

Claim No:

IN THE COUNTY COURT

B E T W E E N:

MR MICHAEL BURDETTE-DEAKIN

Claimant

— and —

CHIEF CONSTABLE OF SUFFOLK CONSTABULARY

Defendant

PARTICULARS OF CLAIM

1. In these Particulars of Claim:

- (a) All police officers referred to were at all material times constables under the Defendant's direction and control performing or purporting to perform their duties and she was, accordingly, vicariously liable for their actions under s 88 of the Police Act 1996;
- (b) References to the Defendant should be taken to include the police force under her direction and control;
- (c) References to information recorded in documentation disclosed by the Defendant should not be taken as an admission of the accuracy or truth of that information; and
- (d) All pleadings of fact and law are made without prejudice to the burden of proof where that burden rests with the Defendant.

Factual background

- 2. On 20th August 2020 the Defendant received a report from Peter Sharples, an employee of the Claimant's landlord, that the Claimant had sent him a number of emails over the previous fortnight which he had found offensive.
- 3. At 16:36 on 27th September 2020 PC 37 1155 Radford and four other officers attended the Claimant's home. On the Claimant answering the door in his

dressing gown, PC Radford informed him that they needed him to come to the police station to discuss "an allegation which had been made". When asked what the allegation was about, the officer simply repeated that they needed him to come to the police station.

4. Another officer then asked the Claimant "are we alright to come in?", to which he responded "not really, no, I'm supposed to be shielding", going on to explain that he was shielding from Covid-19 as he suffered from a number of respiratory conditions.
5. After the Claimant requested again that the officers tell him what the allegation was about, one said to the others "alright let's make the arrest then". PC Radford then proceeded to reach into the property, taking hold of the Claimant's wrist, stepping through the doorway and handcuffing him.
6. The Claimant did not resist the application of handcuffs and remained calm and compliant as the rest of the officers followed PC Radford into his home.
7. At around 16:39, PC Radford informed the Claimant he was under arrest "on suspicion of harassment", a reference to the offence contrary to s 2(1) of the Protection from Harassment Act 1997, which by virtue of s 2(2) is triable summary-only.
8. The officer further informed the Claimant that the "necessity for arrest is so we can search your property in order to find the items we need in relation to the offence and to interview you".
9. The officers proceeded to search the Claimant's property before transporting him to a police station. The Claimant has since been informed that the search was ostensibly carried out under s 32 of the 1984 Act.
10. The custody record provides:
 - (a) PC Radford had believed the Claimant's arrest was necessary:
 - (i) to allow a prompt and effective investigation; and
 - (ii) to exercise the powers of search under the 1984 Act;
 - (b) At 17:25 the Claimant arrived in custody;

- (c) At 17:30 the Claimant's further detention without charge was authorised by PS 1266 Edley under s 37 of the 1984 Act, on the grounds that it was necessary in order to secure or preserve evidence or to obtain such evidence by questioning;
- (d) At 18:05 the Claimant was searched and his personal belongings seized;
- (e) Between 19:45 and 20:39 the Claimant was interviewed;
- (f) At 21:37 the Claimant was charged with harassment without violence;
- (g) At 22:08 the Claimant was released on conditional bail.

11. From his arrest to his release the Claimant was detained for around five and a half hours.
12. On 5th January 2021 the Claimant was found not guilty at Ipswich Magistrates' Court.

Wrongful entry and search

13. The officers entry into the Claimant's property was unlawful, such that their presence thereon was a trespass to land and their interference with his belongings a trespass to goods.
14. The officers had no power to enter the Claimant's home without his permission, whether under s 32 of the 1984 Act or at all, in that:
 - (a) The entry occurred before the Claimant was under arrest, at which point s 32 of the Act was of no application;
 - (b) The pre-arrest power of entry under s 17 of the Act did not arise as there was no intention to arrest the Claimant for an indictable offence; and
 - (c) The post-arrest power of entry under s 32 of the Act did not arise as the Claimant had not been arrested for an indictable offence.

