IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2024] EWCA Crim 200

CASE NO: 2022 02543/02546 B1

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 15 February 2024

Before:

LORD JUSTICE COULSON

MR JUSTICE HOLGATE

RECORDER OF REDBRIDGE
HER HONOUR JUDGE ROSA DEAN

REX
v
SOHILA TAMIZ
PEDRAM TAMIZ

Computer Aided Transcript of Epiq Europe Ltd,
Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

MR KIERAN VAUGHAN QC appeared on behalf of the Applicants

J U D G M E N T

LORD JUSTICE COULSON:

Introduction

1. The applicant Sohila Tamiz ("ST") is now 67. The applicant Pedram Tamiz ("PT"), her son, is now 47. On 19 July 2022, following a trial before Judge Lowe (the "trial judge") and a jury that lasted four-and-a-half weeks, they were convicted of a series of offences arising out of their harassment and unlawful eviction of their tenants, described in greater detail below. On 10 October 2022, ST was sentenced to 5 years imprisonment. PT was sentenced to 40 months' imprisonment.

2. ST seeks permission to appeal against her conviction and has identified nine grounds of appeal. PT also seeks permission to appeal against conviction, relying on the same nine grounds. PT had also sought permission to appeal against his sentence. That was refused by the single judge and was abandoned a week ago.

3. The applications for permission to appeal against conviction were considered in detail by the single judge, Julian Knowles J (“the single judge"). He explained in detail how and why the applications were unarguable, and he refused permission to appeal. These renewed applications to the full court make no allowance for, or reference to, that detailed analysis by the single judge. It is as if it had not happened. Depending on the outcome, therefore, these renewed applications give rise to the risk that this court will make loss of time orders in respect of both ST and PT, pursuant to the Criminal Appeal Act 1968 and the Prosecution of Offences Act 1985.

The general nature of the offending

4. ST and PT are the beneficial owners and managers of a property at 28 Athelstan Road, Margate. The property is divided into 26 flats. Prospective tenants were not required to give references or pay deposits. In consequence, they tended to be immigrants with limited

English, or people on low wages or benefits, and others with alcohol, drug or other personal problems. They were all, in one way or another, vulnerable people, most of whom were reliant on the benefit system to pay their rent, although some of them had to find a "top-up" payment themselves in order to reach the full amount.

5. ST and PT were convicted of a variety of offences arising out of their abusive behaviour towards the tenants. The two principal offences of which they were convicted were a conspiracy to interfere with the peace and comfort of a residential occupier, contrary to s.1(2) Criminal Law Act 1977 (the "harassment counts") and conspiracy to unlawfully evict the tenants, contrary to s.1(2) Criminal Law Act 1977 (the "unlawful eviction counts"). Other counts, where the tenants' property was taken and retained, included conspiracy to burgle. The evidence was that this behaviour took place over a lengthy period, from at least 2016-2022. We do not set out the individual counts on which ST and PT were convicted. It is more efficient to do that when we look at the individual grounds of appeal.

6. Two other co-defendants, Adam McChesney and Kasem El Darrat, were also convicted of similar offences. They have not sought to appeal their convictions. McChesney acted as the enforcer for ST and PT and was involved in the intimidatory tactics against the tenants in many of the incidents that we shall relate. El Darrat also carried out similar but more limited actions on behalf of ST and PT.

7. As we have indicated, the trial lasted four-and-a-half weeks. As the evidence unfolded, there were many common themes in the prosecution case: the repeated making of threats and demands of rent when no rent was due; threatening tenants that they would be unlawfully evicted; entering properties without permission of the tenants; demanding tenants to vacate their flats with no or next to no notice; removing fuses to prevent the supply of electricity as a prelude to eviction; taking the keys to a flat; removing and changing the locks; entering flats and destroying possessions inside or taking them away and unlawfully retaining them;

and worst of all, the use of masked men to frighten the tenants and the use of physical violence against them.

8. There was also some video evidence (in which, amongst other things, ST addressed the Bulgarian tenants as "scum") and text messages, in one of which McChesney responded to a tenant's indication that ST needed to follow the correct legal procedure for eviction by retorting: "She doesn't work like that".

9. It was the defence case that the majority of the allegations against ST and PT were lies and inventions, and that if any of the tenants were told to leave their homes, or if anyone broke into their flats and assaulted them, or trashed their homes, or changed the locks whilst the tenants were still living there, none of that was anything to do with them.

10. By their verdicts the jury generally rejected that defence. However, it is to be noted that, although she was convicted on fourteen counts, ST was acquitted on Counts 1 and 9. PT was convicted on seven counts, and he too was acquitted on Counts 1 and 9.

General Observations

11. Despite the fact that there are nine separate grounds of appeal, they have a common theme: ST and PT complain that the judge refused to admit various elements of bad character evidence relating to the tenants and their friends and associates. The provisions relating to a non-defendant's bad character are set out in s.100 Criminal Justice Act 2003 in the following terms:

> "100 Non-defendant bad character
>
> (1) In criminal proceedings evidence of the bad character of a person other than the defendant is admissible if and only if—
>
> (a) it is important explanatory evidence

(b) it has substantial probative value in relation to a matter which—

(i) is a matter in issue in the proceedings, and

(ii) is of substantial importance in the context of the case as a whole, or

(c) all parties to the proceedings agree to the evidence being admissible.

(2) For the purposes of subsection (1)(a) evidence is important explanatory evidence if—

(a) without it, the court or jury would find it impossible or difficult properly to understand other evidence in the case, and

(b) its value for understanding the case as a whole is substantial.

(3) In assessing the probative value of evidence for the purposes of subsection (1)(b) the court must have regard to the following factors (and to any others it considers relevant)—

(a) the nature and number of the events, or other things, to which the evidence relates;

(b) when those events or things are alleged to have happened or existed;

(c) where—

(i) the evidence is evidence of a person's misconduct, and

(ii) it is suggested that the evidence has probative value by reason of similarity between that misconduct and other alleged misconduct, the nature and extent of the similarities and the dissimilarities between each of the alleged instances of misconduct;

(d) where—

(i) the evidence is evidence of a person's misconduct

(ii) it is suggested that that person is also responsible for the misconduct charged, and

(iii) the identity of the person responsible for the misconduct charged is disputed, the extent to which the evidence shows or tends to show that the same person was responsible each time.

(4) Except where subsection (1)(c) applies, evidence of the bad character of a person other than the defendant must not be given without leave of the court."

