

Neutral Citation Number: [2025] EWFC 20 (B)

**IN THE FAMILY COURT**  
**SITTING AT EAST LONDON**

Case No: ZE21P00102

11 Westferry Circus  
London E14 4HD

Date: 6 February 2025

**Before :**

**Her Honour Judge Madeleine Reardon**

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**Between :**

**Lydia Lafronte**  
**- and -**  
**Aaron Johnson**

**Claimant**

**Defendant**

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**Ms Kalyan for the Claimant**  
**Mr Ahmed for the Defendant**

Hearing dates: 18 January 2025, 6 February 2025  
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**Judgment**

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This judgment was delivered in public and may be published.

### **Committal hearing: 18 January 2025**

1. This judgment is being given orally at the conclusion of a final hearing of an application for committal for contempt of court.
2. The application is brought by Lydia Lafronte against Aaron Johnson. I will refer to them as the Claimant and the Defendant as those are the terms now used in the Rules.
3. The parties were previously in a relationship. They have one child together, P, who is now aged 5 and lives with the Claimant.
4. The contempt alleged is a total of five breaches of a non-molestation order originally made in April 2021 and extended in April 2022. The order expired finally in April 2023. The breaches are alleged to have taken place between June 2021 and June 2022.
5. When a breach of a non-molestation order is alleged, the civil and criminal courts have concurrent jurisdiction. The Claimant originally made complaints to the police in respect of some if not all of these alleged breaches. Some concluded with no further action taken by the police but one is the subject of a criminal prosecution. The trial has been listed on two occasions, but has not been effective. It is next listed, I am told, in December 2026 so almost two years from now. In those circumstances, not unreasonably, the Claimant took the view that she wished to progress with this application and at the last hearing in November 2024 this court, which had until then adjourned the proceedings to give precedence to the criminal trial, agreed and listed this final hearing.
6. This hearing has taken place in the absence of the Defendant. He is however legally represented, as is the Claimant. At the outset of the hearing I refused his application to adjourn and determined that the hearing should proceed in his absence, for reasons I gave then in a short oral judgment. I am grateful to Mr Ahmed, Counsel for the Defendant, who despite being instructed at short notice has mounted a robust challenge to the Claimant's evidence on behalf of his absent client.

### **Relevant background**

7. The parties were in a relationship from about 2014. P was born in 2019. They cohabited until about 2020 when they separated.
8. There is some evidence before the court about the nature of the parties' relationship. That is of limited relevance at this hearing, where the focus is on the alleged breaches and not the reasons why a non-molestation order was made in the first place, although in some circumstances it may provide relevant context. It is clear that the relationship was in difficulties from before P's birth. There were 26 occasions between August 2018 and February 2023 when a report was made to the police by one or other of the parties.
9. The first non-molestation order was made in April 2021 on notice. The Defendant was present in court. The order was made 'until further order,' but with a return date. The terms of the order were as follows:
  - (6) The respondent, Aaron Lee Johnson, must not use or threaten violence against the applicant, Lydia Lafronte, and must not instruct, encourage or in any way suggest that any other person should do so.

(7) The respondent, Aaron Lee Johnson , must not intimidate, harass or pester the applicant, Lydia Lafronte, and must not instruct, encourage or in any way suggest that any other person should do so.

(8) The Respondent Aaron Lee Johnson is forbidden from removing or attempting to remove the child [P] from the care and control of her mother, the Applicant.

(9) The respondent, Aaron Lee Johnson, must not telephone, text, email or otherwise contact or attempt to contact the applicant, Lydia Lafronte, except through [his]/[her] solicitors when each party has instructed solicitors, as each has informed the Court that they have already or soon will be instructing solicitors.

(10) The respondent, Aaron Lee Johnson , must not damage, attempt to damage or threaten to damage any property owned by or in the possession or control of the applicant, Lydia Lafronte, and must not instruct, encourage or in any way suggest that any other person should do so.

(11) The respondent, Aaron Lee Johnson , must not damage, attempt to damage or threaten to damage the property or contents of the family home or any place he knows or believes the Applicant to be resident at, and must not instruct, encourage or in any way suggest that any other person should do so.

(12) The respondent, Aaron Lee Johnson, must not go to, enter or attempt to enter the family home [address given] or any property where he knows or believes the applicant, Lydia Lafronte, to be living], and must not go within 100 metres of it.

