at least was, as we understand it, a minor. The Court made an order on 16th October 2001, that Mr Purvis should be prevented:

> "From acting as a Litigation Friend or McKenzie Friend or from nominating members of his family to act on his behalf in any proceedings whatsoever pending the hearing of the substantive application."

There is significant evidence before the Court, summarised in the affidavit of Mr Holder, dated 26th February 2003, to which I have already referred, that indicates that Mr Purvis has not obeyed that injunction. I have already drawn attention to his litigious activity in 2002, and do not go back over that; but there is ample evidence, not just from statements but from actual court orders and from testimony by court officers including the Clerk of the Magistrates' Court in Cornwall that Mr Purvis has indeed acted on behalf of other people in a litigious role. This has three implications. First, as I have already said, it casts doubt about his medical claims and certainly requires them to be fully verified. The second is that Mr Purvis appears not to be prepared to obey orders of the court, a matter that although not directly relevant to his vexatious conduct is certainly a illuminating background to it. Thirdly, it is clearly necessary to maintain the order made by Pill LJ presiding in this Court on 16th October 2001. As I said, the case is plainly made out; there can be no defence to it.

31. I would therefore order as follows. First, I would grant the order sought by Her Majesty's Attorney-General in this application of 10th October 2000 as a final order in terms there sought. Secondly, I would continue, until further order, the order made by this Court in respect of Mr Purvis acting as a Litigation Friend from the order made by this Court on 16th October 2000. Thirdly, I would order that any application made to a High Court judge under section 42 for permission to bring civil proceedings should have annexed to it a copy of the judgment delivered today. Fourthly, that any application to any court for permission to act as a McKenzie Friend shall have annexed to it a copy of the order of 16th October 2000 and of the order made today and of this judgment.

32. I would make the latter provision in particular, because it is clear from the events that happened in 2002 that Mr Purvis did not tell several of the courts that he asked for permission to appear as a McKenzie Friend in that he was inhibited from so doing without permission.

33. That, I think, concludes matters as far as my judgment is concerned.

34. MR JUSTICE JACKSON: I agree with all that my Lord has said and I agree that this Court should make an order in the terms just outlined.

35. Mr Purvis, by his conduct, has shown himself to be a habitual litigant who knowingly prosecutes claims and pursues applications without any merit. By these litigious activities Mr Purvis has caused distress or inconvenience to many individuals.

36. The grounds for making a civil proceedings order, under section 42 of the Supreme Court Act 1981, are clearly established.

37. LORD JUSTICE BUXTON: We turn to Mr Purvis' application for permission to move for judicial review in respect of a decision of the Crown Court to continue with the criminal trial that we have already referred to in his absence. This application was refused on paper by Moses J. It has been held up for the same reasons as the Attorney-General's application has been held up. We are now going to deal with it today.

38. The application is completely hopeless for two separate reasons. The first is that, as Moses J pointed out, it related to a trial on indictment and therefore was not open to be heard in the Administrative Court by reason of section 29(3) of the Supreme Court 1981. Secondly, and separately but illustrating the wisdom of section 29(3), the matters that Mr Purvis complained of, that is to say, the fact that the trial had gone on in his absence, were the subject of his appeal to the Court of Appeal (Criminal Division) after he had been convicted. He therefore

had the perfectly appropriate tribunal to which to go, other than the Divisional Court, and that tribunal has fully and thoroughly dealt with his complaints and has found that there is no basis in any of them. Both therefore in form and in substance this application is wholly inappropriate and we dismiss it.

39. MR JUSTICE JACKSON: I agree.

40. LORD JUSTICE BUXTON: Is there anything else for us to do? Can we just thank those instructing you for the trouble they have had to take over this case which has made it much easier to deal with. We are very grateful for that. (Pause).

41. I am told it is normal that you do not ask for your costs. Clearly, you do not wish to join the list of people who are owed money Mr Purvis. The Associate says we must record that, so we do. Thank you very much.