**Case numbers: 2201691/2015,
3202042/2015 & 3200734/2016**

# EMPLOYMENT TRIBUNALS

**Claimant:** **Mr M A Hassan**

**Respondents:** **(1) Barts Health NHS Trust**
**(2) Dr S Ryan**
**(3) Mr M Pantlin**

**In chambers:** **24 May 2024**

**Before:** **Judge Barry Clarke**
**President of Employment Tribunals**
**(England & Wales)**

# SECOND RECONSIDERATION

The claimant's second application for reconsideration is refused.

# REASONS

1. By a reserved judgment sent to the parties on 28 December 2023, I struck out the claimant's remaining live claims before the Employment Tribunals. The claimant asked me to reconsider that judgment in accordance with rules 70 and 71 of the Employment Tribunals Rules of Procedure. By a further decision sent to the parties on 9 February 2024, I refused his application. I decided it was late (having been made 50 minutes outside the applicable 14-day time limit, with no good reason to extend time) and, alternatively, because it disclosed no reasonable prospect of my judgment being varied or revoked.

2. Ordinarily, and subject to his right of appeal, that would be an end to the matter. However, since then, my office has received much correspondence from the claimant and his brother. Its tone and volume (almost 2,000 pages in total) makes it difficult to discern what applications are being made. It imposes an inappropriate burden upon the limited resources of the tribunal, and its staff, to work through the material to decipher it. Nonetheless, I set aside time in May to examine the material that had been received. It can be grouped together into six batches:

2.1 On 22 February 2024, from the claimant, a 29-page document. It has four separate attachments, which total 261 pages. It forwards a copy of his application to the EAT (itself dated 14 February 2023) seeking an oral hearing under rule 3(10) of the EAT Rules 1993. This material relates principally to his appeal against my earlier case management decisions.

2.2 On 23 February 2024 (albeit dated 16 February 2024), again from the claimant, a 12-page document. There was an attachment, running to 10 pages, containing materially the same information but with additional screenshots. This is a further (second) application for reconsideration.

2.3 On 9 March 2024, from the claimant's brother, a 61-page document. There are four separate attachments, which total 899 pages. This is a critique of a separate decision I made on 9 February 2024, under the Judicial Conduct (Tribunals) Rules 2014, to dismiss his complaint of misconduct against Regional Employment Judge Taylor.

2.4 On 9 March 2024, from the claimant's brother, two further emails. One attachment is a statement from the claimant, running to 118 pages. There are four exhibits, which total 265 pages. This appears to be material from earlier proceedings before the Crown Court.

2.5 On 11 March 2024, from the claimant's brother, a further email. It runs to 209 pages. It also forwards earlier correspondence. There are numerous recipients. By the subject field of the email, it purports to be a disclosure "*under the Public Interest Disclosure Act 1998*" of evidence that I have abused my office in order to cover up the respondent's criminal activities.

2.6 On 18 April 2024, from the claimant's brother, a 66-page document. This is material sent to the High Court by the claimant's brother in proceedings entitled *Ahmed El-Tawil v. Barry Clarke & others* (KB-2023-002838).

3. In a repeat of the behaviour that I described in my judgment striking out the claimant's remaining claims before the tribunal, the documents above contain within them innumerable allegations of fraud, corruption, conspiracy and other criminal activity, against me and other judges, agencies and organisations. I make no comment on the contentions made throughout this material by the claimant and/or his brother that my earlier decisions contain errors of law (that is for the EAT); or that, in dismissing the complaint of misconduct against Regional Employment Judge Taylor, I abused my office (that is for the Judicial Appointments and Conduct Ombudsman); or that I have acted unlawfully in other ways (this is part of the High Court claim against me, or correspondence to which it would otherwise be inappropriate to respond). However, one matter does require attention: the claimant's second application for reconsideration mentioned at paragraph 2.2 above. I turn to that now.

4. The regime applicable to reconsideration is set out at rules 70 to 73 of the Employment Tribunals Rules of Procedure. Rule 72(1) provides that, where there is "*no reasonable prospect of the original decision being varied or revoked (including, unless there are special reasons, where substantially the*

*same application has already been made and refused), the application shall be refused*". I emphasise the wording in parenthesis. This is because the claimant's application is not expressed as seeking reconsideration of my judgment striking out his claims; it is expressed instead as an application for reconsideration of my previous reconsideration decision sent to the parties on 9 February 2024. The issue I must consider is whether there is any reasonable prospect of that decision being varied or revoked.

5. The claimant begins with an additional explanation for why his first application for reconsideration was 50 minutes late: a sudden and unexpected interruption of his internet connection just before 11pm on 11 January 2024. He repeats his submission about when he understood the 14-day period of time to begin running (where he misunderstands the correct approach, which I discussed at paragraph 5 of my reconsideration decision). This is no reasonable prospect that this new explanation, even taking it at face value, would lead me to vary or revoke my refusal to reconsider my strike out judgment. I say this for two reasons. First, it does not address a point I made in my original decision: the claimant's application was dated 9 January 2024 but, for unknown reasons, he delayed in submitting it to the tribunal. He is, as I have noted, an intelligent man, and he should have planned ahead rather than leaving it to the final hour. But the second reason is more important: at paragraphs 14 to 16 of my original reconsideration decision, I dealt with his application in the alternative, and I made clear that I would have refused it on its merits even if it had been made within time. A new explanation for his delay does not alter that.

