

Witness: Grahame James Pigney
On behalf of the 2nd group of Interested Parties
Statement: First
Exhibits:
Date: 21 September 2016

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

BETWEEN

THE QUEEN
On the application of

(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

(1) AB AND A CHILD AND OTHERS
(2) GRAHAME PIGNEY AND OTHERS

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

WITNESS STATEMENT OF
GRAHAME JAMES PIGNEY

I, GRAHAME JAMES PIGNEY of [REDACTED]

WILL SAY as follows:

1. I am a UK Citizen aged 62. I consider myself English, Scottish (my maternal Grandmother was a Ross and I frequently wear the kilt), British and European. My

extended family are spread between Scotland, England and France. Going much further back, my family originated in France and came to England in the late 1600s as refugees or asylum seekers, to escape religious persecution in France.

2. I spent almost all my working life in the UK insurance sector working in I.T., initially as a programmer and then as a project/interim manager working in London for a multi-national insurance company. I am no longer working as a salaried employee; instead I help my partner, Lyn, and my son, Rob, with their translation/sub-titling work and maintain the property we let out. I also am one of the interested parties in the People's Challenge group represented by Bindmans LLP and have played a co-ordinating role in that group. It was formed to make sure that the rights and freedoms of ordinary people who are both UK and European Citizens are fully taken into account when the Courts decide this critically important case. I feel very strongly that those rights and freedoms received insufficient attention during the public debate prior to the Referendum and that they - and those who currently enjoy and exercise them - will be marginalised once again if Parliament does not fulfil its proper constitutional role now, in the aftermath,
3. These rights, together with those of all European Citizens, have changed beyond recognition in my lifetime, thanks to the European Community and then the European Union ('EU').
4. When I was a young child, and later on as a teenager, my parents, brother and I frequently had touring holidays in Western Europe. Prior to 1974 I can remember vividly the complications of and formalities involved in travelling from the UK to what are now EU countries. As a result, I became very aware of the right of free movement of people once it became available; in many areas the complications I associated with travelling outside the UK have largely disappeared as a result.
5. More importantly though, European Citizenship rights and freedom have enabled my own family to live, work and study outside the UK in a way that would have been impossible when I was a child.
6. My partner, my son and I have lived in France since around 1998. The personal freedoms that derive from the UK being a member of the EU were a significant factor in us

deciding to move here. It was not just the freedom to be able to live, work and retire in any of the EU countries, but the ease with which these things could be done that informed our decision. The ability to be able to buy property, open bank accounts, obtain insurance, non-discrimination as far as taxation is concerned, inter-operability of pensions and the ability to set up businesses on the same legal footing as French nationals were all extremely important to us. We also knew our son would be able to study and, in due course, work just as if he were French. All of this would be possible because we would be treated as citizens of Europe, rather than as nationals of another, foreign country.

7. There was also the consideration of the ease with which we and our family and friends could move to and fro between the UK and our chosen country of residence, not only so that we could visit family and friends freely, but also so that they could stay with us, whether for a holiday or on a more permanent basis. All of this would involve using the free movement rights of European Citizens. So, for example, in the first few years of living in France, I travelled on a weekly basis to London to work without any more inconvenience than I had done when travelling from Manchester. My parents, in particular my mother, were able to stay with us on an extended basis without any more difficulty than they or she had staying with my brother who is resident in the UK. Equally important, it was easy for us to return to the UK for extended periods to provide support for family and friends. In addition, in his last few years my partner's father was able to move out to be with us on a permanent basis, buying his own house and being able to obtain medical care with ease owing to his entitlement to certain free healthcare throughout the union available to him as a European Citizen.
8. Without these rights, freedoms and the regulations that support them, we would not have taken the decision to move to France. We had no sense that they could be revoked without the most careful decision-making process fully involving Parliament. Exercising these rights – and others besides like our right to vote in French local elections – has made our life in France not only possible, but truly secure and fulfilling. Our Government now says revoking them is not only possible, but about to happen within a strict timetable because of the answer those permitted to vote gave to a binary question in an advisory referendum. This horrifies me.
9. I was unsettled by the proposals and then the decision to commission the EU

Referendum. I resolved to do what I could over the last two years to raise awareness of the rights and freedoms that would be lost were the UK to leave and so I established Say Yes 2 Europe, an umbrella campaign for grassroots campaign groups. Using social media and the internet, those involved did their best to educate others on the benefits of European Citizenship. We did so in a pragmatic, non-evangelical way: I would be the first to acknowledge that the EU is not perfect, that there are areas of public life, such as banking and insurance, where rights and freedoms are limited, and that improvements to institutions are needed. The fact that the EU is a work in progress does not detract from the freedoms and rights enjoyed and exercised by millions of people, nor the peace and relative prosperity that has resulted.

