



JUDICIARY OF  
ENGLAND AND WALES

27 July 2016

**PRESS SUMMARY**

**Economou v De Freitas [2016] EWHC 1853 (QB)**

**Mr Justice Warby**

**BACKGROUND**

The defendant in this libel action is the father of the late Eleanor de Freitas. In December 2012 Ms de Freitas had a relationship with the claimant, Alexander Economou. In January 2013 she accused him of rape. He was arrested, but never charged. In August 2013 he started a private prosecution against her alleging that she had accused him falsely, with intent to pervert the course of justice. The prosecution was taken over by the Crown Prosecution Service, who continued it. Ms de Freitas denied the charge. Four days before the trial date in April 2014 Ms de Freitas, who suffered from bipolar affective disorder, killed herself.

Mr de Freitas wanted the inquest into his daughter's death expanded to include an examination of the role of the CPS, of which he was critical. The Coroner initially ruled against this, but indicated he was prepared to hear argument on the matter. Mr de Freitas was advised to raise the issues publicly. As a result, in November and December 2014 he issued or authorised the issue of press statements, gave radio and TV interviews, and wrote an article himself. Articles appeared in newspapers and the BBC broadcast two items containing interviews with Mr de Freitas, one on the Radio 4 *Today* programme and one on TV.

**THE CLAIM**

Mr Economou complained of libel in the two BBC broadcasts, and in five newspaper articles: four in *The Guardian* and one in *The Daily Telegraph*. None of these publications named Mr Economou but he argued that he could be, and was, identified as the subject of the words complained of. The meanings which he attached to the various publications complained of differ in their detail, but the essence of his complaint was that he had been accused of having falsely prosecuted Ms de Freitas for perverting the course of justice by accusing him of rape, when the truth was that he had raped her.

**THE ISSUES**

The Court made clear that the truth or falsity of such allegations was not one of the issues at the trial, and that nothing in the judgment should be read as a finding, or as expressing a view on that issue [5]. There were five main issues as to liability: (1) whether Mr Economou was referred to by the publications complained of; (2) whether Mr de Freitas was responsible for publication in the third *Guardian* article complained of; (3) what if any defamatory meaning about Mr Economou was conveyed by the publications for which Mr de Freitas was responsible; (4) whether the publications caused serious harm to Mr Economou's reputation; and (5) whether Mr de Freitas can rely on the defence for publication on a matter of public interest provided for by s 4 of the Defamation Act 2013.

**JUDGMENT**

The words complained of in the first *Guardian* article bore implied defamatory meanings about Mr Economou, but not ones as serious as he suggested [59]. His name was not public at the time, so he was not widely identified as the subject of those words [66]. The publication did not cause serious harm to his reputation among

those who did identify him [77]. The same was true of the *Today* broadcast and the BBC TV Interview [85], [91]. The words complained of in the second *Guardian* article did not refer to or defame Mr Economou [94]. For reasons similar to those that apply to the first three publications complained of, the Court would not have found that those words, or the article as a whole, caused serious harm to his reputation anyway [95].

The words complained of in the *Telegraph* article referred to and bore a meaning defamatory of Mr Economou, and their publication caused serious harm to his reputation [111]. The same was true of the article written by de Freitas himself [125]. But although Mr de Freitas was responsible for the words complained of in the third *Guardian* article those words met none of these requirements [122]. The Court therefore concluded that of the seven publications complained of, two were actionable by Mr Economou.

The Public Interest defence was upheld in relation to those two publications, and would have succeeded in respect of the other five, if they had been actionable [136].

It was not in dispute that each of the statements complained of was, or was part of, a publication on matters of public interest [143]. The matters of public interest were whether the CPS, a public authority, may have gone wrong in making a decision to prosecute Ms de Freitas; in particular, whether the CPS may have been mistaken in its assessment of the strength of the evidential basis for the prosecution and/or the public interest in prosecuting a rape complainant who was mentally unwell, and ended up committing suicide [144-150].

Mr Economou had alleged that Mr de Freitas acted dishonestly, but he did not persist in that claim [152-153]. The belief the law requires is a belief that the publication of the words used was in the public interest [155-156]. Mr de Freitas did hold such a belief. He did not think his words were about Mr Economou; he thought he was talking about the CPS, and the ramifications of its decision [157]. He believed what he said about those matters was in the public interest [159]. The court concluded that in all the circumstances that was a reasonable belief.

The Court rejected Mr Economou's case that Mr de Freitas spoke out for the improper purpose of intimidating the Coroner [218-221]. It accepted that relevant factors include whether the belief was arrived at without examining relevant factors, or making appropriate enquiries [241]. But it noted that there is little scope for restrictions on free speech about questions of public interest [242]. And it held that as Mr de Freitas did not play the role of an investigative journalist he was not to be judged by the same standards [244-248].

Applying these principles, Mr de Freitas' belief was held to be reasonable so far as the four articles published in November 2014 were concerned: (1) he reasonably regarded the issues raised as of considerable public importance; (2) he was in a unique position to raise them; (3) as a first-hand observer, he had some inherently reliable information; (4) he had made reasonable investigations into the case against his daughter, and had a sufficient basis for challenging the view of the CPS; (5) his words were aimed at the CPS, not Mr Economou whom he (6) deliberately avoided naming and (7) had no reason to suppose would be widely identified; (8) there was a degree of urgency; it was reasonable for Mr de Freitas to leave it to the media (9) to conduct further investigations; and (10) to seek out and publish Mr Economou's "side of the story", if that was required; (11) his tone was responsible and measured; and (12) it is hard to see how he could have expressed his views without risk of impliedly defaming Mr Economou [251]. Mr de Freitas could and did properly consider the publication to be in the public interest [252]. The way that he expressed his sincere views fell within the generous bounds the law permits for speech on important issues of public policy [254].

Similar reasoning applied to the three articles published in December 2014. By this time the context had changed, as Mr Economou had been publicly named as the man involved, and the Director of Public Prosecutions had assessed and given reasons for upholding the CPS

decision to prosecute. But Mr de Freitas' belief remained within the bounds of reasonableness. He published in good faith, for proper purposes, taking aim at the CPS not Mr Economou; and he had a sufficient factual basis for writing what he did [255]. The thrust of what he said was that the DPP had given too much weight to "rape myths", which was highly debatable, but not untenable [257]. There was some balance to his wording, and Mr de Freitas derived some support from the views of an expert solicitor and the Detective Inspector in charge of the original investigation. Bearing in mind the need to take a strict approach to interference with political speech his belief was reasonable [258].

*References in square brackets are to paragraphs in the judgment*

**NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [www.bailii.org.uk](http://www.bailii.org.uk)**