



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF SEAL v. THE UNITED KINGDOM

(Application no. 50330/07)

JUDGMENT

STRASBOURG

7 December 2010

FINAL

11/04/2011

*This judgment has become final under Article 44 § 2 (c) of the Convention.
It may be subject to editorial revision.*

In the case of Seal v. the United Kingdom,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of:

Lech Garlicki, *President*,

Nicolas Bratza,

Ljiljana Mijović,

Päivi Hirvelä,

Ledi Bianku,

Nebojša Vučinić,

Vincent Anthony de Gaetano, *judges*,

and Lawrence Early, *Section Registrar*,

Having deliberated in private on 16 November 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 50330/07) against the United Kingdom of Great Britain and Northern Ireland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a British national, Mr Robert Edward Seal (“the applicant”), on 13 November 2007.

2. The applicant was represented by Fisher Meredith Solicitors, a law firm based in London. The United Kingdom Government (“the Government”) were represented by their Agent, Ms J. Gladstone, of the Foreign and Commonwealth Office.

3. The applicant complained that the decision to strike out his civil claim against the police in respect of alleged assault and false imprisonment deprived him of access to court as guaranteed by Article 6 § 1 of the Convention. He further complained under Article 6 § 1 together with Article 14 that the Mental Health Act 1983 discriminated against litigants seeking to take legal action arising from detention under the compulsory powers contained in that Act.

4. On 13 May 2009 the President of the Chamber decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 1).

5. The Equality and Human Rights Commission was granted leave to intervene in the proceedings as a third party pursuant to Article 36 § 2 of the Convention and Rule 44 § 3 of the Rules of Court.

6. The applicant requested an oral hearing but the Chamber decided not to hold a hearing in the case.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

7. The applicant was born in 1944 and lives in Merthyr Tydfil.

A. The background facts

8. In the early evening of 9 December 1997, the applicant went to visit his mother at her house in Merthyr Tydfil but could not park his car because of obstruction by other vehicles. He went into his mother's house having been unable to alert the owners of other vehicles by sounding his horn. He decided to telephone the police to complain about the obstruction and his mother tried to stop him. At some stage, someone contacted the police and they arrived at the house some minutes later.

9. There is a dispute about what occurred subsequently. The applicant was arrested inside his mother's house for breach of the peace. He disputes that there were lawful grounds for arresting him. He was taken outside the house into the street. The police claimed that at that stage, they intended to take him home but as a result of what happened outside they decided to remove him in accordance with section 136(1) of the Mental Health Act 1983 (“the 1983 Act” – see paragraphs 33-36 below).

10. The applicant was taken to St Tydfil's hospital, less than a mile away from his mother's home, where he was detained pursuant to section 136(2) of the 1983 Act and, subsequently, section 2 of the 1983 Act until 18 December 1997, when his release was ordered by a mental health review tribunal.

B. The domestic proceedings

11. On 5 August 2003, the applicant's then solicitors wrote to the police claiming damages on the basis that there was no justification for the applicant's detention under section 136.

12. On 8 December 2003, the eve of the expiry of the relevant limitation period (see paragraph 37 below), the applicant (who was by then no longer legally represented) issued proceedings in the County Court seeking damages from the Chief Constable of South Wales Police for “trespass, assault, wrongful arrest, misuse of police powers, misuse of section 136 of the 1983 Act, falsehood and personal injuries sustained” as a result of the events of 9 December 1997. His particulars of claim indicated that:

“At the time of the incident on 9/12/97 at my mother's house the police at no time inform[ed] me of any arrest or that I was to be detained pursuant to Section 136 of the Mental Health Act, 1983. I am aware that the police can only use Section 136 to

detain persons found in public places provided that the person to be detained appears to the police constable to have a mental disorder and to be in immediate need of care or control and such that it be necessary to take the person to a place of safety for the protection of the person detained or for the protection of others. At no stage did the police find me in a public place, on the contrary I was taken from a private dwelling by the police to a public place and at no time could my conduct be construed or considered as that of a mentally-disordered person. Therefore the use of Section 136 of the Mental Health Act was unlawful.”

13. Under section 139(2) of the 1983 Act, the leave of the High Court was required prior to the commencement of any claim relating to the exercise of powers under that Act (see paragraph 34 below). The applicant failed to seek High Court leave before commencing his claim.

14. On 4 May 2004, the respondent filed both a defence to the claim on the grounds of section 139(1) of the 1983 Act (see paragraph 34 below) relying on the absence of allegations of bad faith or failure to take reasonable care and an application for the claim to be struck out on the grounds that leave from the High Court, as required under section 139(2), had not been obtained prior to the proceedings being brought. The respondent further argued that the claims in defamation and falsehood were time-barred pursuant to section 4A of the Limitation Act 1980 (“the 1980 Act” – see paragraph 38 below).

15. On 5 July 2004, the County Court ordered that the claim be struck out on the basis that the proceedings were a nullity as leave had not been granted by the High Court. The claim in defamation and malicious falsehood was struck out by consent as the relevant limitation period had expired in respect of such claims.

16. On 27 August 2004, permission to appeal the decision to strike out the claim was granted.

17. On 18 October 2004, the Circuit Judge varied the order of the County Court. He reinstated the claim insofar as it related to events which took place before the applicant was detained and removed under the 1983 Act. In relation to the applicant's complaints regarding his detention under the 1983 Act, however, the Circuit Judge dismissed the applicant's appeal, finding the legal proceedings in that regard to be a nullity as a result of the failure to obtain prior leave.

18. In handing down his judgment, he noted:

“I did consider at one stage whether it would be open to Mr. Seal simply to make an application to the High Court for the permission required by section 139 of the Mental Health Act and then simply apply under the provisions of the [Civil Procedure Rules] ... to add the further claim. However, the defendant will raise the Limitation Act defence.”

