

In the European Court
of Human Rights

Case No. 42789/11

Edwin Stratton v United Kingdom

Documentary Evidence

Schedule of attached documents

1. CPS Acknowledges service, 18 December 2008. CPS lists themselves as the defendant, which is NOT the claim made.
2. Query from Admin Court Lawyer David Hargreaves, 23 December 2008, asking for clarification as to the identity of the defendant.
- 3.. Response from claimant to Admin Court Lawyer David Hargreaves, 5 January 2009, clarifying the defendant as the Magistrates' Court, per *R v Horseferry Road Magistrates' Court ex parte Bennett*.
4. Letter to Admin Court, 30 December 2008, pointing out again that the defendant is still incorrectly identified by the court.
5. Letter to CPS, 30 December 2008, requesting why they have misidentified the defendant.
6. Judge's Order Refusing Permission, 5 March 2009, repeating the same misidentification of parties in spite of the claimant's efforts documented above.
7. Stratton Form 86b Grounds, 10 March 2009, in which the claimant itemises the above misunderstandings on the part of the court.
8. McKenzie Friend Email to High Court, 8th May 2009, again querying the continued misidentification of parties.
9. McKenzie Friend Email to High Court lawyer David Hargreaves, 12th May 2009, clarifying parties again.
10. Response from David Hargreaves, 12th May 2009, misunderstanding the CPS directions (at page 7 of this bundle), and providing incorrect authorities for the misidentification of parties.
11. McKenzie Friend Email to High Court, 12th May 2009, final attempt to inform court as to the identities of the parties to the claim.
12. Leaked notes for the High Court, from David Hargreaves High Court Lawyer, 1st July, 2009, in which he misdirects their Lordships in spite of the extensive clarifications above, and provides irrelevant authorities. The claimant asserts that this constitutes the usurpation of the power of the Judges by a civil servant effectively adjudicating the matter in advance, and fatally undermines the claimant's chance of a fair hearing.

1. CPS Acknowledgement of Service, 18th December 2008

Judicial Review Acknowledgment of Service

Name and address of person to be served

name EDWIN STRATTON
address 369a HIGH ROAD LEYTON LONDON E10 5NA

In the High Court of Justice Administrative Court	
Claim No.	CO/10629/2008
Claimant(s) <i>(including ref.)</i>	EDWIN STRATTON
Defendant(s)	CROWN PROSECUTION SERVICE
Interested Parties	WALTHAM FOREST MAGISTRATES COURT

SECTION A

Tick the appropriate box

- | | | |
|---|-------------------------------------|-----------------------------------|
| 1. I intend to contest all of the claim | <input checked="" type="checkbox"/> | } complete sections B, C, D and E |
| 2. I intend to contest part of the claim | <input type="checkbox"/> | |
| 3. I do not intend to contest the claim | <input type="checkbox"/> | complete section E |
| 4. The defendant (interested party) is a court or tribunal and intends to make a submission. | <input type="checkbox"/> | complete sections B, C and E |
| 5. The defendant (interested party) is a court or tribunal and does not intend to make a submission. | <input type="checkbox"/> | complete sections B and E |

Note: If the application seeks to judicially review the decision of a court or tribunal, the court or tribunal need only provide the Administrative Court with as much evidence as it can about the decision to help the Administrative Court perform its judicial function.

SECTION B

Insert the name and address of any person you consider should be added as an interested party.

name WALTHAM FOREST MAGISTRATES COURT	name
address 1 FARNAN AVENUE WALTHAMSTOW LONDON E17 4NX	address
Telephone no. 0845 601 3600	Fax no. 0208 527 9063
E-mail address	E-mail address

2. Query, Admin Court Lawyer David Hargreaves, 23rd December 2008



HER MAJESTY'S
COURTS SERVICE
hmcs

Administrative Court Office
Royal Courts of Justice
Strand
London
WC2A 2LL
DX 44450 RCJ / Strand
T 020 7947 7224
F 020 7947 6554
E david.hargreaves@hmcourts-service.x.gsi.gov.uk
Text Phone 18001 020 7947 6205
www.hmcourts-service.gov.uk

Mr Edwin Stratton
369a High Road
Leyton
LONDON
E10 5NA

Our ref: CO/10629/2008
Your ref:

23 December 2008:

Dear Sir,

Re: Judicial Review

You have lodged an application for judicial review and named the magistrates court as the defendant and the CPS as the interested party.


