

ENGLAND AND WALES / JUDGMENT

Keyser Khan v Chief Constable of Devon & Cornwall Police

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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Before : Mr Justice Cavanagh

Between : Keyser Khan
- and -
Case No: KB-2025-002945
Royal Courts of Justice
Strand, London, WC2A 2LL
Date: 10 December 2025
Claimant
Chief Constable of Devon & Cornwall Police
Defendant

The Claimant in person
John-Paul Waite (instructed by Legal Adviser to Devon & Cornwall Police) for the
Defendant
Hearing date: 10 December 2025

JUDGMENT

Judgment Approved by the court for handing down Khan v Devon & Cornwall Police Mr Justice Cavanagh: 1. 2. 3. 4. 5. 6. 7. The Claimant is the owner of a business, Weapons Galore, that is engaged in the importation and sale of swords, knives and other bladed articles. He supplies them to museums, military establishments, film production companies, collectors and others. The issue to which this application gives rise grew out of seizures of weapons from the company's premises, following which the Claimant was charged with nine counts of possession of offensive weapons for the purpose of sale and hire. On 12 February 2025, the CPS wrote to the Claimant's solicitors to inform them that, whilst, in the CPS's view, there remained sufficient evidence to

prosecute the Claimant for the possession of those weapons (and further weapons which the police had seized), the Crown would withdraw the charges if the Claimant agreed to renounce all claims, rights and ownership of the items in question and to indemnify the Defendant in respect of all claims which might be made in respect of them. On 12 March 2025, the Claimant signed a renunciation declaration in relation to 90 weapons and, following this, the CPS informed the Claimant that the charges against him had been discontinued. I should make clear that this is a very short summary of a complex series of events, and that the Claimant vehemently disputes that there were ever any valid grounds for suspecting him of any offence. However, it is not necessary for me to go further into the history of the matter at this stage. Following the Claimant's declaration, 90 bladed articles which the police had seized from the Claimant's company were destroyed. Another six swords which were not suspected of being unlawful were also destroyed. The Defendant accepts that this was done, but says that it was done by mistake. The Claimant has issued a civil money claim in relation to these swords, which has been allocated to the small claims court in the County Court. The Defendant has accepted that it is liable to compensate the Claimant for the loss of these swords, subject to a ruling as to their value. The Claimant has also issued a claim in the County Court in relation to damage to a sword, which is denied by the Defendant. On 13 August 2025, the Claimant issued an application in the High Court under CPR Part 25 for an order (1) to preserve the seized exhibits held by the Defendant; (2) permitting third-party forensic inspection; (3) requiring disclosure of access logs and CCTV footage; (4) excluding specific officers from access to the exhibits; and (5) costs. The application was supported by a witness statement and exhibits. The Claimant is representing himself. The Defendant is represented by Mr John-Paul Waite of counsel. The matter first came before Dove J on 21 August 2025. Dove J decided that there needed to be further clarification of the issues before any decision could be made on the application. He therefore ordered that the Defendant should file a witness statement to which the Claimant should respond, and that each side should serve skeleton arguments before a further hearing. At the hearing on 21 August 2025, the parties produced an agreed document, annexed to Dove J's order, which identified the actual or proposed proceedings upon which the Claimant relies, the essential allegation of the Claimant, the items which the Claimant Judgment Approved by the court for handing down Khan v Devon & Cornwall Police wishes to be preserved for the purpose of the proceedings, and the information he requires. The agreed document stated as follows: "THE ACTUAL OR PROPOSED PROCEEDINGS UPON THE CLAIMANT RELIES:

1. PROPOSED CLAIM FOR MALICIOUS PROSECUTION AND MISFEASANCE IN PUBLIC OFFICE.
2. EXISTING COUNTY COURT MONEY CLAIMS.
3. A PROPOSED FUTURE CLAIM BASED ON THE DESTRUCTION OF THE 31 SWORDS WHICH WERE THE SUBJECT OF THE RENUNCIATION DECLARATION. THE ESSENTIAL ALLEGATION OF THE CLAIMANT: THE DEFENDANT DELIBERATELY WITHHELD RELEVANT EVIDENCE FROM THE COURT, DEFENCE AND CPS IN THE FORM OF CERTIFICATES/DOCUMENTARY EVIDENCE WHICH DEMONSTRATED THAT POSSESSION

