

CO/8624/2005

Neutral Citation Number: [2006] EWHC (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2

Monday, 10 July 2006

B E F O R E:

MR JUSTICE CHARLES

THE QUEEN ON THE APPLICATION OF WOOD

(CLAIMANT)

-v-

COMMISSIONERS OF POLICE FOR THE METROPOLIS

(DEFENDANT)

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MR M WESTGATE (instructed by Liberty) appeared on behalf of the CLAIMANT
MR S GRODZINSKI (instructed by Director of Legal Services) appeared on behalf of the
DEFENDANT

J U D G M E N T
(As Approved By The Court)

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MR JUSTICE CHARLES: I have before me a renewed application for permission to appeal, in this case by Mr Wood. The claim relates to a photograph that was taken of the claimant at an attendance at an AGM of the company on 27 April 2005 – the decision to take a photograph is the subject matter of the review.

So far as the details of remedy are concerned, it shows that this judicial review, it seems to me, is aimed at a slightly wider target, albeit one which flows from that initial decision on the ground. What is sought is a declaration that the defendant acted in breach of the claimant's Convention rights by taking the photographs of him and seeking to establish his identity on 27 April 2005; an order for destruction; and a declaration that the current practice of the Metropolitan Police in pursuing, over photographic surveillance, those engaged in political protest or unlawful demonstrations, is unlawful in that it tends to breach the Convention rights of the subject of such surveillance under Articles 8, 10, 11 and 14 of the ECHR.

I have made complaint as to the time estimate put on this renewed application, and although I was not able to read authorities referred to in the documents before I came to court, I was able to read, in particular, the claimant's skeleton argument and the acknowledgment of service. I am grateful to the persons who drafted those documents, because it seems to me that they do set out the issues with commendable clarity.

In respect of the claims, first of all one has to look to see whether or not the relevant article is engaged and then one has to look at justification. As was demonstrated by the oral argument, some aspects of that analysis overlap, albeit that theoretically there are two processes involved. As I indicated to counsel for the claimant, having read the documents, I was unsatisfied that this claim raised an arguable claim which merited a full hearing. Having heard his helpful argument I remain of the same view. The area in which he has persuaded me from my initial thinking is in the context of the distinguishability of the Mapper decision in the context of the reliance placed by their Lordships in their speeches relating to DNA and fingerprint records, and in particular the point that those only become useful when a sample or some other information is obtained to enable there to be a cross-check against the record. In that context - and in that context only - I depart company from the view reached by Silber J on the papers.

Standing back from the case and asking myself, by reference to the facts of the case and acknowledging the disputes that exist, the question: assuming that the claimant is right and he establishes that the Articles that he relies on are engaged, is there an arguable case here that he could demonstrate that the defendants are not able to justify what they have done? Notwithstanding his submissions, I remain of the view that there is no arguable case in that context.

Looked at more generally - and it seems to me to be a part of this review – I have considered whether it is appropriate to use this case as a platform to argue whether or not the general policy of the Defendant is one that provides justification. Again I have been unpersuaded by the submissions made on behalf of the claimant that he has raised

arguable points. Further and in any event, I am unsatisfied that this case is a proper case in which the court should deal with those issues.

Accordingly, I propose to refuse permission. It will be apparent that I am doing that on a day when a number of other cases have been brought before the court. I have sought to highlight the point where I have parted company with Silber J and the acknowledgment of service. Other than that, it seems to me that the arguments raised in the acknowledgment of service are compelling.

MR GRODZINSKI: I am grateful, my Lord.

MR JUSTICE CHARLES: I simply refuse you permission.

MR WESTGATE: My Lord, would you order detailed assessment of the claimant's publicly-funded costs?

MR JUSTICE CHARLES: Yes I will. Thank you.