

R (on the application of Officer W80) (Appellant) v Director General of the Independent Office for Police Conduct and others (Respondents)

Case ID: 2020/0208

Case summary

Issue

In the context of police misconduct proceedings, is it open to a reasonable disciplinary panel to make a finding of misconduct if an officer's honest, but mistaken, belief that his life was threatened was found to be unreasonable.

Facts

W80, an armed police officer, shot Jermaine Baker dead in a police operation. Mr Baker was involved in a plot to snatch two individuals from custody. The police had intelligence that the plotters would be in possession of firearms. W80's account was that during the intervention, Mr Baker's hands moved quickly up to a shoulder bag on his chest, and fearing for his life and those of his colleagues, W80 fired one shot. No firearm was found in the bag, but an imitation firearm was in the rear of the car.

Following an investigation by the Independent Office for Police Conduct's (the "IOPCC") predecessor, the Independent Police Complaints Commission (the "IPCC"), the IPCC concluded that W80's belief that he was in imminent danger was honestly held, but unreasonable, and that W80 therefore had a case to answer for gross misconduct on the basis of the civil law test that any mistake of fact could only be relied upon if it was a reasonable mistake to have made. It sent the report and its recommendation to the Metropolitan Police Service (the "MPS"), as the appropriate authority for misconduct proceedings against W80. The view of the MPS was that the IPCC had been incorrect as a matter of law in applying the civil law test (which looks to whether an honest but mistaken belief is reasonable) as opposed to the criminal law test of self-defence (which looks to whether the belief is honestly held). By this stage, the IPCC had been replaced by the IOPC and after the MPS indicated that it would not follow the IOPC's recommendation to bring misconduct proceedings against W80, the IOPC directed the MPS to do so. It is that decision which is challenged in this judicial review.

Judgment appealed

[\[2020\] EWCA Civ 1301](#)

Parties

Appellant(s)

Officer W80

Respondent(s)

Director General of the Independent Office for Police Conduct and another

Appeal

Justices

Lord Reed, Lord Lloyd-Jones, Lord Sales, Lord Burrows, Lord Stephens

Hearing start date

13 March 2023

Hearing finish date

14 March 2023

Watch hearing

13 March 2023 [Morning session](#) [Afternoon session](#)

14 March 2023 [Morning session](#)