OF THE KNIVES WHICH WERE THE SUBJECT OF THE PROSECUTION WAS LAWFUL. THE CLAIMANT ALLEGES THAT THE CERTIFICATES WERE NOT PRODUCED IN CIRCUMSTANCES WHERE THERE WAS A DIRECTION FROM THE CROWN COURT JUDGE THAT THEY BE DISCLOSED BY 14.1.25. THE ITEMS WHICH THE CLAIMANT WISHES TO BE PRESERVED FOR THE PURPOSE OF THE ABOVE PROCEEDINGS/INFORMATION HE REQUIRES: 1 ALL LOGS DETAILING ITEMS WHICH WERE SEIZED, RETAINED AND RETURNED FROM THE PREMISES OF WG COM LTD. 2 THE FED EX BOX SEIZED BY DC REED ON 27.2.24 3 ANY SEIZED SWORD CERTIFICATES 4 CONTENTS OF THE ABOVE FED EX BOX 5 ALL DIGITAL RECORDS CONTAINING PHOTOGRAPHS OF THE SWORDS AND ACCOMPANYING DOCUMENTARY EVIDENCE OF VERIFICATION.

6. BODY CAM FOOTAGE RELATING TO THE SEIZURE OF THE FED EX BOX AND EVIDENCE RELATING TO THE HANDLING OF THAT BOX.
7. DI CUMMIE'S EXHIBIT BOOK RELATING TO THE SEIZURE ON 27.2.24.
8. ALL CORRESPONDENCE RELATING TO MR KHAN BETWEEN THE HOME OFFICE (NPSU) PLYMOUTH AND DCP.
9. INFORMATION AS TO WHICH SWORDS WERE DESTROYED AND WHEN. Judgment Approved by the court for handing down Khan v Devon & Cornwall Police 8. 9. 10. 11. 12. 13. INFORMATION AS TO WHO AUTHORISED THE ABOVE 10. DESTRUCTION." It is clear, therefore, that the purpose of the Claimant in making this application is to ensure that relevant documentation, Body Worn Video, and other materials in the possession of the Defendant are retained so that they can be examined and used in actual and forthcoming proceedings that the Claimant has brought or intends to bring against the Defendant. He also seeks, in points 9 and 10, information from the Defendant. Since the order of Dove J was made, the Defendant has filed a witness statement from Detective Inspector Emma LeFort, dated 23 September 2025. The Claimant has filed a response which includes a number of documents which he describes as "exhibits" but which are, in fact, mainly further written submissions and/or summaries of evidence and commentaries on the evidence. An order was made for consecutive service of skeleton arguments. The Defendant's skeleton argument was drafted first, and then the Claimant's. The requirements for a skeleton argument are set out in the King's Bench Guide, which is publicly available on the internet and which is drafted in clear terms which are readily understandable for litigants in person. Paragraph 9.110 of the Guide states that a skeleton argument should provide a concise summary of the nature of the case, the background facts, the issues, and the party's submissions. It should be as brief as the issues allow and should not normally be more than 20 pages, double spaced. The Claimant's skeleton argument is 49 pages long, and discursive. He makes detailed further submissions in his exhibits. Even making allowance for the Claimant's status as a litigant in person, this is far too long for an interim application that is listed to last no more than 2 hours. Nevertheless, I have read it all carefully. The length of the skeleton argument, and the multiplicity of documents that the Claimant has filed reinforces my impression that the Claimant may not fully appreciate the limited scope

