

## **Williams v Williams [\[2023\] EWHC 3479 \(Fam\)](#)**

Mr Justice Moor considered an application for the committal to prison of a Respondent husband following breaches of orders in financial remedies proceedings.

### **Law**

When finding contempt, the evidential burden is on the applicant, in this case W, to demonstrate to the criminal standard that the Respondent, in this case H, is in contempt.

In respect of sentencing, two aspects of sentencing must be taken into account:

- (i) Punishment for the serious matter of non-compliance; and
- (ii) Compliance with the order in future.

### **Contempt**

W's application for the committal was related to the H's breach of an order dated 19 January 2023, which had a penal notice attached. H breached orders to file a Form E by 1 May 2023 and to file further documents in preparation for an FDA by 15 May 2023.

This hearing took place on 25 October 2023, almost six months after the relevant court-ordered deadlines.

Despite there being no legal obligation to do or say anything, it was accepted on H's behalf that he was aware (i) of the existence of the order and (ii) that he was in breach of the same and therefore in contempt.

As H did concede he is in contempt, it was found to be proven beyond reasonable doubt.

### **Sentence**

It was found that only a custodial sentence would do in this case, although a view was taken that it was important to get a sworn Form E from H and the custodial sentence was suspended on the terms that H complete a Form E.

H was given 28 days as sought on his behalf to file a Form E given his representative would be starting on the Form E from scratch. The sentence, if it were to come into effect, was imprisonment for 56 days, to serve 28, although with credit given for the one day he had spent in custody upon his arrest pursuant a bench warrant previously made in these proceedings following H's breaches.

### **Applicant's costs**

W was entitled to her costs of this application on an indemnity basis, assessed in the sum of £58,000; there had been various ('three, if not four') hearings since W's Form A due to H's approach.

The costs order was not to be enforced without leave of the court as the costs had been provided for in a previous order for legal services funding provision as, if H were to cooperate, a portion of the £58,000 allocated for legal funding might be saved.

### **Respondent's costs**

The costs of complying with the orders made had to be provided for.

To this end, a previously granted freezing injunction on H's assets was amended to allow for the immediate transfer of £25,000 to meet his solicitor's costs out of the £100,000 required by the solicitor.

H was to send W's solicitors a list of overseas accounts and their contents in order for the parties' solicitors to then agree where the balance of £75,000 should come from.

This aspect of the judgment was aimed at being the fairest way to enable H's solicitor to be paid without making H judgment proof by enabling dissipation of the contents of his bank accounts.