

CO/421/2009

Neutral Citation Number: [2009] EWHC 3879 (Admin)  
IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
DIVISIONAL COURT

Royal Courts of Justice  
Strand  
London WC2A 2LL

Thursday 26 February 2009

**B e f o r e:**

**LORD JUSTICE LEVESON**

**MR JUSTICE SWEENEY**

**Between:**  
**WILLIAMS**

Claimant

**v**

**WESTMINSTER MAGISTRATES' COURT**

Defendant

Computer-Aided Transcript of the Stenograph Notes of  
WordWave International Limited  
A Merrill Communications Company  
165 Fleet Street London EC4A 2DY  
Tel No: 020 7404 1400 Fax No: 020 7831 8838  
(Official Shorthand Writers to the Court)

The Claimant appeared in person  
The Defendant was not represented, did not attend

**J U D G M E N T**  
(As Approved by the Court)

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- 1.1. MR JUSTICE SWEENEY: This is a renewed application for permission to apply for judicial review. The decision sought to be reviewed was made on 8 July 2008 when the Chief Magistrate, sitting at the Westminster Magistrates' Court, refused to issue summonses under Sections 3 and 4 of the Fraud Act 2006 against the Parliamentary Ombudsman at the behest of an information laid by the claimant, Mr Williams. The application for judicial review was not lodged until 15 January 2009, three months out of time. Permission was refused on 26 January 2009 by His Honour Judge McKenna, stating that the application was "totally without merit".
- 1.2. This morning the applicant has indicated to us that the reason for the application being lodged so far out of time was because having initially, in effect, decided not to seek to pursue a review following operational problems with his business at end of last year, he then had time to contemplate the application and did so in January.
- 1.3. To look at the merits of the application as such. In order for the application to get off the ground at all the applicant must demonstrate to us that the magistrate's decision was Wednesbury unreasonable in the sense that, contrary to his view, there was material in the information before him upon which he should have issued a summons contrary to Section 4 of the Fraud Act 2006, which is the provision upon which Mr Williams now relies. In essence, his submissions this morning are to the effect that the decision by the Parliamentary Ombudsman (in his case) that there was no maladministration is so obviously wrong that the only inference that can be drawn from it is that she was dishonestly abusing her position and intended, by means of that abuse, to cause loss to him or another or to expose another to a risk of a loss.
- 1.4. It seems to us, with respect to him, that that is a hopeless argument. It is indeed one totally without merit as both the Chief Magistrate and His Honour Judge McKenna decided. In addition, and again with respect to him, his reason for the application being three months out of time is legally insufficient to persuade me to grant an extension of time in that regard.
- 1.5. For the combination of those reasons therefore this renewed application must fail.
- 1.6. LORD JUSTICE LEVESON: I agree. It seems to me that the efforts of the applicant and the company in whose interests he is acting could be better directed to seeking to pursue his concerns in some other direction.
- 1.7. THE APPLICANT: We will of course appeal to the House of Lords on this decision.
- 1.8. LORD JUSTICE LEVESON: Mr Williams, there is no right of appeal from a refusal to grant permission to apply for judicial review.
- 1.9. THE APPLICANT: Does that mean we can appeal within the courts of European Union Member States? The United Kingdom is finalised.
- 1.10. LORD JUSTICE LEVESON: Within the United Kingdom that is as far as you can take the matter.

- 1.11. THE APPLICANT: Good. That means we can now file a complaint to the European Court of Justice for violation of the discretionary mechanism within stated rules by the European Union Member State of the United Kingdom.
- 1.12. LORD JUSTICE LEVESON: Mr Williams, I am absolutely not in a position to give you any advice and neither do I do so. You must pursue whatever remedy you think is right. I personally would encourage you to look to what your business can do and devote your attention in that direction but what you do is absolutely a matter for you.
- 1.13. THE APPLICANT: I agree. However there is an issue of - - the United Kingdom State here. The country does not invest properly in new technology. We will not have any.
- 1.14. LORD JUSTICE LEVESON: You decide what you think is appropriate.