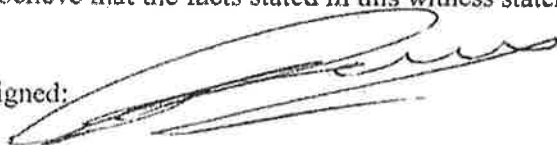
10. Like many other expats, the length of my residence abroad meant I could not vote in the Referendum.
11. I was very upset at the Referendum result. It seemed to me that the most decisive factors in the campaign were exaggerated concerns about immigration and outright falsehoods. That is not to say that the result should not be taken seriously; it must be. Regardless of the result, however, I did not believe the Government would, or legally could, begin the process to take us out of the EU within months by invoking Article 50 without Parliamentary authority. After all, Parliament had given all UK Citizens European Citizenship rights, even though some have not used or cherished them. Even some UK citizens holidaying in the rest of the EU are unaware of the rights and regulations that make doing so, so easy. Whether used, cherished or not, they are a fundamentally important and practical part of the rights and benefits of being a UK and European Citizen. People did not have information about the Government's plans as regards what would happen to these rights and freedoms before voting in the 2016 EU Referendum. In its aftermath, I thought that plans and proposals would have to be formed, examined and tested fully in Parliament so people could understand what form, or forms, of Brexit there might be and have confidence that their elected representatives in Parliament would exercise choices for them, in the national interest. It would decide when, how and under what circumstances those rights may be removed. Parliament would be mindful of factors such as place of residence and age impacting very directly on people's ability to vote in the Referendum: people like myself might have a great deal to lose, as would younger people, yet have had no opportunity to express a view directly through voting. It would

also take into account the differing circumstances of places like Scotland and Northern Ireland, where the majority voted to stay, and how the union of the United Kingdom may be damaged, quite possibly fatally.

12. Very regrettably, our Prime Minister has taken it upon herself to make these decisions rather than leave them to Parliament. To me, to do so seems the very opposite of democracy. Given what is at stake for millions of people like me, I cannot see how it could be lawful for any body other than Parliament to make these decisions and be fully involved from now onwards before rights are compromised in any way, not just on matters of detail later on. I therefore ask this honourable Court to grant me the relief I seek.

I believe that the facts stated in this witness statement are true.

Signed:

A handwritten signature in dark ink, appearing to be 'R. M. S.', written over a horizontal line.

Dated: 21 September 2016

Witness: Robert Pigney
On behalf of the 2nd group of Interested Parties
Statement: First
Exhibits:
Date: 21 September 2016

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

BETWEEN

THE QUEEN on the application of

(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

(1) AB AND A CHILD AND OTHERS
(2) GRAHAM PIGNEY AND OTHERS

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

WITNESS STATEMENT OF
ROBERT PIGNEY

I ROBERT PIGNEY of [REDACTED] WILL SAY
as follows:

1. I am a 22 year old British Citizen and a European Union ('EU') Citizen. I have lived in the EU all my life; I consider it my home and I share my home with 27 other

nationalities, just as they share their home with me. I am self-employed as a linguistic services provider in France where I currently live. I am represented as an interested party by Bindmans LLP in these legal proceedings as a member of the People's Challenge group.

2. Being both English and British has never been a problem for me, as an Englishman I form part of a greater whole: the UK. The same applies for my British and European identities, as a Briton I form part of something greater too. I have never considered that being a proud Englishman, Briton and European represented any kind of conflict of interest, or that one diminished either of the others. In any event, like most British people, my heritage is a mixed European one, as explained by my father, Grahame Pigney, in his own witness statement.
3. This country has known turbulent times and peaceful times, hard times and easy times, painful times and happy times. Today the UK stands at a crossroads, which path it takes will dictate which of these we will have for decades to come. More than ever we need calm, collected and rational decisions from fully-informed people who we can trust who form our Parliament; that is my motivation for being involved in this case.
4. My parents exercised my EU rights of free movement of people for me when they took me to France with them when I was just three years old. I have continued to exercise these rights by continuing to live in France and with every trip I make to visit family and friends in the UK; my identity is fundamentally bound up with the exercise of those rights. I never became aware of them being handed over to me; I simply was, from my earliest memories, aware that EU Citizens like me shared a common set of rights which had to be respected by every EU country and institution. I never understood why it should be any other way; the way forward has always lain in co-operation. With hindsight, I see that whenever I studied, sought support from the state or worked, my rights were being exercised.
5. Although I have no recollection of it, I probably became aware of EU Parliament elections between the age of 8 and 10 when I heard about them on TV or on the radio.

It seemed to me a natural thing for people to vote for those leading powerful institutions. One of the tangible manifestations of my EU citizenship rights is the ability to vote for the MEP(s) who represent where I reside and to vote for the local councillor(s) who represent me.