12. There are a number of well-known principles arising out of those provisions:

(a) If the bad character is said to be relevant to an issue in the proceedings that evidence has to be of substantial probative value *and* to be of substantial importance in the context of the case as a whole: see, amongst others, **R v Braithwaite** [2010] EWCA Crim 1082 and **R v Phillips** [2011] EWCA Crim 2935.

(b) Where previous convictions are relied on for the purposes of credibility, the only relevant convictions will be those that directly showed that the non-defendant had a tendency to lie: see **R v Hanson** [2005] EWCA Crim 824; (2005) 2 Cr App R 21, and **R v Brewster** [2011] 1 WLR 601.

(c) In **Brewster** at [20] and [21] this court drew a distinction between previous convictions which bear directly on the credibility of a witness (because they provide a reason for doubting the truth of the particular evidence the witness gives), and convictions which affect credibility only indirectly (because a person who would do something like that is not someone whose word can be trusted). The second type of conviction should not be admitted as bad character unless it would be reasonably capable of assisting a fair-minded jury to reach a view on whether a witness's evidence is worthy of belief. This distinction is designed to avoid unsubstantiated and irrelevant attacks on credit.

(d) Where convictions are old and the offence is not particularly serious, permission to cross-examine about the offences is likely to be refused: see **R v Garman** [2008] EWCA Crim 266 and **R v Moody** [2019] EWCA Crim 1222.

13. It is also necessary to put the unsuccessful applications relating to the bad character of the tenants in this case into their proper context. Even without the particular elements of the evidence ruled out by the trial judge, ST and PT maintained attacks of one sort or another on the character and habits of just about every one of the prosecution witnesses. The trial judge permitted them considerable latitude in making those attacks. The particular matters which the trial judge excluded therefore need to be seen in that context. His rulings, rightly and repeatedly, referred to his concern about allowing too many satellite issues to distract the jury.

14. Furthermore, it is also important to note that, in a separate ruling, evidence as to ST's own convictions and bad character was excluded by the trial judge. That was not because this evidence was not relevant (and of course such material was *prima facie* admissible because of the attacks that had been mounted on the prosecution witnesses) but because the trial judge concluded that to allow it in would run the risk of unfairly prejudicing the jury against ST. That was scrupulously fair. Again, therefore, the trial judge's particular rulings which are at the heart of the renewed applications must be seen in their proper context.

15. We now propose to deal with each individual count and, where applicable, the ground of appeal said to arise in respect of it. Accordingly, in respect of each count we set out: (i) the nature of the offending; (ii) the evidence in support; (iii) the relevant grounds of appeal; (iv) the single judge's observations; (v) our own analysis. Because of the sheer volume of the points taken, this is a relatively long and laborious exercise, but the length of our judgment should not be taken as an indication of arguability: one bad point can be disposed of shortly, nine bad points inevitably take a little longer.

Count 2: Harassment, Jennifer Duffey, Flat 21 - ST and PT

16. In 2016 the applicants demanded that Jennifer Duffey leave her home in their block against her will. PT obtained a bag of what looked to contain drugs and accused Ms Duffey of being the source of them. ST lost her temper with Ms Duffey. She barged into her flat accompanied by PT and other men to protect ST and to intimidate the tenant. Ms Duffey's friend, Deborah Paramore, was present and reminded ST about the law and procedure of eviction. ST angrily dismissed Ms Paramore and initiated a violent struggle with her. ST then had the locks removed while Ms Duffey was still living at the property, so that her and her partner's last night there was spent in insecurity and terror. Ms Duffey felt obliged to leave the next day and took only what she could carry. ST then changed the locks and disposed of Ms Duffey's remaining belongings.

17. In support of Count 2, the prosecution relied on the evidence of Jennifer Duffey, Deborah Paramore and another friend, Martin Lawrence.

18. There is no specific ground of appeal raised by either ST or PT in relation to Count 2. This is the first of six out of seven counts on which PT was convicted in respect of which there is no specific ground of appeal. It is, however, submitted that, if Grounds 8 and 9 of the

proposed appeal are upheld then, because they are of general application, it is arguable that his conviction on Ground 2 is unsafe. Accordingly, we need say nothing further about Ground 2 at this stage.

Count 3: Unlawful Eviction, Julie Box-Beaumont and Stephen Dale, Flat 24 - ST only

19. Julie Box-Beaumont and Stephen Dale were a couple in late middle age who between them had alcohol and gambling problems and quickly fell into rent arrears. In September 2017 the applicant ST sent men round to demand that they got out. ST had their electricity cut off. A man called Adam, working directly for ST, told them, "You are going to fucking leave because you are a pair of fucking cunts. I've taken the fuse out."

20. One evening masked men acting for ST appeared at their door, took their keys, and told them, "You have ten fucking minutes to move". Ms Box-Beaumont and Mr Dale put as much of their possessions as they could into two carrier bags and walked out. They lost most of their belongings, including Mr Dale's most prized possession, his military medals, and the presents they had bought for their grandchildren for Christmas. They later discovered some of their possessions in local second-hand shops and were reduced to trying to buy back their own property.

21. In support of these allegations the prosecution called Julie Box-Beaumont and Stephen Dale. There were also admissions that Mr Dale twice reported to the police the earlier threats made by Adam, as well as the actual illegal eviction. The defence was that Ms Box-Beaumont and Mr Dale had left the property voluntarily and ST had nothing to do with any individuals who may have attended their flat and may have caused them to leave.

22. Ground 1 of the proposed appeal against conviction is that the trial judge erred in refusing to admit into evidence bad character evidence relating to Stephen Dale. Mr Dale had a

previous conviction for possession of a bladed article dating from November 2015, about six months before the incident involving ST. The background to the offence and the type of article carried are not known, and the defence made no application for more information. Despite that, it was submitted on behalf of ST that this conviction was of substantial probative value to the issue of whether the masked men who broke into the flat might have been unconnected with the landlords, and may instead have been creditors in connection with Mr Dale's potential gambling debts. The trial judge ruled that the application fell a long way short of demonstrating that the conviction had substantial probative value on the issue of whether the masked men had motives other than assisting the landlord.

23. The single judge was equally unimpressed, saying the previous conviction was not substantially probative of the motives of the masked men.

24. That means that this is now the third time that the question has been judicially considered of whether Mr Dale's previous conviction was relevant to or of substantial probative value in respect of the motives of the masked men who threatened him and his partner inside their own home. The single judge had no doubt that it was not. We agree with him and will, we hope, be forgiven for using rather more trenchant terms in explaining why.