10. Permission was granted to serve the Defendant by email, he having been present in court when the order was made. On 17 September 2021 the order was extended until 5 April 2022.
11. On 8 April 2022 a fresh order was made until 7 April 2023. Both orders also provided for service by email. On both occasions the Defendant was present in court.
12. On 13 July 2022 the Claimant applied for committal for contempt alleging a total of five breaches between June 2021 and June 2022. On 14 February 2023 an order was made granting permission to serve the committal application by post on the basis of evidence from a process server of failed attempts to serve the Defendant personally. On the same date a Deputy District Judge made an order for the Defendant to file and serve evidence in response. There was no power to make that order. The Defendant, perhaps fortunately, did not comply. A later order of HHJ Thain on 24 May 2023 correctly him gave permission to file evidence 'if so advised'.
13. On 9 June 2023 the Claimant filed an amended contempt application. The list of alleged breaches was unchanged. It appears that her solicitors had not completed all parts of the form.
14. The application was listed for final hearing in September 2023 with a time estimate of one day. On that date for the first time the Defendant was legally represented. His representatives sought an adjournment on the basis that they had had insufficient time to prepare his case. That was granted, and the time for the Defendant to file evidence if he wished to do so was extended.
15. A further directions hearing took place on 2 November 2023. The court was informed that the Defendant had been charged with breaching the non-molestation order, and that there was a trial in the warned list in October 2024. The court determined that the contempt proceedings would effectively be stayed pending the outcome of the criminal trial.
16. The proceedings returned to court a year later on 6 November 2024, after the date set for the criminal trial had passed. A recital records that the Defendant's representative informed the court that the criminal trial had been listed on 16 October but vacated due to the inability of the

CPS to instruct counsel. It was re-listed on 18 October but vacated again for the same reason, and was now re-listed on a date in December 2026.

17. On 6 November 2024, faced with inordinate delays in the criminal proceedings, this court took the decision that the contempt proceedings should no longer await the criminal trial and this final hearing was listed.

### The law

18. It is unusual for a civil court to hear an application for committal based on the breach of a non-molestation order. That it has happened in this case is due solely to the inability of the criminal court to list a trial within a reasonable time frame.
19. When determining this application I have borne in mind that:
  - i) The burden of proof lies on the Claimant; the Defendant does not need to prove anything;
  - ii) Any issues of fact relevant to the alleged breaches must be established to the criminal standard, that is, beyond reasonable doubt.
20. During the hearing I queried the extent to which the defence of reasonable excuse, provided for in criminal proceedings for breach of a non-molestation order, applies in contempt proceedings. I am satisfied on the basis of submissions made by counsel that it does. Because contempt proceedings are quasi-criminal, the burden and standard of proof align with the criminal standard and it would be strange if a defence available to a Defendant facing criminal proceedings were not available in contempt proceedings.
21. By not attending the trial the Defendant exercised his right not to give oral evidence. He did, however, file a witness statement which was deployed by Counsel on his behalf. I remind myself that the weight I can give to the evidence of the Defendant will be affected by the fact that he has not made himself available for cross-examination.
22. At the conclusion of the Claimant's evidence, Counsel for the Defendant indicated that he wished to make a submission of no case to answer in respect of two of the five allegations. It was not clear to me what benefit this would bring to the Defendant in circumstances where he was not present and therefore would not be giving evidence, and there was no jury from whom the allegations could be withdrawn. I allowed Counsel nevertheless to make the submission, followed immediately by submissions from both Counsel on the allegations as a whole. I am satisfied having heard the submission of no case to answer that giving a preliminary judgment on this would satisfy no useful purpose and that I should consider the evidence in support of each allegation in the usual way.

### The evidence

23. I have heard oral evidence from three witnesses: the Claimant, her mother Maria Lafronze, and her partner Joshua Stockwell.
24. Broadly speaking I found all three to be credible witnesses who were motivated to give an honest account. There were some internal inconsistencies in the Claimant's account, and some discrepancies between her account and the documentary evidence. I concluded that these were largely the result of the passage of time and perhaps some carelessness in the way the case had been prepared. Unfortunately the reality is that when proceedings are delayed as long as this memories fade and witness accounts become less reliable.

25. The main source of documentary evidence is the bundle of police records. I have been provided with a very helpful schedule of police attendances prepared by the Defendant's Counsel, to which I will refer as appropriate.