6. I have always taken my free movement rights for granted too. In the course of my sporting career, I, a British national, have travelled from France to Spain without preparation or difficulty in exercise of my free movement rights. I have always considered that a trip to an EU country was no different to simply "popping round the corner" to a different street in my home town.
7. I continue to enjoy many tangible and immediate rights such as freedom to work and accrue pension points in any EU member state country, freedom to set up a business without hindrance in any of these countries (which I have done).
8. These rights and the co-operation they have fostered have helped turn this traditionally war-torn continent into a place of peace, prosperity and justice. EU rights and freedoms are, in my view, essential to the peace and friendship you see in Europe today.
9. When I heard the government was proceeding with the EU Referendum, I initially believed that people knew and understood the rights and freedoms they had as EU citizens. I felt it was likely to be a waste of time.
10. I could not vote myself because of an arbitrary limit that was imposed to exclude a portion of UK citizens; those who have been resident abroad for long periods. I felt I could not remain passive, though, and so took a personal stand, becoming very active in Say Yes 2 Europe and other campaign groups. I used social media platforms, including Facebook, blogs, and Twitter to try and raise awareness about the benefits of the EU, including the rights and freedoms arising out of the UK's membership of the EU, and in order to try to dispel the myths and outright lies about the EU.
11. Through this activity and as the Referendum campaign wore on, I came to realise that remarkably few people knew anything about the EU and consequently that some

people would believe anything, even the most outrageously blatant lies. This problem was compounded by the absence of clear -- in fact any -- plans for the consequences of Brexit in whatever form that might happen. For the most part, the ensuing public debate was neither constructive nor informed.

12. Although I had some hope, by the very end of the campaign, the result of the Referendum had become predictable. I believe it was the result of an unsatisfactory campaign process, during which neither the government, nor Parliament, took sufficient action, or implemented sufficient safeguards to ensure that the UK public was not misled, lied to or manipulated.
13. But, despite the outcome, there still remained the most important safeguard -- the Parliamentary process. Proposals for Brexit would be drawn up, examined, criticised, tested and debated, I thought. If Brexit happened, a way could be found to safeguard people's rights, especially those currently being exercised.
14. I was therefore aghast when I found out that the Prime Minister planned to invoke Article 50 without even consulting Parliament, less still allowing it to make decisions in a proper legislative process. I had thought it unthinkable that a Prime Minister with no election mandate and no Parliamentary mandate would make such a momentous decision which concerns how and when, my and other British people's EU Citizenship rights, and the rights that are associated with that citizenship, might be taken away, based on a marginal result from an advisory referendum.
15. Not only is the very act of bypassing Parliament dangerously undemocratic at best; the particular circumstances that we face demand that calm consideration, careful review of the facts and a measured and deliberate solution be sought out by Parliament. Peoples' jobs and livelihoods are at stake. Peoples' security is at stake. The very integrity of the UK is at stake. Decisions about these things are those Parliament has been incrementally empowered by the people to take over centuries.

16. To exclude Parliament from the decision-making process on how to respond to the Referendum would, I believe, be the greatest attack on democracy the UK has ever known. It cannot be lawful in a Parliamentary democracy.

I believe that the facts stated in this witness statement are true.

Signed:

A handwritten signature in black ink, appearing to be 'CF' or similar initials, enclosed within a circular or oval shape.

Dated:

September 2016

Witness: Christopher Formaggia
On behalf of the 2nd group of Interested Parties
Statement: First
Exhibits: none
Date: 21 September 2016

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

BETWEEN

THE QUEEN on the applications of

**(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS**

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

**(1) AB AND A CHILD AND OTHERS
(2) GRAHAME PIGNEY AND OTHERS**

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

**WITNESS STATEMENT OF
CHRISTOPHER FORMAGGIA**

I CHRISTOPHER FORMAGGIA of [REDACTED]
[REDACTED] WILL SAY as follows:

1. My name is Christopher Formaggia. I am 49 and reside in Monmouthshire in Wales. I am a full-time biologist and work as the Principal of Arbtech Consulting Ltd. of Flintshire, Wales along with other arboriculturists and ecological consultants. In this litigation, I am a named Interested Party represented by Bindmans LLP. What follows explains why I

have decided become involved in this way and summarises what I believe is at stake.

2. When I learnt of the Government's intention to hold a referendum on exiting the EU, I was concerned for a number of reasons. It seemed to be wholly motivated by a desire to resolve internal division in The Conservative Party. The question to be put seemed to be far too binary and simplistic for what is an enormously complicated set of considerations. It seemed to pose significant risks to the economy and social fabric of the country. Within my field of expertise, I was very concerned that all the environmental protection introduced through EU law would be lost to the UK. For example, I was concerned that the strengthening of domestic legislation protecting wildlife as resulted from Directives 2009/147/EC on the conservation of wild birds (The Birds Directive) and 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive); could be lost as a result of any review of legislation resulting from a departure from the EU.
3. I felt I could not be passive and so I began campaigning on a variety of social media platforms to highlight what I felt was the folly of departure from the EU. I began to campaign on the matter in May of 2016 but increased my activity significantly as the Referendum result became known on June 24th 2016. I am active in the discussions of seven Facebook groups concerned with such matters (the largest of which has a membership of about 50,000 persons) and via a twitter and Linked-in accounts.
4. I was surprised by the outcome of the Referendum vote. I felt the outcome was likely to be close (as indeed it was) but I felt that on balance more people were likely to see the dangers to our economy and our social fabric that would arise from an exit from the EU. However, I assumed that as the Referendum was advisory, the next step would be for Parliament to assess the options on whether and, if so, how to proceed in the national interest remaining mindful of individuals' rights and differing circumstances.
5. For example, I am a British Citizen by descent and a European Citizen by virtue of the UK's membership of the European Union ('EU') and the entrenchment of individual EU citizenship rights into UK law.

