



Neutral Citation Number: [2014] EWHC 3399 (Fam)

Case No: BS13C00858

**IN THE HIGH COURT OF JUSTICE**  
**FAMILY DIVISION**  
**BRISTOL DISTRICT REGISTRY**  
**(In Open Court)**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 17 October 2014

Before :

**SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION**

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**In the matter of an application by Gloucestershire County Council for the committal to  
prison of Matthew John Newman (Number 2)**

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**Mr Benjamin Jenkins** (instructed by the local authority) for Gloucestershire County Council  
**Ms Rebecca Scammell** (of Bevirs) for the children's guardian  
Mr Newman in person

Hearing date: 25 September 2014  
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### **Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

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SIR JAMES MUNBY PRESIDENT OF THE FAMILY DIVISION

**This judgment was delivered in open court**

**Sir James Munby, President of the Family Division :**

1. I gave an earlier judgment in this matter on 3 October 2014: *In the matter of an application by Gloucestershire County Council for the committal to prison of Matthew John Newman* [2014] EWHC 3136 (Fam).
2. In that judgment I explained that I had before me an application by Gloucestershire County Council, issued on 26 August 2014, seeking the committal to prison for contempt of court of Matthew John Newman. I explained why I had at a hearing on 25 September 2014 found that Mr Newman had indeed committed some but not all of the alleged contempts. I also recorded that the local authority had on the afternoon of 23 September 2014, less than two days before the hearing, attempted to serve Mr Newman with a second application seeking his committal to prison for further alleged contempts. I explained why I was not prepared to abridge time for service. I ensured that Mr Newman was served with all the relevant documents before he left court after the hearing. Mr Benjamin Jenkins, on behalf of the local authority said that it wished to have time to consider whether or not to pursue the further application against Mr Newman. I directed that the local authority notify the court and Mr Newman no later than 4pm on 9 October 2014 whether or not it intended to pursue the application. I reserved both that application and any further committal application by the local authority to myself.
3. I said this in my judgment (paras 39-40):

“39 Mr Newman is therefore guilty of contempt of court. I decided not to proceed forthwith to sentence but to defer consideration of that issue until such time as it becomes apparent whether or not the local authority intends to pursue its further application for committal. That delay will not prejudice Mr Newman ...

40 Accordingly at the end of the hearing I made an order requiring Mr Newman to attend for sentencing on the breaches I have found proved “if called upon by the court to do so.” I will decide how I ought to proceed once I know whether the local authority intends to proceed with its further application and, more generally, having regard to how matters then stand, including, as I made clear to Mr Newman, whether he has in the meantime complied with the injunctions which, in large measure reproducing those previously imposed by Judge Wildblood, I granted on the local authority’s application following my determination of its application for his committal.”
4. On 9 October 2014 the local authority wrote to the court to say that it was not intending to pursue its further application for committal. In response to an inquiry I made, I understand from the local authority that, since 25 September 2014, there has not been any repetition by Mr Newman of his previous behaviour and, in particular, nothing which might be a breach of the further order I made on that occasion. I proceed accordingly on that footing.

5. In these circumstances, two issues arise: First, should I give the local authority permission to discontinue its second committal application (see PD37A, para 13.3)? Secondly, what steps should I take in relation to sentencing Mr Newman for the contempts of which I found him guilty on 25 September 2014?
6. In my judgment it is right in the circumstances that I give the local authority permission to discontinue its second committal application. The outcome of the hearing on 25 September 2014, so far as the local authority was concerned, was successful: it established that Mr Newman had breached the orders; it established that such behaviour would not be tolerated in future; and in the event Mr Newman seems to have decided to behave. In the circumstances I can well understand that the local authority should have decided not to pursue its further application. It would not be appropriate for me to insist that the local authority nonetheless persist.
7. The more difficult question is what I should now do in relation to sentencing Mr Newman for the contempts on which he stands convicted.
8. There are two possible courses: I can bring Mr Newman up for sentence now, hear mitigation and proceed to sentence. Or I can defer sentence for a fixed period on the basis that, if there are no further breaches during that period, he will not be subject to any further order.
9. In most cases, indeed in the vast majority of cases, I would bring the contemnor up for sentence here and now. Although there is power to defer sentence, that course will probably not very often be appropriate. In the present case I have decided to defer sentence. I do so not, I emphasise, because I take a lenient view of Mr Newman's behaviour, but because the primary objective in this case, outweighing, in my assessment, the need for an immediate custodial sentence, must be to ensure that there is no repetition of his misbehaviour. There is reason to think that that objective has already been achieved, at least for the time being – a highly material mitigating factor. There is reason to believe that it is most likely to be achieved in the longer run if Mr Newman has the sword of Damocles hanging over his head and is left with the added uncertainty of not knowing what punishment might be imposed in future. Deferring sentence means that the threat of possible future punishment is left more uncertain as to its extent than if I were now to impose a suspended sentence of imprisonment for a necessarily defined term.
10. I shall accordingly defer sentence until 25 September 2015. I do so on the basis that, if there have been no breaches by then of the order I made on 25 September 2014, Mr Newman will not be subject to any further order. He must understand that he has not been 'let off'. Let me spell it out. If there is *any* breach – I emphasise, *any* breach, however trivial – of the order I made on 25 September 2014, at any time between that date and 25 September 2015, Mr Newman will be brought back to court, to appear in front of me. He will be sentenced *both* for the breaches I found proved at the hearing on 25 September 2014 *and* also for any further breaches which are proved to have been committed since that hearing. If there is *any* further breach – I emphasise, *any* breach, however trivial – he can expect an immediate sentence of imprisonment. And he should assume that the sentence is likely to be for a lengthy period. He has been warned. I very much hope that he heeds the warning.

11. The fact that, on this occasion, I have decided to take a merciful course, should not be taken, either by Mr Newman or by others, as a sign of weakness. I repeat, and wish to emphasise, what I said in my previous judgment (paras 48, 50):

“48 ... the family courts cannot and will not tolerate harassment, intimidation, threats or menaces, whether targeted at parties to the proceedings before the court, at witnesses or at professionals – judges, lawyers, social workers or others – involved in the proceedings ...

50 I do not want anyone to be left in any doubt as to the very serious view that the court takes of such behaviour. In appropriate cases immediate custodial sentences may be appropriate. And deterrent sentences may be justified. The court must do what it can to protect the proper administration of justice and to ensure that those taking part in the court process can do so without fear.”

12. I have made clear to Mr Newman what he can expect if there are any further breaches. Others who may be tempted in future to behave as Mr Newman has done, should not think that they can hope for similar lenience. This judgment is intended to send out a very clear message which I hope will be heeded not just by Mr Newman but by anyone else thinking of behaving in a similar way.