



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

FOURTH SECTION

DECISION

Application no. 566/10
Richard DUNN against the United Kingdom
and 130 other applications
(see list appended)

The European Court of Human Rights (Fourth Section), sitting on 13 May 2014 as a Chamber composed of:

Ineta Ziemele, *President*,

Päivi Hirvelä,

George Nicolaou,

Ledi Bianku,

Zdravka Kalaydjieva,

Paul Mahoney,

Krzysztof Wojtyczek, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having regard to the above applications lodged on various dates (see Appendix),

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants is set out in the appendix. They were represented before the Court by Taylor & Kelly, a firm of solicitors based in Coatbridge.

A. The circumstances of the case

2. The applicants are convicted prisoners.

1. *The Dunn applicants*

3. Mr Dunn and 18 other applicants lodged their applications between 9 December 2009 and 26 March 2010. They complained that they were

prevented from voting in the following elections: elections to the Scottish Parliament on 3 May 2007; elections to the European Parliament on 4 June 2009; and local government elections. They also noted in their application forms that “elections to the UK Parliament are forthcoming”. Following the lodging of their application forms, no further correspondence was received in respect of the applications.

2. *The Bonnar applicants*

4. Mr Bonnar and 110 other applicants lodged their applications between 17 November 2010 and 12 April 2011. They complained that they were prevented from voting in the following elections: elections to the Scottish Parliament on 3 May 2007; elections to the European Parliament on 4 June 2009; the parliamentary election on 6 May 2010; and local government elections. They also noted in their application forms that “elections to the Scottish Parliament are forthcoming”. Following the lodging of their application forms, no further correspondence was received in respect of the applications.

3. *Mr Hamza*

5. Mr Hamza lodged his application on 27 January 2010. On 18 August 2008 the Electoral Registration Officer had refused to register him on the electoral roll. The decision had been upheld by Aberdeen Sheriff Court on 10 November 2008. Mr Hamza complained about the refusal to register him on the electoral roll for domestic elections and the “forthcoming elections to the European Parliament”.

B. Relevant domestic law and practice

6. For details of the relevant domestic law and practice see the Court’s decision in *McLean and Cole v. the United Kingdom* (dec.), nos. 12626/13 and 2522/12, §§ 5-12, 11 June 2013.

COMPLAINTS

7. The applicants (with the exception of Mr Hamza) complained under Article 3 of Protocol No. 1 to the Convention that they were subject to a blanket ban on voting in elections and had been prevented from voting in a number of elections (see paragraphs 3-4 above).

8. Mr Hamza complained about the refusal to register him on the electoral roll for domestic and EU elections (see paragraph 5 above).

9. Finally, the applicants complained of a violation of Articles 6 and 13 on the grounds that they were refused legal aid to pursue domestic

proceedings in respect of their complaints and that they had no effective remedy to address their complaints under Article 3 of Protocol No. 1.

THE LAW

A. Joinder of the applications

10. Given their similar factual and legal background, the Court decides that the applications should be joined pursuant to Rule 42 § 1 of the Rules of Court.

B. Complaints under Article 3 of Protocol No. 1 by the *Dunn* applicants and the *Bonner* applicants

11. In *McLean and Cole*, cited above, § 24, the Court held that in order for a complaint concerning the right to vote at a particular election to be admissible, it had to be lodged within six months of the election in question.

12. The dates of lodging of the applications in respect of the *Dunn* applicants were after 9 December 2009. The *Dunn* applicants' complaints about the elections to the Scottish Parliament on 3 May 2007 and the European Parliament on 4 June 2009 have therefore been lodged outside the time-period allowed by Article 35 § 1 of the Convention and must be declared inadmissible pursuant to Article 35 § 4.

13. The dates of lodging of the applications in respect of the *Bonner* applicants were after 17 November 2010. The *Bonner* applicants' complaints about the elections to the Scottish Parliament in May 2007, the European Parliament in June 2009 and the United Kingdom Parliament on 6 May 2010 have therefore been lodged outside the time-period allowed by Article 35 § 1 of the Convention and must be declared inadmissible pursuant to Article 35 § 4.

14. In *McLean and Cole*, cited above, § 30, the Court concluded that local government bodies in the United Kingdom did not form part of the "legislature" within the meaning of Article 3 of Protocol No. 1. The *Dunn* and *Bonner* applicants' complaints about their exclusion from local government elections are accordingly incompatible *ratione materiae* with the provisions of the Convention and its Protocols and inadmissible under Article 35 §§ 3 (a) and 4.