6. I consider myself to be a patriotic UK citizen and committed unionist. I have committed much of my adult life to various forms of public service. For instance, I worked in the National Rivers Authority/Environment Agency for 12 years ending as the Conservation, Recreation and Navigation Officer for Wales and as the Senior County Ecologist for Torfaen Country Borough Council for a year. I served in HM Reserve Forces as an RAF Gunner and Intelligence Analyst between October 1991 and March 2016. I held the substantive rank of Flight Sergeant on completion of my service.
7. However, I am equally proud of my European Citizenship which, for me, sits entirely comfortably with my British identity. I consider that I share a profound sense of shared morality, values and history with my fellow European citizens. Through my long-term interest in ancestry and as a result of autosomal, Y-Chromosome and Mitochondrial DNA testing, I am acutely aware that I am diversely European by inheritance and I believe that the same would be true of many other UK citizens.
8. I cherish the rights that I hold as a European citizen, including the freedom of movement rights that I enjoy and exercise regularly, in order to travel and work freely within the EU. My family and I regularly holiday in the EU and are comforted by the reciprocal access to medical care that we enjoy. I also work in the EU and am currently the retained ecologist on a large retail project in Fidenza in Italy, a role I can currently only fulfil because of my free movement rights. I always vote in all matters for which I am entitled and have always exercised my rights to take part in European elections, allowing me a say in some matters of common concern to EU Citizens.
9. I have held, and enjoyed the rights and benefits of these overlapping and complementary citizenships and identities all my adult life. Yet the Government considers itself entitled, and is poised, to take one of them away without there being any associated legislative process or even a Parliamentary vote. I struggle to conceive of few changes that will affect individual British and European Citizens in such a profound and lasting way. I find the idea that such a step can be taken by the Government independently of Parliament astonishing.
10. As it happens, I have access to citizenship of South Africa by virtue of my birthplace and I am in the process of investigating eligibility to Italian citizenship for myself and my

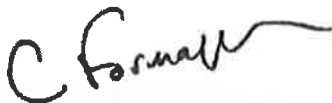
minor children by virtue of descent from an Italian great-grandfather on my paternal line. As of yet, I have not been able to book a consular interview, which I understand is as a result of high demand from others seeking to do the same. I have never pursued this before. If it is successful, I will be amongst a fortunate few. But for millions of other UK Citizens this is not even a possibility. I believe that they, and I, should have nothing taken away from us as a consequence of the Referendum unless our Parliament decides that should happen, after consideration of proper proposals, the consequences and a full debate.

11. I am horrified by the attempt by the Government to side-step Parliamentary scrutiny by invoking Article 50 by utilising the Royal Prerogative. This seems to me to be a profound abuse of executive power. I feel so strongly about this, that I have decided to take a stand, hence my involvement in this case.

12. I ask this Court to grant the relief that I and the other interested parties seek.

I believe that the facts stated in this witness statement are true.

Signed:

A handwritten signature in black ink, appearing to read 'C. Forman', with a stylized flourish at the end.

Dated: 21 September 2016

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

DIVISIONAL COURT

THE QUEEN on the application of

(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

(1) AB AND A CHILD AND OTHERS
(2) GRAHAME PIGNEY AND OTHERS

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

WITNESS STATEMENT OF
PAUL CARTWRIGHT

I, Paul Cartwright of [REDACTED]
will say as follows:-

1. I am part of the People's Challenge group, represented by Bindmans LLP. I make this witness statement to explain my involvement as an interested party in this

case and to give the Court a sense of what is at stake from a Gibraltarian perspective. As far as I know, I am the only party in this litigation from any British Overseas Territory.

