



TUESDAY 6TH APRIL 2021

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

F90MA137

BEFORE LORD JUSTICE WARBY

B E T W E E N

COLIN CUNNINGHAM

APPELLANT

- and -

ROCHDALE METROPOLITAN BOROUGH COUNCIL

RESPONDENT

ON PAPER
Appeal No.

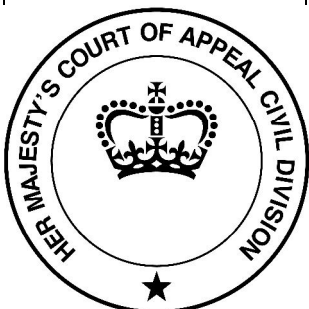
B3/2021/0230

UPON the appellant's application for permission to appeal against the order of HHJ Platts dated 30 November 2020, by which the appellant's claim for damages against the respondent was dismissed and he was ordered to pay costs

AND UPON permission being granted to appeal on Grounds A to F

IT IS ORDERED AND DIRECTED THAT

1. Until the hearing of the appeal or further order:-
 - 1.1. the person referred to in the judgment below as TH shall continue to be referred to by those initials and
 - 1.2. no report of these proceedings shall contain any information that would be likely to lead to the identification of the person referred to as TH as being the person who assaulted the claimant on 3 November 2015
PROVIDED THAT this order shall not restrict the publication of anything contained in the judgment below or in any other public judgment or order of the court in these proceedings.
2. Each of the parties and any person affected by the order at paragraph 1 above has liberty to apply to discharge or vary that order **PROVIDED THAT** any such application must be made on at least 2 clear days' written notice to all parties including all material relied in support of the application.
3. The order at paragraph 1 above shall in any event be reviewed by the Court at



the hearing of the appeal.

4. To assist the Court on that issue, each of the parties must
 - 4.1. consider whether that order should be continued
 - 4.2. ensure that the Appeal Bundle includes documents from the proceedings below sufficient to show when, how and why TH was granted anonymity;
 - 4.3. provide the Court hearing the appeal with brief written submissions on the issue.

REASONS

On 3 November 2015, the appellant sustained a serious injury as a result of a single punch to the face from a pupil at the school where he was an assistant head teacher. The appellant's claim against the respondent for damages for breach of duty was dismissed by HHJ Platts. I have granted permission to appeal.

According to the judgment, the pupil's date of birth is 13 July 2002, so he was 13 years old at the time of the assault. By the time this case came to trial before HHJ Platts on 2 November 2020 he was 18, but he was anonymized by the initials TH. He is likely to have turned 19 by the time this appeal is heard.

The appeal papers do not disclose when, how, or why the decision was made to confer or to continue anonymity, despite the fact that TH is now an adult. CPR 39.2(4) appears to be inapplicable, as TH is not a party nor was he a witness. But the identity of adults who are not parties or witnesses can in principle be protected, in appropriate circumstances. This order maintains the *status quo* until the appeal hearing on the footing that this may be such a case, so that anonymity for the time being is necessary to secure the proper administration of justice. The interference is modest, and there has been no challenge to the grant of anonymity. But the matter will need to be reviewed not later than the date when the appeal comes on for a public hearing. The Court will need the assistance of the parties.



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ORDER

Copies to:

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*

* This order was drawn by Mr A Olajide (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to Mr A Olajide, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 020 7947 7856