of the matters that I am dealing with today. There is a further practical problem in that I have not been provided with a draft order. This is more than just a formality, because a draft order would have enabled the court to focus on exactly what it is that the Claimant is seeking. Notwithstanding this, I will deal with the Claimant's application on its merits. It is necessary, however, that I make the following points clear at the outset. First, it is no part of the function of this hearing for the Court to reach conclusions on the rights and wrongs of the dispute between the Claimant and the Defendant. The Claimant has made very clear that he suspects that the Defendant and its officers acted unlawfully and/or improperly in relation to their dealings with the Claimant and the treatment of his bladed articles and their certificates, but his skeleton argument for today's hearing also makes clear that he understands that this is not something that the court can or will rule on at this stage. That is right. He says, however, that these criticisms are matters that the court should take into account when deciding whether to make the orders that he seeks. 14. Second, as I have said, there are extant proceedings in the County Court, but any interim applications in relation to those proceedings must be made in the County Court, not in the High Court. I have no jurisdiction to make orders for the Judgment Approved by the court for handing down *Khan v Devon & Cornwall Police* 15. 16. 17. 18. 19. 20. preservation of items or documents, or for the provision of information, for the purposes of the County Court proceedings. There are rules and procedures that apply to County Court proceedings, including small claims, and these cannot be circumvented by making an application for interim relief to the High Court. Third, if and insofar as the Claimant alleges that the Defendant has breached an order made by a Crown Court judge, the right place for him to raise this matter is in the Crown Court, not the High Court. Fourth, and importantly, there were, and still are, no extant proceedings in the High Court to which this application relates. It is somewhat surprising, as he feels so strongly about the matter, that the Claimant has taken no steps to commence such claims in the nearly four months since the hearing before Dove J, but this application must be dealt with, so far as the other claims apart from the County Court claims are concerned, on the basis that this is a pre-claim application. Fifth, and contrary to what, from parts of his skeleton argument, it appears that the Claimant may believe, the High Court does not have a wide-ranging and open-ended power to do anything it wishes to do in the interests of justice even if there are no proceedings underway. The High Court only deals with claims that have already been commenced by the formal issue of proceedings, except where, in particular and specific circumstances, the court makes orders before a claim has been issued. Even then, the orders are not ends in themselves: they are made to protect and preserve the position until specific proceedings are commenced, and are made for the purposes of those proceedings. Sixth, it is only in rare and exceptional cases that the court will be prepared to make an order for the preservation of documents and items, for detention of such materials, or for the answers to requests for information, before proceedings have even begun. There are carefully drafted procedures for disclosure, witness statements and, where necessary, preservation or detention of items, in the Civil Procedure Rules. These procedures apply once proceedings have begun. Nothing like that usually applies before the case has even been commenced. There are, however, certain limited circumstances in which such orders

may be made. The sole issue that I must consider is whether such circumstances apply to the subject matter of this application. It is not clear to me that the Claimant fully appreciates the unusual nature of the application that he is making. However, in succinct, clear and articulate oral submissions, the Claimant, Mr Khan, made clear that he fully understands that the purpose of today's hearing is to decide whether orders should be made to preserve materials in advance of the proceedings. I mention one final preliminary matter. This is that the Claimant has said in his skeleton argument that DI LeFort's attendance at today's hearing is appropriate and necessary in order to resolve the factual contradictions central to this application. The Defendant made clear that DI LeFort would not be proffered for cross-examination, saying that, apart from anything else, she was too busy. In my judgment it would be quite inappropriate to call a witness to give oral evidence and to submit to cross-examination in a matter such as this. The Claimant did not press the point today. The very fact that the Claimant thinks it should be done, when he has not yet even initiated Judgment Approved by the court for handing down Khan v Devon & Cornwall Police proceedings, shows that he misunderstands the court procedures and the purpose of today's hearing. The relevant law 21. 22. It follows from what I have said that the relevant statutory provisions and rules of procedure are those that set out the circumstances in which the Court may make orders in High Court proceedings before the claim or claims have even begun. There are two relevant statutory provisions, both of which are referred to in the Claimant's skeleton argument. 23. The first is section 33 of the Senior Courts Act 1981. This provides: "33 Powers of High Court exercisable before commencement of action (1). On the application of any person in accordance with rules of court, the High Court shall, in such circumstances as may be specified in the rules, have power to make an order providing for any one or more of the following matters, that is to say— (a)the inspection, photographing, preservation, custody and detention of property which appears to the court to be property which may become the subject-matter of subsequent proceedings in the High Court, or as to which any question may arise in any such proceedings; and (b)the taking of samples of any such property as is mentioned in paragraph (a), and the carrying out of any experiment on or with any such property.