Wrongful arrest

15. The criteria under s 24 of the 1984 Act were not satisfied prior to the Claimant's arrest, rendering the arrest unlawful and his subsequent detention a false

imprisonment, all physical interference with his person a battery, the seizure of his belongings a trespass to goods.

16. The Defendant is put to proof that PC Radford genuinely and honestly suspected the Claimant was guilty of harassment and that such suspicion was based on reasonable grounds.
17. PC Radford did not genuinely and honestly believe that it was necessary to arrest the Claimant, having given due consideration to the alternatives.
18. In any event, any such belief was not, and could not have been, based on reasonable grounds, in that:
 - (a) The officer was acting under the misapprehension that she was arresting the Claimant for an indictable offence and/or that she had the power to search his home notwithstanding that he was only under arrest for a summary-only offence;
 - (b) The Claimant's explanation for not wishing to leave his home and attend the police station for an interview – that he was shielding due to being especially at risk from Covid-19 – was a reasonable one;
 - (c) The Claimant's fear of contracting Covid-19 was a reasonable one and could have been proportionately accommodated by interviewing him about the allegations in an outdoors or well-ventilated space;
 - (d) By contrast, the comparative lack of urgency in investigating the allegations was evident from the fact that the arrest took place over five weeks after the allegations had been made and that no further allegations had been made since;
 - (e) In all the circumstances an arrest was not the practical and sensible option.
19. Further or alternatively, the decision to arrest was so unreasonable as to be beyond the ambit of PC Radford's discretion.
20. The Defendant is put to proof that PS Edley genuinely and honestly believed it was necessary to detain the Claimant in custody without charge and that any such belief was based on reasonable grounds.

Wrongful use of force

21. Further or alternatively, irrespective of the lawfulness of the arrest the application of handcuffs on the Claimant was unnecessary and unreasonable, thereby being unlawful and amounting to battery, in that:
 - (a) The Claimant was a man of slight build, wearing no more than his dressing gown, in the presence of five police officers;
 - (b) The allegations which led to the arrest did not include allegations of actual or threatened violence; and
 - (c) There were no reasonable grounds to believe that the Claimant posed a threat of violence.

Causation and remedy

22. By reason of his false imprisonment, battery and the trespass to goods and land, the Claimant was caused to suffer injury, loss of liberty, distress, inconvenience and pecuniary loss for which he claims damages.

PARTICULARS OF INJURY

The Claimant, who was born on 8th August 1960, suffered an aggravation of a delusional disorder and anxiety, in respect of which he will rely upon the medical report of Dr Jagmohan Singh dated 16th November 2022.

PARTICULARS OF LOSS

The Claimant shall rely upon the Schedule of Loss annexed hereto.

23. Further, the Claimant claims:
 - (a) Aggravated damages, on the grounds of the officers' high-handed, insulting, oppressive and unconstitutional conduct; and
 - (b) Exemplary damages, to mark the Court's disapproval of that conduct.
24. Further, the Claimant claims interest pursuant to s 69 of the County Courts Act 1984 on the amount found to be due to him at such rate and for such period as the Court sees fit.

AND the Claimant claims:

- (1) Damages in excess of £5,000 but not exceeding £10,000, including aggravated damages, exemplary damages and damages for pain, suffering and loss of amenity in excess of £1,500.
- (2) Interest thereon as aforementioned.

GEORGE MURRAY
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1 Old Hall Street

STATEMENT OF TRUTH

[I believe / the Claimant believes] that the facts stated in these Particulars of Claim are true. [I understand / the Claimant understands] that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

[I am duly authorised by the Claimant to sign this statement.]

Signed:

Name: _____

[The Claimant / The Claimant's legal representative]

[Firm:]

[Position:]

Dated this _____ day of _____ 2023