25. It might be thought that the obvious motive of the masked men, based on what they actually said – ("You have ten fucking minutes to move") - was to evict Ms Box-Beaumont and Mr Dale. They asked for, and took, the keys to the flat, and ST did not subsequently deny receiving those keys back into her possession. Moreover, that the motive was illegal eviction was entirely consistent with the earlier evidence about the threats made by Adam (which were reported to and noted by the police), and the removal of the fuse to disconnect the electricity. By contrast, there was no evidence that the motive of the men was to enforce some sort of debt against Mr Dale, and such a proposition defies common sense: debt collectors do not usually make people homeless when trying to enforce a debt, legally or

otherwise; they prefer to know where you live.

26. On any view Mr Dale's conviction was wholly unrelated to any question as to the motive of the masked men. Assume that his conviction had been admitted into the evidence, how would that have assisted the jury in deciding that that meant that the masked men may have been nothing to do with the landlords? It would not have done. It had no probative value at all, much less substantial probative value.

27. Moreover, we are entirely confident that the fact that Mr Dale had an unrelated conviction for possession of a bladed article would not have assisted the jury in deciding the principal issue they had to decide, namely whether they were sure that ST was connected with the illegal eviction. The prosecution are right to say that this is the first example of a theme running throughout this proposed appeal: applications, principally by ST, to admit irrelevant bad character evidence with the sole purpose of attacking a prosecution witness's personal credibility. As we have said, s.100 is expressly designed to prevent that happening.

28. For those reasons, we reject Ground 1 of the proposed appeal.

Counts 4 and 5: Harassment and Burglary, Hayley Griffiths and her sons, Flat 21 - ST only

29. Hayley Griffiths lived in Flat 21 with her children. In the summer of 2018, ST decided she had to pay up or get out. ST's agent removed Ms Griffiths' main electrical fuse on at least two occasions, plunging her and her children into darkness. When she was rushing into her flat with shopping in her hands trying to avoid ST, ST took her only key from the lock where she had left it for a few seconds, thus depriving her of her security.

30. On three occasions groups of men entered her flat by force. On the first occasion the children were intimidated with bats, and later, a polite and well-dressed man claiming to be

ST's nephew but accompanied by thugs told Ms Griffiths to "Get out". On the second occasion there was a violent kicking on the door against the barricades which were by then Ms Griffiths' only form of security. On the last occasion, masked men armed with a claw hammer broke in shouting about drugs. Following ST's orders, they proceeded to smash the toilet. ST appeared the next day asking to see the damage, even though Ms Griffiths had not reported the incident to anyone. ST insisted on turning the water off, which was not in fact necessary because the damage had not in fact created a leak. ST told Ms Griffiths that she was dirty and left her without water. She reported her to Social Services, which prompted them to offer the family alternative accommodation. When Ms Griffiths returned to collect the remainder of her belongings, ST had had the locks changed, the flat was empty, and Ms Griffiths found some of her possessions dumped in the alley. Those included her young son's bed.

31. In support of Counts 4 and 5 the Crown called Hayley Griffiths. There was a statement from her son, Kody Morgan, which was read by agreement. That statement included evidence that one of the intruders said, "You have to be out by 8 pm. My uncle runs the place. You're going to get him into trouble." Despite this evidence, the evidence was that ST did not instruct others to enter the property, cause damage or threaten any occupants, and denied playing any role in either the harassment or the burglary.

32. There are two grounds of appeal arising out of these counts. Ground 2 asserts that the trial judge was wrong to refuse to allow statements taken from Carl Hopkins and Mahdi Yusef to be put to the witness Hayley Griffiths. Those statements were made in separate possession proceedings at a time before ST and PT turned on them. As we note below, Mr Hopkins and Mr Yusef were themselves the victims of Counts 6, 7 and 8, dealt with next. They made comments in their statements to the effect that they had concerns about Ms Griffiths' antisocial behaviour and the drug taking in her flat.

33. Ground 3 of the proposed appeal is a submission that the trial judge was wrong, later in the trial, to refuse to allow the defence to ask Mr Yusef whether he was afraid of Hayley Griffiths and her son, and to put text messages to him which supported that conclusion. The trial judge gave detailed reasons for refusing that application.

34. The single judge refused permission to appeal on these grounds. He pointed out that, in respect of Ground 2, the passage in the transcript relied on by ST was actually concerned with stopping counsel putting witness statements into the jury bundle, an action which the trial judge rightly refused. As to whether those statements could be put to Hayley Griffiths, both the trial judge and the single judge observed that appropriate applications would have had to have been made. They were not. As to Ground 3, the single judge noted that the trial judge had provided a clear ruling in which he made plain that his alleged fear was not a matter that could be put to Mr Yusef because it had no or little probative value.

35. We deal first with Ground 2. We agree with the single judge that this ground is confused, because at no time was a proper application made for the statements made by Mr Hopkins and Mr Yusef in the possession proceedings to be put to Ms Griffiths. It appears that counsel prepared a bundle of documents to be put to Ms Griffiths, which, unheralded and unannounced, included these previous statements. The trial judge said that the material could not be put to her unless it was admissible. That was plainly right.

36. It seems to us that there were a raft of reasons as to why those two statements were, without more, inadmissible. For them to have been put into evidence, it would have required, not only a proper bad character application, but also a hearsay application. Neither such application was made. This was particularly unfortunate since the bundle was not produced until the morning of Ms Griffiths' cross-examination.

37. A clarification document was received from the applicants yesterday. That suggests that the

defence were prevented from putting these statements to Mr Hopkins and Mr Yusef. That is not how the complaint has ever been framed; it is not identified in the 200-plus paragraphs of the Grounds of Appeal. Furthermore, there is no part of the transcript that makes clear that there was any formal application to that effect. The judge here faced a barrage of defence applications as it was. He dealt with them politely and carefully. It is not appropriate to criticise him for not dealing with an application that was not properly made. The transcript makes clear that the judge was dealing with, and certainly thought he was dealing with, a point about the cross-examination of Ms Griffiths. Accordingly, that seems to us to be the proper limit of the complaint under Ground 2.

38. The first point to make therefore, as we have said, is that there was a need for a bad character application in respect of that material, and that was not made. In any event we are quite satisfied that the absence of those two references in those statements had no effect whatsoever. What ST wanted to be able to do was to cross-examine Ms Griffiths about the drug dealing from her flat; but that was permitted, and Ms Griffiths was subject to lengthy cross-examination on that very topic. It does not seem to us, therefore, that the statements added anything.

