

CO/5932/2015

**Neutral Citation Number: [2016] EWHC 2416 (Admin)**  
**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**THE ADMINISTRATIVE COURT**

Royal Courts of Justice  
Strand  
London WC2A 2LL

Friday, 29 April 2016

**B e f o r e:**

**LORD JUSTICE BURNETT**

**MRS JUSTICE CARR**

**Between:**

**THE QUEEN ON THE APPLICATION OF COPP**

**Claimants**

v

**BASILDON CROWN COURT**

**Defendant**

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(Official Shorthand Writers to the Court)

**Mr A Jones QC and Mr T Dyke** appeared on behalf of the **Claimants**  
**Mr J Waddington QC** appeared on behalf of the **Defendant**

J U D G M E N T  
(Approved)  
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1. MRS JUSTICE CARR: introduction
2. This is a renewed application for four Claimants, all members of the Copp family, for permission to apply for judicial review of the decision by the First Defendant, Basildon Crown Court, to issue search warrants and the execution by the Second Defendant, Essex Police, of those warrants by entering and searching various of the Claimants' properties.
3. The 11 warrants in question were all issued on 25 August 2015, save for one which issued on 28 August 2015. 10 were issued under section 8 of the Police and Criminal Evidence Act 1984 ("the Act"). One was issued under Schedule 1 of the Act. The warrants were executed subsequently on six properties on 1 September 2015, on which date all of the Claimants were also arrested. One of the Claimants, Joshua Copp, had in fact previously been arrested in May of last year.
4. Proceedings were issued on 24 November 2015. Following a somewhat protracted procedural history, the claim finally came before Cheema-Grubb J on the papers. She refused permission on 24 March 2016 on the basis that the claim had no prospect of success. The Claimants issued a notice of renewal on 31 March 2016. Permission is now sought on this application by Mr Alun Jones QC, who seeks to pursue five of his seven original grounds.

#### Background

5. The warrants and execution arose in the context of a criminal investigation commenced on 9 February 2015 into three of the Claimants, Geoffrey, Andrew and Joshua Copp, for offences of cheating the Revenue contrary to common law and money laundering contrary to section 329(1) of the Proceeds of Crime Act 2002. The investigation has been known as Operation Green King.
6. 9 February 2015 was the day that a large quantity of photographs were sent to a serving prisoner in HMP Chelmsford showing various individuals, including Joshua Copp, displaying great wealth. Banking evidence linked Joshua Copp's income to payments from two companies, Quality and Premier Services Limited ("QPS") and Central Payroll Specialists Limited ("CPS"). Liaison between the police and Her Majesty's Revenue and Customs ("HMRC") led to allegations that these two companies had under declared VAT to the opportunity of just under £40 million.
7. Geoffrey, Andrew and Joshua Copp were at various times directors or shareholders of these companies. Geoffrey Copp is the father of Joshua Copp and has previous convictions for being an undischarged bankrupt acting as a company director and being concerned in the promotion of management of a company whilst an undischarged bankrupt. It appears that as at today he remains an undischarged bankrupt. Andrew Copp is Geoffrey Copp's brother and so Joshua Copp's uncle. Kathleen Copp, the Fourth Claimant, is Geoffrey Copp's wife and Joshua's mother.
8. CPS was incorporated in February 2012 and registered for VAT. It provided payroll

services to recruitment agencies supplying large numbers of temporary workers to various employers. Its sole officer in the role of director was and remains Geoffrey Copp. He owns 60 shares in the company. Andrew and Joshua Copp own 20 shares each. On 1 August 2014 CPS deregistered for VAT.