The claim however appears to seek permission to challenge the Government's "maladministration of the Misuse of Drugs Act 1971". Is this correct? If that is the case then you would have to name the appropriate Government department and moreover serve them with the Claim Form.

I would be grateful to receive your comments.


Yours faithfully,

D. Hargreaves

David Hargreaves
Administrative Court Lawyer



INVESTOR IN PEOPLE



HM COURTS SERVICE

The Administrative Court Office will not accept service via email. When using the above email address it should be noted that mail sent after 4.30 p.m. may not be opened until 9.00 a.m. on the following working day. Court users should not send confidential or restricted information over the public Internet.

3. Response to David Hargreaves, 5th January 2009

Edwin Stratton
369a High Road Leyton
London E10 5NA

David Hargreaves
Administrative Court Lawyer
Administrative Court Office
The Royal Courts of Justice
Strand
London WC2A 2LL

Tel: 020 8257 7170
Email: edwinstratton1@googlemail.com

5th January 2009

Dear Mr Hargreaves;

Re: My application for Judicial Review; case number: CO: 10629/2008

I acknowledge receipt of your letter of the 23rd December inviting clarification. As you may be aware, I am a disabled litigant-in-person without legal representation. I seek the Court's assistance to ensure that I avoid any possibility of procedural error.

You noted that my claim 'appears to seek permission to challenge the government's "maladministration of the Misuse of Drugs Act 1971"'. Respectfully, I must correct this view: this claim does not directly challenge the government's maladministration of the Misuse of Drugs Act 1971. My claim challenges the decision to stand me for trial, that decision representing the subsequent application of the 1971 Act that the Magistrates Court sought to impose upon me. A fair trial is submitted to be impossible given the unlawful abuse of power inherent within the administration of the Act. As the court must base its actions on the rule of law, then they must use their powers to protect me from such abuse by the executive, rather than seeking to apply the consequences of it to myself.

In my criminal case the Magistrates' Court was invited to assert itself against the alleged executive abuse of power, or to decline jurisdiction to allow me to pursue my claim for an Order from the High Court to quash the indictment and prohibit the trial. Adjournments from the criminal proceedings were subsequently granted to facilitate this claim.

It is a function of the High Court to ensure that executive action is exercised according to law; consequently I submitted a 'Mackeson' application to stay the unlawful proceedings through which the Magistrate's Court would have denied me my legitimate rights by applying the (already maladministered) law. The authority I cite for this course of action is provided concisely by Lord Lowry in *R v Horseferry Road Magistrates' Court ex parte Bennett*, at 76, which states:

“The view there expressed is that the court, in order to protect its own process from being degraded and misused, must have the power to stay proceedings which have come before it and have only been made possible by acts which offend the court’s conscience as being contrary to the rule of law. Those acts by providing a morally unacceptable foundation for the exercise of jurisdiction over the suspect taint the proposed trial and, if tolerated, will mean that the court’s process has been abused. Therefore, although the power of the court is rightly confined to its inherent power to protect itself against the abuse of its own process, I respectfully cannot agree that the facts relied on in cases such as the present case (as alleged) “have nothing to do with that process” just because they are not part of the process. They are the indispensable foundation for the holding of the trial.”

In the same case, Lord Griffiths, at 62 stated:

“If the court is to have the power to interfere with the prosecution in the present circumstances it must be because the judiciary accept a responsibility for the maintenance of the rule of law that embraces a willingness to oversee executive action and to refuse to countenance behaviour that threatens either basic human rights or the rule of law. My Lords, I have no doubt that the judiciary should accept this responsibility in the field of criminal law. . . .”

