



20 November 2025

S U M M A R Y

Hemming v Poulton

[2025] EWCA Civ 1494

**Lord Justice Bean, Vice-President of the Court of Appeal (Civil Division),
Lord Justice Warby and Lady Justice Falk**

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:

<https://caselaw.nationalarchives.gov.uk/>

Introduction

1. This was an appeal by John Hemming against the outcome of a trial of preliminary issues in his libel claim against Sonia Poulton and the costs order made in respect of that trial. The libel claim was brought in respect of two publications: a YouTube video first posted in November 2019 (“the Video”) and a statement which Ms Poulton posted on her website in September 2021 under the heading “Police Update” (“the Update”). The High Court determined three preliminary issues in relation to each publication: (1) the meaning of the statement complained of; (2) whether it was defamatory of the claimant at common law; and (3) whether it was a statement of fact or opinion.
2. The Court of Appeal allows Mr Hemming’s appeal to a limited extent. As to the Video, the judge did not err in her approach to its meaning, but her order did not properly reflect her findings. As to the Video, the judge’s conclusions were unsatisfactory, but she had been put in a difficult position by the way that Mr Hemming put his case. This court can and should fill the gaps in the judgment below. The costs appeal is dismissed. The lead judgment is given by Lord Justice Warby, with whom Lord Justice Bean and Lady Justice Falk agree.

Background to the appeal

3. Mr Hemming is a businessman and a former MP. Ms Poulton is a journalist. They are involved in wider litigation, involving other individuals and other claims. This

appeal was concerned only with the libel claim, and then only with a limited number of sub-issues in that claim.

4. In November 2019, Ms Poulton was interviewed by podcast host Shaun Attwood. The Video is a recording of that interview. Mr Hemming complains of two passages in the Video. As part of a lengthy interview about prominent paedophiles, Ms Poulton discussed allegations of child abuse made by Esther Baker. She said that Mr Hemming had “outed himself” as the subject of those allegations, that it was “quite clear that Esther Baker feels that she has a case that needs to be examined”, and that Mr Hemming had threatened to take legal action against Ms Poulton for her documentary entitled “Paedophiles in Parliament”.
5. In September 2021, Ms Poulton posted the Update on the “fighting fund” page of her website. Ms Poulton’s post stated that she had been interviewed by police in relation to breach of a reporting restriction, that “inordinate pressure” had been applied to public authorities by people seeking to prevent her reporting on child abuse, that she had given the police the names of “people pushing for me to be charged”, and that there were “dark characters” who were attacking her for bringing attention to the issue of child abuse. The Update did not name Mr Hemming, but his case was that in context, or by dint of extraneous facts that readers would have known, it referred to him.
6. Mr Hemming made two applications. He sought a preliminary trial of the issues of meaning and reference. He also asked for Ms Poulton’s denial that the Update referred to Mr Hemming to be struck out/summarily judged, saying that if that happened a trial on reference would be unnecessary. The Deputy Master agreed. She ordered that the relevant paragraphs of Ms Poulton’s defence be “struck out” and directed a trial of meaning. She did not order a trial of reference.
7. At the trial, the judge held that the Video bore a meaning at “*Chase* level 3”: that there are “grounds for investigating whether” Mr Hemming was responsible for child abuse. She also held that it meant that “Esther Baker must feel that her allegations had not been thoroughly investigated” and that this was an opinion. The judge found the Update meant that improper pressure had been applied to have Ms Poulton interviewed by police by people who “use harassment and defamation as a way of silencing survivors of child abuse and those who raise awareness on the topic”. She said that the Master’s order meant that the issue of reference appeared “to be no longer in question”; and that the words did not ascribe “direct specific involvement” to the claimant but that he “was involved, in some way”. The judge held that the Update was defamatory at common law “assuming reference to the Claimant in some capacity” and that to some extent they were *Chase* Level 3 and opinion. The judge made orders that were intended to reflect those findings.

The court's judgment

8. The court introduces the appeal [1]-[6], sets out the approach to directing preliminary trials in defamation cases [7]-[10], and summarises the factual background and Mr Hemming's claims [11]-[20]. Next, the court describes the procedural history [21]-[25] and summarises the first instance judgment and resulting order in respect of the Video [28]-[32] and the Update [33]-[38]. The court then turns to the appeal, addressing each publication separately and in turn.

The Video

9. Mr Hemming's primary argument was that the judge should have held that the Video bore a "*Chase* level 1" meaning: that Esther Baker's allegations were true. That was because (1) the "repetition rule" requires that a report bears the same meaning as the original allegation and (2) there was no "antidote" sufficient to neutralise the defamatory sting or "bane" of the reported allegation [41]. Mr Hemming's secondary argument was that the Video meant there were reasonable grounds to suspect that he had done what Esther Baker alleged ("*Chase* level 2") [42]. In the further alternative, he argued that, even if the judge was right about the *Chase* level, the form of her order was flawed [42].
10. The court dismisses Mr Hemming's primary and secondary arguments. The court's reasons are summarised by Warby LJ at [45]:

"The ordinary meaning of a statement is that which the ordinary reasonable reader takes from the publication as a whole. The "repetition rule" and the "bane and antidote" principle are both subsidiary to that overarching principle. Their primary function is descriptive rather than prescriptive; they are tools to help the court decide how the ordinary reasonable reader would respond to a particular statement."

11. Consequently, having analysed the relevant authorities [44]-[49], the court finds that the judge did not make any legal error [50]. However, Mr Hemming was right to say that the judge's order contained formal flaws. It should have set out the defamatory imputation about the claimant and this was a statement of fact, rather than opinion. The court therefore allows the appeal in respect of the Video to that limited extent [51].

The Update

12. Mr Hemming's first ground of appeal was that the judge's approach to meaning and reference was inconsistent with the Master's order, which, Mr Hemming said, determined the issue of reference in his favour. The second ground of appeal was that the judge's decision that part of the meaning was "*Chase* level 3" was inconsistent with the rest of her reasoning [52].

13. The court finds that the judge's approach to the Update was flawed. But that is not because the judge made the legal error attributed to her by Mr Hemming [53]. The problems stemmed from Mr Hemming's application for strike out or summary judgment of Ms Poulton's denial of reference. That application was misconceived [54]. It rested on the legally mistaken premise that Ms Poulton's intention on reference is relevant; it is not [55].
14. Whether or not the Master was correct to strike out the denial of reference, Mr Hemming was wrong to say that she had entered summary judgment in his favour on the issue of reference [56]. That put the judge in a difficult position. The claim required the court to consider meaning and reference, but the Master's order directed a trial of meaning only. With the benefit of hindsight, it would have been better to direct and conduct a trial on the issue of reference [57]. But the parties did not suggest that at the time. Nor did they on this appeal. But the court has the power to make any order that could have been made by the court below. To avoid further procedural confusion and wasted costs, it should fill the gaps in the judgment [58].
15. This court finds that (1) Mr Hemming's case on reference is made out [60]-[61], (2) the Update contains defamatory imputations, including that Mr Hemming tried to stop Ms Poulton exposing child abuse by members of the Establishment, with improper motivations [62]-[63], and (3) the statement complained of was mainly factual [64]. The court allows the appeal in respect of the Update to that extent.

Costs

16. The court dismisses this ground of appeal. Orders for costs in the case are frequently made. There are no grounds to interfere with the judge's discretion in this case [68].