Court Clerk (Criminal)

Date:

This document does not form part of an appeal. It is presented to the court as a declaration of a Void Order for reasons explained herein.

You are hereby required to record this annulment; this declaration is also copied to:

The Criminal Court of Administration, Royal Courts of Justice, Strand, London, WC2A 2LL

NOTICE OF VOID ORDER: CASE NUMBER –

A SET ASIDE RULING IS NOW REQUIRED AND UNLESS EACH AND EVERY POINT WITHIN THIS NOTICE IS REBUTTED IN FULL, THIS VOID ORDER IS ESTABLISHED AS BOTH LAWFUL AND A FACT IN LAW.

The Master of the Rolls, Lord Denning, famously said the following:

"A void order is incurably void, and all proceedings based on the invalid claim or void act are also void. Even a decision of the higher courts (High Court, Court of Appeal and Supreme Court) will be void if the decision is founded on an invalid claim or void act, because something cannot be founded on nothing." ***(Lord Denning in MacFoy v United Africa Co. Ltd. [1961].***

Case Law History:

THE VOID ORDER

by

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The interesting and important nature of a 'void' order of a Court is not fully understood and appreciated in England and this article is written to assist the understanding of a 'void' order and to assist legal professionals in any concerns they may have in submitting to a Court that its order is void, if indeed it is void.

In Anlaby v. Praetorius (1888) 20 Q.B.D. 764 at 769 Fry L.J. stated on the issue of void proceedings that: "A plaintiff has no right to obtain any judgement at all".

A void order does not have to be obeyed because, for example, in Crane v Director of Public Prosecutions [1921] it was stated that if an order is void ab initio (from the beginning) then there is no real order of the Court.

In Fry v. Moore (1889), 23 Q.B.D. 395 Lindley, L.J. said of void and irregular proceedings that it may be difficult to draw the exact line between nullity and irregularity. If a procedure is irregular it can be waived by the defendant but if it is null it cannot be waived and all that is done afterwards is void; in general, one can easily see on which side of the line the particular case falls.

A void order results from a 'fundamental defect' in proceedings (Upjohn LJ in Re Pritchard (deceased) [1963] 1 Ch 502 and Lord Denning in Firman v Ellis [1978] 3 WLR 1) or from a 'without jurisdiction'/ultra vires act of a public body or judicial office holder (Lord Denning in Pearlman v Governors of Harrow School [1978] 3 WLR 736).

A 'fundamental defect' includes a failure to serve process where service of process is required (Lord Greene in Craig v Kanssen Craig v Kanssen [1943] 1 KB 256); or where service of proceedings never came to the notice of the defendant at all (e.g. he was abroad and was unaware of the service of proceedings); or where there is a fundamental defect in the issuing of proceedings so that in effect the proceedings have never started; or where proceedings

appear to be duly issued but fail to comply with a statutory requirement (Upjohn LJ in Re Pritchard [1963]). Failure to comply with a statutory requirement includes rules made pursuant to a statute (Smurthwaite v Hannay [1894] A.C. 494). A 'without jurisdiction'/ultra vires act is any act which a Court did not have power to do (Lord Denning in Firman v Ellis [1978]).

In Peacock v Bell and Kendal [1667] 85 E.R. 81, pp.87:88 it was held that nothing shall be intended to be out of the jurisdiction of a Superior Court, but that which specially appears to be so; and nothing shall be intended to be within the jurisdiction of an Inferior Court but that which is so expressly stated.

It is important to note therefore that in the case of orders of Courts with unlimited jurisdiction, an order can never be void unless the 'unlimited jurisdiction' is 'limited' in situations where it is expressly shown to be so. In the case of orders of the Courts of unlimited jurisdiction where the jurisdiction is not expressly shown to be limited, the orders are either irregular or regular. If irregular, it can be set aside by the Court that made it upon application to that Court and a person affected by the irregular order has a right –ex debito justitiae – to have it set aside. If it is regular, it can only be set aside by an appellate Court upon appeal if there is one to which an appeal lies (Lord Diplock in Isaacs v Robertson (1984) 43 W.I.R. PC at 128-130).