2. I was born fifty years ago in the British Gibraltar Peninsula, where I have lived my entire life. I am committed to public service and work in Environmental Protection with the Gibraltar Government. I am married and live with my wife, Maria Cartwright. She is Spanish by birth but has dual Spanish and British nationality. Both of us are also European Citizens.
3. My mother is Spanish. She, like my wife was born in La Linca, Spain. My father (who is deceased) was Gibraltarian, although he was born in Glasgow when my Grandmother was evacuated during the war. My whole family, including myself, are British nationals, but we very much enjoy and exercise the rights, advantages and privileges of being Europeans. At present I have no Spanish passport and, to the best of my knowledge, I do not hold Spanish nationality, nor do I wish to seek it. I am very proud to be a British Gibraltarian and a citizen of the EU.
4. My everyday life will change profoundly upon the triggering of Article 50. Within two years I will be completely stripped of my European Citizenship rights, most importantly my right to freedom of movement throughout the EU, along with most other Gibraltarians.
5. I cannot overstate the significance of this happening. Gibraltar has been under British rule for more than 312 years, but our only physical gateway to Europe is through another European nation, Spain. In 1967, when I was only two years old my family and fellow Gibraltarians voted in a referendum to decide whether to be subjects of British or Spanish rule. 99.6% voted to remain British. In response to this Francisco Franco closed our only border leaving our 3½ square mile home severed from Spain. As I grew up, I remember walking to the frontier and listened to how my Spanish mother had to shout to communicate with her own relatives, who had remained on the Spanish side of the border when it closed in 1967. This seemed completely artificial and bizarre. The border also created real problems for Gibraltar economically.

6. Then, when I was around 17 years old, the Spanish border partially opened, followed by its complete opening in 1985, as Spain was accepted into the European Community and had no option but to fully comply via EU law. The free movement of capital, workers and tourists that followed was economically and socially liberating. Gibraltar became a different place. Gibraltar has boosted its economy not only through tourism and creating job opportunities for a Spanish and European workforce living in the southern tip of Spain, travelling back and forth across the border.
7. Importantly, Gibraltar's status as part of the EU has also had to be enforced from time to time. For example, in the summer of 2013, the Gibraltar Government's Department of Environment embarked in creating an artificial reef in British Gibraltar Territorial Waters - an area frequented by some Spanish commercial fishing vessels. The Spanish government instructed both the Guardia Civil and Policia Nacional to impose tighter controls at the Gibraltar border. This resulted in car queues of up to 7 hours both in and out of Gibraltar. Motorbikes, cyclists and even pedestrians had to also join queues. The excuse for these tighter border controls was that Spanish fishermen had been denied the right to fish in waters which Spain does not consider to be British. After months of EU delegates physically coming to the Gibraltar/Spanish border and advising both sides on how to improve the flow of traffic and persons through a 100% EU border, Spain relaxed the restrictions.
8. Gibraltar's relationship with Spain is difficult enough, even when interventions of this kind are possible. Freedom of movement is what makes it tolerable. Many people like me rely on being able to travel freely through the border for work or businesses, including those supplying goods and services. Families also live on both sides of the border. For example, Marie has dual nationality, as I have said, but she relies on the frontier being easy to travel through everyday because her father is very sick.
9. I am deeply concerned about the impact on my rights and freedom of movement as I am sure my fellow Gibraltarians are if Britain withdraws from the EU without

adequately protecting our rights. At present it is impossible to see how that might be done – there are simply no plans.

10. Virtually no-one here wants these rights and freedoms to be compromised. 96% of the Gibraltarian population voted to remain in the European Union. I accept, of course, that the majority of those who voted did so to leave. But divisions of this kind make it all the more important that Parliament is involved now and through the process so it can make a sound decisions on what should happen now taking account of special circumstances like ours.

11. In response to hearing the overall Referendum result, I set up a campaign, Brex-In, as I was concerned of the impact the results were going to have on those of us living in Gibraltar. However, I also did not want to see a disjointed or divided UK because of the way in which the referendum had been orchestrated. Brex-In sought to bring together people who had voted leave, as well as those who voted to remain, who might now be worried. I think a lot of people who voted leave felt misinformed and that there was a reliance on xenophobic sentiments by the Leave Campaign.

12. We feel there now needs to be a further, properly informed debate on concrete proposals – one which is listened to and taken on board by Parliament. We will be silenced if the Royal Prerogative is used to short-circuit the proper democratic process. I do not accept the Government can decide to trigger Article 50 by using such a draconian measure, one which will irrevocably affect the rights, freedoms and futures of so many of my fellow Citizens here, in the UK itself and abroad.

I believe that the facts stated in this witness statement are true.

Signed 

Dated 21/9/2016

Witness: Tahmid Chowdhury
Party: Interested Party (Second Group)
Statement: 1
Date: 21 September 2016
Exhibit: none

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

THE QUEEN
On the application of

(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

(1) AB AND A CHILD AND OTHERS
(2) GRAHAME PIGNEY AND OTHERS

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

WITNESS STATEMENT OF
TAHMID CHOWDHURY

I, Tahmid Chowdhury of [REDACTED] will say as follows:-

1. I am a 22 year old British and European Union Citizen and have resided in London all of my life. I have recently graduated from university, wish to become a lawyer and will be taking my legal

training further in the coming months. My parents emigrated to the UK from Bangladesh in the early 1980s, with all of my siblings born in the UK, attending state schools and going on to university.