Further, Lord Nicholls of Birkenhead declared in *R v Looseley, Attorney General’s Reference (No 3 of 2000) [2001] UKHL 53, [2001] 1 WLR 206* (quoted in the case of *A & Others v SSHD [2005] UKHL 71* at Para 22):

“...every court has an inherent power and duty to prevent abuse of its process. This is a fundamental principle of the rule of law. By recourse to this principle courts ensure that executive agents of the state do not misuse the coercive, law enforcement functions of the courts and thereby oppress citizens of the state.”

This application is entirely consistent with the relevant legal guidance given by the Crown Prosecution Service (see attachment below).

I acknowledge your concern that the relevant governmental department would wish to contest this claim, and in my view the Defendant or Interested Party may raise the issue of the Secretary of State for the Home Dept becoming a party to this action.

The Defendant has not acknowledged service at all.

Mr Hargreaves; I am eager to ensure that my claim proceeds smoothly, and to this end I would like to meet with you to discuss some procedural queries. Would you kindly let me know if I can have an appointment?

Yours sincerely,

Edwin Stratton, Claimant

Attachment: CPS Guidance relating to Abuse of Process

The following directions are quoted from the Crown Prosecution Service website:

http://www.cps.gov.uk/legal/a_to_c/abuse_of_process/index.html

Discretion to stay proceedings

The leading case on the application of abuse of process remains **Bennett v Horseferry Magistrates Court** (above). This case confirmed that an abuse of process justifying the stay of a prosecution could arise in the following circumstances:

- i. where it would be **impossible to give the accused a fair trial**; or
- ii. where it would amount to a **misuse/manipulation of process** because it offends the courts sense of justice and propriety to be asked to try the accused in the circumstances of the particular case...

...F. Unconscionable behaviour by the executive

This category of the doctrine of abuse is more exceptional than those described above. It arises from the duty of the High Court (first articulated in the case of **Bennett v Horseferry Magistrates Court**) to oversee executive action so as to prevent the State taking advantage of acts that threaten either basic human rights or the rule of law (including international law).

Applications for a stay based on this ground cannot be determined in any tribunal below the High Court because they involve the judiciary exercising a supervisory function over the actions of the executive (**Bennett v Horseferry Road Magistrates Court**, per Lord Griffiths at 152 H-J). Where the defence wishes to make such an application at the beginning or as a preliminary to trial, the proper procedure is for the instant proceedings to be adjourned and for the defence to commence proceedings in the High Court for a declaration that continuing the prosecution would amount to an abuse of the process.

4. Letter to Admin Court, 30th December 2008

Ref no: CO: 10629/2008

Edwin Stratton
369a High Road
Leyton
London
E10 5NA

Administrative Court Office
The Royal Courts of Justice
Strand
London
WC2A 2LL

30th December 2008

To the Clerk to the Court:

Re: Edwin Stratton v Waltham Forest Magistrates' Court

Herewith the Claimant's response to the Summary of Grounds contesting permission for Judicial Review submitted by the Crown Prosecution Service.

I request that you file this letter with my bundle and copy to the Honourable Justice considering this case. I have sent a response to the CPS.

I note the fact that the named Defendant to my claim has not filed an acknowledgment of service at all, and that the one submitted by the CPS has been incorrectly completed.

I request that you kindly acknowledge receipt of the enclosed submission, and to provide the name of the judge dealing with this matter.

Yours faithfully

Edwin Stratton

5. Letter to CPS, 30th December 2008

Edwin Stratton
369a High Road,
Leyton
London
E10 5NA

Crown Prosecution Service
Waltham Forest Borough Unit
Chingford Police Station
1st Floor
2 Kings Head Hill
Chingford

Re: Edwin Stratton v Waltham Forest Magistrates' Court

Ref No: Claim CO: 10629/2008

30th December 2008

Dear Mr Salmon:

I acknowledge receipt of your letter, counsel's submission, and document pertaining to be an acknowledgement of service from the Defendant dated 18 December 2008.

Response by Claimant:

Please explain why you have identified yourselves as the Defendant in this matter and the Waltham Forest Magistrates Court as the Interested Party.

Please read my enclosed submission to the court responding to your submissions contesting my application for permission for judicial review.

I am expectant of a full examination of this claim.