15. At the time the *Dunn* applicants lodged their applications, elections to the United Kingdom Parliament were scheduled to take place on 6 May 2010. Although the *Dunn* applicants referred in their application forms to the "forthcoming" elections to the United Kingdom Parliament, they did not articulate clear complaints as regards any potential exclusion from those

elections (see paragraph 3 above). Similarly, at the time the *Bonnar* applicants lodged their applications, elections to the Scottish Parliament were scheduled to take place on 5 May 2011. Although the *Bonnar* applicants referred in their application forms to the “forthcoming” elections to the Scottish Parliament, they did not articulate clear complaints as regards any potential exclusion from those elections (see paragraph 4 above). In these circumstances it is questionable whether any valid complaints about the elections in question have actually been made by the *Dunn* and *Bonnar* applicants.

16. In any event, in their application forms the present applicants gave no details of the dates of their conviction or the lengths of their sentences. It was therefore far from evident that they were expected to be in post-conviction detention on the date of the future elections in question. Even if these details had been provided, other relevant events might have occurred between the lodging of the applications and the date of the election. Such events include release from detention, for example, in accordance with early release provisions or following a successful appeal against conviction or sentence. In more extreme cases, transfer to a psychiatric hospital or even death might intervene to prevent an applicant from suffering any adverse effect from the ban on voting currently applied to prisoners. Although some of the applicants may well have remained in detention and therefore found themselves excluded from voting in the elections concerned, none of the applicants contacted the Court following the date of the election to confirm that this was the case.

17. Satisfaction of the admissibility criteria in Articles 34 and 35 is a prerequisite for consideration of the substantive complaints lodged by applicants. This reflects the subsidiary nature of the Convention system. In its decision of 11 June 2013 in *McLean and Cole*, cited above, § 21, the Court expressly stated that “[a]s the legislation precluding the participation of prisoners in the franchise applies only to prisoners in detention following conviction, any applicant not in post-conviction detention on the date of the relevant election suffered no adverse effect as a result of the legislation”. It warned that if the first applicant in that case was not in post-conviction detention on the dates of the impugned elections, his complaints would be inadmissible on the basis that he could not claim to be a victim of any violation of Article 3 of Protocol No. 1. The applicants in the present case have had ample time even since that decision to supplement their applications by confirming that they were in post-conviction detention on the date of the elections which were “forthcoming” at the time of the lodging of their application forms. However, no such supplementary information has been received.

18. In conclusion, even if the *Dunn* and *Bonnar* applicants are to be taken as having properly complained about elections that had not yet taken place by the date on which they lodged their application forms, they have

failed to adduce the necessary facts to substantiate their complaints. The complaints must therefore be rejected as manifestly ill-founded pursuant to Articles 34 and 35 §§ 3 (a) and 4 of the Convention.

C. Complaints under Article 3 of Protocol No. 1 by Mr Hamza

19. Mr Hamza complained about the refusal to register his name on the electoral roll in 2008 and about his ineligibility to vote in domestic and European Parliamentary elections. Since he lodged his application in January 2010 it is plain that complaints about the 2008 refusal, any previous domestic elections and the June 2009 election were lodged outside the six-month time-limit.

20. In so far as he can be taken to have complained about his exclusion from voting in elections which had not yet occurred by the date on which he lodged his application, his complaint is inadmissible for the general reasons given at paragraphs 16-18 above.

D. Other complaints

21. The applicants also complained under Articles 6 and 13 of the Convention about their access to legal aid and the availability of effective remedies. Having regard to its findings in *Greens and M.T. v. the United Kingdom*, nos. 60041/08 and 60054/08, §§ 39-40, ECHR 2010 (extracts), and *McLean and Cole*, cited above, §§ 39-40, and in the light of all the material in its possession, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

22. It follows that the complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court by a majority

Joins the applications;

Declares the applications inadmissible.

