

Application requesting that the Applicant not be made subject to a Costs Order in favour of the Respondent.

[2021]GRC030

**IN THE ROYAL COURT OF GUERNSEY
(ORDINARY DIVISION)**

Between:

ALAN MICHAEL CHICK

Applicant

-and-

**THE CHAIRMAN OF THE
GUERNSEY FINANCIAL SERVICES COMMISSION**

Respondent

Application for Costs - Decision on the Papers

Decision handed down: 19th August 2021

Before: Jessica E Roland, Deputy Bailiff

The Applicant represented himself.

Counsel for the Respondent: Advocate S B Duerden

Cases, texts & legislation referred to:

Jones v Longley [2015] EWHC 3362 (Ch)

Sir Henry Royce Memorial Foundation v Hardy [2021] EWHC 817 (Ch)

Shaham v Lloyds TSB Offshore Treasury Limited [2007-2008] GLR 323

The White Book

Royal Court Civil Rules 2007

The Financial Services Commission (Bailiwick of Guernsey) Law, 1987

1. The Applicant by way of an application dated 23rd November 2020, applied for leave to extend time to file an appeal pursuant to section 11H of The Financial Services Commission (Bailiwick of Guernsey) Law, 1987 against the decision of the Respondent dated 1st May 2018 (the "Application").
2. I dismissed the Application and indicated in my judgment dated 7th April 2021, that my preliminary view was that costs should follow the event. However, I invited the parties to make an application within 14 days of the finalised judgment if either party sought a different Order.
3. The Applicant, by virtue of a letter dated 18th April 2021, set out in detail why he argued that I should not make a costs order against him and I have considered carefully these comprehensive submissions. In response to that document, Advocate Duerden, on behalf of the Respondent, urged me to make the costs order.

4. Costs are in the discretion of the Court. In accordance with the principles set out in *Shaham v Lloyds TSB Offshore Treasury Limited* [2007-2008] GLR 323, when awarding costs at the conclusion of proceedings, the Royal Court looks for guidance to English Case Law and the principles found in the White Book, in particular Part 44 of the Civil Procedure Rules. The general rule is that the unsuccessful party in the proceedings pays the costs of the successful party.
5. On 15th January 2021, the Respondent applied for a payment into Court under rule 50 of the Royal Court Civil Rules 2007 for a proportion of the outstanding costs order in relation to the Applicant's unsuccessful resistance of a strike out of previous proceedings made on 11th September 2020 by Lieutenant Bailiff Sir Richard Collas as a condition of the Application continuing. I dismissed the application, but I warned the Applicant that he was at risk of a costs order made against him if he was unsuccessful. Nevertheless, the Applicant continued in the Application as he was entitled to do.
6. Within the Applicant's comprehensive submissions, is a reiteration of many of the arguments which were set out in the Application and the merits of the appeal if the Application had been granted. However, these in my view do not go to why the Respondent should not be entitled to its costs having been successful in resisting the Application.
7. The Applicant has in his submissions, as he did in relation to the previous application for costs I have referred to above, following the successful application for strike-out of proceedings by the Respondent, pleaded his lack of means to pay any award as a reason why a costs order should not be made against him. I concur with the learned Lieutenant Bailiff 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 Applicant's financial circumstances are not a factor for me to consider.
8. The Applicant is a litigant in person, and he argues that this is another reason why costs should not be awarded against him. However, the Applicant knew, not only from his previous appearances before the Royal Court (see for example the judgment handed down on 11th September 2020 referred to above), but also because I specifically warned him of this possibility when he appeared before me in January 2021, that he was at risk of a costs order being made against him if he was unsuccessful.
9. As His Honour Judge Matthews stated very recently in *Sir Henry Royce Memorial Foundation v Hardy* [2021] EWHC 817 (Ch) at paragraph 21 (reiterating the principle he also identified in *Jones v Longley* [2015] EWHC 3362 (Ch)):

“The Defendant is (as he more than once reminded me) a litigant in person, and not a qualified lawyer, but that does not excuse him. There are not two sets of rules for litigation in this jurisdiction, one for represented litigants and one for unrepresented.”
10. This is a case where the Respondent has been plainly successful and therefore I can see no reason to depart from my initial indication that the Applicant should pay the Respondent's costs of the application on the recoverable basis, with the quantum of costs to be taxed if it cannot be agreed.