However, where the Court's unlimited jurisdiction is shown to be limited (for example: a restriction on the Court's power by an Act of Parliament or Civil or Criminal Procedure Rule) (Peacock v Bell and Kendal [1667]; Halsbury's Laws of England) then the doctrine of nullity will apply.

Similarly, if the higher Court's order is founded on a lower Court's void act or invalid claim then the higher Court's decision will also be void (Lord Denning in MacFoy v United Africa Co. Ltd. [1961] 3 All ER).

The main differences between a 'void' and 'voidable' order or claim is that:

(i) a 'void' order or claim has no legal effect ab initio (from the beginning/outset) and therefore does not need to be appealed, although for convenience it may sometimes be necessary to have it set aside (Lord Denning in MacFoy v United Africa Co. Ltd. [1961] and Firman v Ellis [1978]) whereas a 'voidable' order or claim has legal effect unless and until it is set aside. Therefore, while a void order or claim does not have to be obeyed and can be ignored and its nullity can be relied on as a defence when necessary (Wandsworth London Borough Council v. Winder [1985] A.C. 461), a voidable order or claim has to be obeyed and cannot be ignored unless and until it is set aside; and

(ii) a ‘void’ order can be set aside by the Court which made the order because the Court has inherent jurisdiction to set aside its own void order (Lord Greene in Craig v Kanssen [1943]) whereas a ‘voidable’ order can only be set aside by appeal to an appellate Court.

A person affected by both a void or voidable order has the right – ex debito justitiae – to have the order set aside (which means that the Court does not have discretion to refuse to set aside the order or to go into the merits of the case) (Lord Greene in Craig v Kanssen [1943]).

The procedure for setting aside a void order is by application to the Court which made the void order, although it can also be set aside by appeal although an appeal is not necessary (Lord Greene in Craig v Kanssen [1943]) or it can quashed or declared invalid by Judicial Review (where available) and where damages may also be claimed.

Although an appeal is not necessary to set aside a void order, if permission to appeal is requested and if out of time the Court should grant permission because time does not run because the order is void and the person affected by it has the right to have it set aside (Lord Greene in Craig v Kanssen

A void order is incurably void, and all proceedings based on the invalid claim or void act are also void. Even a decision of the higher Courts (High Court, Court of Appeal and Supreme Court) will be void if the decision is founded on an invalid claim or void act, because something cannot be founded on nothing (Lord Denning in MacFoy v United Africa Co. Ltd. [1961]).

A void order is void even if it results in a failure of natural justice or injustice to an innocent third party (Lord Denning in Wiseman v Wiseman [1953] 1 All ER 601).

It is never too late to raise the issue of nullity and a person can ignore the void order or claim and raise it as a defence when necessary (Wandsworth London Borough Council v. Winder [1985] A.C. 461; Smurthwaite v Hannay [1894] A.C. 494; Upjohn LJ in Re Pritchard (deceased) [1963]; Lord Denning in MacFoy v United Africa Co. Ltd. [1961]).

In R v. Clarke and McDaid [2008] UKHL8 the House of Lords confirmed that there is no valid trial if the bill/Indictment has not been signed by an appropriate officer of the Court because Parliament intended that the Indictment be signed by a proper officer of the Court.

In Bellinger v Bellinger [2003] UKHL 21 the House of Lords confirmed that a void act is void from the outset and no Court – not even the House of Lords (now the Supreme Court) – has jurisdiction to give legal effect to a void act no matter how unreasonable that may seem,

because doing so would mean reforming the law which no Court has power to do because such power rests only with Parliament. The duty of the Court is to interpret and apply the law not reform or create it.

It is important to note that if a claim is invalid the plaintiff can start all over again unless he is prevented from doing so due to limitation as in the case of Re Pritchard (deceased) [1963] or estoppel – for example; where the Claimant applied to the Court for permission to correct/amend the claim and permission was refused; or the plaintiff or his solicitor had been negligent in ignoring a material fact when filing the invalid claim so that the plaintiff is estopped by the principle that he should not be allowed a 'second bite at the cherry'; and in the case of a criminal trial if there has been a fundamental technical defect the Court can order a new trial (venire de novo – may you cause to come anew).

Chronology of some case laws relating to void orders:

1888:

In Anlaby v. Praetorius (1888) Fry L.J. stated on the issue of void proceedings that:

(I) a plaintiff has no right to obtain any judgement at all.