- (2) On the application, in accordance with rules of court, of a person who appears to the High Court to be likely to be a party to subsequent proceedings in that court the High Court shall, in such circumstances as may be specified in the rules, have power to order a person who appears to the court to be likely to be a party to the proceedings and to be likely to have or to have had in his possession, custody or power any documents which are relevant to an issue arising or likely to arise out of that claim—
 - (a) to disclose whether those documents are in his possession, custody or power; and
 - (b) to produce such of those documents as are in his possession, custody or power to the applicant or, on such conditions as may be specified in the order— (i)to the applicant's legal advisers; or (ii)to the applicant's legal advisers and any medical or other professional adviser of the applicant; or (iii)if the applicant has no legal adviser, to any medical or other

professional adviser of the applicant.” Judgment Approved by the court for handing down Khan v Devon & Cornwall Police 24. Section 33 makes clear that the circumstances in which the High Court may make an order even before the action has been commenced are limited to those that are set out in the rules of court. The relevant rules are CPR 25.2(2) and 31.16. 25. CPR 25.2(2) provides that: “(2) The court may grant an interim remedy before a claim has been started only if the matter is urgent, or it is otherwise desirable to do so in the interests of justice.” 26. The four types of relief that the Claimant seeks in his application are set out in paragraph 4 above. Three of them, namely preservation, inspection and disclosure, are interim remedies for the purposes of rule 25.2(2), as they come within the list of interim remedies that are set out in CPR 25.1(c)(i) and (ii). So, in my view, is the fourth, the exclusion of specified officers from access to the exhibits, because this is a request for an interim injunction, under CPR 25.1(1)(a). In an appropriate case, an interim injunction may be granted before proceedings have begun.

27. Where pre-action disclosure is concerned, there is another relevant provision of the CPR. This is CPR 31.16, which provides as follows: “31.16— Disclosure before proceedings start
- (1) This rule applies where an application is made to the court under any Act for disclosure before proceedings have started.
 - (2) The application must be supported by evidence.
 - (3) The court may make an order under this rule only where—
 - (a) the respondent is likely to be a party to subsequent proceedings;
 - (b) the applicant is also likely to be a party to those proceedings;
 - (c) if proceedings had started, the respondent's duty by way of standard disclosure, set out in rule 31.6, would extend to the documents or classes of documents of which the applicant seeks disclosure; and
 - (d) disclosure before proceedings have started is desirable in order to—
 - (i) dispose fairly of the anticipated proceedings; (ii) assist the dispute to be resolved without proceedings; or (iii) save costs.
 - (4) An order under this rule must—
 - (a) specify the documents or the classes of documents which the respondent must disclose; and Judgment Approved by the court for handing down Khan v Devon & Cornwall Police
 - (b) require him, when making disclosure, to specify any of those documents—
 - (i) which are no longer in his control; or (ii) in respect of which he claims a right or duty to withhold inspection.
 - (5) Such an order may—

- (a) require the respondent to indicate what has happened to any documents which are no longer in his control; and
- (b) specify the time and place for disclosure and inspection.” 28. So far as section 33 of the Senior Courts Act 1981 and CPR 25 are concerned, therefore, the issues that I must determine on the evidence before me are (1) whether the relief sought by the Claimant is urgent or it is otherwise desirable to grant the relief pre-action in the interests of justice; (2) if so, whether in the court’s discretion, applying the relevant principles, the relief should be granted; and (3) where disclosure is concerned, whether disclosure is desirable to dispose fairly of the anticipated proceedings, assist the dispute to be resolved without proceedings and/or to save costs. So far as disclosure is concerned, I must also consider whether a pre-action order for disclosure would dispose fairly of the proceedings or meet any of the other objectives set out in CPR 31.16(3)(d). 29. The second relevant statutory provision is section 7 of the Civil Procedure Act 1997. Though at one point in his skeleton argument the Claimant disavows reliance upon this provision, it is clear from a later passage in his skeleton argument that he does, in fact, rely upon it. This provides: “7.— Power of courts to make orders for preserving evidence, etc.
 - (1) The court may make an order under this section for the purpose of securing, in the case of any existing or proposed proceedings in the court—
 - (a) the preservation of evidence which is or may be relevant, or
 - (b) the preservation of property which is or may be the subject-matter of the proceedings or as to which any question arises or may arise in the proceedings.
 - (2) A person who is, or appears to the court likely to be, a party to proceedings in the court may make an application for such an order.
 - (3) Such an order may direct any person to permit any person described in the order, or secure that any person so described is permitted—
 - (a) to enter premises in England and Wales, and Judgment Approved by the court for handing down Khan v Devon & Cornwall Police
 - (b) while on the premises, to take in accordance with the terms of the order any of the following steps.
 - (4) Those steps are—
 - (a) to carry out a search for or inspection of anything described in the order, and
 - (b) to make or obtain a copy, photograph, sample or other record of anything so described.
 - (5) The order may also direct the person concerned—

