IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
EXETER DISTRICT REGISTRY

A88YJ875

Between

A

Claimant

and

The Cornwall Council

Defendant

CLAIMANT'S SKELETON ARGUMENT

Evidence

1. The contents of the bundle that I expect to spend most time looking through with the court, and which will inform my cross-examination of the Defendant's witnesses, are the witness statements, my referral of my son to social services on 3rd April 2013, the Section 47 report, the Section 7 Report, Sections H and I of the bundle, and the Listening and Learning leaflet.

2. I have been permitted no direct contact with the witness [redacted], the health visitor, that could have enabled me to take from her a thorough witness statement, due to sparse co-operation on the part of her employer, who took her sparse witness statement, such as it is. However, evidence [redacted] probably has, which isn't in her witness statement, is likely to be rather important. I therefore shall need the opportunity to take from her oral testimony in chief. I have had to summons her, albeit at her employer's insistence rather than hers. In the unlikely event that I discover that I need permission to examine her as if she was a hostile witness, because her memory seems poor and needs jogging with a leading question or two, then we'll cross that bridge when we come to it.

3. I have decided not to call my witnesses [redacted] and [redacted]. If permitted, I should like to admit their witness statements, untested. If the court does not allow this, I am happy to do without their written evidence. Their evidence relates only to the surrounding circumstances in which the video evidence was filmed. The video evidence largely speaks for itself.

4. I would like, please, to spare [redacted] from cross-examination too. In any case, her testimony only corroborates my own victim-impact testimony, relevant to quantum of damages. It does not go to evidence as to whether there is any liability at all. If necessary, her evidence can be omitted altogether.

5. I have not yet been able to track down [redacted], who is Norwegian, who has recenly moved to a new UK address unkown to me, and who I know was recently out of the country, in the USA. His evidence also relates only to victim impact and hence quantum. His testimony, in this claim, goes to evidence as to magnitude of the damage to my private and family life that I say is attributable to breaches of my Convention rights on the part of the Defendant.

6. During the trial period, I shall make myself able (but only if necessary) to respond to any

nasty surprises in the Defendant's evidence, by retrieving, ad hoc, documents stored electronically on my computer that have not have been included in the printed bundle. (Documents that turn out to be needed may have been omitted from the bundle despite my requests to the Defendant's solicitor for their inclusion. Or, it may not have been possible to anticipate the need for other documents that are omitted from the bundle.) Any documents on my computer but not in the bundle, upon which I discover at trial I might need to rely, **will already have been disclosed**. All of them either will have **originated with the Defendant** in the first place (e.g. social work records that the Defendant's solicitor didn't put into the bundle), or will have been **served upon the Defendant** for inspection well before trial.

7. I shall need to give oral testimony in chief myself, in addition to confirming my witness statements, which were all drafted before I realised that the trial was definitely going to be in private. My witness statements were light on information that might be relevant, about my family circumstances, because I had hoped to avoid raising in public the history between my family and the Defendant, dating back to the year 2009.

8. The facts I expect to prove are set out in my **Amended Particulars of Claim** and in my witness statements. However, there is a mistake in the year (which should be 2013, not 2014) in all three of the May dates in paragraph 30, which the Defendant has kindly agreed I can correct, in an exchange of emails.

9. In addition, I will prove that everything the Defendant did was grossly assymmetric as between father and mother. In short, that the Defendant undertook what I will call "**one-sided social work**".

My argument

10. The questions of fact and law at stake, and my partial answers to them, are as follows. Fuller answers should emerge at the trial.

11. **Was *any* of the conduct of the Defendant (even if I can only prove a *single* incident) even *capable* of being an interference with my right to respect for my private and family life *per se*? Regardless, that is, of whether that conduct might have been exempt by virtue of the qualification of Article 8.2? And regardless too of whether or not that conduct was engaged in because of discrimination?**

    I say yes. I cite here (and for now), specific *examples* of such conduct:

    (a) The pressure that was put upon my son's mother to prevent contact between father and son

    (b) The referral of my son's mother to the Suzie project

    (c) The promulgation of factually inaccurate information to police and schools which, even if this wasn't calculated to interfere with my ability to be involved in my son's schooling, certainly had that effect

    (d) The deviation from the normal procedure when faced with two applications for school

places, instead simply discarding my application

(e) The passing to the mother of sensitive information about the present proceedings that is not in the public domain

(f) Withholding information about my son's school allocation.

and so on.

I say that all this conduct (and more that will be explored at trial), was ***prima facie*** conduct on the part of a public authority that would at least be capable ***per se*** of amounting to interferences with my Article 8 right, if (say) the conduct had been inflicted randomly on me and my family, for no reason at all – neither a good reason, nor a bad reason. It is therefore proper for the court to investigate, at this trial, *why* the Defendant *chose* to inflict such conduct upon *me*.

The onus is on the Defendant (not on me) to prove that the Article 8.2 exception criteria were met, when it gives its reasons for its conduct. The onus is on me to prove, if I wish to, that the conduct was motivated by a breach of Article 14 in conjunction with Article 8 (and/or other articles), i.e. discrimination.

12. Can one-sided social work that does not have to be one-sided (as it might have to be if, for example, one parent was incommunicado)**, satisfy the legality test in Article 8.2?**

I say no, citing two reasons for the time being, perhaps more reasons at trial.

