



Courts and Tribunals Judiciary

In the Westminster Magistrates' Court

Before

Senior District Judge Goldspring

(Chief Magistrate)

for England and Wales

Between

The Chief Constable of Devon and Cornwall Police ("CCDC")

v

Emory Andrew Tate ("EAT"),

and

Tristan Tate ("TT")

and

J ("J")

Application to set aside RRO

Ruling

Introduction

1. Times Media Limited (TML) applies to set aside a Reporting Restrictions Order (RRO) concerning the identity of the third respondent, J. J opposes the application and the CCDC as an interested party supports, not without circumspection, that objection, submitting that no error as to law occurred in the initial decision making and that on balance the restriction was justified.

2. The substantive proceedings related to an application for forfeiture orders in respect of monies in seven accounts, including Stripe and Gemini accounts in J's name.

3. The proceedings led to Account freezing orders being granted in August and October 2022 against a Stripe account and a Gemini account.

4. This court determined that monies and crypto assets in frozen accounts represented revenues that were not declared, constituting tax evasion. The movement of funds through multiple accounts was designed to further this evasion and conceal/disguise funds, and I consequently made forfeiture orders against the accounts.

5. It is important to remember that forfeiture proceedings are an action *in rem* against the monies, not a criminal trial against J *in Person am*.

6. The Applicant did not need to prove J engaged in unlawful conduct, and they did not attempt to do so and I made no finding that J was criminally liable or even touched on whether her involvement amounted to Money Laundering or any other criminal activity in the relevant substantive ruling.

7. I set this out at the outset because the reporting that has taken place since the imposition of the RRO has inferred that I made findings that J was involved in Money Laundering, which is inaccurate and misleading and arguably undermines the presumption that the press can be trusted to report fairly and responsibly. Indeed Mr Rowe sought to make that submission by reference to a paragraph in my ruling. Whether that was a fair interpretation of the actual words used, matters little, the fact is I did not consider such matters and did not intend from the words used for an objective reader to understand me to make any finding as to criminality by J.

8. J's involvement in the forfeiture hearing was limited to clarifying points regarding the Stripe Account and a legal argument about the Gemini Account (whether it contained Fiat Currency (monies) or cryptocurrency). That is whether the asset could be lawfully seized as the law relating to powers to seize cryptocurrency was not in force at the time.

9. During the forfeiture hearing the CCDC conceded there was **"no evidence that J was added to the account prior to 16 June 2022"** and that J was being **"abused"** by the Tate's to disguise the source of funds".

10. I was not required to make a finding on the point , as J's challenge was based on whether the power to forfeit existed not whether the property was recoverable, it was for those reasons I did not make any finding as to criminality of J in the ruling, I have the advantage over Mr Rowe, counsel for TML, in that I heard and read all the evidence in the substantive hearing and I am inclined to agree that J was abused by the Tate's, she was simply seeking to protect her grandchild , but as I did not hear evidence on these specific points I made no findings either way.

11. TML submits that the balance of rights decisively favours lifting the RROs. TML further submits that J has failed to demonstrate a sufficient basis for anonymity, either for herself or her grandchild, and that the procedural basis for the RROs was flawed. The importance of open justice and the public's right to know about proceedings, particularly where individuals have played a significant role, outweighs the claimed interference with Article 8 rights. TML also seeks the ability to report on the contents of disclosed documents.

12. J objects to TML's application to lift the RRO and argues that the RRO is necessary to protect her and her grandchild's privacy rights (Article 8 ECHR). In summary, J argues that:

- She has demonstrated with cogent evidence that the RRO is necessary, particularly given the fact that any evidence of the likely harm can only be speculative.
- The balancing exercise between the interests of open justice and J's and her grandchild's right to have their private life respected favours the right to privacy in this case because of the gravity of the risks which would result from identifying J in connection with these proceedings and because open justice can properly be served without the reporting of J's identity.
- Whilst a determination that the balancing exercise favours J and her grandchild's right to privacy may be exceptional in general terms, this is plainly and obviously an exceptional case; the involvement of EAT and TT encapsulates this point.

