

JERSEY / JUDGMENT

W -v- Jersey Financial Services Commission [2015] JCA 135 (22 June 2015)

[2015] JCA 135

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Court of Appeal (Unknown) 22 June 2015 Before : W. J. Bailhache, Esq., Bailiff, sitting as a Single Judge Between W Applicant And Jersey Financial Services Commission Respondent Prepared on the papers.

judgment

the bailiff: 1. On 15 th December, 2014, the Master stayed an administrative appeal by the Applicant against a decision of the Commission for a period of six months pursuant to the maxim that le criminel tient le civil en état. The reasons for that decision are contained in the Master's judgment of that date (W v JFSC

[2014] JRC 250). The Respondent appealed against that decision to the Royal Court and on 8 th May, 2015, Commissioner Clyde-Smith, sitting as a single judge, allowed the appeal such that the administrative appeal was no longer stayed. Full reasons for his decision are to be found in his judgment at W v JFSC

[2015] JRC 094 . 2. On 5 th June, 2015, Messrs Sinels, on behalf of the Applicant, sought an extension of time within which to appeal. The application for an extension was filed on the same day upon which the time for an application for leave to appeal had to be filed. The reasons for seeking an extension of time are that the applicant has been suffering ill health. He has been seriously ill since mid-March 2015 and undergoing a number of medical tests. A medical report dated 25 th March, 2015, from a hospital in England and Wales accompanied the application by Messrs Sinels, and was itself supported by a further hospital report dated th April, 2015, and by a letter from the Applicant's general practitioner dated 8 th May, 2015. The basis of the application from Messrs Sinels is that that firm had been unable to obtain instructions from the Applicant who was said to be on medication including strong pain relief medication. 3. The application was not accompanied by any sworn affidavit, although I have accepted for the purposes of this decision the medical information as presented in the hospital and general practitioner reports as being accurate. 4. I note that in the general practitioner's letter of 8 th May, he indicates that the Applicant has medical conditions which " have had a severe impact on his everyday function. He will certainly be unable to sit for any prolonged periods that allow him to conduct any meaningful review of any documentation. His mental ability I

am sure is also affected by the ongoing background of pain as well as the concerns regarding the possible causes of his seizure. I am quite sure that the physical discomfort and stress caused by having to prepare reports and review documentation at this stage would be very detrimental to his psychological and physical well-being. I trust that the above information will be taken into due consideration, in considering the request from the patient to defer court proceedings until he is enjoying a better state of health." 5. I note that there is no medical information provided subsequent to 8 th May, 2015. 6. Messrs Lacey Advocates, for the Respondent, have submitted reasons in writing as to why no extension of time should be given. That firm accepts that there is the discretion to enlarge time. The principles governing the exercise of discretion were recently considered in *Pitman v JEP*

[2013] (2) JLR 293 and I have applied them. 7. It is said by Messrs Lacey Advocates that there is a strong public interest in the closure of litigation. I do not regard this point to be a strong one in the context of resisting an extension of time in the present case. The litigation is not coming to an end whatever the decision on this appeal, although it is true that it will be delayed if the stay were to be re-imposed. Nonetheless the cases to which Messrs Lacey Advocates refer are more concerned with factual circumstances where there has been a final decision in the Court below. 8. Next it is said that the appeal has a very low chance of succeeding, given that it concerns an interlocutory case management decision of the Royal Court. It appears from the judgment of the Royal Court that the parties were agreed before it on the law to be applied, and this therefore is clearly a discretionary matter which the Applicant seeks to appeal. It seems to me to be probable that the chances of success on appeal are not high. 9. Next it is said that the Respondent will be unable to complete its statutory functions in relation to the substance of the matter which concerns the Applicant for as long as this appeal is permitted to drag on. There is force in that point and, broadly speaking, I accept it. 10. On the other hand, if it were really the case that the Applicant was unable to give instructions to his lawyers in connection with an appeal, that would militate strongly in favour of granting an extension of time. 11. Having reviewed the medical reports and information put before me by Messrs Sinels, I am not satisfied that there is anything sufficient to justify an extension of time being granted. There is clearly no doubt that the Applicant has some medical problems which require attention. One can have every sympathy with the Applicant in that connection, but I do not think they are sufficient for me to reach the conclusion that he was unable to give instructions to his lawyers as to whether or not to enter an appeal. 12. In the circumstances the application for an extension of time within which to appeal is refused. *Authorities W v JFSC*

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