19. The applicant was granted leave to appeal to the Court of Appeal.

20. Before the Court of Appeal, the applicant argued that the Circuit Judge should have reinstated the whole claim and should have granted a stay in relation to that part of the complaint relating to the removal and

detention under the 1983 Act until the necessary leave had been obtained. On 19 May 2005, the Court of Appeal dismissed the applicant's appeal. Leave to appeal to the House of Lords was granted.

21. The argument before the House of Lords focussed on the consequences in terms of section 139(2) of the 1983 Act of bringing proceedings without prior leave from the High Court. The respondent argued that such a failure rendered the proceedings a nullity. The applicant, on the other hand, argued that lack of leave was a procedural irregularity which could be corrected.

22. On 4 July 2007, the House of Lords handed down its judgment and, by a majority of three to two, dismissed the applicant's appeal.

23. Lord Bingham of Cornhill, of the majority, considered the applicant's argument that section 139(2) infringed his right of access to court but concluded that this was not an argument that he could accept. He noted (at paragraph 20):

“The European Court has accepted that the right of access to the court is not absolute, but may be subject to limitations: *Ashingdane v United Kingdom* (1985) 7 EHRR 528, para 57. The protection of those responsible for the care of mental patients from being harassed by litigation has been accepted as a legitimate objective: *ibid*, para 58; *M v United Kingdom* (1987) 52 DR 269, 270. What matters (*Ashingdane*, para 57) is that the limitations applied must not restrict or reduce the access left to the individual in such a way or to such an extent as to impair the very essence of the right. But the threshold for obtaining leave under section 139(2) has been set at a very unexacting level: *Winch v Jones* [1986] QB 296. An applicant with an arguable case will be granted leave. Mr Seal's undoing lay not in his failure to obtain leave which he should have had but in his failure to proceed within the generous time limit allowed by the 1980 Act, which would not itself fall foul of article 6: *Stubbings v United Kingdom* (1996) 23 EHRR 213.”

24. Similarly, Lord Brown of Eaton-under-Heywood considered that Parliament had made it clear under section 139 that relevant proceedings brought without leave were a nullity.

“73. It seems to me quite evident from the legislative history of this provision that from 1930 onwards Parliament intended to make leave a precondition of any effective proceedings. Unlike the position prior to 1930, the prospective defendant was not to be required to take any action whatever with regard to a proposed claim unless and until it was sanctioned by a High Court judge. Absent such leave, albeit he might be notified of a claimant's proposal to proceed against him, he was not to be troubled by such proceedings. The very inflexibility of the provision was an integral part of the protection it afforded. If, however, the [applicant's] approach were to be adopted, inevitably (unless by chance the court took the point of its own motion) the defendant himself would be drawn into the litigation.

74. ... I repeat, the requirement for leave here was to safeguard prospective defendants from being faced with proceedings (which might not be sufficiently meritorious to deserve leave) unless and until a High Court judge thought it appropriate that they be issued. And that is not a protection that can be secured save by a clear and inflexible rule such as section 139(2) (and its legislative predecessors) have always hitherto been understood to provide. Just such a rule applies in respect of

those adjudged vexatious litigants under section 42 of the Supreme Court Act 1981 and Parliament clearly intended to achieve the same result under the Mental Health Act legislation. Whether or not such protection is necessary or desirable is, of course, open to question and has, indeed, been extensively debated over recent years. But your Lordships' task is not to decide whether it is desirable but whether presently the legislation confers it."

25. As to the Article 6 argument advanced by the applicant, Lord Brown said (at paragraph 75):

"To suggest that the approach hitherto adopted to section 139(2) involves a violation of article 6 of the European Convention on Human Rights seems to me fanciful. Such an approach cannot sensibly be seen (as Baroness Hale suggests) 'to brand every person who is or has been subject to the compulsory powers in the Mental Health Act as a potential vexatious litigant'. Nor can it be seen to have 'an effect out of all proportion to the aim which it is attempting to pursue.' Of course, in a rare case (perhaps such as this one) a combination of circumstances—ignorance of the law (ie of section 139(2)), the delay in the issue of proceedings until the very end of the six year limitation period, and the inflexibility of section 2 of the Limitation Act 1980 itself (assuming the defendant chooses to take the Limitation Act defence) will operate to deprive the prospective claimant of his claim. But that, of course, is equally so in the case of a litigant in person ignorant of the six year limitation period itself. In each case the loss of the claim is the price paid for certainty—just as there is a price to be paid for the established principle (and the assurance it provides) protecting various classes of prospective defendant against claims in negligence ... None of these cases can properly be characterised as a denial of access to the courts contrary to article 6 and it seems to me unsurprising that the point was not even taken in the courts below."

26. Baroness Hale of Richmond, dissenting, noted at the outset of her opinion (at paragraph 38):

"The question is one of statutory construction. Despite the antiquity of this provision, which dates back to the Mental Treatment Act 1930, the question has never arisen directly before. But it concerns a fundamental constitutional right – the right of access to the courts. It also concerns the exercise of that right by a peculiarly vulnerable group of people – people who are or have been the subject of compulsory detention under the Mental Health Act 1983. The courts here – and in Strasbourg – have taken particular care to safeguard the right of prisoners to have access to the courts while acknowledging that imprisonment inevitably imposes some constraints: see particularly *Golder v United Kingdom* (1975) 1 EHRR 524 in Strasbourg and *R v Secretary of State for the Home Department, Ex p Leech* [1994] QB 198; *R v Secretary of State for the Home Department, Ex p Simms* [2000] 2 AC 115; and *R (Daly) v Secretary of State for the Home Department* [2001] UKHL 26; [2001] 2 AC 532 in the United Kingdom. The courts should be no less vigilant to safeguard the rights of mental patients, most of whom have done no wrong and very few of whom are suffering from mental disorders which make them more likely than others to bring vexatious claims."