6. The claimant next addresses a matter I mentioned at paragraph 1 of my reconsideration decision: that his 205-page document had been described as "part one" of his application for reconsideration, with "part two" to follow. I said that there had been no "part two". The claimant now says what has become of "part two". After referring again to "part one" of his application, he writes this:

> **After examining and reflecting on the judgment of 28/12/23, the Whistle blower commenced working on the reconsideration application since 01/01/24 by collating the snapshots and extracts referred to above, then by gathering and recording the Statement of case which followed. The Whistle blower put this material together in part one of application on 09/01/24. The Whistle blower then embarked on addressing the findings and conclusions in the specific paragraphs of the judgment (which he is still working on). Needless to state that the Whistle blower is a litigant in-person, and there are other legal proceedings which he has had to engage in; for example during the recent period, the Whistle blower has had to engage in preparing and filing the Appeal against the same judgment of 28/12/23 (filed on 08/02/24), and has had to engage in the Rule 3(10) application in his appeals against the decisions and directions in the ET's letters of 29/6/23, 04/07/23 and 06/7/23. These are just two examples of the proceedings which the Whistle blower has had to engage in (proceedings which the ET President is familiar with). Thus, while the Whistle blower has filed the first part of his application for reconsideration of the judgment of 28/12/23, he will file the updated version once completed.**

7. He ends his application by saying:

> **... the Whistle blower applies for extension of time in respect of his application for reconsideration of the judgment of 28/12/23, and officially informs the ET President that the full version of this application will be filed and served shortly after completion.**

8. In short, the claimant says that he was too busy to complete "part two" of his reconsideration application, choosing to prioritise the other matters referred to above. Indeed, there is still no "part two".

9. Parties cannot reserve the right to submit further material in an effort to prolong proceedings that have been brought to an end. That would be contrary to the overriding objective (which includes dealing with cases proportionately and avoiding delay) and to the strong public interest in the finality of litigation. The regime on reconsideration is principally there to allow parties to contend that an alleged procedural mishap has denied them a fair and proper opportunity to present their case, and it is not to be invoked to correct an error of law that is more appropriately a matter for the EAT (see, on this point, paragraph 24 of the EAT's judgment in **Ebury Partners UK Ltd v. Acton Davis** [2023] EAT 40). If it is taking the claimant that long to compose his critique of my judgment, I am reinforced in my view that it is properly a matter for an appeal. Accordingly, this further contention discloses no reasonable prospect of my reconsideration decision being varied or revoked. In any event, I refuse again to extend time.

10. The claimant's next point is that I overlooked the complexity of his case at the hearing in August 2023. He also criticises the time it took me after his hearing to decide to strike out his claims. He contends that my "*busy schedule*" meant that I had failed properly to consider "*facts and irrefutable material evidences*" that should have led me to "*strike out the respondent's application (not the Whistle blower's claims)*". He overlooks the points made at paragraphs 10, 97 and 117 of my strike out judgment: there were almost 7,000 pages to consider, and further submissions were received from the parties in September and October 2023 arising from the subsequent erasure decision of the MPTS. In any event, to what "*facts*" is the claimant now referring? He describes them as "*snapshots and extracts disclosing one definite undisputable fact for each stage*". He refers to "*CCTV/BWV visual evidences*". This refers back to his analysis of the CCTV footage of the incident at the London East tribunal on 7 February 2019, which was contained chiefly in the eighth document set he provided for the hearing.

11. There are three problems with this contention. First, this aspect is not an attack on my reconsideration judgment; it is an attack on my strike out judgment. At this stage, the claimant is even more out of time than he was before to seek reconsideration of that judgment, and there is no explanation for his lateness. Second, I addressed his critique of the CCTV evidence at paragraphs 114 and 119 of my judgment, but explained that I considered it wrong in principle to go behind his criminal conviction. By raising these points, he seeks to relitigate an argument he lost. Third, and crucially, the regime for reconsideration is not a vehicle for him to contend that I made an error of law. That is for the EAT.

12. The claimant then says that he was given "*no opportunity during the hearing … to make his case for resisting the respondent's strike out application*". He refers to the respondent's "*deliberate manipulations*" of the hearing bundle (but there is no doubt that he had the respondent's bundle in good time – I had postponed an earlier hearing to allow for that – and, in any event, it contained no material that was new to him); he refers to an "*extreme time restriction*" of one hour on his oral representations (he was given two hours); he refers to technical problems during the hearing; and he refers to the complexity of his case. My procedural approach to the hearing was explained in my judgment (see paragraphs 94-98 and 116-117). He is out of time to seek reconsideration of my judgment (as opposed to my first reconsideration decision); and, in any event, if he considers that his hearing was unfair, it is a matter for the EAT.

13. There is a further contention that Employment Judge Henderson is not a holder of judicial office. I dealt with that in my judgment at paragraph 18. Once again, the claimant is out of time to seek reconsideration of my judgment (as opposed to my first reconsideration decision); and, in any event, if he considers that my approach discloses an error of law, it is a matter for the EAT.

14. For the above reasons, the claimant's second application for reconsideration discloses no reasonable prospect of my first reconsideration decision being varied or revoked (and, for the avoidance of any doubt, no reasonable prospect of my judgment being varied or revoked). In many respects, it is substantially the same application that he has already made; and, in all respects, it is an attempt to reargue his case. It is refused.

15. I end with this observation. The claimant and his brother cannot keep this litigation alive by repetitively submitting correspondence that takes issue with my judgment or which makes further allegations against me of criminal activity. It is an abuse of process to frame such correspondence as an application for reconsideration in order for it to generate a judicial decision that extends the life of this case both in this jurisdiction and its appellate body. Accordingly, subject only to the outcome of his appeals, the claimant will receive no further judicial determinations from this tribunal in respect of these claims. Further correspondence from him and his brother will be filed without reply or acknowledgement of receipt.

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Judge Clarke, President
Dated: 28 May 2024

RECONSIDERATION DECISION SENT TO THE PARTIES ON

29 May 2024

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FOR EMPLOYMENT TRIBUNALS

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