2. I am very proud to identify myself as British, Bangladeshi and European. Growing up in London I have been particularly fortunate in seeing the benefits of multiculturalism and internationalism. There is no doubt that those who meet me think of me as British; perhaps because of my inability to function without a cup of Earl Grey in the morning, or the fact that I can't be separated from the TV screen when the Premier League is on. My overwhelming Britishness is something I have never had a need to doubt or consider.
3. That being said, I would not be who I am without my Bangladeshi and European identities. The values I have are not just as a result of my being British, but are shared and have been formed by the influence of other cultures. This is especially true of our EU neighbours, who over the course of history and in particular since the Second World War have grown with us, and helped us to grow ourselves.
4. Leaving the EU would see tangible citizenship rights that I and 65 million other UK citizens had granted to us by Parliament eroded or altogether destroyed. The opportunities I have as a young person - travel, work, study and more - are set to be significantly altered. With Parliamentary Sovereignty such a critical issue in the EU referendum, it seems at best odd that the Government could believe that they can circumvent the UK's supreme legislature. History has shown that Governments have competing interests that they need to balance, whether by keeping their backbenches happy, getting re-elected or maintaining party funding. In contrast Parliament's primary interest is doing what is best for UK citizens, and it must be given the opportunity to do so on the manner and timing of any material change in our relationship with the EU.
5. The various treaties of the EU are different to other international treaties in that they confer actual rights of citizenship on citizens of member states. Growing up, I took for granted a host of those rights.
6. The first time I knowingly engaged my EU rights was whilst at secondary school, when a trip to Nice meant we had to apply for European Health Insurance Cards, confirming our entitlement to

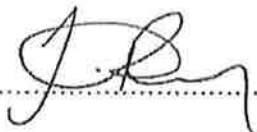
healthcare across member states and making the freedom to travel there all the more meaningful. It was not until I needed to visit a hospital in Boston some years later that I realised how important that easy access was.

7. I have since exercised free movement rights around Europe many times. In the last month alone I have visited France and Italy on holiday; for the former, I only bought my ticket the day before I flew, which would have been impossible if I had required a visa or even visa waiver. Working part time as a theatre producer has opened a wealth of talent from the continent, and opportunities to tour easily to different theatre scenes - not to mention the arts funding that the EU provides. I consider active engagement with EU institutions is important too and voted in the 2014 MEP elections.
8. The EU Referendum has turned out to be the most profound political event of my life. Having actively campaigned for a 'remain vote' in London, I suppose I had a heavily skewed view of what was happening on the ground in other parts of the country. What was most striking, if in hindsight unsurprising, was how uninformed many voters were of the breadth of issues at stake. The Remain camp hammered home messages about the economy, and the Leave camp on immigration and sovereignty; this left thousands of people I engaged with totally unaware or unfocused on their most tangible rights of citizenship, like healthcare and education. One can assume that when it came to actually voting, it simply came down to who the electorate liked more on a restrictively narrow set of issues.
9. I was thoroughly disappointed and, truth be told, surprised by the result as I stayed up on 24 June 2016. Even that, though, could not compare to the disappointment of what followed the outcome; a rise in racist attacks and more fear-mongering.
10. What I least anticipated was what is now under challenge in this case - a unilateral attempt by the Government to bring about Brexit - whatever that might actually entail - without any meaningful Parliamentary oversight by using the Royal Prerogative to trigger Article 50. I had anticipated that my own and others rights, having been granted by Acts of Parliament, could only be taken away through an identical legislative process. Further, the Referendum was not legally binding. Parliament passed the European Union Referendum Act 2015 which made it so, and to not seek Parliament's approval before triggering Article 50 would be to reject its authority.

11. Concerns over Parliamentary Sovereignty were at the heart of the referendum campaign. The idea that our elected representatives are ultimately responsible for the laws that govern us is intrinsic to British democracy. It comes down to accountability; notwithstanding all the flaws with our electoral system, an ordinary citizen can far better hold their MP to account than they can the appointed Government.
12. All of this motivated me to take a stand as an interested party in this case. I believe that the Prerogative cannot be used, given what is at stake. I ask the Court to make the declarations I and the claimants seek.

I believe that the facts stated in this witness statement are true.

Signed



Dated

21/09/2016

Witness: Fergal McFerran
On behalf of the 2nd group of Interested Parties
Statement: First
Exhibits:
Date: 21 September 2016

CO/3809/2016 & CO/3281/2016

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
DIVISIONAL COURT

BETWEEN

THE QUEEN on the applications of

**(1) GINA MILLER
(2) DEIR TOZETTI DOS SANTOS**

Claimants

and

THE SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION

Defendant

and

**(1) AB AND A CHILD AND OTHERS
(2) GRAHAME PIGNEY AND OTHERS**

Interested Parties

and

GEORGE BIRNIE AND OTHERS

Intervener

**WITNESS STATEMENT OF
FERGAL MCFERRAN**

I, Fergal McFerran, of [REDACTED] will say as follows:-

Introduction

1. I make this statement to assist the Court on the application for judicial review of Gina Miller. I am an interested party in this litigation and part of the People's

Challenge Group. I am represented in these proceedings by Mr Darragh Mackin of KRW LAW LLP acting as agent to Mr John Halford of Bindmans LLP.