9. QPS was incorporated on 10 June 2014 and registered for VAT. On incorporation Geoffrey Copp was named as director, a position which he resigned on 28 January 2015, on which day Joshua and Andrew Copp were appointed directors. Joshua Copp appears to have resigned on the same day, leaving Andrew Copp as sole officer and director. QPS provided the same payroll services to recruitment agencies as had CPS.
10. The sales declared by CPS and QPS amounted to just under £20 million. The actual sale amount was over £250 million. The VAT element declared by CPS and QPS was just under £4 million. The VAT liability on the actual value of sales was over £43 million. CPS and QPS appear, therefore, it is said, to have under declared VAT in the sum of approximately £40 million.
11. In May 2015 a search warrant was issued in the Chelmsford Magistrates' Court in respect of Joshua Copp's property. A note was found on a telephone in his possession which included, so it is said, details about the division of VAT between the three male Claimants. Property was then seized to a minimum value of £1.2 million.

#### The warrants under review

12. The warrants under review were granted by His Honour Judge Black sitting at Basildon Crown Court on 25 August 2015 and on 28 August 2015 by Mr A Curtain, justice of the peace, sitting at Basildon Magistrates' Court. His Honour Judge Black had considerable understanding of the investigation having previously granted production orders and/or account monitoring orders on 9 March, 26 March, 7 July, 15 July and 4 August 2015. He also made restraint orders against Joshua, Andrew and Geoffrey Copp with Kathleen Copp named as a third party.
13. The warrants under challenge are as follows: (A) against QPS and CPS, Unit 1, 5a New Road, Rickmansworth, Hertfordshire. This was the only warrant issued under Schedule 1 of the Act and I will call it "warrant one". (B) Against Andrew Copp at Sunset Dunny Lane, Chipperfield. This I will call "warrant two". (C) Against Andrew Copp at 153 KD Tower, Cotterells, Hemel Hempstead. This I call "warrant three". (D) Against Andrew Copp, 97 KD Tower, Cotterells, Hemel Hempstead. This I call "warrant four." (E) Against Andrew Copp, 5 The Mealings, Hemel Hempstead. This I call "warrant five". (F) Against Andrew Copp, 60 Cardy Road, Hemel Hempstead. This I call "warrant six". (G) Against Geoffrey Copp at 48 Owens Way, Croxley Green. This I call "warrant seven". (H) Against Geoffrey Copp at 55 Lansdowne Road, Stanmore. This I call "warrant eight". (I) Geoffrey Copp, 8 Holland Close, Stanmore. This I call "warrant nine". (J) Against Joshua Copp, 4 Oliver's Lane, Stotfold, Hertfordshire. This I call "warrant ten". (K) Against Joshua Copp at 107 Charlotte Avenue, Stotfold. This I call "warrant eleven".
14. The application for each warrant was supported by and contained detailed written

information as to the financial activities and expenditures of each of Geoffrey, Andrew and Joshua Copp.

15. The warrants were executed only at the addresses identified in warrants one, three, six, eight, nine and ten. The valuation of property now having been seized is said to be in the region of £2.8 million. Warrant one was endorsed on 1 September 2015 by DC Bond. Warrant seven was endorsed on 1 September 2015 by DC White. All the others were endorsed on 3 September 2015 by DC Smith.
16. Geoffrey, Andrew and Joshua Copp are each bailed to attend the police station on Thursday of next week. We are told by Mr James Waddington QC for the Second Defendant that agreement is being reached between the parties to realise the value of some of the property that has been seized. Each Claimant, we are told, is to get a luxury car and a watch. Whatever the outcome of the criminal proceedings may be, there appears to be a recognition that realisation of the value of the property will be needed at some stage to meet the enormous debt to which I have referred.

#### Relevant legislation

17. Section 8 of the Act provides materially as follows:

**"Power of justice of the peace to authorise entry and search of premises.**

(1) If on an application made by a constable a justice of the peace is satisfied that there are reasonable grounds for believing -

(a) that an indictable offence has been committed; and

(b) that there is material on premises mentioned in subsection (1A) below which is likely to be of substantial value (whether by itself or together with other material) to the investigation of the offence; and

(c) that the material is likely to be relevant evidence; and

(d) that it does not consist of or include items subject to legal privilege, excluded material or special procedure material; and

(e) that any of the conditions specified in subsection (3) below applies.

