

A IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
CROWN OFFICE LIST

Royal Courts of Justice
The Strand
London
WC2A 2LL

B Tuesday, 1st December 1998

B e f o r e :

THE HONOURABLE MR JUSTICE TURNER

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R E G I N A

-v-

D THE CRIMINAL INJURIES COMPENSATION BOARD
Respondent

Ex parte ENVER BAYRAM
Applicant

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(Computer Aided Transcript of the Palantype Notes of
Smith Bernal Reporting Limited
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Official Shorthand Writers to the Court)

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MISS A ROBINSON (instructed by Treasury Solicitors, Queen Anne's
Chambers, 28 Broadway, London SW1H 9JS) appeared on behalf of the
Respondent.

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MR I WRIGHT (instructed by Ormerod Heap & Marshall, Green Dragon
House, 64-70 High Street, Croydon CR0 9XN) appeared on behalf of
the Applicant.

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J U D G M E N T
(As Approved)

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J U D G M E N T

MR JUSTICE TURNER: On 13th December 1995 the applicant was notified of a final award by the Criminal Injuries Compensation Board. On 10th January an increased award was made, which the applicant accepted on 15th January.

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It is the applicant's present position that he was at all material times unaware of his right to call for an oral hearing on his claim by the Board.

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On 8th April 1996 the applicant expressed dissatisfaction with the award which he had accepted. He was notified on 29th April that the only circumstance in which the Board could re-open a matter where a final award had been made and accepted was if there had been a serious change in his medical condition.

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The Board sought further evidence, which gradually came into being, so that on 26th February 1997 the Board refused to re-open the matter on the predictable grounds that there had been no serious change in the applicant's condition. It had never been his case that such an event had happened.

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On 23rd May 1997, by letter from his solicitors, the applicant invited the Board to re-open the matter on the grounds that the award was too low. At that stage no application was made on the basis that the Board was being invited to reconsider the time for the applicant's request for an oral hearing and there was no reference to the fact, now accepted, that the applicant was unaware of the right

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to apply for an oral hearing at any material time.

A The decision which the applicant seeks to challenge on
this application is the decision of the Board of 4th June
1997 not to grant the applicant an oral hearing.
B Unfortunately the correspondence which would show the
precise request which was made to the Board in respect of
the oral hearing is not available, either from the
applicant's solicitors or from the Treasury solicitors
representing the interests of the Board. What is available
C is the Board's letter, dated 4th June 1997, which, unless
it was written in bad faith -- which I simply do not
accept, and it has not been suggested -- is inconsistent
D with any request having been made to the Board for an
extension of time within which the application for an oral
hearing should have been made.

E It now emerges that underpinning the applicant's
present application is the fact, as I have previously
mentioned, that he claims at all material times to have
been unaware of his right to have requested an oral hearing
in respect of the proposed final award. It is now
F manifestly too late for the applicant to make that request.

G I come to this conclusion with the utmost feeling of
regret in that the applicant on the material which I have
read so far, and of course I have not heard the other side
on the merits, may justly feel that he has been hard done
by. In part this may arise from his decision to attempt to
understand the intricacies of the scheme without the
H benefit of legal advice, to which, of course, under the

scheme, as it was, he would not have been entitled to recover any costs had he sought it.

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For these reasons this application must be refused.

MR WRIGHT: My Lord, yes, the applicant has had benefit of legal aid to make this application.

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MR JUSTICE TURNER: Legal aid taxation.

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