39. Moreover, we repeat, the issue for the jury was whether there was any connection between those events that Ms Griffiths complained about, namely the harassment, the taking of her possessions and so on, and ST. The evidence of that connection was, we think, plain from what one of the men had said about his link to those who owned the property and how ST turned up the following day to turn the water off, even though she had not been notified of the smashing of the toilet. We consider that it is contrary to common sense to suggest that, in some way, the antisocial behaviour referred to in the two witness statements was of substantial probative value in deciding why the men barged into Ms Griffiths' flat, telling her she had to leave immediately and then smashing the toilet so as to cut off her water supply.

40. We also reject Ground 3 for largely the same reasons. The evidence which the defence wanted to rely on from Mr Yusef amounted to bad character evidence against Ms Griffiths and those who lived with her. Again, therefore, a proper bad character application was necessary and was not made. Further and in any event, since the text messages (which indicated his fear of possible reprisals) had not been put to Ms Griffiths during her cross-examination, it would have been wrong and unfair to allow Mr Yusef at a later stage of the trial to adopt them, because it would have meant that Ms Griffiths would not have had an opportunity to deal with that aspect of the case. Again, we consider that none of this was of any relevance to the main issue, namely whether ST was part of the conspiracy with the men who had broken into Flat 21, told Ms Griffiths to leave and smashed the toilet. Again, we consider that the applicants have come nowhere close to establishing that the text messages had any substantial probative value in respect of any issue, let alone an important issue in the case.

41. There is one additional point that we should make in relation to Grounds 2 and 3. Those on whose statements the applicants wanted to rely, namely Mr Hopkins and Mr Yusef, were themselves the complainants in relation to Counts 6, 7 and 8. When they came to give evidence in relation to those counts, both men were attacked relentlessly by the applicants and unequivocal submissions were made that both men were liars. So Grounds 2 and 3 arise out of an application to permit the applicants to accuse Ms Griffiths of being a liar by reference to evidence from two men whom subsequently they were going to call, and did call, liars. In our view, that one-eyed approach to evidence was wholly impermissible.

42. Accordingly, for all these reasons, we do not consider that there is anything in either Ground 2 or Ground 3.

Counts 6 and 7: Harassment and Unlawful Eviction, Flat 6, Carl Hopkins - ST only

43. Carl Hopkins was a tenant who worked for the applicant ST as a caretaker to offset some of his rent. ST and Adam McChesney asked him to help evict tenants by cutting off their utilities. Mr Hopkins refused. ST therefore sacked him. That loss of work quickly put Mr Hopkins into rent arrears, and McChesney (on ST's behalf) told him that he too had to go.

44. In February 2019, Mr Hopkins's electricity and water were cut off. Mr Hopkins had nowhere to go and refused to leave the property. ST gave orders for ten men to attend the flat to get Mr Hopkins out. They broke into his flat, assaulting him, knocking out three teeth, and poured petrol over him. They said, "Get out straightaway. Just get out now." Terrified that he was going to be set alight, Mr Hopkins left. When he returned the next day to pick up his belongings, his door had a new lock on it. Mr McChesney met him there and allowed him to collect his things. but his valuables had disappeared.

45. The prosecution called Carl Hopkins to give evidence in support of these counts. The individual allegations of threats, disconnecting the utilities, physical violence and the removal of belongings were all denied. It was said that Mr Hopkins left the property voluntarily.

46. Ground 4 of the appeal is that the trial judge erred in refusing to allow in bad character evidence in respect of Carl Hopkins, (the witness whose statement on another point the Defence wished to rely on under Ground 2). Mr Hopkins had convictions for possession (not supply) of drugs dating from 1998 and 2011. He also had a further possession conviction that postdated his illegal eviction. It was said that these convictions were important explanatory evidence because they showed that the men who illegally evicted him may have attended Mr Hopkins's property in connection with drug dealing and had not been sent by ST.

47. The trial judge ruled that the convictions could not be put to Mr Hopkins, but that he could be asked whether he was a user of drugs or a drug dealer at the time of the illegal eviction. The defence were not permitted to go into any further evidence on those matters if Mr Hopkins denied them. The judge again made the point that there was a real danger of the trial expanding into a series of satellite arguments on issues that were not of substantive importance to the case as a whole. Mr Hopkins denied drug use but was cross-examined in a way that, in our view, went considerably beyond the judge's original ruling. When Mr Hopkins had finished his evidence, the application was reopened but the judge again refused it.

48. The single judge was unimpressed with Ground 4, noting that the judge was best placed to assess the weight and relevance of Mr Hopkins's convictions in the context of the trial as a whole.

49. We agree with the single judge. The offences against Mr Hopkins, the subject of Counts 6 and 7 took place in late 2018 and January 2019. Accordingly, previous convictions from 1998 and 2011 were irrelevant as to whether he was a drug user at the time of the assaults upon him. The conviction after the relevant events was of no probative value whatsoever.

50. We note that when the application was made and renewed, the defence relied on **R v Luckett** [2005] EWCA Crim 1050. Indeed, that was an authority to which the applicants had repeated recourse in relation to their applications to put in the bad character of various witnesses who had convictions for drug offences. In **Luckett**, this court ruled that evidence of the victim's bad character, and in particular his association with and violent encounters involving drug dealers, was of substantial probative value on the issue of how the victim came by his injuries. It will be seen at once, therefore, that **Luckett** is a very different case to this one. Take Mr Hopkins as an example. Mr Hopkins had no conviction for drug dealing at all. Moreover, there was no evidence of any encounters between Mr Hopkins and

drug dealers at any time and no evidence of any evidence of violence as between drug dealers and Mr Hopkins. Accordingly, this was a completely different case to **Luckett**, and like the trial judge, we derived no assistance from it at all.

51. Standing back, it is necessary to remember that the issue in relation to Counts 6 and 7 was the extent to which the events about which Mr Hopkins complained were events which involved ST. Again, it might be thought that the fact that the men told Mr Hopkins to "get out straightaway" clearly indicated that they were concerned with his eviction rather than money he might owe as a result of drug use. Furthermore, the fact that McChesney was there the following day changing the locks provides further support for the prosecution case that ST was plainly part of a conspiracy to evict Mr Hopkins.

52. Accordingly, we reject Ground 4 of the proposed appeal. We note that a further point is made by Mr Hopkins under Ground 7, 'Collusion', and we deal with that below.

