

IN THE ROYAL COURT OF GUERNSEY

ORDINARY DIVISION

Between:

ALAN MICHAEL CHICK

Plaintiff

and

GUERNSEY FINANCIAL SERVICES COMMISSION

Defendant

Application for Strike Out - Costs

Judgment handed down: 11th September 2020

Before: Sir Richard Collas, Lieutenant Bailiff

The Plaintiff was unrepresented

Advocate for the Commission: Advocate C H Edwards

1. In a Judgment (“the Judgment”) handed down on 12th June, I granted an Application by the GFSC to Strike Out the Plaintiff’s Cause (“the Strike Out Application”). Paragraph 3 of that Application sought an Order that the Plaintiff pay the Commission’s costs (“the Costs Application”). Following the handing down of my Judgment, the Commission has pursued the Costs Application with an Affidavit sworn by Jeremy Patrick Bell-Connell on 26th June and a supporting letter to HM Deputy Greffier of the same date.
2. The Plaintiff has replied by letter dated 4 September in which he pleaded his lack of means to pay any award and set out in some detail reasons why he disagreed with the Judgment. He also repeated previous allegations about the failures of the GFSC and its Senior Decision Maker in the conduct of the investigations and proceedings that led to sanctions being imposed against him.
3. The GFSC are well aware of the Plaintiff’s financial circumstances as they have been set out by him at earlier stages in this litigation, for example, when explaining his inability to afford legal representation as a result of which the proceedings have been pursued by him acting in person. Notwithstanding that knowledge, the GFSC has pursued its Costs Application. I am satisfied that a successful litigant’s entitlement to a costs award in its favour is not dependent on any ability to pay on the part of the unsuccessful party. Consequently, the Plaintiff’s financial circumstances are not a factor for me to consider.
4. The only other factors put forward by the Plaintiff to resist a costs order relate to the reasons for the decision but it is not for me to reopen my decision at this stage. The Judgment will

stand, whether it is right or wrong, at least until the Court of Appeal has made its decision on the Plaintiff's application for leave to appeal.

5. I therefore conclude that the Plaintiff has put forward no valid reason to displace the normal rule that "costs follow the event".
6. The Plaintiff's Costs Application is in two parts, as explained in Mr Bell-Connell's Affidavit. It seeks costs in relation to the Strike Out Application on the recoverable basis and on the indemnity basis in relation to the Costs Application itself. The reasoning put forward for the latter is that in correspondence the Plaintiff rejected the Commission's invitation to agree the costs order and hence in preparing and presenting the Costs Application to the Court, the Commission has incurred unnecessary expense.
7. The Court's powers to order indemnity costs are well established. I am not persuaded that it was so unreasonable of the Plaintiff to require that the Costs Application be heard by the Royal Court that he should be penalised with an order on the indemnity basis. I therefore order that in respect of both the Strike Out Application and the Costs Application, the Plaintiff shall pay the Commission's costs on the recoverable basis, with the quantum of costs to be taxed if it cannot be agreed.
8. In his letter of 4th September, the Plaintiff requested that the Court "consider the deferral of any award of costs until such time as the Court of Appeal has had time to consider my latest application". I have power under Rule 15 of The Court of Appeal (Civil Division) (Guernsey) Rules, 1964 to stay my order. In the circumstances put forward by the Plaintiff, I am persuaded to grant a stay of execution of this costs order until his application for leave to appeal has been determined by the Court of Appeal or until further order of the Court of Appeal or a single judge thereof. However, the stay of execution shall not prevent the Commission taking steps to establish the quantum of costs to which it is entitled either in correspondence with the Plaintiff or by seeking a taxation.