Finally, your prosecutor S. Abigail has agreed to adjourn for one month at the next hearing dated ...for the criminal proceedings, perhaps we might agree a more realistic period of grace given the propensity of the High Court to suffer from delays caused by heavy workloads?

Yours truly,

Edwin Stratton

6. Judge's Order Refusing Permission, 5th March 2009



In the High Court of Justice
Queen's Bench Division
Administrative Court

CO Ref: CO/10629/2008

In the matter of an application for Judicial Review

The Queen on the application of

EDWIN STRATTON

versus

CROWN PROSECUTION SERVICE

**Application for permission to apply for Judicial Review
NOTIFICATION of the Judge's decision (CPR Part 54.11, 54.12)**

Following consideration of the documents lodged by the Claimant and the Acknowledgement of service filed by the Defendant

Order by Mr John Howell QC (sitting as a Deputy High Court Judge)

Permission is hereby refused.

Observations:

1. Although judicial review of a decision to prosecute is available in principle, it is a highly exceptional remedy requiring a claim to be based on dishonesty, mala fides or other exceptional circumstances: per Lord Bingham of Cornhill *Sharma v Deputy DPP* [2006] UKPC 57 at [14(5)]. It is not in the public interest that criminal proceedings should be delayed by applications for judicial review. The Magistrates Court has power to consider any application that a prosecution is an abuse of the process of that court: see *R v Horseferry Rd Magistrates Court ex p Bennett* [1994] 1 AC 42. There are no exceptional circumstances justifying the grant of permission to impugn the decision to prosecute the Claimant.
2. If and insofar as the Claimant may be complaining about a failure to make an order under section 2 of the Misuse of Drugs Act 1971 which removes Cannabis from Schedule 2 to that Act, any such complaint is irrelevant to the decision to prosecute which he seeks to impugn in this claim. Further the offence with which the Claimant is charged, namely being concerned in the production of a controlled drug by another contrary to section 4(2)(b) of the Misuse of Drugs Act 1971, is an offence which relates to any substance or product for the time being specified in Schedule 2: see the definition of 'controlled drug' in section 2(1) of the 1971 Act. Whether or not cannabis should have been specified in that schedule, it unarguably was. Whether the offence charged is committed if a substance is for the time being specified in Schedule 2 but it could be established that it should have been removed is a matter for the Magistrates Court to determine.

05 MAR 2009 Signed *John Howell*

Where permission to apply has been granted, claimants and their legal advisers are reminded of their obligation to reconsider the merits of their application in the light of the defendant's evidence.

Sent / Handed to the claimant, defendant and any interested party / the claimant's, defendant's, and any interested party's solicitors on (date):

Solicitors:
Ref No.

7. Stratton Form 86b Grounds, 10th March 2009

In the High Court of Justice **CO Ref: CO/10629/2008**
Queen's Bench Division
Administrative Court

In the matter of an application for Judicial Review

The Queen on the application of

EDWIN STRATTON

Versus

WALTHAM FOREST MAGISTRATES' COURT

1. Edwin Stratton requests an oral hearing to address the misunderstandings and errors of law evident in the Notification of the judge's decision and Order of Mr John Howell QC dated 05 March 2009.
2. The Court will note that the Defendant to these proceedings is Waltham Forest Magistrates' Court ("WFMC"), and not the Crown Prosecution Service ("CPS") as stated on the Notification of the Judge's decision.
3. This claim seeks to prohibit Stratton's committal for trial at WFMC. The claimant does not seek a Judicial Review of the CPS's decision to charge him. This decision is acknowledged to be their duty under law (being at all times subject to the administration of government). The case of *Sharma v Deputy DPP* [2006] UKPC 57 is thus irrelevant.
4. The second paragraph to the observations on the Notification of the Judges Decision refusing permission is thus also incorrect. The claim alleges an Abuse of Power by Her Majesty's Government in the administration of the Misuse of Drugs Act 1971 c.38 ("the Act") on the grounds of illegality, irrationality and unfairness. *Cf R v. Horseferry Road Magistrates' Court, ex p. Bennett* [1994] 1 AC 42, where Lord Griffiths explained the rationale in the following passage (at pp.61H-62A):

“If the court is to have the power to interfere with the prosecution in the present circumstances it must be because the judiciary accept a responsibility for the maintenance of the rule of law that embraces a willingness to oversee executive action and to refuse to countenance behaviour that threatens either basic human rights or the rule of law.”