27. She continued:

"41. I approach the task of construing section 139(2), therefore, on the basis that Parliament, by enacting the procedural requirement to obtain leave, did not intend the result to be that a claimant might be deprived of access to the courts, unless there is express language or necessary implication to the contrary. If there is no express

language, there will be no necessary implication unless the legislative purpose cannot be achieved in any other way. Procedural requirements are there to serve the ends of justice, not to defeat them. It does not serve the ends of justice for a claimant to be deprived of a meritorious claim because of a procedural failure which does no substantial injustice to the defendant.

42. The express words are:

'No civil proceedings shall be brought ... in respect of any such act without the leave of the High Court; ...'

These words say nothing about what is to be the consequence if, through ignorance or error, proceedings are in fact started without leave ..."

...

"49. Nowhere ... is there any discussion of the consequence if proceedings are brought without first obtaining leave. The purpose was and remains the protection of staff. But protection from what? It cannot have been intended or expected that staff would be protected from all knowledge of possible claims. The 1930 Act had expressly required that notice of an application for leave be given to the proposed defendant. Good practice and common courtesy, then as now, would require that they be informed of what was afoot and have the opportunity if they so desired to resist the grant of leave. What staff are protected from is having to defend a baseless action. Such protection is not undermined if an action is, whether through ignorance or inadvertence, begun without leave and the defendant takes the point or the court takes it of its own motion. The burden is still on the claimant to establish that the case should go further."

28. She concluded (at paragraphs 53-54) that:

"If spotted in time, the failure to obtain leave for civil proceedings can readily be put right and without prejudice to the legitimate interests of the defendant. If it is not spotted in time, and the action succeeds, no injustice will be done to the unsuccessful defendant if the judgment is allowed to stand; but a serious injustice will be done to the successful claimant if it has to be set aside, for by then it is not at all unlikely that the action will be statute barred. The fact that leave is required at all may not emerge until a relatively late stage in the proceedings. That a claimant who has suffered a wrong should be deprived of his remedy merely because of a procedural failure which no-one noticed at the time is an affront to justice.

My Lords, I would not interpret section 139(2) so as to achieve such an obviously unjust result unless driven by the statutory language so to do. The statutory language makes it clear that if anyone, including the claimant, appreciates the point, then leave must be obtained. It does not make it clear that if no-one, including the court or the defendant, does so, the proceedings are a nullity. Halfway houses are usually to be preferred to absolute extremes."

29. Considering Article 6 § 1 and the jurisprudence of this Court, Baroness Hale noted:

"57. To be proportionate, a restriction on fundamental rights has first to bear a rational connection with the legitimate aim pursued. To restrict the right of access to the courts of people who have previously abused that right obviously bears a rational

connection with the aim of protecting defendants against vexatious claims. But it is not obviously rational to brand every person who is or has been subject to the compulsory powers in the Mental Health Act as a potential vexatious litigant. There are some compulsory patients who suffer from paranoid delusions; there are some who suffer from psychopathic disorders who may be more inclined than others to make trouble. But the blanket restriction in section 139(2) takes no account of these subtleties. It assumes that everyone who has ever been subject to Mental Health Act compulsion is automatically suspect. This is not only empirically unproven. It certainly cannot be taken for granted when Mental Health Act powers may be exercised by people with no mental health expertise whatsoever. On the one hand, therefore, section 139(2) goes too far. On the other hand, however, it may not go far enough, because it is limited to acts done in pursuance of the Mental Health Act itself. If certain mental patients are *ex hypothesi* vexatious litigants, then people who exercise authority over them otherwise than under the Mental Health Act may also deserve protection.

58. This case is an excellent illustration. The police case is that Mr Seal was first arrested inside his mother's home for a breach of the peace. Having been taken outside he was then detained under section 136(1) of the 1983 Act:

...

Police officers lead difficult and dangerous lives. They have to make snap decisions in complex situations where there is no time for quiet contemplation. They deserve the support of the public, the courts and the law. But it has not been shown why they should need more protection and more support when they remove people to a place of safety under section 136 of the Mental Health Act 1983 than they have when they conduct an ordinary arrest.

59. Even where a rational connection between the end and the means can be shown, the means still have to be proportionate to the ends. There will be cases in which the operation of section 139(2) is proportionate. There will be other cases, quite possibly including this, in which it is not. Blanket provisions, which catch a great many cases in which the restriction is not justified in order to catch the few where it may be, require particularly careful scrutiny. If section 139(2) has the effect that proceedings are always a complete nullity, thus depriving a claimant of a good claim, that is an effect out of all proportion to the aim which it is attempting to pursue. Interpreting the subsection so as to allow the court to cure the defect once detected is a proportionate response."

30. In the applicant's case, she concluded that the appeal should be allowed, noting (at paragraphs 60-61):

"The police may well have an answer to Mr Seal's claim. But their case is not without difficulty. If he was 'removed' under section 136 of the Mental Health Act from his mother's home, he cannot have been 'found in a place to which the public have access'. If he was arrested in her home for a breach of the peace, and then 'removed' under section 136 after they had taken him outside, can it be said that they 'found' him there? (To say otherwise would deprive section 136 of much of its usefulness when an arrested person is later discovered to have a mental disorder.) These are questions which deserve to be addressed at the trial of the claim. By no stretch of the imagination is this vexatious. It may not be worth a great deal of money but that is not the point.

61. Section 139(2) covers a great many people who are neither vexatious litigants nor, by reason of their mental disorder, more likely than the general population to launch vexatious actions. I do not believe that Parliament ever intended that it should operate so as to bar the claims of people who began proceedings in time but did not obtain the High Court's leave in time. Defendants deserve protection from vexatious claims. They do not deserve protection from meritorious claims. But if that was Parliament's intention, it is an irrational and disproportionate interference in the Convention right to access to justice. There is no problem in reading down section 139(2) to cure that because there is nothing there to prevent it. However, the best solution would be to remove the procedural requirement altogether, as proposed in Clause 298 of the Draft Mental Health Bill proposed by the Department of Health in 2004 (2004, Cm 6305-1). The Mental Health Bill currently before Parliament, provides such an opportunity."

