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*Judgment: approved by the Court for handing down  
(subject to editorial corrections)\**

Ref: McC10524

JR 17/058932/01 &  
17/082054/01

Delivered: 16/01/18

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND  
QUEEN'S BENCH DIVISION (JUDICIAL REVIEW)

IN THE MATTER OF APPLICATIONS BY BRIAN ROWLANDS AND  
PATRICIA ROWLANDS

-V-

DEPARTMENT FOR COMMUNITIES

McCloskey J

INTRODUCTION

[1] These inter-related judicial review challenges in which the Applicants, who are husband and wife, represent themselves, have as their target what is described in the Applicants' pleadings as "*a decision of the Department of Health and Social Services Child Support Agency made on 18 June 2007*". The correct title of the proposed respondent has been confirmed to the satisfaction of the Court as the Child Maintenance Service of the Department for Communities ("*the Department*").

THE CHALLENGES

[2] Mr Rowlands deposes, *inter alia*:

*"By Liability Order dated 18 June 2007 and made between the Defendants and the original Plaintiffs, where [sic] charged by the Defendant to secure the payments of the principal sums of £4841.43 and £3719.50 as being stated by CSA of [sic] being a correct and factual amount presented to the Magistrate that I am liable to pay at the above date towards periodical assessments of which [sic] founded the Liability Order."*

The affidavit of the second Applicant is in materially identical terms, with the exception that the only sum of money specified is £1651.92.

[3] Illumination is provided in the opening paragraph of the Department's statement of case, provided pursuant to a direction of the Court:

*"The Liability Orders were made in respect of unpaid Child Support payments by Mr Rowlands and related to three separate parents with care of children fathered by Mr Rowlands. The relevant parents with care are [the second Applicant], Ms Shannon and Ms Hughes."*

In short, the Department, having made assessments that the first Applicant was liable to make Child Support payments to the three identified parents with care in the specified amounts, applied to Downpatrick Magistrates' Court for, and was granted, a so-called Liability Order in respect of each of the said amounts. It is evident that "Master Bates" is an incorrect description of Mr Bates RM. The court has at its disposal the three impugned Liability Orders, being contained in the Department's bundle.

[4] The various figures and tables in the Department's bundle specify the breakdown of the amounts in question and the related dates and periods. From these it is apparent that the "liability periods" (my shorthand) date from 1994. To summarise:

- (a) As regards the second Applicant, the calculations and figures span the period 12 August 2006 to 22 February 2013, asserting a total financial liability of the first Applicant in the amount of **£1805.75**.
- (b) As regards Ms Shannon, the period is 21 September 1994 to 26 February 2013 and the total calculation is **£4101.65**.
- (c) As regards Ms Hughes, the period is 12 August 2006 to 19 September 2013 and the total calculation is **£9272.18**.

It is apparent that these are updated calculations and figures.

[5] As regards the amounts specified in the Liability Orders - see [2] *supra* - the Department's bundle confirms the accuracy of the figures asserted by the Applicants.

[6] The Department's bundle contains also the following timeline, which I gratefully interpose at this juncture:

<i>“Application for Child Maintenance</i>	<i>23<sup>rd</sup> January 2001</i>
<i>Decision</i>	<i>21<sup>st</sup> March 2001</i>
<i>Revision and further Assessments</i>	<i>12<sup>th</sup> August 2006</i>
<i>Liability Orders</i>	<i>18<sup>th</sup> June 2007</i>
<i>Further Decision</i>	<i>7<sup>th</sup> July 2009</i>
<i>All Assessments Revised</i>	<i>29<sup>th</sup> January 2010</i>
<i>Further Revisions</i>	<i>22<sup>nd</sup> February 2013</i>
<i>Appeal to Appeal Tribunal</i>	<i>3<sup>rd</sup> April 2013</i>
<i>Appeal Tribunal Decision</i>	<i>14<sup>th</sup> April 2015</i>
<i>Application for Leave to Appeal to Commissioner</i>	<i>28<sup>th</sup> July 2015</i>
<i>Application Dismissed</i>	<i>23<sup>rd</sup> September 2015</i>
<i>Further Application</i>	<i>6<sup>th</sup> November 2015</i>
<i>Decision of Chief Commissioner</i>	<i>26<sup>th</sup> May 2017”</i>