He may issue a warrant authorising a constable to enter and search the premises in relation to each set of premises specified in the application.

The premises referred to in subsection (1)(b) above are -

(a) one or more sets of premises specified in the application (in which case the application is for a "specific premises warrant"); or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which

case the application is for an "all premises warrant").

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied -

(a) that because of the particulars of the offence referred to in paragraph (a) of subsection (1) above, there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph (b) of that subsection; and

(b) that it is not reasonably practicable to specify in the application all the premises which he occupies or controls and which might need to be searched.

(1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which he issues the warrant.

(1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum.

(2) A constable may seize and retain anything for which a search has been authorised under subsection (1) above.

(3) The conditions mentioned in subsection (1)(e) above are -

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;

(c) that entry to the premises will not be granted unless a warrant is produced;

(d) that the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them.

(4) In this Act "relevant evidence", in relation to an offence, means anything that would be admissible in evidence at a trial for the offence.

(5) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

(6) This section applies in relation to a relevant offence (as defined in

section 28D(4) of the Immigration Act 1971) as it applies in relation to an indictable offence.

(7) Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland) shall apply to a warrant issued on the application of an officer of Revenue and Customs under this section by virtue of section 114 below."

18. Section 2(4) of the Act reads:

"A constable need not bring the effect of section 3(7) or (8) below to the attention of the appropriate person if it appears to the constable that it will not be practicable to make the record in section 3(1) below."

19. Section 15(1) of the Act provides:

"This section and section 16 below have effect in relation to the issue to constables under any enactment, including an enactment contained in an Act passed after this Act, of warrants to enter and search premises; and an entry on or search of premises under a warrant is unlawful unless it complies with this section and section 16 below."

20. Section 15(6) of the Act provides:

"A warrant...

(b) shall identify, so far as is practicable, the articles or persons to be sought."

21. Section 16(8) of the Act provides:

"A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued."

22. Finally, section 16(9) and (10) provide:

"(9) A constable executing a warrant shall make an endorsement on it stating -

(a) whether the articles or persons sought were found; and

(b) whether any articles were seized, other than articles which were sought

And, unless the warrant is a warrant specifying one set of premises only, he shall do so separately in respect of each set of premises entered and searched, which he shall in each case state in the endorsement.

(10) A warrant shall be returned to the appropriate person mentioned in

subsection (10A) below -

(a) when it has been executed; or

(b) in the case of a specific premises warrant which has not been executed, or an all premises warrant, or any warrant authorising multiple entries, upon the expiry of the period of three months referred to in subsection (3) above or sooner."

23. The appropriate person mentioned in sub-section 10A is:

"The appropriate person is -

(a) if the warrant was issued by a justice of the peace, the designated officer for the local justice area in which the justice was acting when he issued the warrant;

(b) if it was issued by a judge, the appropriate officer of the court from which he issued it."

#### The renewed grounds of challenge

24. In overview, the Claimants seek to argue that the warrants lack specificity and that there were no reasonable grounds for believing that the items sought were likely to be relevant evidence. They also seek to assert that the warrants have not been endorsed or returned to the court as required and that the scope of the search for and seizure of items was excessive and that the property should be returned. They also seek to contend that the removal of seized items to an auctioneer in Northern Ireland was unlawful and irrational. Mr Jones submits that important questions are raised here given the scale and extent of the seizures carried out.

25. So far as the first ground of challenge is concerned, namely a lack of specificity, Mr Jones relies on the entry in the warrants as follows. The warrants under review permit any police officer, accompanied by any authorised representative of the auctioneer, as well as officers of HMRC to enter premises and seize:

"Financial documentation, vehicles, any documentation or physical exhibit displaying signs of extravagant wealth, mobile telephones and computer equipment all within the curtilage of the premises."

