

LEGAL AID AGENCY
High Cost Crime Appeal Decision – Single Adjudicator

Case: [REDACTED]
Appellant (firm/counsel): [REDACTED] SOLICITORS
LAA Respondent: [REDACTED]
Date of decision: [REDACTED] AUGUST 2023

Case Manager's original decision: [REDACTED] August 2023

Adjudicator's Decision:

REFUSED

Reasons:

R
v.

This is an appeal by the Provider, [REDACTED] Solicitors acting on behalf of the assisted person, [REDACTED] against the Legal Aid Agency's decision of [REDACTED] August 2023 to refuse travel and accommodation for his trial. The Provider states that on 25th August they emailed their Contract Manager with a request that the Legal Aid Agency cover any travel and accommodation costs incurred by their client, [REDACTED] who was residing in [REDACTED] Scotland to be present at any trial would have to incur reasonable considerable expense for both travelling to and from Court and overnight accommodation while the trial is ongoing.

They state that the matter has been raised before the trial Judge, and whilst the Judge has indicated that she is content for [REDACTED] to attend in the main via CVP, this will obviously not be for the entirety of the trial process. The Provider states, therefore, that the application is no longer as cost heavy as would have originally been the case. They only pursue the application for the days that [REDACTED] will have to travel to and from [REDACTED] and reside in London.

The Provider states that the Legal Aid Agency have in effect made a blanket refusal to cover any travel or accommodation expenses.

They remind themselves of the guidance contained in paragraph 4.9 of the VHCC guidance. They submit that the dictionary definition of impecunious is someone “*having little or no money*”. They submit that this decision to refuse their request is based on the flawed interpretation of the word impecunious and the test for such an application is not that their client is destitute, but that he has little or no money. They submit that this is an exceptional case, given that he is residing outside England and Wales, and that should expenses be withheld, then the administration of justice will be compromised. They state that the issues now likely to arise when Mr Thompson is required to attend Court and give evidence. The trial at that point will have been ongoing for several weeks and at a critical stage. They state that the Court would not have power to arrest and remand [REDACTED] under the Bail Act as he is not absenting himself from Court or refusing to attend, he is simply not able to meet the costs associated with travel and residing in London. This they state would throw a 16-week trial into jeopardy and potentially affect a further three trials that are due to follow very shortly after in 2024.

In considering this appeal, I have had sight of the following documents:

1. Part 1 [REDACTED] appeal representations including emails between [REDACTED] LT Financial Info Part 1, VHCC appeal representations form.
2. LT Financial Information Part 2 which contains 34 pages of bank statements.
3. VHCC Appeals Response dated 22nd September 2022 with Annex 1 - 6

The LAA framework

Para 4.94 of the Criminal Specification 2017 sets out:

‘Unless there are exceptional circumstances, we will not pay for your Client’s travel expenses,’ and section 4.94 of the 2017 Contract Guide which expands further,

‘The overwhelming presumption is that a defendant’s travel expenses will not be paid save in wholly exceptional circumstances. As a prerequisite, defence teams must demonstrate that the client in question is impecunious and provide extensive and detailed supporting evidence. The Case Manager must then be satisfied that the overall circumstances of the case are exceptional according to the particular facts, so that in no circumstances could the defendant be expected to pay for his or her own travel, and to withhold such expenses would compromise the administration of justice.’

What I must decide is whether:

1. The client is impecunious.
2. The Overall circumstances are exceptional *according to the particular facts, so that in no circumstances could the defendant be expected to pay for his or her own travel.*
3. *to withhold such expenses would compromise the administration of justice.*

It seems to me there is much toing and froing between the CM and the provider as to what the meaning of Impecunious is, the provider states it is the dictionary definition i.e. having little or no money and the CM states that Such a definition completely ignores and contradicts the guidance which talks about an overwhelming presumption for defendants to fund their own attendance and makes it clear Legal Aid funding is only in exceptional circumstances. Their definition would effectively mean anyone with little money from Scotland being tried in England would be entitled to Legal Aid, which the Case Manager is of the view that this cannot be correct.

Having considered both arguments it seems to me that the key part of Para 4.94 is that ***"The overwhelming presumption is that a defendant's travel expenses will not be paid save in wholly exceptional circumstances"***. The paragraph then proceeds with the fact that the defence teams have to provide evidence to show the client is impecunious. What is impecunious – the Cambridge Dictionary definition is "Having very little money" [IMPECUNIOUS | English meaning - Cambridge Dictionary](#).

I need to be satisfied whether the client is impecunious i.e., having very little money, having considered the evidence, I note from the submissions made by the LAA that there has been considerable expenditure and income including Loans received by him, his pension and of significance it appears that the property that has been sold in the USA for circa £650,000, it is unclear where this money is.

He has expenses non-essential expenses relating to Amazon. National Lotto, Ancestry and My Heritage. It is concerning that he has monies to expend on non-essential items yet is unable to fund his travel expenses. I have considered the Live note of the 4.9.2023 and HHJ [REDACTED] comments, and the fact that he is required to attend in person when required to do so. I am however considering this appeal in line with the LAA guidance at Para 4.94 and having considered the guidance I am of the view that he cannot be said to be impecunious; it is clear from what I have seen that he ought to be able to pay for his own travel and accommodation.

I do not accept that the overall circumstances are such that under no

circumstances he could not pay for his travel, the reason for this is when one does a basic search the cost of single train fare from [REDACTED] to London [REDACTED] is between £41.00 and £90.00 dependent on the time one chooses to travel. Furthermore, there are hostels near [REDACTED] Crown Court which range between £40 to £45 per night.

Single Adjudicator: [REDACTED]

Date: [REDACTED] 10.2023