- (a) to provide any person described in the order, or secure that any person so described is provided, with any information or article described in the order, and (b) to allow any person described in the order, or secure that any person so described is allowed, to retain for safe keeping anything described in the order, and
- (6) An order under this section is to have effect subject to such conditions as are specified in the order. ...” 30. 31. 32. This is the statutory embodiment of what was formerly known as an Anton Piller order (after *Anton Piller KG v Manufacturing Processes Ltd* [1976] Ch 55). It is a somewhat draconian remedy. Such orders are usually accompanied by an order permitting lawyers acting for the claimant to enter on and search the premises belonging to the defendant, though that is not part of the relief sought in this case. In *Abela v Baadaranaï* (No 2) [2018] 1 WLR 89, Nugee J said, at paragraph 32, that: “... the court is only likely to grant such an order [in that case, a search order] if persuaded that it is a sufficiently strong case, which in practice means that the court has to be satisfied that there is a real risk of destruction or concealment of evidence.” Applying section 7, as interpreted by Nugee J, I must consider whether the preservation and inspection orders are justified because there is a real risk of destruction and concealment of the evidence if the orders are not made at this stage. Discussion Drawing these strands together, the central question, in my view, in relation to applications (1) to (3), is whether I should grant the relief sought by the Claimant because there is a real, rather than fanciful, risk that the evidence consisting of items or documentation will be concealed or destroyed by the Defendant or its officers or staff if this is not done. If there is such a risk, then the requirements of urgency and the interests of justice, as set out in CPR 25.2(2) will be met, and early disclosure would assist in disposing fairly of the proposed proceedings. 33. Different considerations apply to application (4), the application for an injunction to prevent handling of the bladed articles by certain officers, and I will deal with that separately. Judgment Approved by the court for handing down *Khan v Devon & Cornwall Police* Should I grant relief in the form of orders for (1) the preservation of seized exhibits held by the Defendant; (2) third-party forensic inspection; and (3) requiring disclosure of access logs and CCTV footage? 34. The Claimant put his position clearly in his skeleton argument, as follows: “In these circumstances, the Claimant submits that the continued retention of evidential material by the Defendant poses a serious risk to the integrity of future proceedings. The pattern of non/disclosure, the disappearance of the FedEx box, the withholding of certificates known to exist, and the contradiction between internal police records and Border Force findings all support the need for independent intervention. The Claimant does not invite the Court to make findings of wrongdoing; however, he respectfully submits that a large public body resisting independent scrutiny, in the face of repeated offers of cooperation, gives rise to concerns that go beyond administrative error. It demonstrates why the remaining exhibits must be removed from the custody of those whose handling of earlier material has already been shown to be incomplete or inconsistent.” 35. 36. 37. I have carefully read the Claimant’s allegations and evidence. He contends that the Force knew all along that the weapons that were seized were legal, and had the necessary certificates. He says that the treatment of him was not the