26. It is said that this description does not comply with the requirement of section 15(6)(b) of the Act. Consequently, by virtue of section 15(1), the entries, searches into and consequent seizures are all unlawful. Section 15(6)(b) is a section to be construed strictly. The description of extravagant wealth is far too vague to comply with the requirements. It relies on a wholly subjective assessment of value and as to what is and is not extravagant. The records of the property seized, it is said, demonstrate the vice of the description. Reliance is placed on the concession, so it is said, by the Second Defendant that it is the question of extravagance is to be addressed not only necessarily

by reference to individual items, but also on a cumulative basis.

27. Different and specific attack is also made on the warrant issued under Schedule 1 of the Act. It is said to be far too wide because it authorises seizure of every conceivable piece of documentary information which might be found in an office without limit of time, whether or not related to innocent employees. It is said in the vernacular the warrant entitled the searching authorities to empty the office.
28. As for the second ground, namely that there were no reasonable grounds for believing that the material to be searched for would be "relevant evidence", it is said that in the case of the section 8 warrants there were no reasonable grounds for believing that any financial documentation or any vehicle and so forth seized was likely to be relevant evidence. Section 8 contains an important restriction on the property that can be seized.
29. Equally in relation to the Schedule 1 warrant, it is said there could not be reasonable grounds for believing that all of the material listed would be relevant evidence. The submission is that it can be seen to be clear that the authority's ulterior motive was confiscation.
30. As for ground four, this ground applies to the properties the subject of warrants three, six, eight, nine and ten only. It is said by reference to section 16(8) of the Act that there has here clearly been excessive searching. Reliance is placed on the property seizure sheets so far as legible.
31. So far as ground five is concerned, the Claimants take issue with the factual evidence served on behalf of the Second Defendant to the effect that the warrants were returned to Basildon Crown Court on 3 September 2015. It is said in any event, many of the warrants were endorsed by DC Smith, who could not have been a constable executing the warrants for the purpose of section 16(9) of the Act. Furthermore, DC Smith returned warrant six, which was a warrant issued by a justice of the peace, not to Basildon Magistrates' Court but rather to the Crown Court.
32. It is said that these are points of substance which mean that by reason of section 15(1) there has been a breach of section 16 and the entries, searches and seizures were unlawful. Mr Jones takes the baton on directly and makes the outright submission that even where there has been a perfectly executed exercise but there is some subsequent administrative failure, such subsequent administrative failure can retrospectively render the warrant, search and seizure process unlawful.
33. Finally, in relation to the allegation that the removal of the seized items to an auctioneer in Northern Ireland was irrational, it is said that it must have been the intention of Parliament that retention would have to be within this jurisdiction, although Mr Jones refined his position during the course of submissions to say it is a question of fact and degree, but on the facts here, removal of the property to Northern Ireland was simply irrational, particularly in circumstances where the Claimants, three of them, are the subject of restraint orders. Complaints are made variously on behalf of the Claimants as to the manner in which their property has been kept in Northern Ireland and the manner in which they have been permitted access to it.