Count 8: Harassment, Flat 24, Mardy Yusef - ST and PT

53. Mr Yusef had a drink problem and fell into arrears. In the autumn of 2018 the applicant ST and McChesney went to his flat. ST barged her way in. McChesney stood and watched. Subsequently Mr Yusef's letterbox was removed while he was away. His electricity too was cut off on more than one occasion. Mr McChesney kept asking Mr Yusef when he was moving out and when he was going to pay the rent.

54. Thereafter the lock on Mr Yusef's door was changed, so he had to break into his own home and was not able to secure it again. He got a man to start replacing the door because the landlords would not, but was prevented from doing the work and so was left with no door at all. He was physically assaulted by other men working indirectly or directly on the orders of ST.

55. In support of these allegations the Crown relied on the evidence of Mr Yusef, who had video recordings of some of the relevant incidents. There was also the evidence of PC Foster, whose statement was read. The defence of both ST and PT was based on a denial of involvement in the relevant incidents. However, they both accepted removing a lock that Mr Yusef had attached to the outside of the door; although they maintained that the door had been left secure. They again said that Mr Yusef had vacated the property voluntarily.

56. There is no specific ground of appeal relating to Count 8. It is potentially covered by the ground of appeal at Count 7, (Collusion), and the general Grounds 8 and 9. Other than that, no specific points arise in respect of the safety of the convictions in relation to Count 8.

Counts 10 and 11: Harassment and Unlawful Eviction, Yolanda Jane Davis, Flat 13 - ST only

57. Yolanda Davis was a long-term drug user with personal problems but was able to function quite well at the material time and had her drug use under reasonable control. She had lived at the property for some twenty months by the spring of 2019 without difficulty. In May 2019 her Personal Independence Payment was stopped at very short notice and she started to fall into rent arrears. The applicant ST and McChesney told her she had to pay up or leave. ST told her she had better find "somewhere nice and safe" to live. McChesney told her "to be careful".

58. As time went on McChesney repeatedly told Ms Davis in text messages that if she did not meet a 7 o'clock deadline he would be obliged to go round and change the locks. McChesney told Ms Davis he would be in trouble with the landlords if he did not do it. Ms Davis's electricity and gas were cut off. She recorded some conversations with ST in which ST told her to get out.

59. Ms Davis told McChesney that any eviction had to be done lawfully. McChesney replied, "You know she doesn't do things like that". ST told her "No Yolanda, if you can't pay you have to leave". In the end, on an evening when Ms Davis was away and allowed the friend of a friend to stay the night, McChesney took advantage by throwing the friend out, changing the locks, smashing the toilet, or allowing others to smash it, and screwed the door shut. Ms Davis never recovered most of her belongings; found some of them later furnishing another flat ready for letting. Ms Davis broke into the flat to recover them. Other possessions of hers were scattered in the alley to which we have already referred.

60. The prosecution called a large number of witnesses in support of Counts 10 and 11. Yolanda Davis gave evidence; and she exhibited text and voice messages between herself and both ST and McChesney. There was also evidence from DC Collins about the contemporary complaints made by Ms Davis before the eviction, and evidence from her friends, Eddie Wardle and Lee Sorrell, about certain specific instances. Despite the evidence of the messages, ST denied any involvement in any of the events related by Ms Davis. Again it was said that she had left the flat voluntarily.

61. Two grounds of appeal arise in relation to Counts 10 and 11. Ground 5 is a complaint that the trial judge erred in refusing to admit the bad character evidence in respect of Yolanda Davis. Ground 6 is that the trial judge erred in refusing to admit the bad character evidence of Edward Wardle.

62. The single judge rejected these criticisms, saying in respect of Ground 5 that this was "a classic case of a judge, who is fully sighted on all the issues in a complex case, being best placed to assess whether evidence is merely relevant, or whether it meets the high threshold of 'substantive probative value'…". Similar points arose in relation to Ground 6, with the additional consideration that, as the single judge noted, Mr Wardle was a peripheral witness and the Defence had ample material on which to cross-examine him in any event.

63. Before considering the individual grounds, it is again necessary to take a step back and consider the defence raised by ST to these counts, that she was not involved in the events related by Ms Davis. In our view that defence was fanciful, given the evidence that ST told her to find somewhere "nice and safe" to live; that McChesney told her he would be in trouble with the landlords if he did not change the locks; that there were recorded conversations where ST had told Ms Davis to "get out"; and where McChesney made plain in a text that ST did not do things like apply for legal eviction. We consider that the inherent weakness of ST's defence to Counts 10 and 11 will necessarily have informed the judge's approach to the relevant bad character applications.

64. We take Ground 5 first. Ms Davis had a number of previous convictions for drugs, theft and fraud. It appears that the acquisitive offences were committed to fund her drug habit. That is not, sadly, uncommon. Those convictions do not, we consider, reflect on her credibility: contrary to the suggestion at [176] of the Grounds document that a drug user is "the type of person who is capable of inventing a story for her own ends", the law does not make such facile assumptions: see **R v Brewster** (cited above). We are therefore left with the inescapable conclusion that the application in respect of Ms Davis's bad character was again designed as a character blackening exercise with no reference to the probative value of the material or the issues in the case. The single judge thought that Ground 5 was unarguable as a ground of appeal. We agree.

65. This morning Mr Vaughan KC argued that in relation to these counts the central issue was the credibility of Ms Davis. We respectfully disagree. The central issue, given the independent evidence of harassment and illegal eviction, was whether there was any connection with ST. The jury had no difficulty in connecting her with the criminal activities. We have no such difficulty either.

66. Similar conclusions follow in respect of Ground 6 and the complaint about the judge's refusal to admit Mr Wardle's convictions, in particular for supplying Class A drugs. It was impossible to see how that conviction went to any issue in the case or had any substantial probative value. Again the analysis in **R v Brewster** is applicable. The judge rightly described Mr Wardle as a peripheral witness dealing with a peripheral issue (why certain people were in Flat 13 on a particular night, who they were, and who removed them).

67. For these reasons, we reject Grounds 5 and 6 of the proposed appeal. We next turn to deal with Ground 7, which is concerned with a collusion and is raised in respect of Mr Hopkins (Counts 6 and 7), Mr Yusef (Count 8) and Ms Davis (Counts 10 and 11).

Ground of Appeal 7: Collusion

68. It was suggested on behalf of ST that the proposed evidence of a woman called Julie Robinson indicated that there had been collusion between Hopkins, Yusef and Davis. She said that these three admitted to her that they had given statements to the Council (the "respondent") about their treatment at the hands of ST and PT. The judge produced yet another detailed ruling refusing to admit this part of Ms Robinson's evidence to be adduced. He said that there was nothing in her draft statement about the likely truthfulness of the evidence of these witnesses and therefore her evidence as to the collusion was irrelevant and inadmissible.