2. I am twenty-four years old, reside in Belfast, Northern Ireland and I consider myself to be Irish, a citizen of the United Kingdom and a European Union ("EU") citizen. I am a graduate of Queens University Belfast in Politics, Philosophy and Economics. In 2015, I was elected to serve as the President of The National Union of Students-Union of Students in Ireland ("NUS-USI"). I was re-elected in 2016, and so at the time of writing I am currently in my second term as President.
3. This litigation concerns a matter which is of fundamental importance to students and citizens of Northern Ireland. My motivation in becoming involved is to try to mitigate the effects of removal of the removal of EU Citizenship that would follow from Brexit and the associated uncertainty by ensuring that any exiting of the EU is done in a manner that is fully transparent and accountable to Parliament. I am acutely conscious of, and deeply trouble, by the fact that invoking Article 50 using the Royal Prerogative would be neither transparent nor accountable to Parliament and would eliminate all meaningful involvement of the Northern Ireland Executive and Assembly in the decisions that need to be made.

Students, Northern Ireland and the EU

4. NUS-USI was established in 1972 under a unique arrangement where both the British and Irish national student unions, National Union of Students (NUS UK) and Union of Students in Ireland (USI) respectively, jointly organised in Northern Ireland to promote student unity across the sectarian divide. The original agreement was revised in 2012. This resulted in the current trilateral agreement which was signed by the presidents of NUS, USI and NUS-USI at an event held at Parliament Buildings, Stormont in 2012.

5. NUS-USI currently represents the interests of approximately 200,000 students in Northern Ireland and campaigns on their behalf in many different fields such as student hardship, health, prejudice and accommodation. We also provide an infrastructure that helps individual students' unions in Northern Ireland to develop their own work through our research, training and development functions. As part of my work, I actively campaign in the defending, and promoting of the rights of students so that they can fulfil their full potential, secure their futures and make a contribution to society.
6. Both prior and post the referendum, I have actively campaigned against the risks to the rights of students both in the Northern Ireland and the rest of the United Kingdom, by the exiting of the European Union. As is clear from the statistics, students actively rely on the EU and their rights and freedoms enjoyed as a result of their EU citizenship, perhaps more so than most groups of people in society.
7. I am a citizen of the United Kingdom and the European Union, as I have said. The European Union has consistently helped to shape a more stable, cohesive and prosperous society in Northern Ireland. The European Union came into existence at a time of grave uncertainty within the world. Northern Ireland knows the price of peace all too well, the increasingly cohesive society we have here today and the political stability that we enjoy were hard won and our politicians, civic society and our citizens continue to shape and sustain that.
8. The generation to which I belong were born into the global peace and stability that the European Union helped to forge. So to, the generation to which I belong were born into the local peace in Northern Ireland that so many here helped to forge. One cannot ignore the role that the European Union has played in supporting our collective and ongoing commitment to reconciliation and developing a society based on those same principles of mutual respect,

cooperation and peaceful coexistence espoused so clearly in the early days of the EU.

9. I have had the benefit of a variety of EU Citizenship rights in my student, personal and professional life, but that is far from unusual. To state that students greatly benefit from EU membership would be an understatement.
10. For example, the EU's freedom of movement rules enable easier immigration to other European Countries, thus simplifying the process of studying abroad for both UK and EU students alike. The number of EU students in the UK stands at around 125,000 which in turn are estimated to have contributed approximately £32.7 billion to the British economy, as well as 19,000 extra jobs.
11. One particular project that is indicative of the success enjoyed by students as a result of their EU citizenship is that of the Erasmus programme which aims to boost skills and employability, as well as modernising education, training and youth work. By way of example, in 2012-2013, 27,147 EU students came to study or teach in the UK with an Erasmus grant. In addition, over 200,000 UK students have studied at European Universities. A significant proportion will be the students I directly represent. Again, the success of this is representative of the statistics in which it is stated that Students who have done an Erasmus placement are 50% less likely to experience long-term unemployment than their counterparts who stayed at home. The number of UK students participating in the Erasmus scheme has, and continues to rise steadily. Absent EU citizenship, the Erasmus project will no longer be available to students studying in Northern Ireland and elsewhere in the UK. As has been previously seen in the context of the Switzerland situation, when a member state removes the principle of free movement enjoyed by EU citizenship, Erasmus will no longer operate on an equal footing. Therefore, it is plain at this early stage that the Erasmus project for UK citizens as a whole is entirely in jeopardy. As far as I know, no plans have been made for this, including what will happen to those

part way through the programme or who had anticipated taking up a placement in future.