Françoise Elens-Passos
Registrar

Ineta Ziemele
President

No	Application No	Lodged on	Applicant Date of birth Place of residence
1.	7408/09	27/01/2010	Mohammad HAMZA 19/05/1980 Peterhead

The *Dunn* applicants

No	Application No	Lodged on	Applicant Date of birth Place of residence
2.	566/10	09/12/2009	Richard DUNN 12/10/1979 Tullibody
3.	578/10	09/12/2009	Thomas LEE 25/06/1968 Kilmarnock
4.	587/10	09/12/2009	Christopher WARD 17/02/1982 Tullibody
5.	596/10	09/12/2009	Robin JENKINS 20/05/1954 Peterhead
6.	626/10	09/12/2009	Colin SWANSON 25/04/1964 Perth
7.	638/10	09/12/2009	Francis MC VEY 05/04/1935 Dumfries
8.	2005/10	30/12/2009	James THOMSON 11/04/1951 Edinburgh

No	Application No	Lodged on	Applicant Date of birth Place of residence
9.	3448/10	14/01/2010	John KENNEDY 18/01/1970 Dumfries
10.	7829/10	25/01/2010	Alistair FINDLAY 20/05/1959 Dumfries
11.	10264/10	11/02/2010	Darren NICOLL 13/11/1984 Perth
12.	15009/10	05/03/2010	John RUTH 21/07/1983 Peterhead
13.	15010/10	05/03/2010	Kenneth SMITH 04/12/1963 Dumfries
14.	15035/10	05/03/2010	Angus SINCLAIR 07/06/1945 Peterhead
15.	15204/10	03/03/2010	Brian TURNBULL 15/08/1965 Peterhead
16.	15223/10	03/03/2010	George TOWNSLEY 17/09/1954 Dumfries
17.	15246/10	03/03/2010	Alexander David MC CLURE 30/11/1975 Dumfries

No	Application No	Lodged on	Applicant Date of birth Place of residence
18.	15860/10	11/03/2010	Brian HUNTER 20/05/1957 Peterhead
19.	16838/10	18/03/2010	Emile SZULA 27/05/1953 Forfar
20.	18022/10	26/03/2010	Patrick John NICOL 14/08/1981 Dundee

The *Bonnar* applicants

No	Application No	Lodged on	Applicant Date of birth Place of residence
21.	20498/11	25/03/2011	Colin BONNAR 10/02/1979 Shotts
22.	62874/11	30/03/2011	Martin BLACK 09/03/1976 Shotts
23.	62984/11	18/03/2011	Charles BRANNAN 30/09/1969 Shotts
24.	63165/11	29/03/2011	John BROWN 07/10/1971 Edinburgh
25.	63208/11	22/12/2010	Paul BRYCELAND 08/06/1973 Shotts

No	Application No	Lodged on	Applicant Date of birth Place of residence
26.	63469/11	17/11/2010	Gavin BROWN 10/11/1972 Shotts
27.	63498/11	07/02/2011	Trevor BUCK 04/11/1960 Stirling
28.	63911/11	16/01/2011	David CARRUTHERS 10/02/1975 Shotts
29.	63933/11	24/03/2011	Derek CARSWELL 01/12/1966 Kilmarnock
30.	64171/11	28/01/2011	Peter CHEAPE 10/06/1968 Tullibody
31.	64269/11	28/01/2011	James CLARK 09/12/1963 Kilmarnock
32.	64477/11	04/01/2011	John CLARKSON 15/12/1960 Shotts
33.	64609/11	07/02/2011	Kevin CONNOR 25/07/1973 Shotts
34.	64847/11	23/03/2011	Paul CURRAN 26/07/1974 Addiewell

No	Application No	Lodged on	Applicant Date of birth Place of residence
35.	64860/11	24/11/2010	Gary CURRIE 15/02/1971 Bowhouse
36.	65112/11	20/01/2011	Christopher DENCH 07/09/1969 Tullibody
37.	65149/11	29/03/2011	Albert DICKIE 29/05/1948 Peterhead
38.	65165/11	23/03/2011	Gerald DOCHERTY 12/02/1967 West Lothian
39.	65543/11	05/01/2011	Aaron ELDER 18/06/1975 Shotts
40.	65580/11	10/03/2011	Paul FALCONER 10/12/1967 Tullibody
41.	65806/11	21/01/2011	Robert FISHER 18/02/1970 Addiewell
42.	65848/11	19/11/2010	John FORSYTH 09/08/1951 Peterhead
43.	65920/11	29/03/2011	Scott GIBB 09/04/1980 Tullibody