13. A preliminary issue arises from the written submissions, TML submits that the Court's reliance on s.11 CCA may be vitiated because J's identity may not have been withheld throughout the proceedings. They say evidence suggests J's name was used in skeleton arguments and possibly on public listings before the first RRO was made on 14 June 2023, and consequently if J's name was publicly given at any point prior to the RRO, the Court lacked the power under s.11 to impose the Orders.

14. Despite referencing "evidence" of public use of the name of J, TML were unable to produce any such evidence, the submission was based on speculation and guesswork, no evidence was placed before me that the name was ever on the court lists or referenced in public documents and I am satisfied that the submission has no merit. The authority cited for this proposition makes clear that if the mention was an error that would NOT vitiate the powers conferred by S11 CCA 1981 and so, on either basis, I am satisfied that the submission must fail.

15. In any event, if I am wrong about that, TML's application is to set aside the RRO. On an application to set aside in the Magistrates' court, the test is whether or not the legal requirement to make the RRO subsists. It is not an appeal or review of the previous decision of the court. Any suggested bar on the original making of the RRO is therefore irrelevant for the purposes of this application.

Legal Framework

16. The open justice principle creates a rebuttable presumption that the proceedings are open and transparent and any derogation must be exceptional, rare, and only where absolutely necessary.

17. The legal framework for RROs is built upon a balance between the public and press's right to open justice and freedom of expression and the individual's right to privacy.

18. Any restriction on reporting is considered exceptional and requires strong justification based on necessity, with the burden on the applicant. When considering RROs, courts must apply a multi-faceted balancing test, intensely focusing on the specific rights in conflict and the proportionality of any proposed restriction. The best interests of children are an important consideration in this balancing exercise, recognising their own independent privacy rights and the potential indirect impact of reporting on their well-being.

19. The power of the court to make a RRO is derived from s.11 of the Courts Act (CCA). This section permits the court to give directions prohibiting the publication of names or other matters withheld from the public in court proceedings, where such directions are "necessary for the purpose for which it was so withheld."

20 Case law has established that RROs require striking an "appropriate balance" between Article 8 and Article 10 ECHR rights.

21. The "ultimate balancing test," as described in **re S (A Child) [2004] UKHL 47** by Lord Steyn, involves four key propositions:

- Neither article has inherent precedence over the other.
- An "intense focus on the comparative importance of the specific rights being claimed in the individual case is necessary" when values under the two articles conflict.
- The justifications for interfering with or restricting each right must be considered.
- The proportionality test must be applied to each right.

22. Lord Steyn further highlighted that while the ability of the press to report everything is a "strong rule," it can only be displaced in "unusual or exceptional circumstances." However, this is not a "mechanical rule," and each application for departure must be examined with care.

23. In **R. (Rai) v Winchester Crown Court [2021] 2 Cr. App. R. 20** the court approved the summary of relevant principles from the Judicial College Guide to Reporting Restrictions:

- The general rule is that the administration of justice must be done in public, with the right for the public and media to attend and report proceedings fully and contemporaneously.
- Any restriction on these rules will be exceptional and must be based on necessity.
- The burden of proof lies with the party seeking the restriction to establish necessity with clear and cogent evidence.

24. In **R. (Marandi) [2023] 2 Cr. App. R. 15** the court held that while the interference with Article 8 rights by publication may be obvious in some cases, in others, the "nature and degree of that interference will not be obvious and will require evidence." This evidence may be "necessarily speculative in nature" in cases with no substantial prior publicity.

25. While the public interest generally extends to identifying parties, there may not be "a sufficient public interest in identifying all individuals involved," particularly if their identity is "wholly marginal to the public interest engaged" (**Khuja v Times Newspapers Ltd [2017] UKSC 49**).

26. **Clifford v Millicom Services UK Ltd [2023] EWCA Civ 50** held the following factors should be weighed:

- The extent to which the restriction would interfere with open justice.
- The importance of the protected information to the case.
- The role or status of the person whose rights are being considered.