12. Besides formal programmes like this, students often exercise free movement rights during vacation periods to work abroad in other EU countries as a way of developing language skills, broadening their experience of other cultures and so increasing their prospects.
13. Higher and further education also benefit hugely from EU funding. Again, I am unaware of any plans to replace this, or anticipated transitional arrangements.

The 2016 European Union Referendum

14. In the lead up to the referendum I personally advocated and campaigned for citizens of Northern Ireland to vote 'remain'. My main motivation being the clear and devastating effect a decision to leave would have on students' rights and freedoms. As part of my campaign, I actively blogged, both personally and in my capacity as President of NUS-USI calling for students to vote remain. I was also a member of the Advisory Board of the '*NI Stronger IN Europe*' Campaign which, through the medium of social media, mainstream media, and public events advocated and campaigned for those citizens of Northern Ireland to vote remain.
15. Although the outcome of the EU referendum is clear in the sense that there was a relatively slim majority of overall votes in favour of leaving, I continue to feel a sense of uncertainty, largely premised upon the way in which the British Government now proposes to invoke Article 50. The question asked us whether we wanted to 'remain' or 'leave'. Despite the majority (56%) of people voting to remain in both Northern Ireland and Scotland, the overall result was that the UK should leave the EU, leaving real uncertainty over who the wishes of the people of Northern Ireland and Scotland would be taken into account.

Further, 'how' we leave was a question omitted from the ballot paper. For me, this has been a question of particular importance to us, as citizens of Northern Ireland.

Particular consequences for Northern Ireland

16. Northern Ireland raises practical and constitutional issues which are directly relevant to the issues at the heart of this instant challenge, but with some important differences.
17. Firstly, Northern Ireland's unique constitutional position and constitutional settlement assumes the continuing membership of the EU by both States involved – the UK and the Republic of Ireland. It is an accepted fact that the relationship between the two states on each side of the UK's only land border with another EU state was a crucial element both during 'the Troubles' in Northern Ireland and in the finding of a solution. As the Governmental EU Legal Expert Brian Doherty has put it, *'It follows that the dissymmetry to current cross-border conditions which Brexit would entail disrupts the understanding of the peace settlement between the UK and Ireland between the parties in Northern Ireland'*.
18. All of this has a very practical and tangible dimension, of course. The border currently has limited significance for students with EU Citizenship. Freedom of movement of people and goods between Northern Ireland and the Republic of Ireland made significant parts of the Good Friday Agreement possible. But if, and how, the UK leave the EU will immediately raise questions over whether the border will have to be 'hardened' (so as to introduce immigration control, if EU nationals are subject to it), how that might be done and what its effects on freedom of movement and, in turn, the Common Travel Area between the UK and the Republic of Ireland, might be. It is almost impossible to envisage change that would not lead to the compromising of rights and the need to revisit the Good Friday Agreement.

19. Secondly, there is the question of what, if any involvement the Northern Ireland Executive and Assembly Northern Ireland Assembly might have in the process. I naturally look to those bodies to protect the interests of those I represent, as well as the UK Parliament.
20. Were legislation proposed to Parliament that would impact on devolved matters, I would expect the Assembly to be asked to agree it, under the Sewell Convention and for the Assembly, in turn, to be mindful of individuals' rights and not act incompatibly with EU law, thanks to the Memorandum of Understanding between the UK and the Republic of Ireland and the Northern Ireland Act 1998.
21. If the Royal Prerogative can be used to invoke Article 50, these hard-won and painstakingly-constructed arrangements can be bypassed altogether by using a single letter from the UK executive to invoke Article 50. That cannot possibly be right - legally or politically. It is no answer to say that the Executive, Assembly or Parliament will be involved in some intangible way after Article 50 is invoked on matters of detail. That will be too late. If Brexit is to take place in a way that does not inadvertently, but fatally, undermine the constitutional settlement with Northern Ireland, compromising the rights of millions of people, each of these bodies will need to be fully involved from the start.
22. Leaving the European Union will have substantial consequences for the UK as a whole, but there are many quite unique and complex challenges for Northern Ireland in this situation. As a group, we believe that those consequences and challenges should be considered by following due process, and particular to Northern Ireland, in a manner that our devolved institutions have a say in the passing of such an act.
23. This is an issue that I feel should concern us all, not least because of the effects it is inevitably going to have. I have never previously initiated, nor took part

in any form of similar litigation or otherwise. I do so in these circumstances with a heavy heart. It is regrettable that in the situation to which we are faced, that litigation is required to ensure that Parliament makes the key decisions when it comes to the invoking of Article 50, and the exiting of the EU.

I believe that the facts stated in this witness statement are true.

Signed: 

Dated: 21st September 2016