No	Application No	Lodged on	Applicant Date of birth Place of residence
44.	65938/11	23/03/2011	Alan GILLESPIE 26/07/1985 Shotts
45.	66192/11	17/11/2010	George GOATEN 26/11/1981 Kilmarnock
46.	66243/11	24/03/2011	David GORLACH 17/12/1966 Shotts
47.	66263/11	19/01/2011	Patrick GORMAN 09/04/1978 Shotts
48.	66274/11	25/12/2010	Scott GOVAN 13/08/1976 Tullibody
49.	66283/11	10/03/2011	Neil GRAINGER 04/10/1974 Dundee
50.	66480/11	20/01/2011	Ronald GRANT 14/03/1945 Shotts
51.	66535/11	20/12/2010	John GREIG 26/06/1960 Shotts
52.	66549/11	20/12/2010	Gordon GRIEVE 16/04/1951 Peterhead

No	Application No	Lodged on	Applicant Date of birth Place of residence
53.	66573/11	17/01/2011	Terry HADDOW 13/02/1948 Shotts
54.	66834/11	17/01/2011	Ian HARPER 10/08/1966 Shotts
55.	66836/11	29/03/2011	Manzoor HASSAN 25/07/1975 Edinburgh
56.	66863/11	23/03/2011	Kevin HAUGHIAN 15/01/1984 Shotts
57.	67172/11	28/01/2011	Benjamin HOLDING 15/02/1979 Shotts
58.	67200/11	20/11/2010	Stuart HONEST 02/10/1969 Greenock
59.	67249/11	24/03/2011	Daniel HOWIE 06/02/1983 Kilmarnock
60.	67541/11	24/03/2011	Graham IRVINE 05/11/1974 Kilmarnock
61.	67790/11	23/11/2010	Keith JORDAN 22/09/1965 Edinburgh

No	Application No	Lodged on	Applicant Date of birth Place of residence
62.	67822/11	12/04/2011	Joe KEELEY 22/09/1981 Tullibody
63.	67846/11	17/11/2010	Colin KELLY 30/07/1978 Peterhead
64.	67863/11	17/11/2010	James KENNEDY 15/01/1972 Shotts
65.	68072/11	23/03/2011	Kevin KILLORAN 29/02/1968 Shotts
66.	68078/11	23/03/2011	Jason KINNAIRD 15/05/1981 Shotts
67.	68194/11	29/03/2011	Alexander LAUCHLAN 01/05/1976 Kilmarnock
68.	68543/11	11/01/2011	Samuel LOCKE 16/09/1966 Kilmarnock
69.	68551/11	19/01/2011	Steven LOGUE 06/02/1976 Tullibody
70.	68846/11	21/12/2010	Malcolm MACDONALD 13/03/1969 Edinburgh

No	Application No	Lodged on	Applicant Date of birth Place of residence
71.	68873/11	23/11/2010	Gary MACKIE 14/08/1968 Kilmarnock
72.	68877/11	24/03/2011	John MACKIE 10/04/1973 Tullibody
73.	68883/11	28/01/2011	Stuart MAC NAB 08/10/1975 Tullibody
74.	68894/11	23/03/2011	Greig MADDOCK 21/02/1986 Perth
75.	69741/11	10/03/2011	Daniel MC ALPINE 10/11/1978 Shotts
76.	69864/11	24/03/2011	John MC CONNELL 07/02/1970 Tullibody
77.	70104/11	24/03/2011	James MC COLGAN 28/12/1987 Peterhead
78.	70111/11	07/01/2011	Brian MC CREADIE 14/01/1977 Scotland
79.	70140/11	17/01/2011	Darren Andrew MC COLE 02/05/1974 Lanarkshire

No	Application No	Lodged on	Applicant Date of birth Place of residence
80.	70155/11	10/03/2011	Kyle MC CUSKER 27/05/1987 Clackmannanshire
81.	70168/11	12/04/2011	Mike MC CUSKER 01/07/1989 Tullibody
82.	70220/11	23/03/2011	Mark MC GARTLAND 05/06/1984 Shotts
83.	70235/11	17/01/2011	Gary MC GEOWN 14/09/1971 Shotts
84.	70247/11	29/03/2011	Brian MC GLOIN 21/10/1975 Glasgow
85.	70414/11	07/02/2011	Daniel MC GOWAN 09/01/1969 Shotts
86.	70425/11	28/01/2011	Robert MC GREGOR 30/12/1970 Kilmarnock
87.	70478/11	23/03/2011	Ronnie MCKAY 07/09/1962 Shotts
88.	71023/11	30/03/2011	James MC KINNEY 18/11/1978 Kilmarnock