27. Warby LJ in Clifford also emphasized bearing in mind the "harm disclosure would cause" and the extent to which the order would compromise "the purpose of the open justice principle and the potential value of the information in advancing that purpose." The more remote information is from the core issues, the less likely a restriction will offend the open justice principle.

28. When dealing with decisions affecting children, a distinction is made between decisions concerning upbringing and other decisions. ***While the best interests of the child are not paramount in cases not directly affecting upbringing, they remain a primary consideration*** (**ZH (Tanzania) v Secretary of State for the Home Department [2011] UKSC 4**). No other consideration should be treated as inherently more significant.

29. **PJS v News Group Newspapers Ltd [2016] UKSC 26**, concerning an interim injunction, highlighted the relevance of privacy codes under s.12(4)(b) of the Human Rights Act 1998. The Independent Press Standards Organisation Editors' Code requires demonstrating "an exceptional public interest to over-ride the normally paramount interests of children under 16" when intruding on their private life.

30. Lord Mance considered this requirement to echo the "well-established interpretation of Article 8 under which 'the best interests of the child shall be a primary consideration'".

31. Lady Hale in PJS strongly emphasized that the interests of children "deserve closer attention" and are not a mere "trump card." This is because children's interests are affected by breaches of their parents' privacy and they also possess "independent privacy interests of their own."

32. A child's rights extend to the publication of confidential information about their parents or grandparents. Even if a child is not directly featured in the reporting, the indirect effect of the reporting on their rights remains a relevant feature in the balancing exercise (**A Local Authority v W [2006] 1 F.L.R at [60]**).

33. Applications for RROs require clear and cogent evidence demonstrating the necessity of the restriction and the potential harm of publication.

34. The specific circumstances of each case, including the nature of the information, the individuals involved, and the potential impact on their rights (particularly children), will heavily influence the outcome of a RRO application.

35. Judges must carefully weigh the competing interests, applying the established balancing test and giving due weight to the primary consideration of a child's best interests where relevant.

Discussion and Decision

36. It is important to remember this is not an appeal against my initial ruling but an application to set aside the existing Reporting Restriction Order ("RRO"). The central question is whether the evidence that remains before me now continues to justify the RRO.

37. When the initial RRO was granted, I gave careful consideration to the evidence presented by J and Mr. Andrew Watson, J's solicitor, which set out the significant public and media interest in EAT and TT, and the broader social context, including extensive online scrutiny and speculation, particularly as it relates to J's connection to EAT. That evidence also set out the issues that J and her grandchild had suffered as a result of the speculation over the grandchild's father. I had and continue to have in mind that the child's interests are a relevant and key factor.

38. The notoriety of EAT and TT, coupled with their public views—particularly those concerning women and girls—have, in my judgement, created a real and credible threat to individuals associated with them. Specific examples include threats of rape and death received by MP Alex Davies-Jones following her criticism of EAT, and other credible threats directed at J, including the physical presence of unidentified men at her home. It is a reasonable inference to draw that this is related to the relationship between J, her grandchild and the Tate's, no other explanation has been posited or evidenced.

39. Although there are few direct examples of harm to J, I am satisfied that this is substantially due to the protection afforded by the RRO. That is exactly what the order was designed to do, protect the child from harm.

40. On the basis of the current and continuing evidence, I find it reasonable to infer that identifying J is likely to result in the identification of her grandchild, thereby creating a real risk of harm to both.

41. The balancing exercise required by Articles 8 and 10 of the European Convention on Human Rights remains central. It is well established that neither right takes automatic precedence, and the principle of open justice can be displaced only in exceptional cases. However, I am satisfied this is just such an exceptional case. One need only follow the news to recognise that links to the Tate's can lead to extraordinarily strong views being expressed, I have no doubt that threat has not been exaggerated or inflated.

42. The significant risks to J and her grandchild—including potential online abuse and bullying—substantially outweigh the limited public interest in identifying her, especially as open justice can be served by reporting the proceedings in full without disclosing her identity. J's involvement in the

forfeiture proceedings has been peripheral, I reject TML's submission to the contrary, her role in the substantive proceedings was limited to clarifying technical legal issues.

