

IN THE COURT OF APPEAL (CIVIL DIVISION)

Roy v Melchester Rovers

Roy was a 19 year-old forward at Melchester Rovers, having progressed through their youth ranks. After a string of impressive performances in the reserve team, Roy was rewarded by the manager, Ben Galloway, with a position in the first team at the start of the 2007-2008 season. In the transfer window of January 2008, Melchester Rovers decided to invest in improving their squad. Amongst their signings, they spent a club record £11 million on a new forward, Paul Ntende. Paul benefited from having a Spanish passport, and so would not require a work permit, which he was unlikely to have been granted without a European Union connection.

Three days prior to the Mickey Mouse Cup Final, Paul confided in Roy that he did not in fact have a valid Spanish passport and that he had obtained fake documentation on the black market. Not knowing Melchester Rovers' knowledge of Paul's situation, Roy made a series of anonymous phone calls to the police, Home Office and Football Association, informing them of Paul Ntende's fake passport.

The following day, Paul was arrested and charged with possession of false identity documents with intent. After the day's training session, Ben Galloway called Roy into his office and informed him that he was aware it had been Roy who had notified the authorities, and that both he, and the club, were extremely disappointed in his behaviour. Voices were raised by both sides, culminating in Roy punching his manager in the face. Roy was sacked immediately for gross misconduct.

Roy initiated a claim at the Employment Tribunal for unfair dismissal. It was found as fact that:

1. Paul Ntende was in fact in possession of a fake passport, but neither Ben Galloway nor anyone else within Melchester Rovers had any knowledge of this.
2. In making his disclosure, Roy had acted in good faith and not for personal gain.
3. The subject and manner of Roy's comments regarding Paul Ntende's possession of a fake passport would be a protected disclosure within the meaning of *s47B(1) Employment Rights Act 1996*.
4. On the last day of the 2006/2007 season, two midfield players at Melchester Rovers, Johnny Dexter and Blackie Gray, had fought on the pitch, and were subsequently fined six weeks wages each.

Roy was unsuccessful and appealed to the Employment Appeal Tribunal. Blake J found in his favour on the grounds that:

1. The reason for Roy being dismissed was that he had made a protected disclosure under *s103A, Employment Rights Act 1996*, making his dismissal automatically unfair.
2. In any event, Melchester Rovers had not acted reasonably by dismissing Roy when a benchmark had been set for previous instances of violence amongst employees being punished with a six-week fine.

Melchester Rovers appeal on the following grounds:

1. Roy was not dismissed for making a protected disclosure, but solely due to his resulting behaviour and conduct.
2. Furthermore, it was reasonable to depart from the previous benchmark due to the differing circumstances in the matter, and the differing treatment was not so irrational that no reasonable employer could have taken that decision.