

**IN THE COVENTRY FAMILY COURT**

**Case No: BM18P09692**

140 Much Park Street,  
Coventry,  
West Midlands CV1 2SN

**Date: Thursday, 27 June 2019**

**Before:**

**MR JUSTICE KEEHAN**

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**Between:**

**STAFFORDSHIRE COUNTY COUNCIL**

**Applicant**

**- and -**

**ANDREW PALMER**

**Respondent**

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**MISS NAGEENA KHALIQUE QC for the Applicant**  
**MR ASHLEY HENDRON for the Respondent**

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**Approved Judgment**  
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**MR JUSTICE KEEHAN:**

1. Mr Andrew Palmer, on 5 February 2019 I made an injunction against you. The terms of that injunction included the following:

“Until further order you are forbidden, whether by yourself or instructing or encouraging others, from harassing, threatening, intimidating, coercing or influencing AP to leave his current or any future home, 66 Mendip Way, Tamworth, Staffordshire, or anywhere AP chooses to reside, or harassing, threatening, intimidating, coercing or influencing AP to live with you.

You are forbidden from living with your father at 66 Mendip Way, Tamworth, Staffordshire, which is a tenancy in your father’s name only, and you are required to vacate the property forthwith.

You were forbidden, whether by yourself or by instructing or encouraging others, from interfering, obstructing, or preventing care and support staff from delivering the package of care which your father had been deemed to require under the Care Act 2014.

You were forbidden, whether by yourself or instructing or encouraging others, from interfering, obstructing, or preventing your sisters from visiting your father at his home address or otherwise, and you were forbidden, whether by yourself or instructing or encouraging others, from contacting your father, save as set out in an attached contact schedule, and only if such contact (as is specified therein) is in accordance with your father’s wishes and feelings.

That order was to take effect immediately and remain in force until 5 February 2020.”

I am quite satisfied, and I find beyond all reasonable doubt, that at the time I made that injunction you understood and knew the terms of that injunction perfectly well, and you knew precisely what it was that you were or, most importantly, you were not to do.

2. Notwithstanding that, however, you have gone on, as you now admit, to breach that injunction on no less than 14 occasions. On 6 February of this year you were found at your father’s address at 66 Mendip Way. You admit that. On 11 February you returned to that property, as you now admit. On 26 February, on a Twitter post, you identified the social worker and the Staffordshire County Council on a public post. On 9 March 2019 carers found you at your father’s property. On 31 March, on a Twitter post, you again identified the social worker on a public post. On 5 April 2019 you were again found at your father’s property, both in the morning and in the afternoon. On 10 April you were found at your father’s property in the morning. On 13 April you were again found at your father’s property. The following day, 14 April, you were found there. On 16 April you were found at your father’s property on two

occasions. Similarly, on 18, 19, 22 and 23 April you were at your father's property. Then on 24 April you attended Tamworth Police Station, where you admitted to have been living, on and off, at your father's address for some 3 weeks.

3. In an email to the court prior to the first listing of this committal application on 21 May you admitted you were living at your father's address, that you did not intend to come to court on 22 May, and you enquired whether you should take yourself to Tamworth Police Station. You did not attend the court hearing on 22 May, and therefore I issued a warrant for your arrest: that was executed. You were at Tamworth Police Station and you were brought to court. I granted you criminal legal aid and adjourned the matter for a hearing on 11 June. This hearing (for reasons which for the purposes of this committal application are at the moment immaterial) had to be adjourned, and the matter is now before me today.
4. I am satisfied that all the procedural requirements for a committal application have been satisfied, and this is agreed by counsel on your behalf. I have had regard to all of the relevant case law helpfully set out in leading counsel's skeleton argument for the applicant local authority (which appears at A11-A14 of the bundle), and which too is an agreed statement of the relevant law. I have also had regard to the case of *Dudley Metropolitan Borough Council v Hill* [2018] EWCOP 35, in which a contemnor in very similar circumstances to yourself was sentenced to an immediate custodial sentence of 4 months.
5. I have had regard, both in the position statement provided to me by your counsel and the oral submissions he has made this morning, to the mitigation you rely on in relation to these admitted breaches. I take account of the fact that for, at least, the 20 years you have been of good character. I accept that you have made mental health issues over the years, but I note that you have failed to take any medication as prescribed since 2017 and, as Miss Khalique QC on behalf of the Local Authority submits, that is a decision you have made and you must bear the consequences of it.
6. You have misguidedly and inappropriately sought to care for your father, but I note, and I have previously found, that in so doing there were many occasions when you were abusive in one form or another to him and of him, and hence the orders that I made against you on 5 February. I consider your admitted breaches of my order to be flagrant, contumelious and repeated. I am entirely satisfied, having regard to the range of options to punish you for those contempts, that only a sentence of imprisonment will meet the gravity of your admitted breaches.
7. Having regard to the gravity and the repeated nature of them, I am of the view that a prison sentence of 12 months is the appropriate starting point. I will, however, reduce that prison sentence in light of the fact that you have admitted the breaches that you have made of the order, to one of 6 months' imprisonment.
8. I take account that the purpose of contempt proceedings is both to punish for breaches and to secure compliance with the order. Therefore, exceptionally, I am going to suspend the sentence of imprisonment. The sentence will be 6 months' imprisonment suspended for 12 months, and you understand this, and you understand this carefully. If you in the future comply with my order of 5 February, you will not go to prison. If you do breach my order, and I so find that you have breached the order again, I will

