

A successful appeal to the Court of Appeal by 42 Bedford Row's Tim Adkin

An interesting and important case concerning the reversal of the burden of proof in discrimination cases. Please see the link below.

This appeal concerned the discriminatory treatment of Bianca Durrant by the Police Officers of the Avon & Somerset Constabulary, who identifies herself as mixed race.

The trial judge found that both the selection of Ms Durrant for arrest and rear handcuffing were examples of race discrimination by the Police Officers involved in arresting her. He dismissed however other claims of discriminatory treatment.

Lord Justice Sales, with whom Lady Justice Black and Lord Justice Moylan agreed, held that the trial judge had failed to operate the burden of proof provided by section 57ZA of the Race Relations Act 1976. This related specifically to the failure of PS Thorpe to allow Ms Durrant access to toilet facilities during her arrest despite her repeated requests for this. The trial judge found two examples of discriminatory treatment had occurred already on the evening of the material events to which PS Thorpe had been party. This was enough to mean that a court could conclude in the absence of an adequate explanation that a discriminatory act had occurred. The only witness evidence on this point was that of Ms Durrant, since the Respondent had been debarred from producing its own witness evidence. It followed that the Respondent police force had not satisfied the burden of proof to defeat the claim that denial of toilet facilities was a further example of race discrimination. The level of damages is to be reassessed accordingly.

Comment – this case may be used by claimants to support an argument that instances of discrimination found in a case may be enough to satisfy the initial burden in respect of other allegations, such that the burden falls on the organisation defending the claim.



[http://www.bailii.org/ew/cases/EWCA/Civ/2017/1275.ht
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⁴² [http://www.42br.com/selected-case/bianca-durrant-v-
chief-con](http://www.42br.com/selected-case/bianca-durrant-v-chief-con)