43. The child's rights are a primary consideration. While not determinative, the best interests of the grandchild must be given appropriate weight, particularly where publication of J's identity risks revealing that of the child. I, as foreshadowed, have kept in mind that the person who the order ultimately seeks to protect is a young innocent child, that focus should not be lost at the altar of the interest in the Tate brothers, I accept the submission based on *PJS v News Group Newspapers Ltd* (Supra) and the IPSO Editors' Code of Conduct, which make clear that the interests of children under 16 are of paramount importance in publication decisions.

44. Whilst the applicable test and principles remain the same, it is worth recalling that the substantive proceedings are not criminal in nature as against defendants. As I have previously noted, the focus is on the property, not the individual. This is the lens through which the balancing exercise must be conducted. Accordingly, any public interest in J's role within the enterprise must be assessed in its proper context, and not through a distorted lens that heightens interest by misleadingly suggesting criminal liability on J's part.

45. There is no allegation or finding of criminal conduct on her part. The mere fact of her name being later added to accounts does not alter this analysis. Contrary to the submission by TML, there is no proper basis upon which to conclude that her right to privacy has been diminished by wrongdoing or other conduct.

46. Indeed I take the opposite view, I am not in a position to make a formal finding, the parties have not been asked to serve evidence relevant to the issue, but I am inclined to consider J as being "used" by the Tate's and the primary motivation that actuated her thinking was the grandchild's interests rather than her own, by way of example the evidence disclosed the monies and assets passing through the relevant accounts moved to accounts in the Tate's name not hers, there was no direct evidence of any financial gain by her from her involvement, the characterisation by the articles in the Sunday Times and The Mail as a "Money Launderer" do not find their genesis in my findings nor indeed from any evidence I have seen.

47. I am satisfied the risk of jigsaw identification is real and not merely speculative. Reporting to date—naming J as linked to an ex-partner of EAT and being "based in the West Country"—when combined with further identifying features would likely reveal her identity. This would likely lead to the identification of the child. This is precisely why the RRO was granted in the first place.

48. Interference with open justice caused by the RRO is, at most, marginal. The core issues in these proceedings concern the conduct of EAT and TT and the recoverability of certain assets. These can and have been effectively reported without naming J. In my view her identity is not integral to the public's understanding of the case.

49. I have considered whether, having satisfied myself that the Article 8 rights of J and her grandchild outweigh the Article 10 rights of the press and others the protection the court seeks to provide them with can be achieved by a lesser form of derogation. I have concluded that the reasons provided for the refusal of the application to set aside equally apply in so far as no lesser derogation can provide the required protection .

50. As to the application by TML to be released from the undertaking not to publish evidence provided by J in support of her RRO application, I reject this request. That evidence includes extremely sensitive material pertaining to J's health and private family life. The publication of such

evidence would not only violate her Article 8 rights but also risks deterring future applicants from providing full and frank evidence in support of anonymity, for fear of later disclosure.

51. Upholding the undertaking given by TML is consistent with the principles of fairness and proportionality and reflects a commitment to protecting confidential information disclosed in confidence for the limited purpose of judicial consideration.

52. For the reasons set out above, the application to set aside the Reporting Restriction Order is refused.

53. The RRO shall remain in place. The undertaking given by TML not to publish the evidence submitted by J is to be upheld, but I am satisfied the order as currently drafted is too widely drawn and will amend the order so that it should now read

Prohibition on Identification

There shall be no publication or other disclosure, by any means, of the identity of the person referred to in these proceedings as J, or of any information that is likely to lead to the identification of J in connection with these proceedings, whether directly or indirectly. This includes, but is not limited to, publication in print, online, broadcast, or social media.

Duration of the Order

This order shall remain in force until the grandchild of J reaches the age of 18, subject to the liberty to apply.

Liberty to Apply:

J and/or the grandchild of J shall have leave to apply to extend the duration of this order at any time, should circumstances justify its continuation beyond that point.

Any person affected by this order may apply to vary or discharge it on notice to the parties.

54. Thus, the RRO imposed is amended as above but remains in place.

Paul Goldspring

Senior District Judge (Chief Magistrate) for England and Wales

16.5.2025