1889:

In Fry v. Moore (1889) Lindley, L.J. said that:

(I) it might be difficult to draw the exact line between nullity and irregularity. If an order is irregular it can be waived by the defendant but if it is null then it renders all that is done afterwards void. In general one can easily see on which side of the line the particular case falls.

1921:

Crane v Director of Public Prosecutions [1921]:

(I) if an order is void ab initio (from the beginning) then there is no real order of the Court.

1943:

In Craig v Kanssen [1943] Lord Greene confirmed that:

(I) an order which can properly be described as a nullity is something which the person affected by it is entitled ex debito justitiae to have set aside;

(ii) so far as procedure is concerned the Court in its 'inherent jurisdiction' can set aside its own order and an appeal from the order is not necessary; and

(iii) if permission to appeal is requested and if out of time the Court should grant permission because time does not run because the point is that the order is invalid and the person affected by it has the right to have it set aside.

1953:

In Wiseman v Wiseman [1953] 1 All ER 601 – Lord Denning confirmed that:

(I) The issue of natural justice does not arise in a void order because it is void whether it causes a failure of natural justice or not;

(ii) a claimant or defendant should not be allowed to abuse the process of Court by failing to comply with a statutory procedure and yet keep the benefit of it and for that reason also a void act is void even if it affects the rights of an innocent third party.

1961:

In MacFoy v United Africa Co Ltd. [1961] Lord Denning confirmed that:

(I) a void order is automatically void without more ado;

(ii) a void order does not have to be set aside by a Court to render it void although for convenience it may sometimes be necessary to have the Court set the void order aside;

(iii) a void order is incurably void, and all proceedings based on the void order/invalid claim are also void.

1963:

In Re Pritchard (deceased) [1963] Upjohn LJ confirmed that:

(I) a fundamental defect in proceedings will make the whole proceedings a nullity;

(ii) a nullity cannot be waived;

(iii) it is never too late to raise the issue of nullity; and

(iv) a person affected by a void order has the right – ex debito justitiae – to have it set aside.

1978:

In Firman v Ellis [1978] Lord Denning confirmed that:

(I) a void act is void ab initio

1979:

Lord Denning, in his book 'The Discipline of Law' – Butterworths 1979 – page 77, states:

(I) although a void order has no legal effect from the outset it may sometimes be necessary to have it set aside because as Lord Radcliffe once said: "It bears no brand of invalidity on its forehead".

1985:

Wandsworth London Borough Council v. Winder [1985] A.C. 461:

(I) a person may ignore a void claim and rely on it as a defence when necessary.

2003:

In Bellinger v Bellinger [2003] the House of Lords confirmed that:

(I) a void act is void from the outset; and

(ii) no Court – not even the House of Lords (now the Supreme Court) has jurisdiction to give legal effect to a void act no matter how unreasonable that may seem because doing so would mean reforming the laws which no Court has power to do because such power rests only with Parliament. The duty of the Court is to interpret and apply the law not reform it.

<u>Conclusion based on the case laws referred to above</u>:

(I) an application to have a void order set aside can be made to the Court which made the void order;

(ii) the setting aside must be done under the Court's inherent power to set aside its own void order;

(iii) the Court does not have discretion to refuse the application because the person affected by the void order has a right to have it set aside;

(iv) an appeal is not necessary because the order is already void;

(v) if permission to appeal is sought and if sought out of time, permission should be given because as the order is void time does not run; it is never too late to raise the issue of nullity; and the person affected by the void order has a right to have it set aside;

(vi) a void order can be quashed or declared unlawful by Judicial Review where available and where damages may also be claimed;

(vii) the whole proceedings is void if it was based on a void act;

(viii) a void order does not have to be obeyed because it has no legal effect from the beginning;

(ix) as it is never too late to raise the issue of nullity a person can ignore the void order and rely on nullity as a defence when necessary;

(x) a void order is void even if the nullity is unjust or injustice occurs to an innocent third party;

(xi) an order of a Court of unlimited jurisdiction is only void if it can be expressly be shown that the unlimited jurisdiction is limited in that situation, or the order is founded on an invalid claim or void act;

(xii) no Court (not even the Supreme Court) has jurisdiction to give effect to a void act and the duty of the Court is only to interpret and apply the law not to reform or create it as such power rests only with Parliament.