69. The single judge was unimpressed with this ground of appeal, describing the judge's ruling as "unimpeachable". We agree. In her statement, Julie Robinson did not suggest that Hopkins, Yusef and Davis were getting together to make up allegations against ST and PT.

70. On a closer analysis, we consider that the suggestion of collusion fails at each hurdle. First, Ms Robinson does not say that the three were colluding at all; she simply says that

Mr Hopkins said he was "getting a case going" against ST and PT, and that Mr Yusef and Ms Davis "were involved as well". That does not even suggest that they were talking to one another.

71. Secondly, as we have said, Ms Robinson does not say that the three had agreed to lie in their statements and/or that Mr Hopkins said that he or they were going to make up allegations against ST and PT. There was therefore never any challenge in her proposed evidence to the reliability of the accounts that the three witnesses had given. In those circumstances Ms Robinson's statement was inadmissible because it was irrelevant. It certainly did not go to an issue in the case.

72. Thirdly, we consider that the suggestion of collusion - which is a serious allegation - had not been fairly and squarely put to Ms Davis, Mr Hopkins and Mr Yusef earlier in the trial when each had been cross-examined. The trial judge pointed out that it had not been suggested to them when they gave their evidence that they had got together to create false evidence against ST and PT. It would therefore have been wrong and unfair for Ms Robinson to come to court later and attempt to give such evidence, when it had not been put to the alleged perpetrators. Mr Vaughan said this morning that what was included in the summary of Ms Robinson's evidence was simply a synopsis and that she was going to go on to say that they had got together to put together a false case. The difficulty with that is that it was not in the synopsis, that was not what the judge ruled on, and that was not what was put to the three witnesses. Accordingly, it seems to us that the collusion aspect was properly dealt with by the judge and there can be no possible basis now for a complaint.

73. We therefore reject Ground 7 of the proposed appeal.

Counts 12, 13, 14, 15 and 16: Various victims and flats, Harassment and Wrongful Evictions - both ST and PT

74. These counts involved six further victims and strikingly similar evidence of offending against ST and PT. We summarise that offending below. There are no specific grounds of appeal arising out of these counts, but they are of course affected by Grounds 8 and 9.

Counts 11 and 12: Stefka Yankova and Petar Yankov, Flat 24

75. Stefka Yankova and Petar Yankov were Bulgarian immigrants who had gone to the UK for work. They were introduced to the block by El Darrat. They were allowed to move five people including a child aged 5 into a one-bedroom flat provided they did not let the respondent know. When work was scarce during the pandemic, they fell into arrears. That was during the emergency prohibition on the eviction of any tenant (even by lawful means) during the pandemic. ST told them that they had to leave and could only return if they paid two months' rent in advance.

76. Their electricity was stopped. Their locks were changed. When they got back into their home momentarily, ST grabbed Ms Yankova's handbag, it seemed in an attempt to recover some of the money ST was owed, but Ms Yankova's husband took it back from PT. PT violently grabbed a phone from a small boy who was recording the scene. El Darrat assisted in removing and disposing of their belongings, knowing that it was against their will and without their permission. They never got them back.

Count 14: Maya Yankova and Iliyan Kostov, Flat 13

77. Maya Yankova (Stefka and Petar's daughter) had also come to the UK for work. El Darrat assured her it was fine to have large numbers in a one-bedroom flat provided they did not let the Council know. They arrived in October 2020 during the pandemic. Ms Yankova fell into arrears very quickly. Her electricity supply was stopped, her gas was stopped, and she

was told to leave.

78. A campaign of harassment commenced, with loud repeated knocking on the door, and on one occasion (captured on video) El Darrat pushed the door in with such force as to pull the security chain off its fixing. ST used to walk in uninvited and shout and scream at the occupants for money. She told the men working for her, including El Darrat, to remove the furniture and appliances (some of which were provided by ST, others belonging to the occupants) so that it was difficult for them to live. PT was recorded on video demanding that they left immediately. This again was during the specific ban even on otherwise lawful evictions during the pandemic.

79. The applicants ST and PT persuaded the police to tell Ms Yankova's own husband that he had to leave the flat.

Count 15: Jordan Humphrys, Flat 16

80. Jordan Humphrys was a vulnerable young man on the cusp of independent living. When he fell into arrears, ST and PT told him they wanted him gone. Mr Humphrys knew of the violence to those who resisted the applicants and was too weak a character and too fearful to put up any significant argument.

81. In January 2021 - still during the moratorium on lawful evictions - he agreed to leave, although it was against his will. As he left, his lock was changed, and El Darrat supervised Mr Humphrys as he picked up his things by letting him in with a new key.

Count 16: Anka Angelova, Flat 5

82. Anka Angelova went on a visit to Bulgaria in July 2021 and left numerous members of her

extended family in her flat. The applicants brought in contractors to say the place was uninhabitable and forced everyone living there to leave. The flat was not uninhabitable but required some immediate repairs to the bathroom floor, which the applicants had failed to address for some six months despite repeated written notices from the respondent requiring that and other defects be remedied. When the applicant evicted the occupants, they took the flat key and electric meter key. When Ms Angelova returned from Bulgaria the applicants made a show of offering her alternative accommodation while the flat was repaired, but that alternative accommodation never materialised. The whole family ended up sleeping in their cars.

83. The defences run by ST and PT to all those counts were more of the same: that they had not been involved in the events about which the victims complained and they had voluntarily left the property and agreed that their belongings should be removed. Noticeably in relation to Count 14, ST and PT said that, if they did shout or behave aggressively, it was not done with the intention of causing Ms Yankova to leave the property, but to encourage her to pay rent. Furthermore, in relation to Ms Angelova, the immediate eviction was admitted, but it was said that it was necessary so as to ensure full repairs could be carried out to the bathroom floor. ST and PT were convicted on all these counts; indeed these counts make up five of the seven counts on which PT was convicted. As we have said, there are no specific grounds of appeal in relation to any of them.

84. So pausing there, the position is this. There was a considerable amount of both general and detailed evidence against ST and PT supported by numerous witnesses. There was also a good deal of independent evidence. Their response, which included some limited admissions, was largely based on blanket denials. A number of the individual counts, (including six of the seven counts on which PT was convicted), are not now the subject of any specific ground of appeal at all. As we have explained, there is nothing in Grounds 1-7 of the proposed appeal. Accordingly, this renewed application now turns on the last two

grounds, namely Ground 8 and Ground 9, which are of general application. Do they render all the convictions including those on which there are no specific complaints unsafe or unfair?