result of mistake or oversight, but was caused by a pattern of coordinated knowledge across multiple officers and departments (though he also said in terms in his skeleton argument that he “does not allege misconduct for the purpose of this application”). The starting point is that I do not have jurisdiction to grant orders in relation to the current County Court proceedings. The only issue is whether I should grant these orders for the purposes of the threatened High Court proceedings for malicious prosecution, misfeasance in public office, or for compensation for the destruction of 31 swords that were destroyed following the renunciation declaration (these do not include the 6 swords that the Defendant accepts it should not have destroyed, which are already the subject of separate proceedings in the County Court). The first difficulty that the Claimant faces is that he has not said when these High Court proceedings will be commenced, or explained in detail why he has not commenced any such proceedings so far. The court will not grant pre-action orders such as these simply because a Claimant says that he is thinking of bringing claims at some point in the future. Such orders should only normally be made where the proceedings are imminent and the exact nature of the claims that will be made has been spelt out and identified. That is not the position here. Even though he has had four months or so to think about it, and to obtain legal advice, the Claimant appears to have done nothing to prepare the claims themselves. Their basis is described only in general terms. This is not a case in which a claimant is seeking pre-action relief so as to satisfy himself that he has a claim. The Claimant is adamant that he has good claims against the Defendant and the purpose of his application is to ensure that relevant evidence is not destroyed or tampered with. So there is no reason why he could not have acted swiftly, or could not have undertaken to issue proceedings forthwith. Judgment Approved by the court for handing down *Khan v Devon & Cornwall Police* 38. 39. 40. 41. 42. These would be sufficient reasons, in themselves, to have grave doubts as to whether applications (1) to (3) should be granted, but I will go on to consider them on their merits. The Claimant has failed to satisfy me that there is a real, rather than fanciful, risk that the evidence consisting of items or documentation will be concealed or destroyed by the Defendant or his officers or staff if the interim relief that is sought is not granted. If and when the Claimant issues claims in the High Court, the rules of court will make provision for disclosure, inspection and the provision of witness statements in the normal way. There is nothing in the materials that I have seen which would justify the exceptional step of requiring the Defendant, his officers or his staff to take the steps that the Claimant seeks before the relevant litigation has even commenced. The key issue is that I do not consider that the Claimant has established even a *prima facie* case, let alone a sufficiently strong case, that the Defendant, his officers or staff would destroy, conceal or tamper with relevant objects or documents, unless these pre-action orders are made. In her witness statement, DI LeFort gave an assurance that the majority of the items referred to in Annex A remain in the possession of the Defendant, and that she has done and will give instructions to prevent their destruction. She also denies the various allegations of misconduct that were made against her and the Force, and gives explanations for the steps that were taken against the Claimant and his company. The Claimant said that the Defendant has not engaged with the points he made about the risk of loss of evidence, but in my

judgment the Defendant has done so in DI LeFort's witness statement. There is no doubt that the Claimant harbours a strong sense of grievance towards the Defendant, his officer and staff, and that he has no trust in them, but it does not follow from this that he has established to the Court's satisfaction that the grounds for the pre-action orders that he seeks have been met. Looked at objectively, I do not consider that there is any sufficient evidence of a risk of destruction, concealment or tampering. The Claimant has stated several times in his skeleton argument that he does not go so far as to accuse the Defendant Force of misconduct. However, it is plain that this is what he thinks has happened. In a letter to the court dated 14 August 2025 he accuses senior officers of "premeditated conspiracy". I have carefully read the witness statement of Detective Inspector Lefort. She has stated in terms that there has been no concealment or dishonesty of any description. She has confirmed that all relevant documents and materials that are held by the Force will be retained and will not be destroyed, concealed, or tampered with. She has given orders to that effect. There is no good reason to doubt her veracity. There would be no reason why she would lie. The matters relating to the Claimant may not have gone entirely smoothly, and it is true that, amongst other things, six swords were destroyed that were not covered by the renunciation declaration. However, there is no sufficient evidence before me that the police proceedings that were commenced against the Claimant and his company were done in bad faith. There is no reason why they would have done so. There is no evidence why DI Lefort or her fellow officers or staff would have had a grudge against the Claimant, let alone animosity that would have motivated them to take potentially career-ending risks of tampering with evidence. The proceedings against the Claimant were only one of a very large number of investigations that each officer was involved in – and I should add that DI Lefort was not particularly deeply involved in this investigation. Judgment Approved by the court for handing down Khan v Devon & Cornwall Police