Updated: 6 February 2011

Summary of case number:

1. In relation to a hearing at the , on the , has failed to deal with the issue of the living man and has used criminal coercion to assist his stance (Exhibit 1).

2. I, have recorded my birth with the Common Law Court. I have obtained a Common Law Birth Certificate (Exhibit 2), which confirms my stance as a living man , this document has been issued by the Common Law Court and carries with it the authority of the people.

3. That a Business Ownership Certificate exists for the Fictitious Name, ' ' and confirms that the legal entity is owned by , the living man . This lawful document has been issued by the Common Law Court and carries with it, the authority of the people.
   This document also confirms that there is no lawful consent, contract, authority or jurisdiction between this fiction and any corporation as has not given it (Exhibit 3).

4. As the authority of the Common Law Court paperwork has not been challenged or rebutted, has acted Ultra Vires, while ignoring the authority of the people and by using criminal coercion.

5. The Claimant in this action was using fraud upon the court to obtain a court order. This fraud included the failure to identify the Defendant, either a living man or a legal fiction, and criminal coercion.
   The Claimant was also guilty of using the court and criminal coercion to target a living man by using statutory rules (Exhibit 1).

6. During this hearing, the issues of both authority and jurisdiction had not been dealt with, as had used the presumptions of law to assist him .
   The issue of using the presumptions of law was not agreed to by , the following document clarifies this position (Exhibit 4).

7. To assist this process confirms his stance as a living man .

   As the authority, jurisdiction and sovereignty of the Crown/Regina had not been established, the matter could not be decided by any Crown Employee or Servant, as they are Parties to the Cause and therefore cannot be considered to be impartial or be seen to be impartial. Therefore, this dispute would HAVE TO BE decided by an independent jury.

R v Sussex Justices, Ex parte McCarthy is a leading English case on the impartiality and recusal of judges. It is famous for its precedence in establishing the principle that the mere appearance of bias is sufficient to overturn a judicial decision. It also brought into common parlance the oft-quoted aphorism:

"Not only must Justice be done; it must also be seen to be done."

Court: High Court of Justice. Cases cited: KB 256, EWHC KB1 Judge(s) sitting: Lord Hewart CJ, Lush and Sankey JJ

It is a universally accepted Maxim in Law that no man can judge in his own Cause, or a Cause to which he is a party. Therefore, that automatically rules out any crown employee or servant from adjudicating in this matter, because they are obviously a Party to the Cause.

8. That the claimant, while targeting in this case has breached the United Nations Universal Declaration of Human Rights 1948 (Exhibit 5) and specifically:

Article 4
No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 7
All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 10
Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11
Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Article 12
No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 18
Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 20
2. No one may be compelled to belong to an association.

9. In relation to the issued order by , unless he can confirm that he had superior authority to the Common Law Court, the people and God, the Common Law Court deeds referred to cannot be ignored.
At the very least, it would require a further hearing to establish which was superior. Until such time that this issue had been established, there should have been no additional action taken against or his property.

10. In addition to the above point, had ignored the fact that the Magna Carta 1215 has never been repealed and that in addition to his rights, is entitled to a trial, by a jury of his peers.

11. has failed to address the issues raised by as he has not dealt with the issue of his authority, jurisdiction and the lawful documents issued by the Common Law Court.

12. Until such time as it is established that had the authority and jurisdiction to deal with this, he has acted Ultra Vires, with Bias and has Erred in Law.

The only realistic and just outcome for this case is to rule a VOID ORDER.

Sworn by (Deponent)

On this day the

This is the first affidavit by this deponent.

Deponent

Address

GENERAL FORM OF AFFIDAVIT

In the Matter Between

and

Case Ref:

Court Order Hearing, at on the in front of

I, a living man currently reside at ,
do solemnly and sincerely swear and declare with good faith and without prejudice.

I was born on the and am years of age. I am of sound mind and reason and do sincerely and honestly swear the present instrument to be my

own words, written by me, given freely, and without duress and expressing accurately to the best of my knowledge.

1. **I say that**, the Common Law Court, Great Britain and International was created on the 11th June 2017, to address the failings in the statutory judicial system and to provide a lawful remedy for living men and women.