## Ruling

34. Turning first to the question of lack of specificity by reference to the section 8 warrants, in my judgment, the wording there is drafted with sufficient precision to have enabled both those who executed it and those whose property is affected by it to know whether any individual item fell within it. The warrant was capable of being understood by those carrying out the search and by those whose premises were being searched without reference to any other document.
35. In the context of this investigation, the meaning of any documentation or physical exhibit displaying signs of extravagant wealth was clear. Given the evidence of extravagant expenditure in the context of a massive VAT deficit, the police were, in my judgment, justified in drawing the description of the material widely. It is indeed difficult to know, as Mr Waddington submits, how the description could have been further refined in the circumstances without knowing what would be found. Limitation, for example, by reference to monetary value could, if not would, have led to the exclusion of relevant evidence.
36. There is no merit, in my judgment, in any challenge by reference to what was in fact seized. That is in principle to use impermissible hindsight. But in any event, it is noteworthy that in addition to, for example, a bank deposit receipt for over £10 million, evidence of extravagant wealth in the form of designer bags, clothes, jewellery and watches was recovered.
37. As for the Schedule 1 warrant, it does not authorise seizure of every conceivable piece of documentary information which might be found. It was targeted at evidence about the operation of the payroll business and its clients. As the application stated at paragraph 23, the application was made with a view to obtaining the business records of QPS and those records pertaining to CPS which will enable full analysis of the business records to be undertaken to determine the total loss to HMRC, the method of dissipation of the funds and their location. I note that in the warrant itself it is framed by reference to "material likely to be relevant". That introduction circumscribes what follows in the warrant itself.
38. As for the challenge raised by reference to the alleged absence of reasonable grounds for believing that material was likely to be relevant evidence, in my judgment, it is clear that the evidence of extravagant wealth or expenditure inconsistent with the Claimants' declared earnings was relevant to the alleged offences of cheating and money laundering. Items demonstrating such wealth or expenditure would be admissible in a criminal trial on such charges. It would go, amongst other things, to show that the companies were being used as vehicles for fraud.
39. As for the Schedule 1 warrant, again, there were reasonable grounds for believing that the material to be searched was likely to be relevant, as defined in section 8(4) of the Act. The alleged fraud related to the business activities of the companies. The application stated in terms that the material would be evidence in any prosecution against officers of the company and any conspirators.

40. As for Mr Jones' reliance on the fact that some of the property is now to be sold, that is, in my judgment, nothing to the point. All that demonstrates is that there has been an agreement between the parties that certain property can be sold and disposed of without them being necessarily physically present for the purpose of any criminal proceedings.
41. As for the allegation of excessive searching, a challenge which relates only to warrants three, six, eight, nine and ten, on the material before the court this does not appear to me to be an arguable challenge.
42. I note that a representative of the auctioneers was there to help with the valuation exercise for the express purpose of providing expertise at the premises to avoid unnecessary seizures. The fact that, as is now recognised by the authorities, that there may be items which now need to be returned does not mean that there was self-evidently or of necessity excessive searching in the first place.
43. The challenge then by reference to the nature and manner in which the warrants were endorsed and the manner in which the warrants were then returned to court so far as the dispute is fact is concerned, it seems to me hopeless for the Claimants on the evidence they have to suggest that the warrants were not returned to Basildon Crown Court on 3 September 2015. There is no sensible basis for any challenge, in particular to the evidence of DC Smith to this effect. The.
44. Communications and correspondence between the Claimants' solicitors and Basildon Crown Court simply demonstrate that an administrative officer there did not know who A Curtain was. That is entirely understandable given that he was not a Crown Court judge. It demonstrates only that Mr Petit when communicated did not have to hand or was not aware of the warrants which had been lodged at the court.
45. So far as the complaints made by reference to the fact that warrants two to six and eight to eleven were endorsed by DC Smith who is said not to have been a constable executing the warrant for the purpose of section 16(9) of the Act and as to the complaint that warrant six, being the warrant issued by a justice of the peace, not being returned to the appropriate person, there is nothing of substance in these points even if technically correct. These issues were addressed directly by this court in R (Hicks) v Commissioner of the Police of the Metropolis and Others [2012] EWHC 1947 (Admin) at paragraphs 246 and 247.
46. Even if, assuming in the Claimants' favour, that section 15(1) of the Act applies to events occurring after entry and search have been completed, breach of section 16 of the Act will not necessarily lead to the grant of relief. The granting of such relief is a discretionary matter even in relation to a breach of section 16.
47. I cannot identify any material prejudice either in DC Smith endorsing the warrants that she did, even if she was not present at each execution, or in the fact that warrant six was returned incorrectly to the Crown Court and certainly no sufficient prejudice such as to lead to the invalidation of what were otherwise lawful warrants and searches. Thus even if the points are technically well-founded, I would decline to grant relief.

