

In the High Court of Justice  
King's Bench Division  
Administrative Court

In the matter of an application for Judicial Review

THE KING

On the application of

ANDREW LOGIE

Appellant

-and-

CROWN COURT AT BIRMINGHAM

Defendant

-and-

BIRMINGHAM CITY COUNCIL

Interested Party

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**Skeleton Argument of Appellant**

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1 I am the Appellant acting in person against three judgments by HH J Henderson in Birmingham Crown Court 2<sup>nd</sup> December 2022 case number CO/816/2023.

The Hearing Date is set for 21 May 2024.

Time estimate for complete hearing is one full day.

Keys:

[number] refers to page numbers in the Appellant's Bundle of Documents.

{number} refers to page numbers in the Appellant list of Legislation, Authorities & References.

2 I applied for Judicial Review on the grounds that in neither the Magistrates Court nor the Crown Court was I permitted to examine the facts under historical understanding of the primary legislation of the *Pedlars Act* {3,4} to enable the court to comprehensively understand the lawful activities of a pedlar so as not to be confused by similarities to licence/consent traders.

- 3 The hearing was restricted to examination of facts under the *Local Government (Miscellaneous Provisions) Act Schedule 4 Street Trading* {5} as viewed through what I consider unreliable case law being *Watson v Malloy 1988* {8-15} and others relying on that case that unreasonably proscribe/restrict my pedlary.
- 4 I sought to rely on reading my Skeleton Argument [3-5] into the court record because I was concerned about matters of interpretation and application of legislation; I was concerned about confusion in the meaning of language in the original Summons and more especially the prosecution reliance on case law that undermined my ability to be a pedlar in the historic sense in Birmingham. The judge confirmed that he had read the document but I was not given any chance to read my arguments into court in my defence.
- 5 In completing the Certificate of Service regarding pre-action protocol I noted that I was unable to find reference to that form and required further assistance from the administrative court [71] but received none. I did however inform Birmingham City Council that I intend to seek judicial review when I sent them copy of the Application for Judicial Review on 1<sup>st</sup> March 2023.
- 6 I am seeking a quashing order [75] of the Birmingham Crown Court decision.
- 7 I believe that the judicial process was flawed because I was told by the judge not to examine witnesses about law [10E] or to discuss law [20G], that law would be discussed at the end, which it was not, and he opened the hearing with his personal understanding of what he considered was relevant case law [9B] inferring my guilt until corrected by the prosecution informing the judge that how I travelled to Birmingham was not an issue in this case [10C].
- 8 The judge then allowed the prosecution to open their case by referring to case law [10C] in detail that allegedly proved my guilt on the basis that I was street trading, guilty of not having authority, guilty of an offence under regulation intended not to control pedlars but to control licensed/consent traders and that provides specific exemption for pedlary.

- 9 I believe that in the absence of any preliminary comprehensive comparison of two types of street trading {46-52} being the trading activity of a pedlar and the trading activity of a Schedule 4 trader that the very wording of the original Summons is intentionally misleading to so narrowly view the permissible activity of a pedlar that my trading is effectively prohibited.
- 10 I contend that Birmingham City Council's remit to control Schedule 4 traders and/or unlawful traders was never intended to control law abiding pedlars. To do by claiming that I had no authorisation purposefully ignored the pedlary exemption in Schedule 4 and my 'authority' under my pedlar's certificate to trade in the street. Cited case law ignores the historical activity of pedlary finding my trading as a pedlar to be an offence on grounds that I stopped moving between sales [13G]. That I was guilty of an offence for not being on an authorised list from council further indicates ignorance in application of the law [28F].
- 11 I believe that the prosecution's selective reliance on case law *Watson v Malloy 1988* rather than proper scrutiny and understanding of what constitutes the comparative difference between a pedlar and a council approved trader {46-52} denies proper justice.
- 12 I believe that if I could have made clear as I did in my written appeal argument in the Crown Court what the similarities and differences were between pedlars and licenced traders [3,4] then the claim that I was acting as a 'street trader' and therefore guilty of an offence would be considered spurious nonsense.
- 13 I believe that the Summons text [166] itself is a mischief in that it infers that my street trading pedlary is passing-off as static Schedule 4 street trading because I stopped. The judge on the one hand accepts the authorities that I don't have to keep moving all the time [58D] but in the same breath relies on witness assessment of scale and duration of the minute by minute stationary time facts that bear no relationship to the static 8 hours of Schedule 4 trading. The evidence and facts show clearly my mode of operation was peripatetic, ambulatory and itinerant in comparison to static trading.

