

**In the High Court of Justice
Queen's Bench Division
Administrative Court**

CO Ref: CO/10629/2008

In the matter of an application for Judicial Review

The Queen on the application of

EDWIN STRATTON

Versus

WALTHAM FOREST MAGISTRATES' COURT

1. Edwin Stratton requests an oral hearing to address the misunderstandings and errors of law evident in the Notification of the judge's decision and Order of Mr John Howell QC dated 05 March 2009.
2. The Court will note that the Defendant to these proceedings is Waltham Forest Magistrates' Court ("WFMC"), and not the Crown Prosecution Service ("CPS") as stated on the Notification of the Judge's decision.
3. This claim seeks to prohibit Stratton's committal for trial at WFMC. The claimant does not seek a Judicial Review of the CPS's decision to charge him. This decision is acknowledged to be their duty under law (being at all times subject to the administration of government). The case of *Sharma v Deputy DPP* [2006] UKPC 57 is thus irrelevant.
4. The second paragraph to the observations on the Notification of the Judges Decision refusing permission is thus also incorrect. The claim alleges an Abuse of Power by Her Majesty's Government in the administration of the Misuse of Drugs Act 1971 c.38 ("the Act") on the grounds of illegality, irrationality and unfairness. *Cf R v. Horseferry Road Magistrates' Court, ex p. Bennett* [1994] 1 AC 42, where Lord Griffiths explained the rationale in the following passage (at pp.61H-62A):

"If the court is to have the power to interfere with the prosecution in the present circumstances it must be because the judiciary accept a responsibility for the maintenance of the rule of law that embraces a willingness to oversee executive action and to refuse to countenance behaviour that threatens either basic human rights or the rule of law."

5. Any intended application of (the mal-administered) Act by the Defendant to Stratton would manifest two inequalities of treatment under criminal penalty:
 - i) a failure to treat like cases alike, viz the unequal application of the Act to those concerned with equally harmful drugs (those who produce, manufacture, export, import and distribute alcohol being the analogous comparator) without a rational and objective basis; and
 - ii) a failure to treat unlike cases differently, viz the failure to treat those who use controlled drugs peacefully as a different class from those who do not.
6. These two inequalities of treatment constitute deprivation of liberty at common law and discrimination contrary to Art 14 of the Human Rights Act 1998 within the ambit of Arts 5, 8, 9 and Protocol 1 Article 1 on the grounds of property and legal status.
7. Government unconsciously admitted abusing the Act's powers, and the inequalities of treatment in Command Paper 6941 whilst defending the actions on subjective and / or incoherent grounds not rationally connected to the Act's policy and / or objects.¹
8. Scrutiny of governments admission reveals that the abuse and the resultant inequality of treatment occurs because: (1) Parliament has not stated an explicit policy or fixed any triggering circumstances to guide the Secretary of State for the Home Department ("SSHHD") in exercising his s.2(5) of the Act, which instigates the control of a drug; (2) Government has fettered the SSHHD to an overly-rigid and predetermined policy; (3) the SSHHD has failed to understand and give effect to the Act's and objects; and (4) the SSHHD has arbitrarily exercised s2(5) and the incidental discretionary powers.²
9. Whilst the factual circumstances concerning the accused and the alleged offence are unexceptional, his claim is wholly exceptional in that it identifies 'unconscionable conduct' by the executive that makes a fair trial impossible. It is submitted to be in the public interest to examine the issues fully; anxious scrutiny is hereby requested (*R V SSHD, ex p. Bugdaycay* [1987] AC 514 at 537H).
10. The correct jurisdiction for the adjudication of this matter is this honourable court, not WPMC; *Cf R v. Horseferry Road Magistrates' Court, ex p. Bennett* [1994] 1 AC 42, Lord Griffiths said:

“I would accordingly affirm the power of the magistrates, whether sitting as committing justices or exercising their summary jurisdiction, to exercise control over their proceedings through an abuse of process jurisdiction. However, in the case of magistrates this power should be strictly confined to matters directly affecting the fairness of the trial of the particular accused with whom they are dealing, such as delay or unfair manipulation of court procedures.”

Many issues within this application for an oral hearing were previously dealt with by the Claimant’s response of 30 December 2008 to the CPS application opposing the application *and* explained in the Claimant’s reply to David Hargreaves (Administrative Court Lawyer) dated 5th January 2009. The claimant requests that this court now grant permission to proceed.

1. The Government Reply To The Fifth Report From The House Of Commons Science And Technology Committee Session 2005-06 HC 1031 Drug classification: making a hash of it? October 13th 2006 p.24.

2. *Cf. Padfield v Minister of Agriculture, Fisheries and Food* [1968] AC 997 at 1030-1034.