[7] The Department’s papers also include the following helpful “Background” document:

<b>“Date</b>	<b>Action</b>	<b>Why</b>
14/08/2006	Decision	Revisions and arrears completed based on evidence supplied by NRP
29/08/2006	Telephone	Attempted calls to arrange arrears after change of circumstances complete. Notification sent to NRP about contacting to arrange arrears.
30/08/2006	Letter	E1 form sent to debt team, breakdowns completed
03/11/2006	Summons	Summons issued to Downpatrick Court
14/11/2006	Summons	Notification that summons was not served.
04/01/2007	Summons	Notification that summons was not served.
12/01/2007	Summons	Sent to Downpatrick Court to be issued 1st class post.
08/02/2007	Summons	Summons re-prepared. Sent again with court date 16/04/07

13/04/2007	Telephone	Call from NRP solicitor requesting adjournment Late entry from 16/04/07, hearing adjourned until 21/05/07
17/04/2007	Court Action	
21/05/2007	Court Action	Hearing adjourned until 18/06/07
18/06/2007	Court Action	Liability Order granted. NRP not present, solicitor off record.

### Liability Order Amounts

Name	Start Date	End Date	Amount
'AB'	07/06/1994	06/10/2006	£3,719.50
'CD'	04/11/1994	13/10/2006	£4,841.43
18/06/2007 Court Action 'EF'	27/03/2001	09/10/2006	£1,651.92"

[Names of children anonymised]

[8] As appears from the timeline the history of this litigation has, *inter alia*, involved tribunal appeal proceedings during the period 2013 – 2015. In those proceedings, the Applicants brought separate appeals against Child Support assessments in respect of the first Applicant, unsuccessfully. There were four appeals altogether challenging decisions dated 22 February 2013 all based on “effective dates” predating the Magistrates’ Liability Orders. These four separate decisions, each of them a “revised” decision, determined that child maintenance was payable by the first Applicant at a specified weekly rate from specified “effective dates”, beginning on 22 July 2003. The Appeal Tribunal’s decision of 14 April 2015 states, *inter alia*:

*“The Tribunal has checked the details of all decisions and grounds for revision/supersession and finds correct procedure followed.”*

In another passage it is stated:

*“The Tribunal finds that the Department have carried out appropriate revision/supersessions as indicated in the submission papers/documents furnished and for the correct reasons. The effective dates have been checked and found to be correct in accordance with legislation ....*

*The maintenance calculations have been carried out in accordance with a fixed formula and the calculations are found to be correct on the information available ....*

*All appropriate considerations on the information available and investigations carried out have been applied.”*

An ensuing application for permission to appeal was refused.

## CONCLUSIONS

[9] The burden of the Applicants' challenge is apparent from the following averments in both affidavits:

*"The Justices were given the wrong figures by the CSA on 18 June 2007 leading to a miscarriage of justice."*

This is supplemented by an assertion that, more recently, CSA has "*admitted procedural errors*". While this seems to resolve to an assertion of an admission that CSA did not "*present the true figures*" to the Magistrates' Court in pursuing the impugned Liability Orders, the assertion is significantly unparticularised and best described as opaque. It is also bereft of supporting evidence.

[10] I note that, as of today, the Department has initiated enforcement action which was adjourned by the EJO Master to enable these judicial review challenges to proceed.

[11] Having considered all that Mrs Rowlands put forward on behalf of both litigants in her detailed and lucid oral presentation to the court, I conclude that leave to apply for judicial review must be refused in each case on the following grounds:

- (a) Whereas each of the Applicants has brought proceedings against the Department, the Liability Orders which are impugned were made by Downpatrick Magistrates' Court. This flaw is both fundamental and irremediable.
- (b) The second fundamental infirmity is that, in my judgement, these proceedings represent an impermissible attempt to challenge collaterally the various decisions of the Tribunal and Chief Commissioner.
- (c) The subject matter of the Applicants' challenges, at least in part, has been the subject of final determination by the Appeal Tribunal and the Commissioner.
- (d) There is no discernible case against HMCTS, named in the title of the pleadings as second respondent.
- (e) The proceedings are hopelessly delayed in any event, having been initiated some 10 years after the making of the Liability

Orders, which were the catalyst for most of what has unfolded subsequently.