



VERA BAIRD^{QC}
POLICE & CRIME COMMISSIONER

Judges Appointment and Ombudsman
13th Floor Tower
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London
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Email: headoffice@jaco.gsi.gov.uk

14th November 2014

Dear Ombudsman,

Complaint about His Honour Judge (HHJ) Moorhouse

We are writing to express our dissatisfaction as to the way in which the Judicial Conduct Investigations Department has dealt with our above judicial complaint. We enclose our complaint of 10th October and their response, together with other correspondence as background. We request that you investigate our complaint against the JCIO and direct them to re-consider their erroneous rejection of our judicial complaint, to accept it as a valid complaint and to deal with the Judge's misconduct appropriately. The contents of the judicial complaint are self-explanatory.

We refer to part of the JCIO's response:

"The only way to challenge a judicial decision is through the court process. If on appeal the court is so critical of a judge's behaviour in applying the law so that it potentially amounts to misconduct, the matter may then be referred to this office for consideration."

However, there is no right of appeal in relation to the cases which relate to Judge Moorhouse, as Parliament in passing the relevant legislation has restricted the types of cases that may be referred to the Court of Appeal by the Attorney General as unduly lenient. That clearly means that the channel through the court of appeal by which misconduct and misbehaviour in applying the law during a sentencing exercise may be referred, if it is found, by that court, to the JCIO is not available in this case. The availability of that channel, makes clear that, in principle, a judge can be considered to have committed misconduct if he behaves wrongly in course of a sentencing exercise. That his misconduct is in connection a sentence does not, of itself, make his misconduct outside the ambit of the JCIO. That position appears to undermine the following comment made by the JCIO in determining that they had no remit adjudicate on our complaint:

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‘‘I note your assertion that this is not about the decision but about the conduct of the judge, however, the issues you raise all turn on whether the judge was correct in sentencing these cases as he did and whether in doing so he correctly applied the law and followed sentencing guidelines ‘‘

Of course our complaint is about the misconduct involved in Judge Moorhouse’s complete disregard of the law and guidelines when engaged in his sentencing exercise. Plainly, however, as with the position with the court of appeal, we separate the issue of the sentence from that misconduct and complain about the latter, accepting that there is no route by which we may, complain about the former. The court of appeal process as summarised by the JCIO would require them to separate the question of the sentence and decide whether to allow an appeal and then to refer on any misconduct involved in the erroneous sentencing process to the JCIO.

We refer you to Rule 21b of the Judicial Conduct and Investigations Rules which provides that a complaint must be dismissed if:

‘21b It is about a judicial decision or judicial case management and raised no question of misconduct’

Our complaint raises significant issues of misconduct, as we have set out in our letter to the JCIO There is nothing in 21b or any other rule that we can find that says that the fact that the misconduct alleged took place in connection with a judicial decision must be dismissed if it, nonetheless involves misconduct

For the reasons outlined, the JCIO has wrongly determined that our complaint is not within its ambit and we invite you to intervene as we have requested in opening.

Yours sincerely

Vera Baird QC: Police & Crime Commissioner – Northumbria
Barry Coppinger: Police & Crime Commissioner – Cleveland
Ron Hogg: Police & Crime Commissioner – Durham.

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Judicial Conduct Investigations Office

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Our ref: 19524/2014

7 November 2014

Dear Ms Baird,

Complaint about His Honour Judge (HHJ) Moorhouse

Thank you for your correspondence of 10 October 14 in which you outline your further concerns in relation to sentences handed down by HHJ Moorhouse. I am sorry that at the time of writing you had not received Mr Clarke's letter of 7 October 14 and trust that you have now had an opportunity to consider the reasons why this office is unable to deal with the concerns you and the two other Police and Crime Commissioners – Mr Hogg and Mr Hopping, have raised.

As Mr Clarke explained the constitutional independence of the judiciary means that judges must be free to make decisions without interference from government ministers, officials or even other judges (unless they are presiding over the case). It is not the role of this office to determine whether the judge was correct or otherwise in determining the sentences in the cases you have cited. The only way to challenge a judicial decision is through the court process. If on appeal the court is so critical of a judge's behaviour in applying the law so that it potentially amounts to misconduct, the matter may then be referred to this office for consideration.

I appreciate that there is no right of appeal in relation to the cases you have cited, as Parliament in passing the relevant legislation has restricted the types of cases that may be referred to the Court of Appeal by the Attorney General. However, the conduct process cannot be used as an alternative in the absence of a route of appeal. I note your assertion that this is not about the decision but about the conduct of the judge, however, the issues you raise all turn on whether the judge was correct in sentencing these cases as he did and whether in doing so he correctly applied the law and followed sentencing guidelines. For the reasons outlined above, the conduct process is not an appropriate forum and has no remit to adjudicate as to whether a judge has correctly applied the law in particular cases.

There are a number of guiding principles which establish the standards required of judicial office holders. These are contained within various documents such as: terms and conditions of appointment, job descriptions, appraisals (where appropriate) and the Guide to Judicial Conduct.

Judicial Appointments and Conduct Ombudsman

If you remain dissatisfied with the way in which this office has handled your complaint, you may contact the Judicial Appointments and Conduct Ombudsman, Sir John Brigstocke KCB. The Ombudsman can consider complaints about how I have handled your complaint, but he does not have the power to investigate your original complaint to the JCIO.

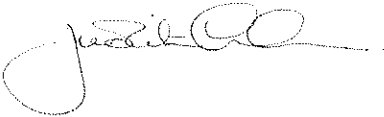
The Ombudsman will consider a complaint if you write to him within 28 days of our decision. After this time, he will consider whether he is able to investigate it. You can contact the Ombudsman:

- in writing at: *13th Floor Tower, 13.51, 102 Petty France, London, SW1H 9AJ;*
- by e-mail at headoffice@jaco.gsi.gov.uk; and
- by telephone on 020 3334 2900.

For further information about the Ombudsman see www.judicialombudsman.gov.uk.

If you require anything further, please contact me.

Yours sincerely,



Judith Anckorn
Head of the Judicial Conduct Investigations Office