No	Application No	Lodged on	Applicant Date of birth Place of residence
89.	71049/11	01/01/2011	Terence MC MILLAN 01/12/1968 Addiewell
90.	71069/11	28/01/2011	James MC NEILL 25/09/1985 Glasgow
91.	71295/11	23/03/2011	Chris MC SORLEY 06/02/1984 Kilmarnock
92.	71332/11	28/01/2011	Steven Douglas MILLAR 26/04/1964 Tullibody
93.	71346/11	17/11/2010	Christopher MILLER 09/10/1984 Shotts
94.	71375/11	05/01/2011	Robert MILNE 22/11/1967 Addiewell
95.	71599/11	17/11/2010	Leslie MOOHAN 01/12/1982 Shotts
96.	71911/11	29/03/2011	Robert MUIR 21/02/1963 Glasgow
97.	71943/11	28/01/2011	Michael NISBET 03/04/1974 Edinburgh

No	Application No	Lodged on	Applicant Date of birth Place of residence
98.	72669/11	29/03/2011	Peter PATON 08/04/1953 Edinburgh
99.	72685/11	24/03/2011	James PAUL 08/08/1974 Kilmarnock
100.	72705/11	23/03/2011	David PAUL 14/03/1950 Shotts
101.	72791/11	08/03/2011	John PIGGOTT 17/06/1936 Shotts
102.	73004/11	17/03/2011	Gary POLLAND 11/02/1987 Addiewell
103.	73014/11	31/03/2011	James HUGHES 13/03/1984 Tullibody
104.	73028/11	01/04/2011	Kevin SWINDELLS 20/12/1970 Edinburgh
105.	73034/11	31/03/2011	Colin GOURLAY 11/09/1961 Shotts
106.	73041/11	24/03/2011	Paul POLLIN 04/04/1977 Shotts

No	Application No	Lodged on	Applicant Date of birth Place of residence
107.	73085/11	17/01/2011	Paul PRIOR 01/11/1973 Shotts
108.	73386/11	24/03/2011	Brian REDFERN 02/01/1983 Shotts
109.	73692/11	28/01/2011	Ritchie SEDGWICK 26/04/1985 Tullibody
110.	73918/11	24/03/2011	Paul SIMMONDS 04/06/1974 Shotts
111.	73962/11	24/03/2011	Robert SIMPSON 02/02/1949 Tullibody
112.	73993/11	20/12/2010	Ryan SMITH 07/10/1983 Peterhead
113.	74237/11	23/11/2010	Grant STEWART 25/09/1965 Peterhead
114.	74276/11	17/11/2010	Donald STONE 24/09/1984 Lanarkshire
115.	74284/11	23/11/2010	Neil STRACHAN 29/02/1968 Peterhead

No	Application No	Lodged on	Applicant Date of birth Place of residence
116.	74288/11	23/03/2011	John STRUTHERS 15/01/1985 Tullibody
117.	75114/11	01/04/2011	Ian SUTHERLAND 19/08/1970 Tulibody
118.	75333/11	28/01/2011	Steven TAYLOR 13/07/1976 Shotts
119.	75391/11	24/03/2011	Barry THOMSON 07/10/1978 Shotts
120.	75396/11	28/03/2011	David THOMSON 28/06/1987 Kilmarnock
121.	75693/11	18/11/2010	Steven TRAIN 22/12/1955 Peterhead
122.	75742/11	24/03/2011	Brian VENUTI 01/10/1976 Addiewell
123.	76318/11	29/03/2011	Andrew WATT 22/03/1962 Edinburgh
124.	76336/11	28/01/2011	Brian WEBBER 10/08/1966 Kilmarnock

No	Application No	Lodged on	Applicant Date of birth Place of residence
125.	76361/11	07/02/2011	Matthew WELSH 05/08/1975 Shotts
126.	76388/11	28/01/2011	Patrick WHITE 08/11/1980 Shotts
127.	76552/11	23/03/2011	James WILSON 02/01/1955 Kilmarnock
128.	76561/11	05/01/2011	John WILSON 13/04/1961 Tullibody
129.	76569/11	17/01/2011	Taylor WILSON 02/08/1981 Kilmarnock
130.	76576/11	17/11/2010	Simon WISEMAN 15/08/1972 Shotts
131.	76582/11	20/01/2011	Alex WOODSIDE 21/03/1977 Tullibody