

IN THE FAMILY COURT AT CARDIFF

Cardiff Civil and Family Justice Centre
2 Park Street
Cardiff CF10 1ET

Date 20 June 2024

BEFORE:

DISTRICT JUDGE SAUNDERS

BETWEEN:

ALFAR

Applicant

- and -

MASSERI

Respondent

MISS R THOMAS appeared on behalf of the Applicant
MISS N RAKHIMJONOVA appeared on behalf of the Respondent

JUDGMENT
(Approved)

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1. DISTRICT JUDGE SAUNDERS: This is an application brought by Ms Alfar, the applicant in financial remedy proceedings for findings of contempt of court to be made against the respondent to proceedings Mr Masseri. The contempt application is dated 11 April 2024. Therein are three allegations of contempt in the face of the court, all of which relate to evidence given by the respondent on affirmation at a hearing on 25 March 2024. That hearing was listed as the final hearing of these FRC proceedings. However, it was ineffective because in my judgment there was critically important information relating to pensions outstanding, which meant the court could not deal with this matter fairly, which of course it must.
2. On 25 March 2024 the respondent denied all the allegations put to him, which are contained at page 24 of the bundle. This staunch, absolute denial was further embedded in the respondent's witness statement, endorsed with a statement of truth, dated 17 June 2024. Thus, both in live evidence and written evidence, which were delivered to the court some months apart, the respondent has denied the allegations made against him. He now today, via his counsel, admits to all matters.
3. The respondent now accepts that he is in contempt of court. In respect of the first admission, the respondent accepts that he misled the court, but I am told that he did not intend to. I remind myself that this stage that the misleading of the court was both in oral evidence at the hearing in March 2024 and laterally in written evidence endorsed by a statement of truth in June 2024.
4. With regard to the second issue, Mr Masseri accepts that he said to Ms Ashworth the words, "You're confused", and the phrase, "You've misled the court." He accepts in this regard he lied to the court in March. He did not take the opportunity when filing his subsequent witness statement to be truthful with the court in this respect either.
5. As regards the issue of Mr Masseri recording the conversation he had with Ms Ashworth in Ms Gibbs' presence, he accepts that he said he was recording it. Of course, that is completely at odds with what he told me at the hearing in March 2024 and in his witness statement from June 2024.

6. In mitigation I am told that the respondent was unrepresented at the hearing and that he never intended to mislead the court. He, of course, was unrepresented in March 2024. However, the suggestion that he never intended to mislead the court, is something I struggle with.
7. I am told in mitigation that on the day in question Mr Masseri was emotional, he was stressed and he wanted matters to conclude. These, of course, are very natural, dare I say, common emotions for those in his position. I accept that Mr Masseri at the time would have been emotional and that he was likely stressed. I accept as well that he wanted matters to conclude.
8. I note that he apologizes to Ms Ashworth and Ms Gibbs, not only I take it for questioning their integrity and their version of events in March, but also compounding that stance at a further hearing which I think was before District Judge Ede in this court previously, and also in his statement of June 2024. Their professional integrity has been questioned over many months now. They have stood fast in defending their position.
9. I am told Mr Masseri is concerned about the effect of his admissions, but he has made the admissions, nonetheless. I state again, I understand that he was not represented during the hearing in March 2024, and his understanding of the proceedings are somewhat limited.
10. However I think it is fair to say that the court was very clear with Mr Masseri in March 2024 as to the potential consequences of misleading the court through providing false evidence. I do not think I could have been clearer.
11. I reinforce now what my ambition was then which was to make clear that parties cannot come to court and tell lies with the ambition of achieving a preferential outcome in any proceedings. I could not have been clearer with Mr Masseri on that point, and that matters for this reason. You do not need to be legally represented or legally sophisticated to understand the difference between the truth and a lie. It cannot be any clearer than that.

12. The findings of the court are as follows. Firstly, there has been a fair hearing. It is important that that is recited and properly recorded. There is no challenge firstly to the content, form or substance of the committal application, or secondly to the way in which these proceedings have been run. I turn to page 2308 of the 2024 Family Court Practice to remind myself of the importance of abiding by the correct procedure. It says this:

“The courts have stressed in several cases that because committal for contempt of court is concerned with offences of a quasi-criminal nature, and the liberty of the subject is a stake, the relevant rules of court must be complied with and prescribed forms must be used.”

13. There is no procedural challenge to the propriety of these proceedings, and I am content that all parties’ rights have been properly identified and respected.
14. I find that there have been three acts of contempt of court as admitted by the claimant and that this contempt has endured over many months during which time the respondent had numerous opportunities to correct the record. He never did before today.
15. Ms Ashworth and Ms Gibbs have had their professional integrity questioned over many months. There is no question that they have done nothing wrong. They have been completely absolved as a consequence of the admissions made by Mr Masseri.
16. In terms of the options as to how the court deals with this matter, of course, the first option is an immediate order for committal to prison. I remind myself that that custody must be reserved for the most serious offences, and these admissions, whilst numerous and enduring, in my judgment do not meet the custody criteria. Adjourning for consideration of a penalty is also an option, and if appropriate with an injunction to include positive requirements. I can issue a fine and I remind myself as well that I can make no order.

17. I have heard Ms Rakhimjonova's submission that perhaps the sanction or the consequence of these admissions should await the final outcome of the financial remedy proceedings. I am more persuaded I say with respect by Ms Thomas' submissions that matters should be dealt with today.
18. There must be a sanction in this case. Having considered all options, as I believe I must it is my decision that a financial penalty is the most appropriate order. In respect of the admissions, I will deal with them on the basis of breach one, breach two, breach three.
19. In respect of breach one, the court imposes a fine in the sum of £5,000. In respect of the breach two, the court orders a sanction of £5,000. In respect of the breach three, the court imposes a sanction of £5,000. Mr Masseri will also pay the costs of these committal proceedings on an indemnity basis to be assessed if not agreed.

END.

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This transcript has been approved by the judge