85. As a lead-in to those last two grounds, surveying the evidence as a whole, we consider that ST and PT faced real difficulties based on the sheer volume of the evidence against them. Realistically the jury will have been asking themselves: how unlucky can two people be, that so many of their tenants were subject to this appalling behaviour, in circumstances where the only people who would benefit were ST and PT themselves, and yet none of it was apparently anything to do with them?

Ground 8: The evidence of ST and PT

86. The complaint at the heart of Ground 8 is that in his summing-up the trial judge erred in directing the jury that they could hold accusations made by ST and PT against them when assessing their credibility if they found those accusations not to be proved. No particular words in the directions are identified as setting out this alleged direction. This is important because the single judge was of the view that the trial judge did not give the direction complained of. Instead the single judge thought that the trial judge had explained how the jury should approach the background matters, and then given examples of what they might conclude, thereafter leaving it to them to decide what, if anything, they made of those examples.

87. The Judge's directions were in these terms:

> "BACKGROUND DISPUTES
>
> As I have emphasised throughout, and already repeated today, it makes no difference what an occupier has done: even if they did everything they have been accused of by the defendants, it's still an offence to do anything these defendants are charged with. So how should you approach all their background

disputes?

In order to reach your verdicts, it is not necessary to come to any conclusion as to whether this or that tenant paid rent on this or that month, or over-occupied the flat, or sold cigarettes, or was involved with drugs, and so on.

Equally, in order to reach your verdicts, it is not necessary to decide whether any defendant deliberately deceived tenants about the difference between a deposit and a service charge; or whether they overcharged for rent; or whether they were negligent with regard to their maintenance obligations. The defendants are not charged with any offences in respect of those allegations.

Nevertheless, these background matters remain very much in dispute, and it would not have been possible to understand the evidence of both sides, without hearing something about them. You may feel able to form some views about the rights and wrongs of some of these background disputes. For example, do the background allegations of misbehaviour by tenants and their families represent (i) a pattern of real, unlawful and antisocial behaviour by difficult and badly behaved tenants; (ii) a pattern of these defendants inventing allegations against tenants they want out, to help get them evicted, and to attack their credibility in court; or (iii) some combination of both? Similarly, do the background allegations against the defendants represent (i) a pattern of real deceit and exploitation by self-interested landlords; or (ii) a pattern of lies and exaggerations by tenants who are 'out to get' these defendants; or (iii) some combination of both?

These background disputes may help explain or put into context some of the more central issues in the case; and they may assist you in assessing the credibility of the various witnesses. How much significance they carry is a matter for you."

88. Our analysis is this. First, we consider that the trial judge simply did not give the direction which he is alleged to have given. His direction was not about lies, but a more general direction about the background dispute.

89. Secondly, as to the direction itself, the judge could hardly avoid giving a direction to the jury about the background disputes. Because of the myriad background matters raised on behalf of both sides, they could not be entirely ignored. What the judge was doing in the passage that we have cited was starting with the conventional direction, that the jury did not have to decide all of the various points raised by either side; that what mattered was whether ST and PT were guilty of the offences with which they had been charged, (which central direction was also the subject of separate written legal directions and a Route to Verdict). But

understandably the trial judge went on to say that the jury may have felt able to form some views about some of these background matters and whether, as the defence said, they represented a pattern of real, unlawful and antisocial behaviour by difficult and badly behaved tenants, or as the respondent said, a pattern of these applicants inventing allegations against tenants they wanted to evict, or a combination of both. The trial judge said that this was a matter for the jury. He stressed that they must not become distracted with these background matters.

90. In our view, given the nature of the evidence as a whole, that was a sensible, fair and balanced direction to give in a case where there been four-and-a-half weeks' worth of evidence mainly about what could fairly be described as background matters.

91. There is a suggestion at [211] of the Grounds document that, because the trial judge limited the questions that could be put to some of the respondent's witnesses, they (that is to say the jury) were likely to find the defence accusations unproven. We reject that submission out of hand. There was no important part of the defence case, and the accusations ST and PT made against their tenants, that was not fully explored in the evidence. The trial judge properly limited the scope of that evidence, otherwise the trial would have taken twice as long. Again we remind ourselves that the trial judge ruled out the entirety of the bad character application against ST, despite her attacks on her tenants. The trial judge was entitled to regulate the evidence in the way in which he did. That held true for the evidence of both sides.

92. For these reasons, therefore, we have concluded that there is nothing in Ground 8.

Ground 9: The Judge's direction as to the whole of the evidence

93. Ground 9 in is put in these terms:

"The convictions on all Counts (including Counts 2 and 12-16, not specifically

referred to above) were rendered unsafe due to Learned Judge's errors in Grounds 1-8 coupled with his direction to the jury that they should consider the whole of the evidence when deciding each individual verdict."

94. Because we have rejected as unarguable the existence of errors in relation to Grounds 1-8, Ground 9 comes down to the Judge's summing-up under the head of "11 Different Occupiers". The direction was in these terms:

"11 DIFFERENT OCCUPIERS.

There are 16 counts in this case, many of them against more than one defendant, requiring 34 verdicts in all. As I have already said, each verdict must be considered separately, and obviously your verdicts do not all have to be the same.

The 16 counts cover 11 residential occupiers, and 11 different households. So as well as the evidence relating directly to each occupier, the evidence as a whole creates a wider picture or context, which you are entitled to consider. The basic principle is, you may (and indeed should) consider the whole of the evidence, when deciding each individual verdict.

The prosecution are entitled to say: 'It is not just one tenant saying they were told the extra payment at the start was a deposit; it is all of the prosecution witnesses, and that makes it more likely that each one of them is telling the truth on that point. It is not just one tenant who says violent and threatening burst into their flat at a time when the landlords were trying to get them out; it is four of five of them, which shows a distinct pattern of behaviour. It is not just one tenant who says the lock on their flat was changed to keep them out. It is not just one who says their possessions were forcibly removed and stolen or dumped, or who says utilities were turned off or bathrooms damaged.' These similarities, the prosecution say, create clear patterns of behaviour, which can only be explained in one plausible way, that when the defendant decided it was time to get someone out, these are the kinds of steps they took to do it. Put another way, the prosecution are entitled to say: 'It is not plausible that all of these 11 different households would have any reason to make up such serious lies about people who have never done them any wrong.