5. Any intended application of (the mal-administered) Act by the Defendant to Stratton would manifest two inequalities of treatment under criminal penalty:
 - i) a failure to treat like cases alike, viz the unequal application of the Act to those concerned with equally harmful drugs (those who produce, manufacture, export, import and distribute alcohol being the analogous comparator) without a rational and objective basis; and
 - ii) a failure to treat unlike cases differently, viz the failure to treat those who use controlled drugs peacefully as a different class from those who do not.
6. These two inequalities of treatment constitute deprivation of liberty at common law and discrimination contrary to Art 14 of the Human Rights Act 1998 within the ambit of Arts 5, 8, 9 and Protocol 1 Article 1 on the grounds of property and legal status.
7. Government unconsciously admitted abusing the Act's powers, and the inequalities of treatment in Command Paper 6941 whilst defending the actions on subjective and / or incoherent grounds not rationally connected to the Act's policy and / or objects.¹
8. Scrutiny of governments admission reveals that the abuse and the resultant inequality of treatment occurs because: (1) Parliament has not stated an explicit policy or fixed any triggering circumstances to guide the Secretary of State for the Home Department ("SSHD") in exercising his s.2(5) of the Act, which instigates the control of a drug; (2) Government has fettered the SSHD to an overly-rigid and predetermined policy; (3) the SSHD has failed to understand and give effect to the Act's and objects; and (4) the SSHD has arbitrarily exercised s2(5) and the incidental discretionary powers.²
9. Whilst the factual circumstances concerning the accused and the alleged offence are unexceptional, his claim is wholly exceptional in that it identifies 'unconscionable conduct' by the executive that makes a fair trial impossible. It is submitted to be in the public interest to examine the issues fully; anxious scrutiny is hereby requested (*R V SSHD, ex p. Bugdaycay* [1987] AC 514 at 537H).
10. The correct jurisdiction for the adjudication of this matter is this honourable court, not WFMC; *Cf R v. Horseferry Road Magistrates' Court, ex p. Bennett* [1994] 1 AC 42, Lord Griffiths said:

"I would accordingly affirm the power of the magistrates, whether sitting as committing justices or exercising their summary jurisdiction,

to exercise control over their proceedings through an abuse of process jurisdiction. However, in the case of magistrates this power should be strictly confined to matters directly affecting the fairness of the trial of the particular accused with whom they are dealing, such as delay or unfair manipulation of court procedures.”

Many issues within this application for an oral hearing were previously dealt with by the Claimant’s response of 30 December 2008 to the CPS application opposing the application *and* explained in the Claimant’s reply to David Hargreaves (Administrative Court Lawyer) dated 5th January 2009. The claimant requests that this court now grant permission to proceed.

1. The Government Reply To The Fifth Report From The House Of Commons Science And Technology Committee Session 2005-06 HC 1031 Drug classification: making a hash of it? October 13th 2006 p.24.

2. *Cf. Padfield v Minister of Agriculture, Fisheries and Food* [1968] AC 997 at 1030-1034.

8. McKenzie Friend Email to High Court, 8th May 2009

From: Darryl Bickler [mailto:darryl@drugequality.org]
Sent: 08 May 2009 15:00
To: Hargreaves, David
Subject: Re: Edwin Stratton [CO/10629/2008]

Dear Mr Hargreaves

We now have the date of the oral hearing (1 July 2009).

Could I please ask you to provide me with the allocated Judge's details, so that I might make the appropriate McKenzie friend application?

Secondly, given that counsel for the interested party appears to already have been instructed in respect of this hearing, would you kindly now address the issue previously raised concerning acknowledgment of service (reproduced below)?