Firstly, avoidlably one-sided social work isn't "in accordance with law", because it breaches the Public Sector Equality Duty, in that it shows *no regard at all* to the need to foster good relations between men and women.

Secondly, avoidlably one-sided social work breaches the First Principle of Natural Justice, *audi alteram partem*. It is a **procedural impropriety** writ large, if ever there was.

13. Did the Defendant decide to pursue a policy of paternal/filial deprivation and, if so, when, and why?

I say yes. I say that the admitted purpose of the Defendant, in taking this "parentectomy" decision, was expressly stated to be because of my beliefs, and that this decision, "because of your beliefs", had, to all practical intents and purposes, *already* been taken *before* the meeting of 23rd May 2013. If I remember correctly, the social worker confirmed that decision to me in a telephone conversation that very evening.

I complained promptly, of beliefs-based discrimination. My complaint was not investigated, as it should have been, in the costs-free environment of the statutory complaints procedure. My complaint was not even forwarded to the Complaints Manager, but rather to the Legal Department. That denial of access to the complaints procedure, for me, is another conduct complained of. It is the only reason that we are in court today, because dealing with my complaint using the complaints procedure, as well as being respectful of my private and family life for a change, would also have been far kinder than leaving me no way forward

except to bring a claim in the courts, risking a costs order that would bankrupt me.

14. Was there also a breach of Article 14, in conjunction with other Articles?

There can be no doubt that the Defendant's attitudes towards the father and the mother, and their treatments of the two parents, were different. They were disrespectful towards the father's private and family life, but respectful of the mother's. The Defendant is not in a position to maintain credibly that the social work wasn't (as I put it) "one-sided." The pleadings don't explain *why* the social work *had* to be one-sided. The fact is that the social work didn't have to be one-sided, and shouldn't have been. But was this difference in treatment of the father and the mother because of discrimination, and, if so, discrimination on what grounds?

That there was an inquisition into my beliefs is going to be easy for me to prove. The social worker used the phrase "because of your beliefs" at the meeting of 23rd May 2013. Pages of my blog, expressing my beliefs, were printed out and annexed to the Section 7 report. The deputy district judge judge in the family court, having found reliable the evidence of the social worker who is witness for the Defendant in these proceedings, but who had been in the almost unassailable position of a court-appointed professional expert witness in the family proceedings, concurred with the social worker witness in his judgment, that he was also concerned that (as the then expert witness had led him to believe) I might "indoctrinate" my son. *Res ipsa loquitur.*

15. Was there breach of *nemo judex in causa sua*?

Yes there was. The Defendant should have asked the County Court not to require it to produce the Section 7 Report in the family proceedings, because of a conflict of interests, since it was the Defendant of both parents in a joint claim at the time. The solicitor representing the council in the joint Data Protection Act claim of myself and my son's mother, should not have contacted, behind the mother's back, the solicitor acting for the mother in the family proceedings. Knowing that I was honour-bound not to settle my DPA claim other than as part of a settlement that also settled the claim of the mother, because of a promise I'd made to the mother, who was my joint claimant in the DPA proceedings, the solicitor should not have colluded in the sordid subterfuge that the emails in the bundle proves took place. And so on.

16. Is the doctrine still good law, that "a little leaven leaveneth the whole lump"?

In judicial review case law, which (unlike refuting an Article 8.2 defence, to the extent that one is pleaded) is a mightily high hurdle to jump, a decision (such as one to make the social work one-sided, or to procure "parentectomy"), is flawed, if irrelevant considerations are taken into account, or if relevant ones aren't. An interference in the Article 8 right decided upon in a decision that would have been judicially reviewable, is not an interference that is "in accordance with law" (Article 8.2).

If discrimination motivated any decision, then that decision, and all that flowed from it, is contaminated with that initial unlawfulness, at judicial review. It is no good the Defendant

trying to cover its tracks *post de facto*, by inventing or re-prioritising other concerns simply months later (having admitted that the smacking allegation wasn't "insurmountable" on 23rd May 2013). It is no good the Defendant pleading that discrimination the previous May had been only one of several factors, and speculating that the outcome would have been the same anyway (which I doubt it would have been), even if the social work job had been done properly, without beliefs discrimination.

Likewise, if the intentional one-sidedness of the social work deprived the Defendant of information that it ought to have taken into account before deciding upon parentectomy (which it most certainly did), then that wilful ignorance on the part of the Defendant, of relevant considerations, also contaminates the *de facto* decision to inflict parentectomy taken before the meeting of 23rd May 2013.

Curate's egg social work – good in parts - is not lawful social work, for Article 8.2 purposes. It is not good enough to observe the Children Act, and to regard Working Together To Safeguard Children as one's "bible" (so-to-speak), but then to forget all about the Public Sector Equality Duty, and the Human Rights Act, for example, or the specific Data Protection Principle that requires measures to be taken to ensure that personal information held by a data controller is accurate – an aspiration that is unlikely to be realised if the data controller relies upon social work that is deliberately one-sided. If the Defendant wishes to be justified by keeping the law, it must keep the whole of the law. It didn't.

[redacted]
Claimant in person