

R v Luckhurst (Respondent)

Case ID: 2021/0005

Case summary

Issue

The proposed appeal relates to the scope of permitted legal expenditure as an exception to a restraint order granted pursuant to section 41 of the Proceeds of Crime Act 2002 (POCA). The Supreme Court is asked to decide whether section 41(4) prohibits an exception for reasonable legal expenses in respect of civil proceedings relating to the same or similar facts as those of the offence(s) giving rise to the restraint order.

Facts

The respondent, Mr Luckhurst, faces criminal proceedings in the Crown Court. The indictment alleges fraud and theft arising out of Mr Luckhurst's conduct practising as an independent financial advisory in a company called BBT Partnership Limited. The CPS' case is that Mr Luckhurst ran a fraudulent Ponzi scheme and stole money from clients. In 2016, a number of BBT's investors brought civil proceedings in the High Court against Mr Luckhurst and others. Those civil proceedings are ongoing. In December 2017, on the application of the CPS, the Crown Court made a restraint order against Mr Luckhurst under the POCA. This was to preserve Mr Luckhurst's assets to meet any confiscation order which may be made by the Crown Court under the POCA in the event of Mr Luckhurst's conviction. Mr Luckhurst instructed solicitors to defend the civil claim against him and sought a variation to the restraint order to pay those solicitors £3,000 for advice on a settlement. Mr Luckhurst's variation application was refused by the judge at first instance but allowed on appeal. The CPS now appeals to the Supreme Court.

Judgment appealed

[\[2020\] EWCA 1579](#)

Parties

Appellant(s)

Crown Prosecution Service

Respondent(s)

Andrew Luckhurst

Appeal

Justices

Lord Hodge, Lord Kitchin, Lord Hamblen, Lord Burrows, Lord Stephens

Hearing start date

7 June 2022

Hearing finish date

7 June 2022

Watch hearing

7 June 2022 [Morning session](#) [Afternoon session](#)