

Neutral Citation: [2016] NIQB 48

Ref: STE9985

*Judgment: approved by the Court for handing down
(subject to editorial corrections)**

Delivered: 20/05/2016

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION

Between

MAREK BELKOVIC

Plaintiff:

v

DR TOAL AND BHSC

Defendant:

STEPHENS J

[1] The issues which arise for my determination are:

- (a) whether the plaintiff/appellant Mr Marek Belkovic should be provided by the court with an interpreter so that he can understand everything that is said in court;
- (b) whether the plaintiff/appellant can write to the court office in Slovak rather than in English;
- (c) whether the court office when writing to the plaintiff/appellant should send its letters in Slovak rather than in English; and if the court does not provide the plaintiff/appellant with an interpreter, then
- (d) whether the plaintiff/appellant can engage his brother, Mr Radko Belkovic to act as an interpreter.

[2] The plaintiff has commenced 3 sets of civil proceedings in the County Court which are as follows:

- (a) A claim brought by Marek Belkovic against Dr Nicola Brown and the manager of a Dr Brown's practice, Mr Damien Denver. These proceedings were commenced on 4 December 2014 and in them the plaintiff claims £7,500

for upset, distress, inconvenience, breach of contract, loss and damage caused by reason of the alleged negligence, discrimination and breach of statutory duty of the defendant, its servants and agents in and about the health services and expulsion of the plaintiff. In a reply to a Notice for Particulars the plaintiff states that he is a Roma of Slovakia and that he believes that he has been discriminated against in the provision of health care services by his general practitioner, Dr Nicola Brown, of the Dr Tolan Partners Medical Practice and the reason for this was because of his race. The discrimination manifested itself in his general practitioner, Dr Brown, failing to give adequate treatment, failing to prescribe necessary medication, failing to keep the plaintiff informed of results and thereby putting his health at risk and causing him excessive pain and suffering.

- (b) The second set of proceedings was commenced by a civil bill issued on 20 August 2014 in which the plaintiff Marek Belkovic claimed £7,500 for upset, distress, inconvenience, breach of contract, loss and damage caused by reason of negligence, discrimination and breach of statutory duty of the defendant, its servants and agents in or about the health service and expulsion of the plaintiff. That claim is brought against Belfast Health and Social Care Trust Pain Clinic Service, Belfast City Hospital, 51 Lisburn Road Belfast, BT9 7AB. Again in a reply to a Notice for Particulars the plaintiff alleges that the discrimination manifested itself in the conduct of Dr Gillespie in failing to give adequate medical treatment, failing to prescribe necessary medication, failing to discuss and offer a management plan thereby putting the plaintiff's health at risk and causing him excessive pain and suffering. The plaintiff goes on to allege that Dr Gillespie treated the plaintiff in an offensive and disrespectful manner and failed to give any treatment for the elevation of his pain and suffering (sic). The plaintiff believes that he was treated like this because of the colour of his skin, because he was a Roma. He further believes that he has been discriminated against on the grounds of his disability.
- (c) The final set of proceedings is another civil bill issued by the plaintiff on 22 August 2014 in which the plaintiff claims £10,500 damages against the Belfast Health and Social Care Trust Orthopaedic Department for upset, distress, inconvenience, breach of contract, loss and damage caused by reason of negligence, discrimination and breach of statutory duty of the defendant, its servants and agents in and about the health service and expulsion of the plaintiff.

[3] Those are the proceedings which the plaintiff has issued. The plaintiff's brother, Mr Radko Belkovic, applied in the County Court to His Honour Judge Devlin for leave to act, not only as the plaintiff's McKenzie Friend, but also as an advocate. Mr Radko Belkovic has no legal qualifications. He can speak English, though he is not entirely comfortable with that language and in my assessment would not have the ability to articulate in English the fine nuances of answers or concepts. His Honour Judge Devlin refused the application in all three cases and it

is against that decision that the plaintiff has appealed to this court. Immediately after His Honour Judge Devlin had given judgment, Mr Radko Belkovic then intervened and according to the note which I have behaved in an abusive and threatening manner, in that he told the court that he would:

“Be taking all of you to Strasbourg and you will shut up your mouths, your fascist mouths forever when the Strasbourg Court makes a fair decision.”

He further described the defendant’s legal representatives or the court itself, it was not clear which, as:

“Racist people, racist monkeys, monkeys in a cage.”

“Fascists.”

Mr Radko Belkovic then proceeded to leave the court in which His Honour Judge Devlin had given judgment.

[4] This is not the first occasion upon which Mr Radko Belkovic has acted in this way in court proceedings. Conduct such as that is quite unacceptable and in the exercise of discretion in this court I have refused the plaintiff’s application that Mr Radko Belkovic should be his McKenzie Friend and I have refused the plaintiff’s application that Mr Radko Belkovic should have any advocacy rights.