31. Also dissenting, Lord Woolf accepted that it was not desirable to leave it until the limitation period had almost expired before bringing proceedings. However, he noted that the applicant was acting in person and considered that he could complain justifiably that if his proceedings were not totally ineffective a judge could take into account all the circumstances of the case, including any culpable delay on his part, before deciding whether to treat the proceedings as a nullity.

32. Following the conclusion of the proceedings in the House of Lords, the applicant did not continue with the remainder of his claim (see paragraphs 12, 15 and 17 above) in the County Court.

II. RELEVANT DOMESTIC LAW

A. Mental Health Act 1983

33. Section 136 of the 1983 Act, as in force at the time of the applicant's arrest and the commencement of the legal proceedings in this case, provided as follows:

"(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of section 135 above.

(2) A person removed to a place of safety under this section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for his treatment or care."

34. Section 139 provided:

"(1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance

of this Act or any regulations or rules made under this Act, or in, or in pursuance of anything done in, the discharge of functions conferred by any other enactment on the authority having jurisdiction under Part VII of this Act, unless the act was done in bad faith or without reasonable care.

(2) No civil proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court; and no criminal proceedings shall be brought against any person in any court in respect of any such act except by or with the consent of the Director of Public Prosecutions.”

35. The relevant provisions of the 1983 Act have undergone amendments since the time of the events to which this application relates which are irrelevant for the present purposes.

36. Section 2 of the 1983 Act allows for detention for the purposes of assessment for up to 28 days.

B. The Limitation Act 1980

37. Section 2 of the Limitation Act 1980 (“the 1980 Act”) provides as follows:

“An action founded on tort shall not be brought after the expiration of six years from the date on which the cause of action accrued”

38. Section 4A establishes a more limited time period for commencing actions for defamation or malicious falsehood and provides that:

“The time limit under section 2 of this Act shall not apply to an action for—

(a) libel or slander, or

(b) slander of title, slander of goods or other malicious falsehood,

but no such action shall be brought after the expiration of one year from the date on which the cause of action accrued.”

39. Section 11 of the 1980 Act provides for a special time limit for actions in respect of personal injuries:

“(1) This section applies to any action for damages for negligence, nuisance or breach of duty ... where the damages claimed by the plaintiff for the negligence, nuisance or breach of duty consist of or include damages in respect of personal injuries to the plaintiff or any other person.

...

(2) None of the time limits given in the preceding provisions of this Act shall apply to an action to which this section applies.

(3) An action to which this section applies shall not be brought after the expiration of the period applicable in accordance with subsection (4) or (5) below.

(4) Except where subsection (5) below applies, the period applicable is three years from—

(a) the date on which the cause of action accrued; or

(b) the date of knowledge (if later) of the person injured.

...”

40. Section 33 of the Act provides for discretionary disapplication of the time-limit for actions in respect of personal injuries or death:

“(1) If it appears to the court that it would be equitable to allow an action to proceed having regard to the degree to which—

(a) the provisions of section 11 ... of this Act prejudice the plaintiff or any person whom he represents; and

(b) any decision of the court under this subsection would prejudice the defendant or any person whom he represents;

the court may direct that those provisions shall not apply to the action, or shall not apply to any specified cause of action to which the action relates.

...

(3) In acting under this section the court shall have regard to all the circumstances of the case and in particular to—

(a) the length of, and the reasons for, the delay on the part of the plaintiff;

(b) the extent to which, having regard to the delay, the evidence adduced or likely to be adduced by the plaintiff or the defendant is or is likely to be less cogent than if the action had been brought within the time allowed by section 11 ...;

(c) the conduct of the defendant after the cause of action arose, including the extent (if any) to which he responded to requests reasonably made by the plaintiff for information or inspection for the purpose of ascertaining facts which were or might be relevant to the plaintiff's cause of action against the defendant;

...

(e) the extent to which the plaintiff acted promptly and reasonably once he knew whether or not the act or omission of the defendant, to which the injury was attributable, might be capable at that time of giving rise to an action for damages;

(f) the steps, if any, taken by the plaintiff to obtain medical, legal or other expert advice and the nature of any such advice he may have received.

...”

III. RELEVANT INTERNATIONAL INSTRUMENTS

41. The United Nations Convention on the Rights of Persons with Disabilities, signed by the respondent State on 30 March 2007 and ratified on 8 June 2009, aims to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity (Article 1 of the UN Convention).

42. Article 12 provides for equal recognition before the law and stipulates:

“1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.”

43. Article 13 contains provisions on access to justice and provides, in so far as relevant:

“1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

44. The applicant complained that the decision to strike out his civil claim against the police in respect of assault and false imprisonment deprived him of access to court as guaranteed by Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ...”

45. The Government contested that argument.

A. Admissibility

1. The parties' submissions

a. The Government

46. The Government argued that the applicant had failed to exhaust domestic remedies for three reasons.

47. First, they emphasised that the applicant had failed to continue with his substantive claim in respect of false imprisonment and assault (see paragraph 32 above). Only the part of the applicant's claim relating to his removal to a place of safety under section 136 of the 1983 Act was struck out (see paragraph 17 above) and there was nothing to prevent the applicant from continuing with the remaining part of the claim and securing access to court in the context of proceedings at which the substance of his complaints regarding the behaviour of the police officers could have been considered.

48. Second, the Government contended that once his case has been struck out for failure to obtain leave, the applicant ought to have made an application for leave from the High Court to bring a new claim. There was nothing to prevent him from doing so. The Government pointed out that the applicant did not allege that he was unaware of the requirement to seek leave and in any case, given that he had previously benefitted from legal advice (see paragraph 11 above), this was a matter which fell within the responsibility of his lawyers, against whom the applicant had a right of redress.