"The issue is that the substantive claim was issued on November 5th last year, with the proviso that a finalised version with supporting documentation would be served within 28 days (which it was on 2 December). The CPS Acknowledgement of Service is dated December 18th and arrived, I believe on 21st December. Whilst this was within 21 days of the final papers, ought they have acknowledged service earlier? Another issue arising in respect of this query is that the CPS identified the parties to the action incorrectly (stating themselves to be the defendant as opposed to correctly identifying themselves as the interested party, and then Waltham Forest Magistrates' Court mistakenly said to be the interested party, when in fact they are the defendant) - this has caused much confusion in the preliminary matters concerned with this case. The defendant (The Magistrates' Court) have not acknowledged at all.

If this is a matter you are able to advise on, please may I ask; do you consider that the parties have fulfilled their acknowledgement of service obligations? "

Yours sincerely

Darryl Bickler

9. McKenzie Friend Email to High Court, 12th May 2009

From: Darryl Bickler darryl@drugequality.org
To: David.Hargreaves@hmcourts-service.x.gsi.gov.uk
Sent: Tue 12/05/09
Subject: Fwd: RE: Edwin Stratton [CO/10629/2008]

Dear Mr Hargreaves

Thank you for your view concerning the acknowledgement of service dates.

I must say that we have attempted to clarify the point about who are the parties to this claim on several occasions; I appreciate that this is an unusual and complex application, and I ask that you look closely at the documents and correspondence, particularly our reply addressing your preliminary concerns that a governmental department ought to be served with the claim documentation, our response to the CPS's submission to contest permission being granted and our response (renewal of the application) to the Order by J. Howell QC of refusal for permission on the papers.

Stratton's challenge is not the decision to prosecute made by the CPS; it is the decision of the magistrates' court to commit the defendant on charges based upon legislation which has been abused by government's mal-administration and abuse of power. If the committal process was allowed to continue, it would constitute an abuse of the court's process, and it is this abuse from which he seeks relief from this Court.

The CPS has incorrectly completed their acknowledgement of service, which with respect appears to have confused everyone except the claimant. In our view it is for the CPS to name any party that they consider ought to be part of these proceedings.

We hope that the basics of this case can soon be agreed. Please do let me know asap which Judge I must to address the submission re McKenzie friend issues to.

Regards

Darryl Bickler

10. Response from David Hargreaves, 12th May 2009

On Tue 12/05/09, "Hargreaves, David" David.Hargreaves@hmcourts-service.x.gsi.gov.uk sent:

Dear Mr Bickler,

Thank you for your email. I am making enquires about the name of the judge and will let you know as soon as possible.

In respect to the second matter the issue is decided by CPR 54.8 and 54.9. Your claim form must be served on the Defendant and Interested Party within 7 days after the date of issue [CPR 54.7]. On the facts a final version together with supporting documents was served on 2nd December 2008. It must be right that the time limits imposed by CPR 54.8 run from the time a properly constituted Claim Form and supporting documents is served. There is a requirement for full disclosure in judicial review which would not be met if a Defendant or Interested Party had to respond to an incomplete claim. I would say that the CPS has correctly responded within the time and may take part at the renewal hearing.

The challenge your client is making is to the decision to prosecute. It is the CPS that has taken that decision not the Magistrates' Court. I would say that they are the Defendant. The Magistrates' Court usually takes a neutral stance because they did not take the decision. They are acting as a forum for the dispute between your client and the CPS.

I hope this assists but please let me know if you have any further questions.

Yours sincerely,

David Hargreaves

Administrative Court Lawyer

Administrative Court Office

11. McKenzie Friend Email to High Court, 12th May 2009

From: Darryl Bickler darryl@drugequality.org
To: David.Hargreaves@hmcourts-service.x.gsi.gov.uk
Sent: Tue 12/05/09 11:18 AM
Subject: Fwd: RE: Edwin Stratton [CO/10629/2008]

Admin Ct 11 May P1.jpg (402.6 Kb) attached 11 May P2.jpg (193.5 Kb) attached

Dear Sirs

I write to inform you that I am concerned about two issues; firstly where court correspondence is addressed to: I have received two letters (the latest enclosed as a scanned copy) addressed to the defendant to these proceedings, namely Waltham Forest Magistrates Court, incorrectly identified to be located at my home address which is in Leeds. My address for correspondence (which I am entitled to by merit of my status as McKenzie friend to the claimant) is Darryl Bickler, Drug Equality Alliance, [REDACTED], which is also copied to Mr Stratton (the claimant to these proceedings) at 369a High Road, Leyton, E10 5NA, Stratton is the defendant to the criminal proceedings which are the subject of the High Court application.