[5] The response from the plaintiff has included a request for an interpreter to be paid for at public expense by the Northern Ireland Court Service. He has also requested that all communications with him should be in Slovak. I anticipate that if the court refuses to provide an interpreter that he will request that his brother should act as his interpreter.

[6] The background to these applications is that the plaintiff is a Slovak national who does not speak English. The plaintiff also suffers from a number of medical conditions, which he asserts and for the purposes of these applications I accept, prevents him from coming to court. The plaintiff has been successful in previous civil proceedings securing an award of damages of £49,750. He is not impecunious or alternatively if he has given away that money then he has chosen to put himself in a worse financial situation.

[7] Proceedings in court are to be conducted in English: see the Administration of Justice (Language) Act (Ireland) 1737 and also the decisions of Treacy J *Cathain (Caoimhin Mac Giolla) v The Northern Ireland Court Service* [2009] NIQB 66 and the decision of the Court of Appeal in the same case under citation [2010] NICA 24.

[8] The standards of fairness which are to be applied are informed by the nature of the proceedings. In criminal proceedings there is no equivocation and no

discretion. Interpreters should be provided at public expense: see Articles 5 and 6 ECHR. Asylum decisions are of such moment that only the highest standards of fairness will suffice: see *Secretary of State for the Home Department v Thirukumar* [1989] IMMAR 402 and also *R (Dirche) v Secretary of State for the Home Department* [2005] EWCA Civ 42.

[9] These are civil proceedings in which the plaintiff can pay for the services of an interpreter. There is no obligation on the State to provide an interpreter in such circumstances and in the exercise of discretion I do not consider that an interpreter should be provided by the State to the plaintiff.

[10] There is obviously a cost to the other parties if the proceedings take longer by another party using an interpreter. There is an obvious access to justice issue for the plaintiff. The balance comes down firmly in favour of the plaintiff being permitted to use an interpreter if he wishes to bring an interpreter to court. In the exercise of discretion I permit the plaintiff to use an interpreter in court proceedings though the exact parameters of that use will be a matter for the trial judge.

[11] The language in which these proceedings are conducted is English. The plaintiff has the financial ability to obtain the services of a translator. I direct that any communication received by the plaintiff in Slovak should be returned to him by the court staff unread and that he should be informed that no regard will be had to any such communication in these proceedings. The letter returning the communication to the plaintiff should state in English that it is being returned unread and that no regard will be paid to it unless the communication is sent in English. The plaintiff should communicate in English.

[12] I also direct the court staff to correspond with the plaintiff in English. He can receive a letter in English and he can have it translated into Slovak.

[13] Finally, the plaintiff's brother, Radko Belkovic, is entirely unsuitable as an interpreter. On the basis of his conduct in previous proceedings I could not have any confidence that the rules of evidence would not be broken during the course of any interpretation that took place. Also, on the basis of my assessment of his inability to articulate clearly the questions to be asked of a witness and the answers given by a witness.

[14] Accordingly, in relation to the questions that I initially posed I rule that the plaintiff/appellant should not be provided by the court with an interpreter, he is at liberty to engage his own interpreter. The plaintiff/appellant should write to the court office in English, the court office should write to the plaintiff/appellant in English. Mr Radko Belkovic should not act as an interpreter in court in these proceedings.

[15] I also make it clear to the plaintiff/appellant that he is perfectly at liberty to ask for leave to have another McKenzie Friend, somebody who will act appropriately in that capacity in these proceedings.

[16] That disposes of those issues. I direct that this ex tempore judgment be transcribed, that a copy of it, once it has been checked by me, should be made available to the plaintiff, Marek Belkovic.

[17] I consider that this appeal is satellite litigation see [2015] NIQB 104, that the matter should be heard and determined in the County Court, thereafter there is a right of appeal either to this court or alternative rights of appeal. I was minded to grant a stay of these appeals pending the outcome of the decision in the County Court. I will make that order but I also will give the plaintiff/appellant liberty to apply to set it aside. He has the financial wherewithal to employ lawyers to represent him. I do not accept his contention that there are no lawyers fit and able and willing to act on his behalf in Northern Ireland or whom he could trust in Northern Ireland. I consider that if he is not going to engage a lawyer that he can make an application by Skype to this court, provided that he has an interpreter, and that interpreter is not his brother, and that proper arrangements are made for his attendance by Skype.

[18] I will therefore stay all of the appeals on that basis but give the plaintiff/appellant liberty to apply to set aside this order at any stage. On the hearing of an application the whole matter will be reopened.

[19] I reserve all the costs of today's hearing both of the plaintiff, if there are any, and of the defendants to either a further review hearing or to the final hearing. The matter is going to go back to the County Court and so I am going to direct that the case be listed for review in front of the County Court judge. I will ask the court office to liaise with the County Court and ask for the learned County Court judge to review all these cases on 10 June 2016 with a view to fixing a trial date.