activate the 6 months' sentence immediately, and you will also fall to be punished for the further breaches. It is very likely that that will also result in a prison sentence. It is also very likely (but one would have to wait until the moment arose) that any further sentence would be consecutive to the 6 months sentence imposed for these current admitted breaches and not concurrent, so that you would serve at least 6 months in prison. Do you understand?

9. THE RESPONDENT: I understand.
10. MR JUSTICE KEEHAN: You would be well advised to accept the support that has been offered to you by the Local Authority, because it is very important that you no longer live at your father's address. If you are found there again, be in no doubt that the Local Authority will find out, the Local Authority will once again issue contempt proceedings, and the matter will come back before me. Do you understand?
11. THE RESPONDENT: I understand.
12. MR JUSTICE KEEHAN: And you are in no doubt whatsoever about what I have said.
13. THE RESPONDENT: No doubt whatsoever.
14. MR JUSTICE KEEHAN: Thank you very much. You may leave the dock.

**(Further discussion followed)**

15. MR JUSTICE KEEHAN: In these committal proceedings I granted criminal legal aid to Mr Andrew Palmer when he appeared before me on 22 May. He indicated at that hearing that he had made contact with a firm of solicitors, Maidments (known as Forbes), and he would seek then to instruct them. I have been provided with a chronology by Mr Hall, an employee of Forbes, which sets out that firm's involvement in this matter. It appears from Mr Hall's statement and schedule that he took a call from Mr Palmer on 28 May. An arrangement was then made on 30 May to attend upon Mr Palmer to take his instructions on 5 June. This committal application had been adjourned and was listed before me on 11 June.
16. It would appear that on 5 June Mr Hall had a conversation with a solicitor for the Local Authority, Miss Barnett. During the course of that conversation it became clear that Mr Hall thought that I had made an order that was not open to me, namely granting criminal legal aid in what are quasi criminal proceedings for contempt. I was not wrong; he was. He then applied for legal aid. Why he did not make a simple check to find out that I did have the power to grant criminal legal aid to the respondent and there was an effective certificate, I do not know and I have received no explanation. He then transferred the case, including the bundle that had been provided by the Local Authority to a colleague on 6 June. For reasons that I do not understand, save for what are said to be unforeseen circumstances, that partner did nothing.
17. The matter returned to Mr Hall on 7 June. It was not until 10 June that some papers, but not the bundle (which had disappeared somewhere within Forbes' offices), was sent to counsel's chambers. Counsel Mr Hendron appeared before me on 11 June,

having received very, very limited information, to the extent that he did not, in furtherance of his professional duties, feel able to represent in any way at all Mr Palmer's interests. That is no criticism at all, in any sense, of Mr Hendron: the only matter of criticism relates to the conduct of Forbes Solicitors.

18. The agreed legal framework for making a wasted costs order is very helpfully set out in full in Miss Khalique QC's skeleton argument, and it is agreed by Mr Hendron. I need to consider whether any conduct on the part of Forbes which may justify the making of a wasted costs was improper, unreasonable, or negligent. I am not satisfied that the test for improper and/or unreasonable conduct is met. I am entirely satisfied that the requirement of negligent conduct is met, because, first, Mr Hall incompetently misunderstood that this court had the power to grant criminal legal aid to Mr Palmer; second, the firm lost the court bundle that had been provided to them and I have no explanation as to how that happened; and, third, incompetently, in my judgment, and I so find, Mr Hall, the employee with conduct of this case, did not communicate to my clerk or to the court that they would not be in a position to have taken full instructions from Mr Palmer. The court was not informed that they were going to seek an adjournment. A competent solicitor, in my judgment, would, on 7 June or shortly thereafter, have communicated with the Local Authority seeking their agreement to an adjournment and/or would have notified the court and made an application to the court for an adjournment. If the application had been made, it is very likely that it would have been granted, and the hearing on 11 June would not have been necessary and would not have taken place.
19. Accordingly, I am entirely satisfied, and find, that Forbes Solicitors were negligent in their conduct of their representation of Mr Palmer, for the reasons that I have just given. This opens a gateway to an exercise of my discretion as to whether I should make an award of costs against Forbes. I am entirely satisfied that it would be wholly appropriate for me to make the order. There is no good reason why the Local Authority should bear the costs of the hearing on 11 June, and I shall make an order. The amount sought is some £6,515.80 and I shall make a wasted costs order against Forbes in that sum.
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*This Judgment is approved by the Judge.*