43. Whatever the ultimate conclusion was, on the basis of the evidence before me there were valid grounds for the suspicion by the police that the Claimant and his business were importing and holding unlawful and prohibited weapons. The weapons were of a type which could readily give rise to this suspicion, including as they did zombie knives, stiletto knives, swords and push daggers. The police did not act alone. They acted along with the Border Force and Trading Standards, and with the South West Regional Organised Crime Unit and the Metropolitan Police Serious Organised Crime Branch. The fact that some in other organisations considered that the weapons were lawful does not necessarily mean that it was improper for the Defendant Force to take a different view. The CPS accepted that there was a sufficiently strong case to go to court. The CPS maintained this position, even though a decision was made to offer a renunciation declaration to the Claimant, which offer was accepted. 44. 45. 46. 47. 48. DI Lefort's statement is evidence that there was no concealment of certificates that might have avoided the prosecution of the Claimant altogether. There would have been no reason why the officers involved in the case would have taken the drastic step of deliberately concealing certificates that would have exonerated the Claimant. Notwithstanding the points made by the Claimant, the matters that he relies upon, such as

the fact that other bodies considered that the swords were lawful and had allowed them into the country, and that certificates may have been overlooked, is not sufficient to establish that there is now a risk of destruction, concealment or tampering of evidence by police officers or police staff. So far as the destruction of the six swords is concerned, it appears to me to be likely that a mistake was made by someone working in the police property stores. This is unfortunate, but it does not justify the contention that there is now a risk of further and deliberate destruction and concealment of evidence. So far as items that are already destroyed, or are not in the Force's possession, are concerned, there is no basis for making the orders sought. If the Defendant does not have them, he cannot be ordered to do anything in relation to them. The Claimant asserts that the Defendant failed to comply with a Crown Court order requiring the production of specific items. This assertion relates to a formal disclosure letter from the CPS dated 16 January 2025. The Claimant says that an assertion in the letter to the effect that the investigation was not aware of any certificates being associated with the TENRYU swords is inconsistent with documentary evidence showing that officers were aware of these certificates at an early stage of the investigation. I would not be in a position to evaluate this claim, without a full investigation that is beyond the scope of this application, but in any event, even if there were an issue some time ago, there is no reason to doubt what DI LeFort states in her statement to the Court about the preservation of evidence from now on. The Claimant's suggestion that DI LeFort's assurances cannot be relied upon is based upon inferences and assumptions that she was involved in earlier stages and was involved in or aware of misleading statements, when there is no actual evidence to back up the assertions about her involvement. Further, the assumption underlying the Claimant's argument, that senior officers and the Force's Legal Services were jointly involved in providing inaccurate information at various stages of the investigation and for the purposes of the Claimant's FOI requests, so that the Defendant Force as a Judgment Approved by the court for handing down *Khan v Devon & Cornwall Police* 49. 50. 51. whole cannot be trusted, is based on suspicions and hostility, rather than on hard facts that have been proved to a standard necessary to obtain the interim relief that is sought. As for the request that there should be third-party forensic inspection, there is the further difficulty that the Claimant does not specify what form this should take, or who the experts or experts should be, or what safeguards should be put in place. Put shortly, therefore, I consider that the application for pre-action orders is misconceived. This is not to pre-empt the outcome of any claim that the Claimant might ultimately make in the High Court, relating to the handling of the case against him, but he has not satisfied the high burden of persuading the Court that orders have to be made before the action or actions have even commenced so as to protect evidence from being destroyed, concealed or tampered with, particularly in light of a statement by a Detective Inspector, supported by a statement of truth, that this will not happen. The allegations that the Claimant has made will have to be tested by litigation, if he chooses to do so, in the normal way. Application (4): the application for injunctive relief The final part of the Applicant's application is for an order excluding specific officers from access to the exhibits. The first problem is that it is not clear to me which officers he means. This is not the usual type of request for an interim

injunction, that is to restrain further wrong doing and to preserve the status quo pending a full trial (see *American Cyanamid v Ethicon* [1975] AC 396). Rather, the intention is to preserve the integrity of the evidence by ordering that certain police officer are not allowed near the exhibits. This would be a most unusual order for the Court to make, and the Claimant has not made out an arguable case for it in his application. As I have said, in my judgment, the objective evidence, rather than the Claimant's subjective submissions, does not justify any fears that officers will act improperly by destroying, concealing or tampering with relevant evidence.

Conclusion

52. For these reasons, the Claimant's application for pre-action interim relief is refused.

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