

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION

Case No. QB-2015-002230

[2024] EWHC 868 (KB)

Courtroom No. 16

Royal Courts of Justice
Strand
London
WC2A 2LL

10.30am – 11.30am
Friday, 26th January 2024

Before:
THE HONOURABLE MR JUSTICE MARTIN SPENCER

B E T W E E N:

JULIAN COLE

and

THE CHIEF CONSTABLE OF BEDFORDSHIRE POLICE

MR A MCCULLOUGH KC (instructed by Bindmans LLP) appeared on behalf of the Applicant

MR N BLOCK KC (instructed by Clyde & Co) appeared on behalf of the Respondent

JUDGMENT
(Approved)

MR JUSTICE MARTIN SPENCER:

1. This is an application on behalf of the claimant, Julian Cole, for approval of settlement of his claim against The Chief Constable of Bedfordshire in relation to the injuries which he sustained in the early hours of 6 May 2013. On that date, when Julian was aged only 19, he having been born on 10 July 1993, when he was a First Year student at the University of Bedfordshire he attended a nightclub in Bedford, and in the course of the early hours of the morning, police attended, and on two occasions, Julian was taken to the ground by the police. On the second occasion, it would appear that Julian sustained severe injuries including a cervical fracture and damage to his spinal cord, and a subsequent hypoxic brain injury from which he has never recovered. There has been no admission of liability but the fact that this settlement has been reached, and the circumstances in which Julian sustained his injuries leave little doubt that the actions of the police officers were responsible for Julian's injuries and that those actions were indefensible.
2. Unfortunately, the matter was compounded by a concerted attempt on the part of the police officers involved then to falsify their account of the events, and that led to disciplinary proceedings. There was a report of the Independent Complaints Commission in August 2016. That led to disciplinary hearings and three police officers, PC Hannah Ross, PC Nicholas Oates and PC Sanjeev Kalyan were dismissed from the force as a result of that disciplinary hearing.
3. Shortly thereafter, a letter of claim was issued. There was a without prejudice letter from the claimant's solicitors, Messrs Bindmans. There was a letter of response, and a joint settlement meeting took place on 10 December 2020. I am pleased to record that a senior officer attended that settlement meeting and expressed his regret and apology on behalf of the chief constable for what had occurred to Julian to his mother.
4. Julian has suffered such injuries that he has been in a minimally conscious state ever since that date, 6 May 2013, and he has been in an institution in Harrow where he is well cared for.
5. The solicitors, Bindmans, have carried out extensive investigation into quantum including obtaining medical reports from a renowned consultant neurosurgeon, Mr Nicholas Todd, and also a rehabilitation and care report from a renowned expert, Ms Jo Clark-Wilson.
6. Proceedings were served in February 2021 and on 23 March 2021 the defendant chief constable made a Part 36 offer in the sum of £1,200,000. The investigation into quantum, and in particular into the most appropriate long-term placement for Julian was at such a stage that it was not felt possible for the Part 36 offer to be accepted at that stage, and on 30 April 2021 Bindmans wrote in response rejecting the offer of settlement.
7. However, two months later on 9 June 2021 the action was stayed for the preparation and obtaining of an assessment report from an organisation called SMART. Unfortunately, it has not been possible for that assessment to be carried out and in the course of 2023 it became apparent to those advising Julian and his mother that the appropriate course would be then to accept the Part 36 offer and notice of acceptance was issued on 5 October 2023, and shortly thereafter, in November, an application was made for an approval hearing.
8. That comes before me and I have had the advantage of a very full and informative advice from Mr Angus McCullough KC explaining the rationale behind the decision to accept the Part 36 offer, and I wholly agree with that rationale and I have no hesitation whatever in approving the settlement in the sum that has been agreed. Because of the significant period of time between the making of the Part 36 offer and the acceptance of it, a period of some two and a half years, there was clearly an issue between the parties in relation to the costs. I

am pleased to be able to record that that issue also was recently resolved so that it has been agreed that for the period between the making of the Part 36 offer and the acceptance, although the claimant will have his costs, those costs will be subject to a 15% discount. Again, that form of agreement and order wholly meets my approval and reflects the appropriate arguments both ways which would have been presented to the Court had the issue not been resolved.

9. This has been the most difficult time for Julian's family, and in particular his mother Mrs Cole. I want to pay tribute to the advice and support which she has had from Siobhan Kelly of Bindmans and Mr McCullough of counsel who have, it seems to me, given her the best possible advice that she could have received. Above all, I wish to pay tribute to Mrs Cole herself and for her unstinting and deep love and support for Julian through this most difficult time. The resolution of this litigation does not mean the resolution of the problems which she has faced and will face dealing with Julian's disability, but it is to be hoped that these damages will go some way to helping with the care and support which Julian requires, the therapies and the equipment, and in particular also Mrs Cole will find some assistance in having had the litigation resolved so that she is not having to deal with lawyers and experts in connection with the litigation but will be able to concentrate her efforts and her love on Julian. I therefore join with Mr Block in wishing her and her family the very best for the future.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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This transcript has been approved by the judge.