NEUTRAL CITATION NUMBER: [2021] EWHC 3592 (Fam)

IN THE HIGH COURT OF JUSTICE No. TN99D00733
FAMILY DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Friday , 8 October 2021

Before:

MR JUSTICE MOSTYN

(**In Private**)

BETWEEN:

VIKI NATASHA MAUGHAN Applicant

- and -

RICHARD MICHAEL EDMUND WILMOT Respondent

MR J SWITALSKI (instructed by Thomson Snell & Passmore LLP) appeared on behalf of the Applicant.

THE RESPONDENT did not appear and was not represented.

JUDGMENT

(Via Microsoft TEAMs)

MR JUSTICE MOSTYN:

1
I have before me an application by Viki Maughan and by Thomson, Snell & Passmore, dated 27 September 2021, for an extension of the existing general civil restraint order, which is shortly due to

expire, for two more years. The application for an extension is made pursuant to para.4.10 of FPR practice direction 4B. Paragraph 4.10 states:

“The court may extend the duration of a general civil restraint order, if it considers it appropriate to do so, but he duration of the order must not be extended for a period greater than 2 years on any given occasion.”

2
The counterpart in the civil procedure rules to that power was considered in the decision of Ashcroft v Webster [2017] EWHC 887 (Ch) where the court held that there was no presumption of continuance of an expiring civil restraint order. There had to be evidence that an extension was “appropriate.” That required the court to take account of all of the circumstances, not just the defendant’s current conduct but also that which led to the restraint order being made in the first place. Where a restraint order had properly been made, subsequent conduct had to be viewed through the prism of the earlier conduct, and in that case the application for a two-year extension was granted.

3
In my judgment given on 22 October 2019, where I imposed the current general civil restraint order which is about to expire, I explained that the background of this extremely long running case was to be found in a number of judgments which I listed, the first of which was the decision of Lloyd LJ in the Court of Appeal on 25 July 2013. That judgment, which I have re-read, explains with pitiless detail why the allegations made by Mr Wilmot that the orders made against him as long ago as 2001 by DJ White, were made without jurisdiction, were totally without merit. Indeed in his judgment, in rejecting his grounds of appeal, Lloyd LJ formally certified the application for permission to appeal as being totally without merit.

4
That judgment of 25 July 2013, should have been the end of the road of Captain Wilmot’s case that the orders that were made for ancillary relief against him twenty years ago were without jurisdiction. But as I have explained in my subsequent judgments given on 15 April 2014, 13 January 2016, 25 January 2018, and 22 October 2019, Captain Wilmot has not been deterred and has over the last eight years, at every opportunity, persisted in his allegations that the orders originally made were without jurisdiction. His case is utterly meritless and it was for this reason that I made the general civil restraint order on 22 October 2019. That was the first reason.

5
The second reason was Captain Wilmot’s persistent complaint that the orders were not only nullities for want of jurisdiction, but also were nullities because they had not been properly served on him. His mantra about service has been repeated time and again over the years. It was totally rejected by me in my judgment of 13 January 2016 and my rejection of it was upheld with crystal clarity by the Court of Appeal on 27 October 2017. That judgment confirmed the decision which had been made in fact originally by Ryder J and confirmed by me, namely that service on Captain Wilmot may be made by email.

6
As I have explained in the earlier judgment I have given today, Mr Wilmot is a habitué of the use of email. That is how all his correspondence both with Thomson Snell & Passmore and with the court, both the office and my clerk, has been. There has not been any other medium that has been used for communication apart from email. So it is a bitter and almost ludicrous irony that he should complain that he has not been properly served when it has been done by email. But at all events it has been

authorised by the court and I have explained in my earlier judgment how his complaints that he has not had the full time allowed by the rules being allegedly resident in the Isle of Man, is absurd when you consider that email is received instantly and has been reacted to by Mr Wilmot as soon as it has arrived.

7
I have already dealt with the question of service and its abridgment. Suffice to say that the complaints that he persists in making about service are ludicrous. It was for these two reasons that I made the general civil restraint order on 22 October 2019. A few days before that hearing Mr Wilmot had instructed Mr Meachem of Law Tribe to represent him, and it is fair to say that Mr Meachem properly and professionally represented Mr Wilmot. I do not agree with every strategy that Mr Meachem took but none of it was improper and he fearlessly and in accordance with his duty represented Mr Wilmot in the proceedings thereafter.

8
However, relations broke down between Mr Meachem and Mr Wilmot leading Mr Wilmot to make an application on 15 June of this year to come off the record, and although I generally do not in proceedings cite the contents of the evidence in support of an application to be removed from the record, in this case it is appropriate to say that, among a number of other reasons, Mr Meachem gave evidence that Mr Wilmot had attempted to act as a litigant in person by corresponding with Howard Kennedy, that is the receiver's solicitors, "without ending our retainer." At all events, I made an order on 17 June 2021 providing that Mr Meachem's firm, Law Tribe, had ceased to be the solicitor acting for the respondent.

9
The moratorium in the bombardment by Mr Wilmot during the period of the retainer of Mr Meachem came to an abrupt end and Mr Wilmot recommenced with a vengeance his allegations that the orders were invalid and that they were never properly served. In Mrs Judd's statement in support of the application, she sets out the extensive bombardment that she and her firm have been subjected to. The court itself has received an enormous number of communications from Mr Wilmot. Since 17 June 2021, the court office has received forty-six emails from him, and my clerk thirty-one emails. There is some overlap between the two in the sense that a fair number of the emails sent to the office were copied to my clerk, but they were not exactly congruent. I have not make the precise count of how many separate communications either to my clerk or to the office have emanated from Mr Wilmot but it is around fifty in four months.