49. Third, as to the applicant's contention that he could not seek leave because any new claim would be out of time under section 2 of the Limitation Act 1980, the Government argued that if a new claim were brought, it would be for the Chief Constable to raise a limitation defence. If the defence was not raised, the claim could proceed. To the extent that the

intended claim was for personal injury, the applicant might have been able to argue that the court should disapply the limitation period for personal injury claims in section 11, pursuant to section 33 of the Act (see paragraphs 39-40 above). The applicant would thus have been able to bring his claim, even though it was out of time.

b. The applicant

50. The applicant noted at the outset that the possibility of applying for leave after the expiry of the relevant limitation period, on the basis that either the defendant would not raise a limitation defence or that the court would use its discretion to extend the period in the case of a personal injury claim, would not have been in exercise of a right.

51. Second, the applicant argued that the course of action suggested by the Government was not a real possibility. The defendant in the domestic proceedings had made it clear that he wished to prevent the applicant from bringing his claim in court and that he would rely on the Limitation Act defence. Indeed, the defendant had successfully relied on the 1980 Act in respect of the applicant's defamation and malicious falsehood claims, for which a shorter limitation period applied (see paragraph 15 above). Further, the domestic courts had proceeded on the basis that the defendant would rely on the 1980 Act and the Circuit Judge had expressly considered whether it would be open to the applicant to make an application for leave and had concluded that the defendant would raise the limitation defence (see paragraph 18 above). The applicant therefore argued that it was entirely unrealistic to suggest that the defendant might not have raised the limitation defence.

52. The applicant further pointed out that as regards the possibility of the court waiving the limitation period in respect of any claim for personal injury under sections 11 and 33 of the 1980 Act, this was clearly not possible as regards his claim for false imprisonment.

2. The Court's assessment

a. General principles

53. The Court reiterates that it is primordial that the machinery of protection established by the Convention is subsidiary to the national systems safeguarding human rights. This Court is concerned with the supervision of the implementation by Contracting States of their obligations under the Convention. It cannot, and must not, usurp the role of Contracting States whose responsibility it is to ensure that the fundamental rights and freedoms enshrined therein are respected and protected on a domestic level. The rule of exhaustion of domestic remedies is therefore an indispensable part of the functioning of this system of protection. States are dispensed

from answering before an international body for their acts before they have had an opportunity to put matters right through their own legal system and those who wish to invoke the supervisory jurisdiction of the Court as concerns complaints against a State are thus obliged to use first the remedies provided by the national legal system (see *Akdivar and Others v. Turkey*, 16 September 1996, § 65, *Reports of Judgments and Decisions* 1996-IV; and *Demopoulos and Others v. Turkey* (dec.) [G.C.], nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04, § 69, 1 March 2010).

54. As stipulated in its *Akdivar* judgment (cited above, §§ 66-67), normal recourse should be had by an applicant to remedies which are available and sufficient to afford redress in respect of the breaches alleged. The existence of the remedies in question must be sufficiently certain not only in theory but in practice, failing which they will lack the requisite accessibility and effectiveness. Further, the complaints intended to be made before this Court should have been made to the appropriate domestic body, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law, and any procedural means that might prevent a breach of the Convention should have been used. However, there is no obligation to have recourse to remedies which are inadequate or ineffective.

55. As the Court also held in *Akdivar* (cited above, § 68), in the area of the exhaustion of domestic remedies there is a distribution of the burden of proof. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one available in theory and in practice at the relevant time, that is to say, that it was accessible, was one which was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success (see also *Kennedy v. the United Kingdom*, no. 26839/05, § 109, 18 May 2010). However, once this burden of proof has been satisfied it falls to the applicant to establish that the remedy advanced by the Government was in fact exhausted or was for some reason inadequate and ineffective in the particular circumstances of the case or that there existed special circumstances absolving him or her from the requirement.

56. Finally, the Court has emphasised that the application of the rule must make due allowance for the fact that it is being applied in the context of machinery for the protection of human rights that the Contracting Parties have agreed to set up and that it must therefore be applied with some degree of flexibility and without excessive formalism (see *Akdivar*, cited above, § 69).

b. Application of the general principles to the facts of the case

57. As to the Government's submission that the applicant had failed to continue with the remainder of his claim and had therefore failed to exhaust

domestic remedies, the Court notes that the applicant's complaint before this Court is that he was prevented from seeking damages from the police for his detention under section 136 of the 1983 Act. It is clear from the judgments of the domestic courts that this part of his claim was struck out by the County Court and was not reinstated. Indeed, the Government do not dispute this. The applicant's actions in respect of the remainder of his claim, although to be weighed in the balance when addressing the issue of proportionality (see paragraph 81 below), are of no relevance to the question whether he has exhausted domestic remedies in respect of the present application.

58. The Court further finds unconvincing the Government's argument that following the House of Lords judgment confirming that his claim under the 1983 Act was a nullity, the applicant could have sought leave from the High Court as required by section 139(2) of the 1983 Act and recommenced his claim, notwithstanding the fact that the relevant limitation period had expired. First, the Court considers it highly improbable that, having successfully applied to strike out part of the claim on the basis that the limitation period had expired (see paragraph 15 above), the defendant in the domestic proceedings would nonetheless not have raised the Limitation Act defence in subsequent proceedings regarding the remainder of the claim. In this regard, it observes that the domestic courts appear to have operated on the assumption that if the proceedings were held to be a nullity, the applicant would be without further recourse in respect of this part of his claim (see paragraph 18 and generally the opinions handed down in the House of Lords at paragraphs 23-31 above).

59. As to the suggestion that the relevant limitation period could have been extended pursuant to section 33 of the 1980 Act, the Court observes that this section provides discretion to disapply the limitation period only in respect of claims for personal injury (see paragraph 40 above). The applicant does not indicate that his was a personal injury claim and the domestic courts did not proceed on the basis that the claim was one for personal injury.

