



Courts and Tribunals Judiciary

SUMMARY

Martin Hibbert & Eve Hibbert (by her mother and litigation friend Sarah Gillbard) v Richard D Hall
[2024] EWHC [2677] (KB): Mrs Justice Steyn DBE

References in square brackets are to paragraphs in the judgment of the Court

1. The claimants have succeeded on their harassment claim [245]. The Court has handed down judgment today.

The claim for harassment

2. This case concerns a false narrative, published by the defendant, an independent journalist and broadcaster, that the Manchester Arena attack was an elaborate hoax - carefully planned by elements within the state and involving ordinary citizens (including the claimants) in the deception as “crisis actors” - in which no one was injured or died [1]-[2].
3. The principal cause of action is the statutory tort of harassment [2].
4. Section 1 of the Protection from Harassment Act 1997 prohibits a person from pursuing a “course of conduct” which “amounts to harassment of another” and which “he knows or ought to know amounts to harassment of the other” [145]. Conduct includes speech [148]. The hallmark of harassment is conduct which is oppressive and unacceptable, and which is of sufficient gravity to sustain criminal liability [151, 177].
5. The Court heard evidence from the first claimant, the defendant, and from the second claimant’s mother and learning support assistant, and a close friend of the first claimant [26].

Findings of fact made earlier in the proceedings

6. Following an earlier hearing of the claimants’ summary judgment application, Master Davison had found the following facts proved:
 - a. On 22 May 2017 22 innocent people were murdered in a bomb explosion carried out by a terrorist at the Manchester Arena at the conclusion of a concert performed by Ariana Grande;
 - b. The claimants were present at the Manchester Arena at the time of the bombing;

- c. They were severely injured rendering Martin Hibbert paralysed from the waist down and Eve Hibbert brain damaged;
 - d. The cause of these injuries was the explosion of the bomb. [15]
7. Mrs Justice Steyn (on the papers [23]) and Mr Justice Julian Knowles (at a hearing of the renewed permission application [24]-[25]) refused permission to appeal against Master Davison's order.

Did the defendant engage in a course of conduct?

8. The course of conduct complained of consisted of attending Eve Hibbert's home and secretly recording video footage of her; the continuing publication of four videos, a film and a book in 2018-2020 (as identified in [11]); and repetition of the same false narrative in about 12 shows per year in 2018 and 2019 [11], [13], [175], [181].
9. The judge concluded, applying the law as set out at [147]-[149], that the defendant had engaged in a course of conduct as alleged: [173]-[176].

Did the course of conduct amount to harassment?

10. The Court addressed the law relevant to this question at [147] and [150]-[166]; and the facts at [50]-[86] and [89]-[130].
11. The Court determined that the claimants' rights to respect for their private life, home and reputation (article 8 of the European Convention on Human Rights (ECHR)) and the defendant's right to freedom of express (article 10 ECHR) were in tension and had to be balanced in determining whether the defendant's conduct amounted to harassment [179]. But the defendant's reliance on article 9 (freedom of thought, conscience and religion) was rejected for failure to meet the criterion that it must be a belief, and not an opinion or viewpoint based on the present state of information available [163], [179]-[180].
12. The Court concluded that the description of the defendant's conduct at [13] was accurate, and had no doubt it was a negligent, indeed reckless, abuse of media freedom [181]. The claimants had more than satisfied the burden of establishing that the defendant's conduct was oppressive, unacceptable and of sufficient gravity to sustain criminal liability [198], [177]-[197].

Actual or constructive knowledge that it amounted to harassment

13. The Court accepted the defendant's evidence that he did not (subjectively) know that his course of conduct amounted to harassment [199]-[201].
14. But the Court concluded the requirement in s.1(1)(b) was met on the alternative basis that the claimant should have known that his course of conduct amounted to harassment because a reasonable person with the same information that he had had would have known it would have a harassing effect on the claimants [167], [202]-[203].

The s.1(3)(a) and (c) defences

15. The defendant relied on two defences. First, that he engaged in the course of conduct for the purpose of preventing or detecting crime. And second that his course of conduct was reasonable in the particular circumstances. [31(c)], [33], [168]-[172]
16. Both defences failed: [205]-[208] and [209]-[213].

Harm to the claimants

17. The Court concluded that the defendant's course of conduct "alarmed and distressed the claimant [228], [214]-[229]; and it caused the second claimant "real, lasting and persistent anxiety, and enormous distress [244], [230]-[243].

Data protection claim

18. The Court did not finally determine the claimants' data protection claim, but expressed concern about the adequacy of the claimants' pleading. It will be considered further, if necessary, at the remedies hearing.

Damages and injunction

19. The claimants seek damages and an injunction. The Court has not yet heard the parties submissions on the question of what, if any, remedy or remedies should be granted in light of the Court's conclusion that the harassment claim is made out. Those matters will be determined at a future hearing, if not agreed.

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.judiciary.uk and <http://caselaw.nationalarchives.gov.uk/>

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