

IN THE LIVERPOOL COUNTY COURT

BETWEEN:

DAVID McCONNELL

Claimant

-and-

THE CHIEF CONSTABLE OF WEST YORKSHIRE POLICE

Defendant

PARTICULARS OF CLAIM

- 1 The Claimant is an evangelical Christian and is a street evangelist preaching in Huddersfield.
- 2 The Defendant is and was at all material times the Chief Officer of Police for the West Yorkshire Police area and is responsible in law for the acts and omissions of police officers in the West Yorkshire Police.
- 3 The Defendant is a public authority within the meaning of section 6 of the Human Rights Act 1998 ('HRA').
- 4 The Claimant is 39 years old and has been street preaching for approximately ten years. The message preaches is the Gospel message from the Bible and is the same as he has always preached. Put simply, the Gospel message is that there is one God and one way to salvation through His son, Jesus Christ. That we are all sinners in need of a Saviour and Jesus came to save sinners through His death and resurrection. This is the same message preached every week in Churches up and down the country. Part of being a Christian is the Scriptural requirement to preach the Gospel.
- 5 On 20 December 2019 at around 1pm the Claimant was preaching in Huddersfield Town Centre close to the Café Nero on King Street for just over an hour during which time he

answered questions from members of the public who had stopped to listen. Some were abusive and heckled him, He remained calm throughout and did his best to answer questions. He also recorded the message he was preaching.

- 6 After he had been preaching for about an hour or so, two police officers approached him and asked him to stop preaching. He confirmed he would, but asked if he could first finish his preaching, which would only take a few more minutes. The officers kindly agreed and the Claimant finished preaching. The message preached was recorded on his own audio device as is his normal practice to do.
- 7 After he had finished, the Claimant told the police officers that he was preaching from the Bible. One of the officers asked for his name and address, which he willingly gave.
- 8 At around 2:30pm the Claimant was arrested and taken into custody. No proper reason was given for the arrest, nor the offence that he had allegedly committed, save that one of the officers said: “when you get to custody we’ll explain why you are arrested”. The other officer said it was for “a hate related public order offence” and “for preaching on gay rights and abortion”.
- 9 He was escorted to a waiting police van. Our client was dismayed and upset that he could be arrested and treated as a criminal simply for preaching the Gospel. He was driven to Huddersfield police station where he was put into a cell and held there. He was allowed to keep his Bible and hymn book, which meant he could pray and sing hymns. He was cooperative and calm throughout.
- 10 During the time in custody, there was a changeover of police sergeants. A Sergeant Haigh came and asked to listen to the Claimant’s audio device, so they could hear what he had been preaching. The Sergeant listened to the audio and came back and said that no offence had been committed. In all, the Claimant was held in custody for six hours and then released without charge.
- 11 Other than as referred to above, the Claimant was not given any information as to the offence he had allegedly committed.
- 12 By reason of the matters aforesaid the Claimant was deprived of his liberty and suffered loss and damage namely distress, shock, anxiety and injury.

Particulars

- (i) the police officers had no reasonable grounds for suspecting an offence had been committed;
 - (ii) the police officers had no reasonable grounds for believing that that it was necessary to arrest the Claimant;
 - (iii) the police officers failed to speak to the Claimant at the time of the arrest and to ask for his account of what took place;
 - (iv) the police officers failed to consider or properly consider any other less intrusive ways to deal with the incident short of arrest;
 - (v) the police officers had no reasonable grounds for believing the arrest was necessary for the prompt and effective investigation of the alleged offence or for any other reason under section 24 of PACE;
 - (vi) the custody officer failed to determine whether there was sufficient evidence to justify a charge against the Claimant;
 - (vii) the Claimant was detained for an excessive period (over 6 hours) without any good reason.
- 13 Further, by reason of the above facts and matters, the Claimant makes a claim pursuant to section 7(1) (a) of the Human Rights Act 1998 ('HRA') namely the Defendant, and the police officers acting on behalf of the Defendant, acted unlawfully and incompatibly with the Claimant's Convention rights, contrary to section 6(1) of the HRA, in that set out in schedule 1 to the HRA.

Article 5 provides:

1 Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;*
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;*
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;*

(d) *the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;*

(e) *the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;*

(f) *the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.*

2 *Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.*

3 *Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.*

Article 9 provides:

(1) *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*

(2) *Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.*

Article 10 provides:

(1) *Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

(2) *The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others*

14 It is clear from the police officers' actions that they had little or no regard to the Claimant's convention rights and the police officers acted in a way that were incompatible with such rights

Particulars

- (i) The Claimant is entitled to enjoy the Convention rights to liberty and security (Article 5), freedom of religion, which includes the freedom to manifest his religion (Article 9), and freedom of expression, which includes the freedom to impart information and ideas without interference by a public authority. (Article 10) ;
- (ii) The Defendant has failed to respect the Claimant's right to liberty and security, freedom to manifest his religion and freedom to impart information and ideas, in that the conduct on the part of the police officers detailed in paragraphs 6-10 above constituted interference with these Convention rights;
- (iii) The actions and words of the police officers were calculated to have the effect of deterring the Claimant from lawfully expressing his opinion and manifesting his beliefs and to have a chilling effect on the exercise by him of his rights to manifest his beliefs and to freedom of expression;
- (iv) Such interference was neither prescribed by law nor undertaken in pursuit of any legitimate aim set out in Article 5(1) Article 9(2) and Article 10(2) of the Convention;
- (v) Alternatively, if (which is denied) the interference was undertaken in pursuit of a legitimate aim, it was not necessary in a democratic society. The interference with the Claimant's rights to freedom of expression and freedom to manifest his beliefs was disproportionate in all the circumstances. In particular, the Defendant and the police officers failed to balance the Claimant's rights to freedom of expression and freedom to manifest his beliefs against the aim pursued.

15 By reason of the above facts and matters, the Claimant has suffered loss and damage, namely distress, shock, anxiety and injury.

Particulars

- (i) The Claimant repeats the Particulars in paragraph 12 above
- (ii) The Claimant was left, by virtue of the actions of the police officers with the (false) impression that he could not manifest his religious beliefs or impart to others information and ideas about those beliefs without committing and, indeed, had committed an offence already.

16 Further, the Claimant claims interest on any damages awarded to him pursuant to section 69 of the County Courts Act 1984 at such rate and for such period as the court thinks just.

AND the Claimant claims:

1. A declaration that the arrest and imprisonment was unlawful;
2. A declaration that the Claimant's convention rights have been violated;
3. Compensatory and aggravated damages;
4. Interest as aforesaid, pursuant to section 69 of the County Courts Act 1984;
5. Such other relief as the Court sees fit.

Dated this 15 day of April 2021 by AI Law of 8 water Street Liverpool L2 8TD .

Solicitors for the Claimant.

STATEMENT OF TRUTH

The Claimant believes that the facts stated in this Particulars of Claim are true. The Claimant understands that proceedings for contempt of court may be brought against anyone who makes or causes to make a false statement in a document verified by a statement of truth without an honest belief in its truth.

I am duly authorised by the Claimant to sign this document.

Full Name: Thomas Ellis

Name of Claimant's solicitors:

Signed: *Thomas Ellis* position or office held: Director

Claimant's solicitor