60. Finally, the Court notes that the Government did not submit that the Chief Constable had argued before the Court of Appeal or before the House of Lords, both of which examined the applicant's Article 6 complaint, that the applicant could have sought to pursue his proceedings through the various options outlined above.

61. In the circumstances, the Court considers that the applicant has exhausted domestic remedies in respect of his complaint under Article 6 § 1. The Government's objection is therefore dismissed. The Court further notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention, nor is it inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

a. The applicant

62. The applicant argued that the very essence of his right to a fair hearing had been denied as at no stage had the merits of his claim against the police been heard.

63. The applicant emphasised that while the Government denied that the legislation was based on the assumption that the mentally ill were likely to bring groundless litigation, they did not explain why those working in this field were more at risk of malicious, unmeritorious or baseless claims, a matter which was also considered unsatisfactory by Baroness Hale (see paragraph 29 above). A distinction could be drawn between cases such as the applicant's and cases involving vexatious litigants, where a fear of a greater than usual risk of unmeritorious claims was clearly established. Furthermore, a vexatious litigants order was both tailored to the specific individual and made only after a claimant had brought a number of claims which were totally without merit. Under the 1983 Act, a blanket restriction was imposed on all potential claimants even where there was no history of unmeritorious claims.

64. Even if there were a greater risk of unjustified litigation in cases concerning powers under the 1983 Act, the restriction imposed was both excessive and ineffective. It was excessive because a stay of proceedings would provide as much protection to defendants as the annulment of the proceedings but would be less severe on claimants. It was ineffective because the anxiety and distress to mental health staff occasioned by an application for leave was likely to be just as great as that occasioned by the valid initiation of the proceedings after leave had been granted.

b. The Government

65. The Government argued that section 139(2) of the 1983 Act did not remove the right of access to court. Rather, it imposed a mechanism for securing access. The requirement to obtain leave was not burdensome, no particular formality was required and the threshold for securing leave was low. The effect of the leave mechanism was to obtain an early opinion of a High Court judge on the merits of the claim, thus saving the claimant from potentially lengthy litigation that would be doomed to fail where leave was refused, or encouraging early settlement of the claim in the applicant's favour where leave was granted.

66. The Government further pointed out that the applicant had an unfettered right of access to the High Court to seek leave. If leave had been granted, he would have been permitted to litigate his claim. In the

circumstances, the Government contended, the applicant's complaint was not about the leave procedure but about the applicable limitation period. The Government denied that the limitation period limited the applicant's right to court in any way, referring to the Court's finding in *Stubbings and Others v. the United Kingdom*, 22 October 1996, §§ 55-57, *Reports* 1996-IV that section 2 of the Limitation Act was entirely compatible with the Convention. In the applicant's case, his problem arose as a result of the interaction of section 2 of the 1980 Act and section 139(2) of the 1983 Act. The reason for the interaction was that, despite the fact that the applicant had had legal advice and the potential availability of public funding to bring a claim, he had waited for almost six years before bringing a claim and failed to seek prior leave. They noted that the applicant did not suggest that he was unaware of the requirement to obtain leave.

67. The Government argued that even if section 139(2) removed a right of access to court, it did so for a legitimate aim and the means used were proportionate to that aim. The legislation was not based on the assumption that the mentally ill were more likely to bring groundless claims but was intended to afford some measure of protection for individual public servants who sought to act in the best interests of those who could not take care of themselves. In the absence of such protection, there was a risk that those responsible for exercising compulsory powers would adopt detrimentally defensive practices or would avoid making use of the powers due to fear of unmeritorious litigation. The consistent view of Parliament was that some protection was required. The Government further pointed out that the legislation applied to all those seeking to bring proceedings in respect of acts done under the 1983 Act, regardless of whether they had a mental illness.

68. On the specific facts of the applicant's case, the strike-out was proportionate. It related to a very limited part of the applicant's case, namely the removal to a place of safety under section 136 of the 1983 Act. It was not, as the applicant contended, a strike-out of his entire claim for assault and false imprisonment. The Government referred to a number of judgments and decisions of the Convention organs which they contended had found provisions similar to section 139(2) to be compatible with Article 6 (namely *Ashingdane v. the United Kingdom*, 28 May 1985, § 59, Series A no. 93; *Golder v. the United Kingdom*, 21 February 1975, § 95, Series A no. 18; *H. v. the United Kingdom*, no. 11559/85, Commission decision of 2 December 1985, Decisions and Reports (DR) 45, p. 281; and *G.M. v. the United Kingdom*, no.12040/86, Commission decision of 4 May 1987, DR 52, p. 269).

69. As to the applicant's assertion that the same end could have been achieved simply by staying the proceedings to allow him to seek leave, the Government responded that if this were permitted, staff would be required to respond to claims to the extent of seeking a stay and would inevitably be

drawn into litigation, thereby incurring the costs and anxiety that litigation would cause (referring to the opinion of Lord Brown at paragraph 24 above). Further, as Lord Brown had noted, Parliament had made a deliberate policy decision that the consequence of not obtaining leave should be that no proceedings could be brought (see paragraph 24 above) and the Government contended that this decision fell within the margin of appreciation afforded to the domestic legislature.

c. The third party

70. The Equality and Human Rights Commission (“EHRC”) considered that section 139(2) of the 1983 Act erected a substantive barrier which in their view impermissibly restricted the access to court required by Article 6 of the Convention. In the EHRC's submission, section 139(2) created two hurdles: first, prior leave from the High Court was required and failure to obtain it rendered the proceedings a nullity; second, where the limitation period had expired by the time the procedural error came to light, the claimant could not issue fresh proceedings with a view to obtaining leave. Relying on Baroness Hale's opinion in the House of Lords, the EHRC argued that this restriction on access to court was neither justified nor proportionate, given that there was no evidence that those subject to compulsory powers under the 1983 Act were or would be vexatious litigants.

