

**R v HAROON SAHEBZADA (2006)**

**CA (Crim Div) (Latham LJ (VP CA Crim), Henriques J, Gloster J) 19/10/2006**

CRIMINAL PROCEDURE

DEFENDANTS IN PERSON : INTERESTED PARTIES : MONEY LAUNDERING :  
REPRESENTATION ORDERS : RIGHT TO FAIR TRIAL : RIGHT TO REPRESENTATION :  
GUIDELINE CASES : reg.16(1) CRIMINAL DEFENCE SERVICE (GENERAL) (NO. 2)  
REGULATIONS 2001 : Protocol 1 Art.6 EUROPEAN CONVENTION ON HUMAN RIGHTS :  
Art.6 EUROPEAN CONVENTION ON HUMAN RIGHTS

**A defendant's right to a fair trial under the European Convention on Human Rights 1950 Art.6 was vitiated by allegations of criminal behaviour by his solicitor following a judge's refusal to grant a representation order for alternative representation where there had been a breakdown in relations between defendant and solicitor.**

The appellant (S) appealed against a conviction for money laundering. During preliminary hearings prior to his trial, difficulties had arisen between S and his solicitor (P) that had led to a complete breakdown in the relationship. The judge, having heard evidence from P, decided to revoke S's representation order under the discretion provided by the Criminal Defence Service (General) (No. 2) Regulations 2001 reg.16(1) on the basis that S's own deliberate actions had resulted in the breakdown of the relationship. The judge refused to transfer the order so that S could instruct new solicitors and S was left with the option of either instructing new solicitors privately or of acting as a defendant in person, and he chose the latter. At trial, S was acquitted of several offences on the indictment, but not the index offence. The appeal was seen as an opportunity for the court to give guidance on matters where the withdrawal of representation orders resulted in defendants representing themselves at trial and on whether this would result in a fair trial under the European Convention on Human Rights 1950 Protocol 1 Art.6. The appeal was adjourned twice in order to allow representations from interested parties including the Bar, the Law Society and the Law Commission. However, it became apparent at the door of the court that the case was not an appropriate vehicle by which to give guidance, as P had been indicted for offences unrelated to S's case. S submitted that the court had erred in refusing him a representation order for alternative solicitors by determining that S should represent himself in a criminal trial where it was not in the interests of justice that he should do so. S argued that his right to a fair trial under Art.6 of the Convention had been breached.

HELD: The allegations against P were such that they created the possibility that they had infected the way in which S had been advised or was believed to have been advised. The judge based his ruling on the presumption that P was truthful and therefore the exercise of his discretion under s.16 of the Regulations was vitiated. The inevitable conclusion was that S had been deprived of the representation he was entitled to for the purposes of a fair trial within the terms of Art.6 of the Convention. Had the judge's discretion not been vitiated, the decision to withdraw the representation order would have been justified. However, the court was forced to conclude that the conviction was unsafe and was therefore to be quashed.

Appeal allowed.

Counsel:

For the appellant: D C L Etherington QC, M Dacey

For the Crown: W Harbage QC, J Kirk

**LTL 19/10/2006 EXTEMPORE (Unreported  
elsewhere)**

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