

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

BETWEEN:

**THE QUEEN
on the application of
Casey Hardison**

Claimant

—v—

SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

DEFENDANT'S SUMMARY GROUNDS OF RESISTANCE

References to [D] are to documents in the Defendant's attached bundle.

Background

1. The Home Secretary ('the Defendant') opposes this claim for judicial review for the reasons set out below.
2. Casey Hardison ('the Claimant') is serving a twenty-year term of imprisonment following conviction in April 2005 for the manufacture of Class A drugs on a commercial scale. The Claimant challenges the Defendant's policy not to regulate tobacco and alcohol under the Misuse of Drugs Act 1971 ('MDA 1971'). The Claimant also challenges the Defendant's decision refusing the Claimant's request to consult the Advisory Council on the Misuse of Drugs ('ACMD') on this issue.

Defendant's submissions

3. This application is the third claim for judicial review brought by the Claimant in relation to this subject matter - the Defendant's summary grounds and the orders of the court dismissing the other two claims (CO/687/2007 and CO/7548/2007) are attached [D 1-18]. At the base of each claim is a challenge to the Government's policy to draw a distinction between the legal frameworks regulating tobacco and alcohol and the regime under the MDA 1971 in respect of controlled drugs.
4. CO/687/2007 was dismissed by Beatson J as wholly without merit. On seeking leave to appeal that decision, the Rt Hon Sir Henry Brooke sitting as a judge of the Court of Appeal agreed that the application was totally without merit and stated [D 12]:

'Remedies for this grievance lie in the world of politics, not in the world of law, as Mr Justice Beatson has so clearly explained. The House of Lords' decision in *Findlay* [1985] 1 AC 318 provides a very clear statement of the courts' refusal to become involved in policy issues of this kind.'

5. More recently, in case CO/7548/2007, the Claimant sought to challenge the classification of drugs under the MDA 1971 by challenging the procedural fairness of the Home Office's 2007 consultation on its 2008 drugs strategy. This challenge essentially repeated the Claimant's arguments regarding the alleged unfairness inherent in the distinction drawn between the regulation of alcohol and tobacco, and the control of illegal substances. Dismissing the application as totally without merit, McCombe J observed that the '. . . claim has no prospect of success'. McCombe J went on to invite the Defendant to submit an application for a Civil Restraint Order.
6. In respect of the Claimant's current claim, it is not possible to extract from the Claimant's lengthy grounds any ground of challenge which he has not raised in his previous claims. Nor is it possible to identify any ground of challenge which is arguable on recognised public law principles.

7. However, to the extent that the Claimant seeks to argue that the Defendant should control alcohol and tobacco under the MDA 1971, this Claim is wholly misconceived - as outlined above, the Courts will not involve themselves in matters of policy, Parliament being the appropriate forum for this type of debate. This was drawn to the Claimant's attention in the Defendant's response to his letter before action [D 19-20].

8. In respect of the Defendant's decision not to accede to the Claimant's request to consult the ACMD on whether alcohol and tobacco should be controlled under the MDA 1971, it is submitted that the Defendant is under no public law duty to do so. The Defendant's duty to consult the ACMD applies only in the limited circumstances specified by sections 2(5), 7(7), and 31(3) of the MDA 1971 [D 22-25].

9. For the reasons given above, the Defendant invites the Court to refuse the application for permission. The Defendant also seeks costs in the sum of £500 for the preparation of this Acknowledgment of service.

Application for an Extended Civil Restraint Order

10. In light of the vexatious nature of this Claim and the judicial comments in respect of other applications for judicial review brought by the Claimant, the Defendant invites the court to grant an extended Civil Restraint Order pursuant to CPR 3.1 1 and CPR Practice Direction 3C paragraph 3.1. In this regard the Court is also referred to the Hon Mrs Justice Dobbs DBE's Order dated 13 October 2010 in a claim brought against the Criminal Cases Review Commission in which she advised that initiation of civil restraint proceedings should be considered [D 21].

11. An extended civil restraint order is requested because:
 - a) The Claimant has persistently issued claims against the Defendant on the same subject matter which are totally without merit (see orders in respect of cases CO/687/2007 and CO/7548/2007 attached at [D S and 18])

 - b) the current proceedings are an abuse of process and wholly without merit

12. For the above reasons an extended civil restraint order is sought preventing the Claimant from making any further application involving or relating to or touching upon the subject matter of these proceedings. An application notice seeking this order is attached.

THE TREASURY SOLICITOR