Cains' Judgment Journal: *Comment from Cains on Isle of Man Judgments*

Negligence – Adequacy of Supervision or Management - Prison

Cains' Comment

This case showed that in negligence claims, it is sufficient to show that damage was reasonably foreseeable; there is no need to prove a "real and immediate" risk.

Akinmurele v DHA, Civil Division - Summary Procedure, 7 May 2026

A High Court claim brought by a prisoner who was assaulted by another inmate failed after the Court found that the prison authorities could not reasonably have foreseen the attack and therefore had not breached their duty of care to keep the prisoner reasonably safe whilst in prison.

Deemster[1] Needham relied on the established principles of negligence; that a Claimant is only required to show that the risk of damage to him by the other prisoner was reasonably foreseeable. The Claimant did not have to demonstrate that the risk was "real and immediate" for his claim to be successful (*Rabone and another v Pennine Care NHS Foundation Trust* [2012] UKSC 2, at para. 37, per Lord Dyson). However, the Court also recognised the practical realities of prison management and emphasised that prison administration is inherently difficult. Judges should therefore avoid assessing decisions with the benefit of hindsight (*Newell v Ministry of Justice* [2021] EWHC 810 (QB), at para. 75).

Applying those principles, the Court found that the prisoner responsible for the assault had deliberately concealed his violent intentions. Although there had been previous verbal incidents, the evidence demonstrated a rapid and unexpected escalation to serious physical violence. The attack was therefore not one that prison staff could reasonably have anticipated based on the information available to them at the time.

As a result, the Claimant was unable to establish, on the balance of probabilities, that the Defendant had breached its duty of care and the claim was dismissed.

Notwithstanding the claim was unsuccessful, the Court took a sympathetic view of the Claimant's position on costs. It considered that the case was not wholly lacking in merit and that there were legitimate reasons for bringing the proceedings on the information the Claimant had at the time. In those circumstances, the Court indicated that the usual rule that costs follow the event should be disapplied and that the appropriate outcome is a cost-neutral order, meaning that neither party would recover its costs from the other.

The full judgment can be found at:
https://www.judgments.im/content/Judgment%2007.05.26.pdf

Ultimate Beneficial Ownership - Enforcement of Arbitration Award – Alleged Fraudulent Assignments

Cains' Comment

This case ends a long-running dispute in which VTB Bank and another sought to enforce judgments against assets they unsuccessfully sought to prove were still beneficiarlly owned by Russian businessman Mr Mazurov.

VTB Bank and ABFA Commodities Trading Limited v Mazurov, Samika Limited, Campino Limited, Global Marine Fuel (GMF) Limited, Maka Asatiani and Sophio Tavartkiladze, Civil Division – Ordinary Procedure – 28 May 2026

In this case, the Court dismissed a wide-ranging claim alleging that a Manx company, Campino Ltd, remained beneficially owned by Russian businessman Mr Mazurov despite an earlier sale of the company. The decision brings to an end attempts by judgment creditors to enforce judgments and an LCIA arbitration award against assets they claimed were still effectively controlled by Mr Mazurov.

The Claimants held judgments and a Manx-registered LCIA arbitration award against Mr Mazurov and sought to enforce them against Campino Ltd, a Manx company which owned a Bombardier executive jet. They contended that the transfer of Campino to GMF, a Northern Ireland company owned by Ms Asatiani, was a sham transaction designed to conceal Mr Mazurov's continuing beneficial ownership and place assets beyond the reach of creditors.

Mr Mazurov was declared bankrupt in Russia in June 2020 and was later convicted of fraud and embezzlement, for which he is serving a ten-year prison sentence. The aircraft owned by Campino had been stranded in Moscow for several years and was said to have little value beyond scrap.

The fourth to sixth Defendants maintained that GMF had acquired Campino through a genuine arm's-length commercial transaction. They explained that GMF had previously invested in an oil transhipment business and, following negotiations with parties connected to the New Stream group, had agreed to exchange its 49% stake in Commandit Services LLC for US$5 million and the sole share in Campino, which was transferred free from liabilities.

According to the Defendants, they had no knowledge of any impending legal or financial difficulties facing Mr Mazurov and had engaged with him only through ordinary commercial dealings. They argued that following the sale, Mr Mazurov retained no interest in Campino or its aircraft.

Court Findings

The Court accepted that the series of transactions was complex but found no evidence that the Defendants knew of Mr Mazurov's future financial problems, bankruptcy or arrest, or that they had participated in any scheme to defeat creditors.

In considering the conspiracy allegations, Deemster Corlett applied the principles set out by the Supreme Court in *JSC BTA Bank v Khrapunov* [2018] UKSC 19, particularly the requirement that the alleged conspirators must have intended to cause harm through unlawful means. The evidence showed that the parties were pursuing their own commercial interests rather than acting with any intention to injure the claimants.

The Court also emphasised that conspiracy to injure is a serious allegation requiring cogent evidence, citing *CEF Holdings Ltd v Mundey* [2012] IRLR 912 at paragraph 74, where the Court described it as "a very serious tort" requiring clear proof. No such evidence had been presented.

Beneficial Ownership Not Proven

A central issue was whether Mr Mazurov remained the beneficial owner of Campino after its transfer to GMF. The Court found no factual or legal basis for that assertion.

The directors of Campino provided witness evidence confirming that, to the best of their knowledge and belief, Mr Mazurov had not been a beneficial owner of the company since its sale to GMF. The court rejected attempts to attribute Mr Mazurov's knowledge or actions to Campino, noting that he had never been a director of the company.

The claimants relied on observations made by Lord Briggs in *Julien v Evolving Technologies and Enterprise Development Company Ltd* [2018] UKPC 2, but the Court held that those remarks did not support the proposition that a sole shareholder's knowledge could automatically be attributed to a company whose shares he owned.

Protection of Bona Fide Purchasers

The Claimants also sought to set aside the transfer under section 4 of the Fraudulent Assignments Act 1736. However, the Court noted that the Isle of Man has long recognised and protected the position of bona fide purchasers for value, as in *Re Heginbotham* (1999–01 MLR 53) and *Re Corlett* [1860] 15 ER 251.

There was no evidence that GMF or the other Defendants had acted dishonestly or with knowledge of any alleged fraud. Accordingly, the statutory challenge also failed.

As a consequence, the Court noted that the worldwide freezing orders would need to be discharged. The Court also indicated that further orders would be required concerning costs and the monies paid into Court pursuant to the Claimants' cross-undertaking in damages.

The full judgment can be found here:
https://www.judgments.im/content/Judgment%20280526.pdf

Please note that this note does not constitute legal advice but is provided as non-reliance guidance only. For more information on Isle of Man Litigation Law, please contact: Robert Colquitt or Tara Cubbon-Wood.

Reference

[1] The term used to refer to judges in the Isle of Man judiciary.

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