

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 28th March 2018

Before:

THE PRESIDENT OF THE QUEEN'S BENCH DIVISION
(SIR BRIAN LEVESON)
MR JUSTICE JAY
and
MR JUSTICE GARNHAM

Between:

THE QUEEN on the application of
(1) DSD and NBV
(2) MAYOR OF LONDON
(3) NEWS GROUP NEWSPAPERS LTD

Claimants or
Interested
Parties

- and -

(1) THE PAROLE BOARD OF ENGLAND
AND WALES
(2) THE SECRETARY OF STATE FOR
JUSTICE

Defendant or
Interested
Party

- and -

JOHN RADFORD
(formerly known as JOHN WORBOYS)

Interested
Party

SUMMARY

1. On 13th March 2009, John Radford, then known as John Worboys was convicted of 19 serious sexual offences committed between October 2006 and February 2008 involving twelve victims.

2. On 21st April 2009, Mr Justice Penry-Davey sentenced him to an indeterminate sentence for public protection specifying a minimum term of imprisonment of

eight years (being the equivalent of a determinate sentence of 16 years), less time spent on remand. That period expired on 14th February 2016 after which Mr Radford was eligible to be released if the Parole Board was satisfied that it was no longer necessary for the protection of the public for him to be held in prison.

3. On 26th December 2017, the Parole Board determined that incarceration was no longer necessary in Mr Radford's case and directed his release.
4. Three sets of judicial review proceedings were instituted.
5. The first by the Mayor of London contended that the release direction was irrational, and that the Parole Board's failure to give its reasons to those with an interest in that decision, including himself and the victims, was unlawful because it was brought about by a Parole Board Rule ("Rule 25") which was *ultra vires* (i.e. was beyond the power to make regulations granted by Parliament).
6. The second set of proceedings was brought by two women DSD and NBV, against the Parole Board and the Secretary of State for Justice, with Mr Radford as an Interested Party. NBV is one of the 12 victims who gave evidence at Mr Radford's criminal trial; DSD was not one of the 12, although she had obtained a settlement in civil proceedings brought against him (without admission of liability). The nature of their challenge was essentially the same as the Mayor's.
7. The third proceedings were brought by News Group Newspapers Ltd against the Parole Board and the Secretary of State for Justice. This challenge was limited to whether Rule 25 is *ultra vires*.

8. On 26th January 2018, Mr Justice Supperstone made an Order staying Mr Radford's release pending the hearing of the applications for permission to apply for judicial review, and anonymising the identities of DSD and NBV.
9. There is no right of appeal against a decision of the Parole Board although any can be the subject of challenge by way of judicial review on public law grounds which, in this case, are designed to adjudicate upon the legality of decisions reached by an expert body entrusted by Parliament with the function of undertaking the relevant evaluative assessment, rather than upon the merits of that evaluation.
10. The standing of DSD and NBV to bring these proceedings has not been put in issue by any party: indeed, at the preliminary hearing, it was conceded.

11. We do not doubt the strength and sincerity of the Mayor's concerns on behalf of the victims in particular and Londoners in general. However, in our judgment none of these matters confers standing on the Mayor to bring this claim.

CONCLUSION

12. We uphold the challenge by DSD and NBV, as we have slightly reformulated it, to the rationality of the decision of the Parole Board directing the release of Mr Radford on the basis that it should have undertaken further inquiry into the circumstances of his offending and, in particular, the extent to which the limited way in which he has described his offending may undermine his overall credibility and reliability. That is so even in relation to the offences of which he was convicted, let alone any other offending.

13. In the light of our decision, the release direction will be quashed and Mr Radford's case remitted to the Parole Board for fresh determination before a differently constituted panel.
14. It is for the Parole Board to decide the procedure appropriate to the re-determination of Mr Radford's case, taking into account the terms of this judgment, including the observations we have made regarding the need to undertake further inquiry.
15. We would add that consideration should also be given by the Parole Board in a case of this complexity and prominence to whether a serving or retired judge should chair the panel.
16. We must emphasise that we have not held, nor must we be understood as suggesting, that Mr Radford's present risk is such that his continued imprisonment is necessary for the protection of the public, or that the Parole Board should so find. Subject only to the review jurisdiction of this Court, the assessment of all the available evidence, and all matters relevant to Mr Radford's risk, is for the Parole Board alone to make.
17. We also uphold the Claimants' challenge to the *vires* of Rule 25(1) of the Parole Board Rules 2016. In the circumstances it will be for the Secretary of State for Justice (as it may be that he is minded to do) to decide how Rule 25 should be reformulated in the light of our Judgment.
18. There are no obvious reasons why the open justice principle should not apply to the Parole Board in the context of providing information on matters of public concern to the very group of individuals who harbour such concern, namely the

public itself. Indeed, it seems to us that there are clear and obvious reasons why the Parole Board should do so. This information can readily be provided in a fashion which in no way undermines the Article 8 rights of the prisoner and the confidentiality which attaches to it.

19. Our conclusion is that the open justice principle, or more particularly the right in the public to receive information which flows from the operation of that principle, applies to the proceedings of the Parole Board.

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