71. The EHRC noted the Government's submission that section 139(2) was not based on the assumption that those wishing to challenge the exercise of powers under the 1983 Act were of unsound mind. However, referring to Baroness Hale's opinion (see paragraphs 29-30 above), they argued that despite appearances, in practice concerns about the unmeritorious nature of claims by those suffering mental disabilities underlay the more stringent access requirement.

72. As to the rationale advanced by the Government for the restriction on access to court, namely the need to protect individual public servants who exercise powers under the 1983 Act, the EHRC noted that the Government offered no evidence to explain why these particular civil servants needed this additional protection. The EHRC further noted that in a case where the courts considered that a claimant had brought a claim, or was behaving vexatiously, they had existing powers to deal with that problem. These powers were available regardless of whether the person had a mental disorder. There was therefore no need for any additional hurdle and no way section 139(2) could be considered proportionate.

73. Finally, the EHRC referred to the UN Convention on the Rights of Persons with Disabilities (see paragraphs 41-43 above), and in particular to its Article 12 which provides that persons with disabilities have equal recognition before the law. In their view, this reinforced the clear need for any additional hurdles – however low – placed in the way of a disabled

person's access to court to be subject to close scrutiny and to be found justified only on the basis of the clearest of evidence. They concluded that section 139(2) of the 1983 Act did not satisfy this requirement.

2. The Court's assessment

a. General principles

74. The Court reiterates that the right to a fair hearing, as guaranteed by Article 6 § 1 of the Convention, embodies the “right to a court”, one aspect of which is the right of access, that is, the right to institute proceedings before courts in civil matters (see *Golder*, cited above, § 36; *Prince Hans-Adam II of Liechtenstein v. Germany* [GC], no. 42527/98, § 43, ECHR 2001-VIII; and *Roche v. the United Kingdom* [GC], no. 32555/96, § 116, ECHR 2005-X). Thus everyone has the right to have any claim relating to his civil rights and obligations brought before a court or tribunal (see *Fogarty v. the United Kingdom* [GC], no. 37112/97, § 32, ECHR 2001-XI (extracts); and *Cudak v. Lithuania* [GC], no. 15869/02, § 54, ECHR 2010-...).

75. However, the right of access to court is not absolute and may be subject to limitations; these are permitted by implication since the right of access by its very nature calls for regulation by the State. In this respect, the Contracting States enjoy a certain margin of appreciation, although the final decision as to the observance of the Convention's requirements rests with the Court (see *Al-Adsani v. the United Kingdom* [GC], no. 35763/97, § 53, ECHR 2001-XI). It must be satisfied that the limitations applied do not restrict or reduce the access left to the individual in such a way or to such an extent that the very essence of the right is impaired (see *Stubbings and Others*, cited above, § 50). Furthermore, a limitation will not be compatible with Article 6 § 1 if it does not pursue a legitimate aim and if there is not a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see *Ashingdane*, cited above, § 57; *Prince Hans-Adam II of Liechtenstein*, cited above, § 44; *Fogarty*, cited above, § 33; and *Cudak*, cited above, § 55).

b. Application of the general principles to the facts of the present case

76. The Court must first examine whether the restrictions pursued a legitimate aim. As regards the limitation period, the Court in *Stubbings and Others*, cited above, § 56, accepted that the six-year limitation period applied in that case pursued a legitimate aim, namely to provide finality and legal certainty and to prevent stale claims coming to court. The Court sees no reason to depart from its previous finding and therefore concludes that the six-year limitation period in the present case pursued a legitimate aim.

77. As regards the requirement to seek leave from the High Court, the Court notes that a number of Contracting States regulate the right of access to court as regards minors, vexatious litigants, persons of unsound mind and bankrupts (see *G.M. v. the United Kingdom*, cited above; and *H. v. the United Kingdom*, cited above). However, it is not suggested that the applicant falls under any of the above categories. The Court observes that, according to the Government, section 139(2) of the 1983 Act is not directed at limiting the power of individuals to commence any court proceedings whatsoever but at restricting access to court for anyone who wishes to complain about the exercise of powers under the 1983 Act when the claim is manifestly unmeritorious. This explanation is supported by the terms of section 139(2) itself, which make it clear that the requirement to obtain leave applies to all seeking to pursue a claim under the Act, whether of unsound mind or not. The Court is thus satisfied that the provision is aimed at providing an additional layer of protection for those exercising sensitive powers under the 1983 Act and does not assume that all those who are, or have been, subject to the compulsory powers contained in the Mental Health Act 1983 are potential vexatious litigants.

78. The Court recalls that in *Ashingdane*, cited above, it was called upon to examine the predecessor of section 139(2) of the 1983 Act, where the aim of the restriction on access to court was found to be the need to protect individual members of hospital staff responsible for the care of mental patients from unfair harassment through litigation. In that case, the Court concluded that the aim was legitimate (§ 58 of the judgment). In the circumstances of the present case, the Court observes that the protection from litigation afforded by section 139(2) benefitted the police, who were the respondent to the applicant's claim. In principle, it considers that closer scrutiny is required in respect of provisions which restrict access to court in cases alleging an abuse of power by the police. However, the Court notes that the restriction in section 139(2) of the 1983 Act was in the form of an additional procedural requirement before the commencement of a civil claim and did not grant any immunity from civil proceedings. Further, any request for leave was considered by an independent High Court judge and would be granted in the case of a well-founded claim. Given the sensitive nature of the section 136 power, and the difficult and urgent circumstances in which that power is likely to be exercised, the Court considers that the general aim of protecting those who exercise powers under that Act, including the police, by requiring a claimant to demonstrate a *prima facie* case before being permitted to commence a claim, pursued a legitimate aim.

