

Leak to The Sun newspaper did not breach Naval Commander's privacy

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The former Commanding Officer of a Navy frigate has lost his misuse of private information claim against the Ministry of Justice.

David Axon was the Commanding Officer of a Royal Navy warship, the HMS Somerset. In 2014, he alleged that someone from the Ministry of Justice must have leaked information surrounding his removal from office for bullying junior officers, leading The Sun newspaper to print three stories about it. He argued that the disclosure amounted to a breach of his rights to privacy and confidentiality.

The High Court dismissed Mr Axon's claim. It held that he could not have a reasonable expectation of privacy regarding the circumstances of his dismissal, for a number of reasons. Mr Axon's role was discharging a very public function and his gross misconduct had been found by the Navy to have "undermined the fighting effectiveness of his ship". It held that, whilst the equal opportunities investigation was conducted in private, the unusual and grave nature of the case meant that it was bound to become a matter of public knowledge. The fact that the informant, an MoD employee, had acted wrongfully and received £5,000 for her story was relevant, but was outweighed by other factors.

This case could suggest that those who are: (i) particularly senior; (ii) in roles of national importance; and (iii) have been found guilty of gross misconduct could have a harder time establishing that they have a reasonable expectation of privacy. This could feasibly include CEOs of banks or national companies.

Axon v Ministry of Defence and News Group Newspapers [2016] EWHC 787 (QB)

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