48. Turning then to the final ground of challenge, the removal of items to Northern Ireland. In my judgment, this ground of challenge is also unarguable. The items are relevant to the investigation and they may form part of any subsequent prosecution whether physically or through historical photographs. Retention, as Mr Waddington has submitted, is necessary at least in some cases because in some cases a photograph may not suffice. There may be issues on the genuineness or otherwise of items or valuation.
49. On the face of the evidence, there is a blatantly good reason for using the secure premises of the auctioneer with whom the government agencies have established relationships and whose premises happen to be in Northern Ireland. The auctioneers provide storage facilities for numerous government agencies. Identifying marks are removed from view when items are stored in areas open to the public. The compound is secured and manned around the clock. No unauthorised vehicular access is permitted. Following inspection, items are often moved to a secondary site to which there is no public access. There is a clear rationale and it is lawful for such high value goods to be stored by a professional company. We are told that property of less value remains and has remained here with the Essex police.
50. For all these reasons, we refuse permission to the Claimants to appeal on all of the grounds advanced before us.
51. LORD JUSTICE BURNETT: I agree, for the reasons advanced by my Lady, that the proposed claim for judicial review is unarguable, endorsing also the reasons given by Cheema-Grubb J in writing.
52. I would add only a few words about ground five. It is submitted that contrary to 16(10) of PACE, a police officer who had not executed some of the warrants had endorsed them. Further, that contrary to section 10A of PACE, one warrant was not returned to the right court official. Mr Jones submits that those failures, if established, would retrospectively render unlawful a search warrant which ex hypothesi had in fact been lawfully executed.
53. This point, as my Lady has indicated, was considered in Hicks. In paragraph 247 of the judgment of the court, Richards LJ said:

"It would be surprising if a search that met all the statutory conditions applicable at the time it was carried out were to be invalidated retrospectively by a later failure to return the executed warrant to the court on the face of it, s.15(1) requires the entry and search to comply with s.15 and s.16 in order to be lawful, and does not apply to events that occur after the entry and search have been completed."

He went on to explain that as a matter of discretion that carried the relevant applicant nowhere in the various cases before him.

54. In my judgment, the construction preferred by Richards LJ was clearly correct. It accords with the construction of section 15(1) of PACE given in the judgment of this court in Regina v Chief Constable of Lancashire, ex p Parker [1993] QB 577 by Nolan

LJ.

55. LORD JUSTICE BURNETT: Now, I think the only other matter that we are aware of is that Cheema-Grubb J held over to this hearing the costs of the AOS, which you claimed at, is it, £4,117 or something of that sort?
56. MRS JUSTICE CARR: £4,117, I think, was it not?
57. LORD JUSTICE BURNETT: I will find the relevant bit of paper.
58. I do not know, Mr Jones, whether you have the detail of this in mind.
59. MR JONES: I have.
60. LORD JUSTICE BURNETT: She ordered that your clients should pay the costs of the AOS. There were various directions given that if there were to be any objection --
61. MR JONES: Yes.
62. LORD JUSTICE BURNETT: -- there should be something in writing.
63. MR JONES: There has not --
64. LORD JUSTICE BURNETT: I do not think there has been. There has been none.
65. MR JONES: No.
66. LORD JUSTICE BURNETT: So subject to anything that you wish to say, it seems to me that we should summarily assess the costs of the AOS at £4,117.40.
67. MR JONES: Thank you. I suppose against all Claimants except for Mr Copp.
68. MRS JUSTICE CARR: What, because he is an undischarged bankrupt?
69. MR JONES: Yes.
70. LORD JUSTICE BURNETT: Yes. Well, we will make the order --
71. MR JONES: Yes.
72. LORD JUSTICE BURNETT: -- because he is here and is a party and is --
73. MR JONES: Very well.
74. LORD JUSTICE BURNETT: -- I hope, contributing to the costs. So we will make the order, but whether it can be enforced against an undischarged bankrupt is another matter.
75. MR JONES: Thank you. **(Pause)**

76. LORD JUSTICE BURNETT: Yes. Well, thank you both very much for your assistance.

77. MR JONES: Thank you.