



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: C1/2013/1137(A)



R (on the application of Smith) -v- Secretary of State for Work and Pensions

ORDER made by the Rt. Hon. Lord Justice Singh

On consideration of an application to reopen an application or appeal, previously refused or dismissed

Decision: refused.**Reasons**

1. On 1 May 2013, the Appellant applied to the Court of Appeal for permission to reinstate certain grounds of challenge. Permission was refused by Sullivan LJ on 11 October 2013. He now applies to re-open the appeal under CPR 52.30.
2. In my view, there are two main reasons why this claim does not meet the exacting threshold requirements of CPR 52.30.
3. First, it is noteworthy that the Appellant's current application, filed on 3 August 2018, comes more than 4½ years after the last consideration of this case by the Court of Appeal even though the basis for the application is primarily the decision of the Supreme Court in a case which was decided in 2013. On 30 October 2013, the Supreme Court handed down judgment in *Reilly & Wilson v Secretary of State for Work & Pensions* [2013] UKSC 68.
4. The Appellant seeks to meet this difficulty by alleging that the real injustice in this case comes from the costs orders imposed on him. He submits that he was not aware of the full extent of these until a letter on 27 May 2016 informed him that costs for the sum of £23,902.26 were owed to the Defendant's costs lawyers, (which were apparently later reduced). Nevertheless, it is noteworthy that 2½ years have passed since then without an application being issued.
5. Secondly, this case has already been considered by the Deputy Master of the Court of Appeal. The decision in *Reilly* led to the Claimant's application to the Court of Appeal for permission to reinstate the two issues in question on 26 November 2013. This application was refused by the Deputy Master on 9 December 2013. It was stated that: "The Court of Appeal has already dealt with the Applicant's application for permission to appeal this order under reference C1/2013/1137. The Applicant cannot seek permission to appeal the same order again". This application was refused by letter by the Deputy Master of the Court of Appeal.
6. In all the circumstances of this case I have come to the conclusion that the strict criteria in CPR 52.30 are not met and permission to re-open the case is refused.



Note: Where the application is refused the decision of the judge is final and the application cannot be renewed to an oral hearing - see rule 52.30(7) and *Taylor v Lawrence* [2002] EWCA Civ 90

Signed: R. Singh
Date: 30 Nov. 18

By the Court

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