I have written again to Mr Hargreaves this morning in respect of the ongoing confusion as to who are the parties to the proceedings - I state again that:

1. Mr Stratton being the defendant in a criminal matter, whilst remaining a defendant at all times given that the application is to the Queen's Bench Division (Criminal) is the claimant in this matter.
2. Waltham Forest Magistrates' Court who obviously are situated in London are the defendant to the High Court matter (as the claim seeks to prevent them from committing the claimant/defendant for trial).
3. The CPS are the interested party (whom we assume assumes the role of opposing claims of this type).

The second issue is that the oral hearing has been allocated a 30 minute time slot - given the apparent complexity of this issue I would be surprised if any progress could be made in such a short time frame. Clearly progress on the day depends upon the willingness of all parties to closely scrutinise the claim and correspondence submitted in support, and the subsequent intransigence or otherwise of the contesting party to this application.

I seek your advice on this, and I suggest that it may be necessary to ask the allocated Judge what their view is once they have had opportunity to peruse the bundles.

Yours faithfully

Darryl Bickler

12. Leaked notes for the High Court, David Hargreaves, 1st July, 2009

Refused 1/7/09.
LJ Leeson.
2
NR Justice Wilkie

Wednesday, 1st July 2009
Mrs Justice Rafferty

NOTE FOR THE COURT

The Queen on the application of EDWIN STRATTON versus WALTHAM FOREST
MAGISTRATES COURT

CO/10629/2008

Renewed application for permission to apply for judicial review: Lodged 05/11/2008
Criminal Law (General)
Permission refused on 5th March 2009 by John Howell QC [Copy of order enclosed]

The Claimant seeks permission to challenge the decision to prosecute him for an offence of cultivating cannabis.

Facts: The Claimant suffers from a number of medical ailments. To relieve the pain he takes cannabis. This has proved to be effective and so he decided to grow some plants. His premises were searched in May 2008. Cannabis plants were found. Subsequently on 1st October 2008 he was charged with an offence of cultivating cannabis and bailed to attend at Waltham Forest Magistrates' Court on 9th October 2008 [Pink Index Flag].

Claimant's contentions:

The Claimant argues that to prosecute him is an abuse of power. He believes the Misuse of Drugs Act 1971 is being applied to him in an arbitrary and discriminatory manner, and draws a contrast to the lawful activities of otherwise harmful drugs such as alcohol and tobacco.

Defence:

The application is opposed by the Crown Prosecution Service [Acknowledgment of Service dated 18th December 2008]. In essence the Claimant's application is one that should be taken as an abuse of process argument in the magistrates' court/Crown Court not by way of judicial review [I have included a copy of the judgement in *Pepushi v. CPS [2004] EWHC 798 (Admin)* and would respectfully refer the learned judge's attention to paragraphs 45 – 50].

Response to the Defence:

By letter dated 30th December 2008 the Claimant lodged a response to the Summary Grounds [green index flag].

Renewal:

A Notice of Renewal dated 10th March 2009 has been lodged. In that it says that the challenge is not to the decision to prosecute but rather to "prohibit [the Claimant's] committal for trial".

The Claimant will have the assistance of a McKenzie friend, Darryl Bickler [Lord Justice Leveson has previously agreed for Mr Bickler to act and speak on Mr Stratton's behalf]

Counsel for the Interested Party is : Joseph Plowright

David Hargreaves

25/06/2009

Room C323 Ext. 7224

Time estimate: 60 minutes [Lord Justice Leveson has previously agreed to an increased time estimate. He asked me to tell the Claimant that the hearing is a permission hearing and that the judges will have already read the papers; I have done that].