The Defence, on the other hand, are entitled to say: 'What you have here is a pattern, but it is a pattern of lying. The tenants in question are unreliable witnesses who have, for reasons of their own latched on to certain easy and recyclable lies in order to get these defendants into trouble for things they are entirely innocent of.' Whilst not all these tenants knew each other, some of them plainly did; and those who did know each other may well have conspired together to tell certain similar lies in order to make their campaign of falsehood against these defendants more plausible. In addition, where you find that certain forced and violent entry to people's homes did take place, or fuses were taken, etc, it may well be that these acts were carried out by other people – other people who had a grudge against whichever tenant, and thus had nothing to do with the defendants at all.

These are the sort of arguments and considerations which apply when you look at the evidence about each residential occupier in the context of the evidence as

> a whole. But, as you have seen from the Route to Verdict, the question in the end will always be whether you are sure that a particular defendant is guilty of the particular charge you are considering."

95. The single judge considered this direction to be unexceptional but did not otherwise address the point. It is also right to say that the complaint now made about the direction by Mr Vaughan is fairly and appropriately measured. The complaint is put in these terms:

> "Whilst no complaint is made about how the Learned Judge directed the jury in this respect, the corollary is that once the Defence were disadvantaged in relation to one count, it had a knock-on effect in respect of the others."

96. We have of course already rejected the suggestion that the learned judge erred at all, but we ought to deal with the more general point about the judge's treatment of the whole of the evidence.

97. As a matter of law, **R v Freeman** [2009] 1 WLR 2723 at [19-20] confirms that the jury does not have to be sure of guilt on one count before relying upon the evidence in respect of that count on another count. The jury can look at the evidence on any other count, or look at the matter as a whole in relation to that defendant. In the directions to the jury, that should be dealt with on the basis of coincidence rather than propensity: see **R v McAllister** (2009) 1 Cr App R 10.

98. In our view the judge's direction set out above was a proper direction in the unusual circumstances of this case. It was completely unrealistic to expect the jury to ignore the fact that so many of the counts against ST and PT were based on very similar incidents: threats, intimidation, changing of the locks, and so on. Whilst the jury were told that they had to consider the evidence on each count separately, they were also entitled to consider all the evidence in the round. It echoed the Judge's earlier reference to the patterns in the evidence alleged by both sides.

99. We acknowledge of course that this was not a standard cross-admissibility direction; but that is not the complaint that is made. Doubtless that is because a more standard cross-admissibility direction, in a case of this sort would, we think, have been very unfavourable to ST and PT. In the unusual circumstances of this case, given the nature of the evidence which the jury had to corral, we consider that a direction in the terms given was appropriate. It was a version of the coincidence cross-admissibility direction referred to in the *Bench Book*, albeit much altered to reflect the evidence in this case. The important thing about it was that it was fair and balanced. It also expressly required the jury to think about the defence case that the complainants had conspired to tell similar lies, which was a version of the collusion direction, also set out in the *Bench Book*. Moreover, it concluded with a restatement of the need to look at each individual count separately. In all the circumstances the provision of that direction in the unusual circumstances of this case cannot possibly render the verdicts unsafe or unsatisfactory.

100. Finally, it cannot be said that the jury allowed themselves to be overly influenced by the evidence as a whole when considering each individual count. Both ST and PT were acquitted of some counts, which only confirms the care and attention which the jury paid to the individual components of this troubling case.

101. For all those reasons, therefore, we consider Ground 9 to be unarguable.

Conclusion on the renewed applications to appeal against conviction

102. In our view, for the reasons that we have set out, there is nothing in any of the Grounds of Appeal raised by ST and supported by PT. Standing back, considering the case in the round, we are satisfied that the convictions against ST and PT are entirely safe.

103. It follows from what we have said that we consider that these renewed applications are, and always were, hopeless. They have incurred a considerable waste of court resources. We are

therefore going to invite Mr Vaughan to address the court as to why we should not make loss of time orders in each case.

(Further submissions. The court adjourned for a short time to consider its judgment on this aspect of the applications)

Loss of Time Orders?

104. We have considered carefully whether to make loss of time orders in this case. This was a case where there were a number of detailed rulings by the trial judge during the course of a four-and-a-half week trial. The grounds of appeal largely focussed on those rulings. They were then considered in detail by the single judge. There was also a detailed Respondent's Notice. The single judge's refusal meant that most of the points on which the applicants relied before us had already been judicially considered and rejected not once but twice. Following refusal, it seems to us that the applicants should have sat down and said to themselves, "Well, what is wrong with what the single judge said? What is the answer to the points he made and which are made in the Respondent's Notice? Is there an answer?" None of that appears to have happened here.

105. Instead, it looks as if the applications were renewed almost automatically. In our view, the practice of simply replicating an application for permission to appeal, as if the single judge had not set out detailed reasons for refusal, is becoming more common and needs to stop. It takes no account of the fact that, in the last 20 years, the s.31 procedure has been improved out of all recognition: instead of one or two paragraphs, the single judge provides a detailed mini-judgment explaining the reasons for refusal. In our view, those reasons need to be respected and properly considered before any renewed application is made.

106. The problems caused by renewing an application, despite what the single judge has said, were particularly acute in this case. The three members of this court have had to get up to speed with a vast amount of detail arising out of a trial that lasted four-and-a-half weeks. That has taken each of us around three days. So that is nine days of judicial time. In addition, my Lady is the Honorary Recorder of Redbridge, so a number of other judges have

had to do the administrative work which she would otherwise have done in those three days.

107. Accordingly, these applications have had a huge impact on resources. And yet they were inherently hopeless, as we have demonstrated: unrealistic and devoid of any merit. That combination explains why we have been so concerned about this case.

108. However, we have decided that, in all the circumstances, we will not make loss of time orders. That is largely to do with the personal circumstances of both ST and PT which we do not set out here; partly because the single judge did not tick the relevant box (which is far from being determinative, but is material); and partly due to the other submissions that Mr Vaughan has made. We acknowledge the industry that he has demonstrated throughout.

109. That said, the time has come when applicants who wish to renew their failed PTA applications need to think long and hard about their prospects of success and the risk of failure. In particular, they need to grapple with what the single judge has said, not just ignore it. In the future, in a case of this sort, this court will have no hesitation in making a loss of time order.

110. So Mr Vaughan, for those reasons, in this case we are not going to make loss of time orders, but we have to say it was a very close-run thing.