- 14 I contend that it is disingenuous for the council to say that my right to trade on those occasions has never been denied but statements by witnesses at the hearing provides evidence supporting their view that if I stop in the street even for a few minutes [15B] I am automatically guilty of an offence of street trading.
- 15 I am severely dyslexic and have found it very difficult to articulate my oral understanding of the law within legalistic terminology and that is why I had sought to read into court my arguments but was denied.
- 16 I am grateful to expert assistance from pedlars.info in providing an Expert Report [81-102] that addresses all the issues, conflicts in terminology, interpretation, examination of the case transcript, tests for pedlary and failures in case law together with arguments on my behalf and which I submit as supplementary to this my Skeleton Argument.
- 17 I have fought and suffered recurring intimidation and harassment from whom I contend are ignorant council officers who admit to not knowing the law [38H, 39H-40E].
- 18 I have suffered the psychological burden of several appearances in court to defend my civil right to earn a living through my chosen trade. I find it very difficult to pay for fines against my small income from pedlary.
- 19 Birmingham City Council I believe has taken advantage of perverse case law that I contend needs to be overturned [106] so that I may continue pedlary as a law-abiding person rather than a convicted criminal ineligible for renewal of my pedlar's certificate because of the police assessment of 'good character'.
- 20 I consider the judgment, the judicial process and dubious case law wholly prejudicial and humbly urge the court to quash [108] the Crown Court judgment and overturn unreliable case law in the general interest.

21 As an essential addendum to this my Skeleton Argument is an Expert Report by Mr Campbell-Lloyd referenced in the Bundle but updated with page numbers referenced to the bundles in red for convenience.

22 List of Issues:

A The Summons text citing the term ‘street trading’ lacks precision in its application and causes confusion for council, prosecution, court and appellant requiring resolution as to whether a pedlar is also considered a street trader as in street-trading-pedlar or pedlar-street-trader or is the term ‘street trading’ exclusive to Schedule 4 Street Traders and if so why?

B The Summons text citing the term ‘authorisation’ lacks precision in its application and causes confusion for council, prosecution, court and appellant requiring resolution as to whether a pedlar’s certification is considered a lawful authorisation for pedlary or is the term ‘authorisation’ exclusive to Schedule 4 Street Traders and if so why?

C Is an offence under the *Pedlars Act* a civil offence incurring civil penalty or does the local authority have statutory powers to allege and apply criminal prosecution and penalty under the *LGMPA Schedule 4* offences on the basis of decisions reached within anomalous case law that redefines the activity of pedlary outside the primary legislation the *Pedlars Act*?

D Is Judicial Review the proper route to challenge what is considered bad/unreliable case law being *Watson v Malloy*?

E Is it judicious that case law *Watson v Malloy* redefined the description of pedlary in the *Pedlars Act* so as to circumvent the *Pedlars Act* without any legal/factual foundation or historic evidence to apply unrealistic meaning to the three words ‘travels and trades’ such that they acquire a new meaning ‘travels whilst trading’ and is it judicious that such words can be understood in extreme isolation outside the full context of Section 3 of the *Pedlars Act*?

F Are the words ‘travels and trades’ to mean that a pedlar cannot stop moving except to make a sale when selling forms only a small part of a pedlar’s trading activity that lawfully includes exposing goods for sale, taking orders and all that constitutes the normal requirements of exposing goods for sale?

