

LSE-Featherstone

Sexual Orientation and Gender Identity

Moot Competition Problem 2019

Q v News Press Media

Facts

1. Q is a former backbench MP. He was elected in 2001 and lost his seat in 2017. He is no longer politically active and does not intend to stand for Parliament in the future.
2. As an MP, he consistently voted against equal rights for LGBT people:
In 2014, he voted against enabling the courts to deal with proceedings for

undermine LGBT rights while enjoying the benefits of there being a safe space where he could express an aspect of his gender identity.

10. Q has been married to X for 20 years and they have as a 16-year-old son, Y. Neither X or Y know that Q has the alternative persona of "Queen Maggie".
11. On 12 June 2019, The Daily News approached Q stating that it intended to publish a story describing Q's double life in order to expose his hypocritical stance on LGBT rights as an MP. The Daily News informed Q that they had a screenshot of the Photogram post and invited him to provide a comment.

Interim Injunction Application

12. On 13 June 2019, Q applied for an interim injunction preventing publication of the article on the basis that it would be a misuse of private information in breach of his rights under Article 8 ECHR.
13. He argued that wearing drag was a manifestation of his gender identity that engaged Article 8. Q argued that as he was so well disguised, and that so few people knew his persona, that he had a reasonable expectation of privacy.
14. H argued that his outing would have a devastating impact on his family and likely lead to his son being bullied at school.
15. News Press Media resisted the injunction application. They argued that he had appeared in a public space in drag while he was an MP therefore had no reasonable expectation of privacy. If he did have a reasonable expectation of privacy then this was diminished by the picture being liked by his Photogram account.
16. News Press Media argued that even if Q did have a reasonable expectation of privacy then it was clearly outweighed by the public interest in publication. Q was until recently an elected MP. He had been a leading opponent of LGBT

equality in Parliament and the photo taken while he was an MP, showed him to a hypocrite and there is no evidence to suggest that he has changed his views.

17. News Press Media argued that the rights of X and Y should be given minimal weight as a family member being LGBT was nothing to be ashamed of.

Judgment

18. Following a hearing on 20 June 2019, Paul J granted an interim injunction preventing publication of the screenshot or any reference to Q having an alternate drag queen persona. In a brief ex tempore judgment, Paul J held:

“A person’s gender identity is a highly intimate aspect of their private life, which is protected by Article 8 ECHR. Considering all the facts of the case, the Claimant had a reasonable expectation of privacy in relation to the photos and his gender identity more generally.

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