



3 April 2019

## PRESS SUMMARY

**Stocker (Appellant) v Stocker (Respondent) [2019] UKSC 17**  
*On appeal from [2018] EWCA Civ 170*

**JUSTICES:** Lord Reed (Deputy President), Lord Kerr, Lady Black, Lord Briggs, Lord Kitchin

### BACKGROUND TO THE APPEAL

Nicola Stocker and Ronald Stocker were husband and wife. Their marriage ended in 2010. Subsequently, Mr Stocker formed a relationship with Ms Bligh. On 23 December 2012, an exchange took place between Mrs Stocker and Ms Bligh on Facebook. In this exchange, Mrs Stocker told Ms Bligh that Mr Stocker had “*tried to strangle*” her. Mrs Stocker also said that Mr Stocker had been removed from their home following a number of threats that he had made; that there were some “*gun issues*”; and that the police felt that he had broken the terms of a non-molestation order.

Mr Stocker brought defamation proceedings against Mrs Stocker. He claimed that the meaning of the words “*tried to strangle me*” were that he had tried to kill her. Mrs Stocker denied that the words bore that meaning. She claimed that the words would be understood to mean that Mr Stocker had grasped her by the neck and inhibited her breathing so as to put her in fear of being killed.

At the start of the hearing, Mr Justice Mitting suggested that the parties should refer to the Oxford English Dictionary. This provided two possible meanings for the verb “*strangle*”: (a) to kill by external compression of the throat, and (b) to constrict the neck or throat painfully. During the trial, Mitting J heard evidence from both parties. He accepted that police officers had seen red marks on Mrs Stocker’s neck two hours after the incident and decided that: “*The most likely explanation about what happened is that [Mr Stocker] did in temper attempt to silence [Mrs Stocker] forcibly by placing one hand on her mouth and the other on her upper neck under her chin to hold her head still. His intention was to silence, not to kill.*”

In his judgment, Mitting J referred to the dictionary definitions and said that if Mrs Stocker had used the phrase “*he strangled me*”, an ordinary reader would have understood her to mean “*strangle*” in the sense of a painful constriction of the neck. The judge considered, however, that since Mr Stocker had succeeded in painfully constricting Mrs Stocker’s neck the phrase “*tried to strangle*” could not refer to “*strangle*” in that sense. He therefore concluded that the phrase “*tried to strangle*” meant that Mr Stocker had attempted to kill Mrs Stocker. Mrs Stocker’s defence of justification was not accepted.

The Court of Appeal stated that use of dictionaries does not form part of the process of determining the natural and ordinary meaning of words. It nevertheless considered that no harm had been done in this case as Mitting J had only used the dictionary definitions as a check. It therefore dismissed Mrs Stocker’s appeal.

### JUDGMENT

The Supreme Court unanimously allows Mrs Stocker’s appeal. It holds that Mitting J erred in law by using dictionary definitions as the starting point of his analysis of meaning and in subsequently failing properly to take into account the context of the Facebook post. Lord Kerr writes the judgment, with which all members of the Court agree.

## REASONS FOR THE JUDGMENT

Mitting J's approach produces an obviously anomalous result in that the phrase "*he strangled me*" on his analysis entails a less serious accusation than the phrase "*he tried to strangle me*". This is the consequence of confining the meaning of the words exclusively to two dictionary definitions [16 – 17].

Contrary to the view of the Court of Appeal, Mitting J was not using the dictionary definitions as a check. He referred to these before hearing any argument about meaning and did not use the word "*check*" in his judgment or in his exchanges with the lawyers in the case. Instead, Mitting J regarded these definitions as the only possible meanings which he could consider or, at the very least, as the starting point for his analysis [23 – 24].

Where a statement has more than one plausible meaning, the question of whether defamation has occurred can only be answered by deciding which single meaning should be given to the statement [34].

The primary role of the court is to focus on how the ordinary reasonable reader would construe the words. To fulfil this obligation, the court should be particularly conscious of the context in which a statement is made [38]. The hypothetical reader should be considered to be a person who would read the publication [39].

The fact that this was a Facebook post is critical and it was necessary for the judge to keep in mind the way in which such postings are made and read [41]. It is unwise to search a Facebook post for its theoretical or logically deducible meaning. The search for meaning should reflect that this is a casual medium in the nature of a conversation rather than a carefully chosen expression [43]. People scroll through Facebook quickly and their reaction to posts is impressionistic and fleeting [44].

Through relying on the dictionary definitions, Mitting J fell into legal error. As a consequence of this, he failed to conduct a realistic exploration of how an ordinary reader of the Facebook post would have understood it [47]. As a result of this error of law, the decision on meaning cannot stand and it is appropriate for the Supreme Court to determine the meaning of the post itself [48].

An ordinary reader of the post would have interpreted the post as meaning that Mr Stocker had grasped Mrs Stocker by the throat and applied force to her neck [49].

In light of this, the defence of justification should succeed. Even if Mrs Stocker's allegations were considered not to have been established to the letter, there is more than enough to demonstrate that that defence should not fail by reason only that the truth of every charge was not proved [61].

*References in square brackets are to paragraphs in the judgment*

### **NOTE**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:**

<http://supremecourt.uk/decided-cases/index.html>