G Is the burden of proof on the local authority to prove beyond reasonable doubt that I was not acting as a pedlar or is the burden of proof on me to prove beyond

reasonable doubt that I fulfilled the terms of Section 3 of the *Pedlars Act* in which case the proof that at all times I was acting as a genuine pedlar is clear:

Section 3 *states*:

*The term ‘pedlar’ means any hawker, ...* I am technically a hawker because I use a pedestrian means of carrying and exposing my goods

*pedlar, ...* I am also a pedlar

*petty chapman, tinker, caster of metals, ...* I am none of these descriptions

*or other person ...* this provides for future descriptions of pedlars

*who without any horse or other beast bearing or drawing burden, ...* I use no animals

*travels ...* I travel throughout the United Kingdom to different towns & cities

*and ...* ‘and’ simply connects two separate and distinct activities rather than enforces

*trades ...* I am a mobile trader moving about rather than a static pitch trader

*on foot ...* I trade only on foot as a pedestrian trader

*and goes ...* I go to wherever people gather

*from town to town ...* I have listed the numerous towns I frequent

*or to other men’s houses ...* I mostly trade in the street but retain this option

*carrying to sell ...* I carry my goods on a wheeled trolley enabling me to move about

*or exposing for sale ...* I expose my goods for sale

*any goods ...* I change my goods seasonally according to what people may want

*wares or merchandise ...* for example I personalised face masks during covid

*or procuring orders ...* I take orders

*for goods, wares, or merchandise immediately to be delivered ...* That is my job

H      It is clear to me that I fulfil every aspect of Section 3 and I consider unreasonable Hutchison J’s denigration of what he calls this piecemeal approach {14D} and he goes on to disregard all but three selected words ‘travels and trades’ {14E} that he dubiously purports defines pedlary encapsulated in his aphorism ‘trades as he travels’ but these words are not in the *Pedlars Act* and are suspiciously invented out of his imagination to circumvent the *Pedlars Act* and provide grounds for my prosecution under the LGMPA should I stop between sales.

The *Pedlars Act* provides that I can travel and that I can trade within any part of the United Kingdom with full self-governing discretion and this is what is termed ‘acting as a pedlar’.

23 Legal Points:

A Whether or not I was ‘acting as a pedlar’ or a ‘street trader’ can only be understood if the term ‘street trader’ means a ‘Schedule 4 street trader’ because both pedlars and Schedule 4 traders are ‘street traders’ and require differentiation to avoid confusion. In the absence of such comparison there is no legal logic to considering ‘acting as a pedlar’ in an abstract context. I contend that common sense and common law with precise language must underpin all legal points.

B I contend that Parliament has not altered the primary legislation the *Pedlars Act* nor through any secondary legislation such as the LGMPA Schedule 4 has the description of ‘acting as a pedlar’ been amended. What did occur in 1988 I contend was not a proper interpretation of the *Pedlars Act* but a corruption of the description of pedlary in *Watson v Malloy* with intent to provide local authorities fake grounds to prosecute genuine pedlary in LGMPA Schedule 4 designated streets regardless of its specific exemption for pedlary. I am a victim not of legislation but of mischievous case law and is the reason that I seek Judicial Review of *Watson v Malloy*.

C This Skeleton Argument and the Expert Report challenges the reliability of *Watson v Malloy* with intent that this court will overturn unproved interpretation of the *Pedlars Act* to protect my innocence.

D It is a fact of my life circumstances that I cannot afford the high cost of legal representation and I have already been let down by an inexperienced solicitor unable to present my case in the Magistrates Court so I am relying on this court to allow lay-representation on my behalf.

24 Chronology of events:

My Bundle of Documents and those of the Respondent provide this chronology.

25 Essential advance reading:

I believe that my Bundle and my list of Legislation, Authorities and References provide the necessary documents.

Andrew Logie

30 April 2024 updated with page numbers referenced in {red} & [red]

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