SHERIFF APPEAL COURT

2026 SAC (Civ) 69
WCK-B17-23

Sheriff Principal G A Wade KC
Sheriff Principal A Miller
Appeal Sheriff I M Fleming

OPINION OF THE COURT

delivered by SHERIFF PRINCIPAL ANDREW MILLER

in the appeal in the cause

by

SIR IAIN LIVINGSTONE QPM, CHIEF CONSTABLE OF SCOTLAND

Pursuer and Respondent

against

KEVIN BOOTH

Defender and Appellant

Pursuer and Respondent: Watts KC, Arnott; Legal Services Department, Police Scotland
Defender and Appellant: Webster KC, Crabb; Levy & McRae Solicitors LLP

20 October 2026

Introduction

[1] Our opinion refusing all of the appellant's grounds of appeal was issued on 27 August 2026. Parties were not subsequently able to reach agreement with regard to the expenses of the appeal procedure. We requested that parties lodge written submissions in relation to expenses, which they have done.

[2] The respondent moved us to find the appellant liable for the full expenses of the appeal, applying the normal rule that expenses follow success. The appellant's motion was that we should find no expenses due to or by either party, on the basis that the administrative nature and novelty of the proceedings justified a departure from the normal rule. The appellant's motion thus proceeds on the same basis as his sixth ground of appeal.

[3] The respondent also moved for an increase in the charges to be allowed at taxation in respect of work carried out by the respondent's solicitor, in terms of rule 5.2 of the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019, specifically in respect of heads (a), (b), (c), (e) and (g) set out in rule 5.2(6), applying the guidance of the Inner House in *Centenary 6 Limited* v *TLT LLP* 2024 SLT 1106. The result of the increases sought by the respondent in relation to each head would have been an increase of 100%. We note that, when a similar motion was made by the respondent at the conclusion of the sheriff court proceedings, the sheriff awarded increases in respect of those same heads totalling 80%. The appellant's appeal against that award was also within the scope of his sixth ground of appeal, which we refused.

[4] The appellant submitted that no increase was justified to reflect the responsibility undertaken by the respondent's solicitor in relation to the appeal, in which the respondent instructed senior and junior counsel, as did the appellant.

Decision

[5] For the reasons we gave in refusing the appellant's sixth ground of appeal, we refuse the appellant's motion to find no expenses due to or by either party in relation to the appeal proceedings. We consider that the normal rule that expenses follow success is applicable to

the appeal proceedings. We therefore find the appellant liable to the respondent in the expenses of the appeal proceedings.

[6] The respondent's motion for an increase in the charges to be allowed at taxation is granted in part. The increases granted by the sheriff were clearly intended to reflect the responsibility undertaken, and work carried out, by the respondent's solicitor in preparation for the proof. Although we accept that significant work would have been required by the respondent's solicitor in the course of the appeal proceedings we also consider that, to a significant extent, that would have involved revisiting work undertaken in preparation for the proof and would have been aided by that earlier work. However, we are satisfied that some increase is justified in relation to the appeal proceedings in respect of head (a), having regard to the novelty of the issues raised by the appeal, which arose from Scotland's first contested application for a civil Trafficking and Exploitation Risk Order ("TERO") in terms of section 26 of the Human Trafficking and Exploitation (Scotland) Act 2015. In terms of rule 5.2(3) we are satisfied that, to that extent, an increase is justified under head (a) to reflect the responsibility undertaken by the respondent's solicitor in the conduct of the appeal proceedings. As required by rule 5.2(4), we specify the appropriate increase as 10%. We note that that was also the increase granted by the sheriff in respect of head (a). We therefore grant the respondent's motion for an increase in charges only in relation to head (a), limited to 10%.