2. **I say that,** as part of the Common Law Court responsibilities, it keeps a record of declarations for births of living men, women and their children.

3. **I say that,** the Common Law Court keeps a record of the business ownership for fictious names (legal entities), thus confirming that the use of them without the owner's consent, authority or jurisdiction is unlawful.

4. **I say that**, as a person or corporation is unable to obtain parity with that of a living man/woman, statutory legislation is unenforceable without consent, a valid contract, authority and jurisdiction. To force compliance, is both criminal coercion and a breach of our inherent birth rights, this is confirmed and established by the Magna Carta 1215 (https://oll.libertyfund.org/titles/mckechnie-magna-carta-a-commentary), the United Nations Declaration of Human Rights 1948 (Exhibit 5), the Declaration of the Common Law Court 2019 (Exhibit 6) and a Common Law Court Lawful Notice, dated the 28th April 2019 (Exhibit 7).

5. **I say that**, during this dispute had issued an order against and in doing so he ignored the standing of the Magna Carta 1215, the authority of the people, the authority of the Common Law Court, the standing of living men and women, the ownership of the legal entities and the issue of who the Defendant was (a living man or a fiction).

6. **I say that**, until such time as it is established that there is a superior authority to the Common Law Court, the people and God, the Common Law Court documents and orders, stand as facts in law, which cannot be ignored.

7. I say that, the statutory courts are all corporations and can only deal with a person / corporation, they will never obtain parity with a living man or living women and as such will never have any authority or jurisdiction over them.

8. I say that, statutory courts are required to establish authority and jurisdiction before they may adjudicate in any matter before them.

   As the authority, jurisdiction and sovereignty of the Crown/Regina has been officially challenged, the matter cannot be decided by any Crown Employee or Servant, as they

are Parties to the Cause and therefore cannot be impartial or be seen to be impartial. Therefore, this dispute would HAVE TO BE decided by an independent jury, this was ignored by .

9. **I say that,** contract law confirms that for a contract to be valid, certain conditions must be fulfilled, one of these conditions is that there must be full disclosure. This was not the case, given the failure to identity the Defendant and the use of the legal fiction against the living man.

10. **I say that,** a valid contract also requires the consent of all parties involved, this was not the case as (a living man) had not consented.

11. **I say that, t**he legislation used to obtain an order was statutory, this is not enforceable against a living man and any attempt to enforce this would be criminal coercion.

12. **I say that** The United Nations created a Universal Declaration of Human Rights in 1948 which was to be used to protect all living men and women.

13. **I say that,** that all signatories to the United Nations have a lawful obligation to comply with the Universal Declaration of Human Rights 1948. That any country failing to comply with the Declaration of Human Rights 1948 would be guilty of committing crimes against its people.

14. **I say that**, a Common Law Court was convened on the 31st August 2019 in Guildford, to deal with the unlawful behaviour of Nicholas Lorraine Smith (Southwark Crown Court, Judge), Jean Luc Gadaud (Court of Appeal Paris, Judge) and the authority and jurisdiction of the Crown and the statutory courts (Exhibit 8).

    In relation to the issues before them, a jury of twelve reasonably minded men and women having considered all the evidence presented at this hearing, found that the coronation of the Elizabeth Alexandra Mary Battenberg on June 2nd in 1953 was fraudulent, due to the failure to have the ceremony witnessed by God (the Stone of Destiny) and therefore the crown, statutory courts and judges had no authority and jurisdiction over living men and living women who have confirmed their standing with the Common Law Court.

15. I say that, in relation to the Order issued, had used the presumptions of law to assist him .
    Despite the fact that had no authority or jurisdiction to deal with this issue, I also confirm that these presumptions were not accepted, and I refer you to the following Exhibit to confirm (Exhibit 4).

16. **I say that**, all the facts and circumstances deposed herein are within my knowledge and expertise except such as are sworn herein from information, in accordance with my reasonable knowledge and sources of information as appear within the present affidavit.

……

Sworn at …….....……

in ..... , today the ……..…….……

Witnessed before me ……..... ( )

Address ……..……..

Witnessed before me ……..... ( )

Address …….....……..

Witnessed before me ……..... ( )

Address ……..