10
The folder in which I have stored some of the documents attached by Mr Wilmot shows an extraordinary array of eccentric documents. I give some examples. On 1 October there were received documents entitled, "Ryder Xydias order section 8", "RHF Richard Wilmot application", "FLA 1986", "Misrepresentation very brief outline", "October statement notices", "Notice to admit facts x6", "Null orders EUHR highlighted," and so on. A huge array of baffling documents all underpinned by the two themes which I have mentioned.

11
In his note, Mr Switalski also points to the fact that on 31 July, Mr Wilmot prepared a D11 application without having obtained prior permission under the terms of the general civil restraint order, seeking a raft of remedies and he has prepared and lodged a notice of appeal, apparently as long ago as November 2019, again naming the wife and Mrs Judd, seeking that all orders in the case be declared

nullities. The Court of Appeal have confirmed that they will not be taking any steps without my permission being sought in relation to the appeal notice, which I have read.

12
Outside the sphere of the litigation, Mr Wilmot has sought to report Mrs Judd to the police. He has breached the terms of the non-harassment order which I also made against Mr Wilmot, pronouncing it to have been a nullity. He has breached it by communicating with Mrs Judd directly, which he is prohibited to do, and the consequences of his actions has meant that Mrs Judd's firm, Thomson, Snell & Passmore, have had to instruct their insurers, who in turn have instructed Reynolds Porter Chamberlain, and Captain Wilmot has been writing to them, stating, "All judgments of Mostyn J are nullities," and he has sought to engage in negotiations for pecuniary reward on the basis of allegations that orders that I have made either do not exist or are to be declared nullities.

13
There is no doubt that since Mr Meachem came off the record that Mr Wilmot has resumed with a vengeance the vexatious conduct that led to the previous order being made, and I have therefore, applying the criterion in the practice direction of appropriateness and having regard to the whole history as the authority which I cited requires me to do, no hesitation in granting the extension for two more years from today. In addition, I will separately, as I say, make orders dealing with the two outstanding applications which have been mounted without prior permission.

14
There are consequential ancillary orders sought by Ms Judd and Mr Switalski. Firstly, they want an order, which perhaps is not strictly necessary but it is as well to have the court's approbation of the step which is proposed, namely that the applicant's solicitors cease to act as solicitors on the record and so I am happy to make that order in the terms of the draft, para.11. I also make, should it be needed, an order granting those solicitors, as one of their final acts, permission to disclose documents, pleadings, statements in these proceedings to the solicitors for their insurers, and additionally to disclose the general civil restraint order, the order made today, and the order under the Protection from Harassment Act made in October 2019 to the Metropolitan Police. Those are my rulings.

L A T E R

15
The applicant applies for costs and has produced a schedule in the appropriate form, which has been served on Captain Wilmot. It totals £16,301 including VAT. Of that there are disbursements of court fee of a small amount and counsel's fees of £2,000 plus VAT. The solicitors' costs are broken into two parts. First is the period from 24 July to 4 October 2021, totalling £8,330, to which VAT must be added. The second is the period from 5 October 2021 to a few days after today to enable implementation, totalling £3,150.

16
Looking at the first period of 24 July 2021 to 4 October 2021, the activity in question includes principally emails in and out dealing with the emails from Mr Wilmot, which I have described in my principal judgment, and the preparation of the application for the court. I put it to Mr Switalski that if Mr Wilmot had experienced some kind of Damascene moment and had become the acme of reasonableness and had been asked perhaps in late July if he would in the light of the looming end of the restraint order agree to its extension for two years and had agreed to it, then the costs that would

have been incurred by Thomson, Snell & Passmore would have been minimal but there would have been some, which surely they should not recover now.

17
The problem with that argument is that although it is logically pure, it disregards the character and disposition of Mr Wilmot and is completely unreal because there is not the slightest possibility that Mr Wilmot would have agreed consensually and reasonably to an extension of the CRO had he been asked in July. So while I thought initially that I might make a discount to the sum claimed in part A, £8,330, to reflect that factor, I do not do so.

18
Mr Switalski rightly says that if there were an assessment on the indemnity basis, there would unquestionably be some sums taken off, for example the attendance at court, which was predicated on a two-hour hearing, will be less than that, and inevitably even on an assessment on an indemnity basis, there will be a small reduction. Is this a case for an award of costs on an indemnity basis? Absolutely. The criterion which is applied to determine whether costs are awarded on an indemnity or standard basis is the ubiquitous standard, described in the commentaries as the ne plus ultra, that the claimant must demonstrate a circumstance which takes the case out of the norm.

19
This case was described by me in my judgment two years ago as a case involving a respondent who was exceptionally vexatious and I went on to explain how it was one of the worst examples of vexatious conduct that I had ever encountered. This is a case which is, in all respects, outside the norm. There is no aspect of Mr Wilmot's conduct of it which could be described as reasonable, and so it is appropriate that I should make the award on the indemnity basis. However, the total sum claimed of £16,301 would, as I said earlier, be subject to a reduction were there to be a detailed assessment. In my judgment, the award should be for 95 per cent of that figure, which is £15,485 inclusive of VAT.