79. It therefore falls to the Court to assess whether in the circumstances of the present case there was a disproportionate limitation on the applicant's right of access to court. The Court recalls that the effect of the application of the relevant legislation in the applicant's case was that his claim against the police regarding misuse of powers under section 136 of the 1983 Act was

struck out at a time when the limitation period for commencing such an action had expired. In this regard, the Court observes, first, that the incident which prompted the applicant's claim occurred in December 1997. However, no steps appear to have been taken by the applicant to seek redress for the alleged abusive behaviour of the police until 5 August 2003, when his solicitors sent a letter to the police (see paragraph 11 above). No explanation has been provided for this delay. The letter itself contended that there was no justification for the applicant's detention under section 136 of the 1983 Act. It was thus clear to the applicant at that time, if not before, that the detention of the applicant in December 1997 had been based on section 136 of the 1983 Act. It should equally have been apparent to the applicant's legal advisers at that time that any subsequent court claim would require the leave of the High Court by virtue of section 139(2) of that same Act. The applicant has not argued before the court that he and his solicitors were unaware of the requirement for leave. Nor has he suggested that there was insufficient time between August 2003 and the expiry of the limitation period in December 2003 for the necessary leave to be sought from the High Court. Indeed, he has offered no explanation for his failure to comply with the requirement to seek leave. Had he sought the prior leave as requested or lodged his claim in sufficient time to rectify the oversight and obtain the necessary leave, the merits of his claim would have been considered.

80. The Court further observes that despite having notified the police of a potential claim on 5 August 2003, the applicant delayed taking steps to lodge his claim until 8 December 2003, some four months later and the eve of the expiry of the limitation period. The Court emphasises that the applicant had received legal advice in respect of his complaint against the police and did not suggest that he was unaware of the applicable limitation period. The Court has previously found that a six-year limitation period in respect of personal injury claims was compatible with the requirements of Article 6 § 1 (*Stubbings and Others*, cited above, §§ 56-57). In the present case, the nature of the incident forming the basis of the claim was apparent at the time and there is no suggestion that the applicant only became aware of a potential claim against the police at a later date (compare and contrast *Stubbings and Others*, cited above, §§ 11 and 17).

81. Finally, the Court notes that the applicant's original claim lodged in the County Court was for “trespass, assault, wrongful arrest, misuse of police powers, misuse of section 136 of the 1983 Act, falsehood and personal injuries sustained” (see paragraph 12 above). Following the decision of the House of Lords, the applicant was not wholly deprived of the opportunity to pursue his claim as only the parts of the claim relating to the exercise of powers under section 136 of the 1983 Act were a nullity and it was open to him to continue with the parts of his claim which had been lodged within the relevant limitation period and which did not relate to the exercise of those powers.

82. In light of the above considerations, the Court is of the view that the applicant's failure to comply with the procedural requirement to obtain leave was entirely attributable to his own conduct and that of his solicitors. While the applicant was not required to lodge his claim any earlier than the date on which the limitation period expired, he must nonetheless bear responsibility for the consequences of his decision to lodge his claim at such a late stage. He has provided no explanation to justify his delay in lodging his claim or his failure to seek prior leave. In the particular circumstances of the present case, the decision to strike out the applicant's claim did not impair the very essence of the applicant's right of access to court and was not disproportionate.

83. Accordingly, taking into account the margin of appreciation afforded to States in regulating the right of access to Court, the Court finds that there has been no violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 14

84. The applicant also complained under Article 6 § 1 of the Convention taken together with Article 14 that the requirement to obtain leave discriminated against those seeking to take legal action in respect of detention under the compulsory powers in the 1983 Act. Article 14 provides that:

“The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

A. Admissibility

85. The Government argued that the applicant had failed to exhaust domestic remedies in respect of his complaint under Article 6 § 1 taken together with Article 14 in that he had not complained before the domestic courts at any level, relying on Article 6 § 1 taken together with Article 14, that the provisions of section 139(2) of the 1983 Act discriminated against litigants seeking to take legal action as a result of detention under the compulsory powers in the 1983 Act. They argued that a domestic complaint to this effect should be regarded as an effective remedy for the purposes of Article 35 § 1.

86. The applicant contested the submission that he had failed to raise his discrimination complaint before the domestic courts. He argued, first, that States had a duty to protect the fundamental rights guaranteed by the Convention regardless of whether those affected had invoked the

Convention; second, that no remedy would have been available in the domestic courts had the applicant expressly cited Article 14; and third, that the substance of the points made to the Court in relation to Article 14 was advanced before the domestic courts.

87. The Court notes at the outset that the applicant pursued his complaints under Article 6 § 1 of the Convention through four tiers of the domestic courts, which gave considered and detailed judgments. In contrast, the issues arising under Article 14 taken in conjunction with Article 6 § 1 have never been raised before the domestic courts (see *Carson and Others v. the United Kingdom* [GC], no. 42184/05, § 59, ECHR 2010-...). The applicant has failed to explain in any detail why he considered that domestic proceedings were effective in respect of his Article 6 § 1 complaint but would be ineffective in respect of his Article 14 complaint.

88. Further, the Court does not consider that the applicant raised his complaints under Article 14 in substance. In this regard it notes that the applicant did not identify any part of the judgments of the domestic courts which could substantiate his claim that a complaint of discriminatory treatment had been made. As noted above (see paragraph 54 above), it is for the applicant to make use of remedies which are available and sufficient to afford redress in respect of the breaches alleged. There was no obligation on the domestic courts in the circumstances of the present case to raise any issue under Article 14 of their own motion.

89. The Court accordingly concludes that the applicant has failed to exhaust domestic remedies in respect of his complaint under Article 6 § 1 taken together with Article 14. This complaint is therefore inadmissible pursuant to Article 35 §§ 1 and 4 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint under Article 6 § 1 taken alone admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 7 December 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Lech Garlicki
President