### Findings on the allegations of breach

#### *Allegation 1*

26. On 20 June 2021 (which was Fathers' Day) the Claimant alleges that the Defendant attended her home in direct breach of paragraph 12 of the non-molestation order.
27. In his witness statement the Defendant accepts that he attended the Claimant's home. He says he did so at the invitation of the Claimant's parents, P's grandparents, who were tasked by Children's Services with facilitating contact. The Claimant agrees that to be the case. In fact the Defendant was initially invited by P's grandparents to join them, P and other family members for a meal at a pub as it was Fathers' Day. He arrived late after the meal but saw P outside the pub. Because he was not allowed inside, having arrived with his own alcohol, the Claimant's mother invited him to come to the home later to spend time with P.
28. Attending the home was a breach of the order. The issue raised by the Defendant is whether the Defendant had a reasonable excuse. The burden is on the Claimant to prove he did not. In my judgement she has done so. I accept that the circumstances might have been different if the Claimant herself had invited the Defendant, but it is clear from the evidence that it was not her who issued the invitation, it was her parents. The Defendant was not entitled to assume that they even knew about the existence of the non-molestation order, and I accept Maria Lafronte's evidence that she did not have knowledge of its terms. The order was in place to protect the Claimant, who was living at the property and could be assumed to be likely to be present. In those circumstances responsibility lay squarely with the Defendant to comply with the order not to attend, and the fact that a third party invited him, misguidedly but innocently, is irrelevant.
29. This factor may amount to some mitigation when it comes to sentencing.
30. The Claimant says that later that day the Defendant sent her abusive messages, in breach of paragraphs 6, 7 and 9 of the order.
31. The evidence in support of this allegation is much less clear. The Claimant gives no detail of what the messages said. The evidence in support of the following allegation, as I will explain shortly, demonstrates that perceptions may differ as to whether behaviour is thought to be insulting, demeaning or abusive. The Defendant's Counsel makes the valid point that any such messages could have been provided to the police when the report was made within a few days of the incident. In the absence of any evidence of abusive messages I do not find this part of the allegation proved.

#### *Allegation 2*

32. On 26 October 2021 the Defendant telephoned the Claimant. He accepts doing so in his witness statement. He raises a defence of reasonable excuse but again it has not been difficult for the Claimant to disprove this. The call was initiated by the Defendant. He says he was concerned about P because he had received minutes of a child in need meeting which suggested that she was exhibiting some unsettled behaviours, but even if that is correct, and I am not convinced that the evidence overall supports the Defendant's case, the Claimant is right when she says that the appropriate thing for the Defendant to do in those circumstances was to contact the social worker, not to breach the order by calling the Claimant.

33. It is not necessary to consider the evidence any further for the purposes of finding a breach. Again, the nature of the call will be of potential relevance to sentencing. It was recorded by the Claimant and the recording has been provided by the Defendant who received it as disclosure from the police. I do not find that the Defendant used demeaning or aggressive language in the phone call. The temperature was high because the Claimant, perhaps understandably, was upset at the fact she had been called at all.

#### *Allegation 3*

34. [Redated date] 2022 was P's third bday. The Claimant says that on that day the Defendant attended her parents' home, the property which he was prohibited from attending under paragraph 12 of the order, and put cash through the door. She did not see him do that. She says she was informed by family members that they had seen him. That evidence is of course hearsay and I note that although Maria Lafronte, one of the people said to have seen the Defendant on that day, gave written and oral evidence about some other allegations she did not mention this incident at all.
35. The Claimant's arguments are based on the inherent improbability of anyone other than the Defendant putting money through P's grandparents' door on her birthday. She suggests that if the Defendant did not attend the property himself to do this he must have asked someone else to do so. In my view those arguments are speculative, but even if he did that would not have amounted to a breach. That paragraph of the order does not include any provision preventing the Defendant from instructing or encouraging someone else to attend the home.
36. For those reasons I do not make this finding.

#### *Allegation 4*

37. The Claimant says that on 13 June 2022 she became aware that her email had been hacked. When she tried to authenticate her account, a number came up as the verification number that was not hers. In her written evidence she said she then called the number, and it was answered by someone whose voice she recognised as the Defendant's. She said however that the call lasted only a few seconds and there are obvious limits to the weight I can place on the Claimant's identification where there is a real risk of confirmation bias.
38. In her oral evidence the Claimant said that she recognised not just the Defendant's voice but the telephone number which had shown up on her device. I was troubled by that aspect of her evidence. It was not something she had said before either in written evidence for these proceedings or I believe to the police. It was a very late assertion in the witness box and if the Claimant had really recognised the number I cannot understand why she would not have said so in her written evidence.
39. The Claimant said in her original witness statement that the fact this was the Defendant's number was verified by the "tech team" at the refuge where she was then living. In a more recent witness statement she exhibited a letter purportedly supporting this account. The letter had not been produced before, it is not in proper statement form so contains no statement of truth, and it is not clear as to how the purported verification process was carried out. I can place no weight on this letter.
40. Overall in my judgement the evidence is insufficient for a finding on this allegation.

#### *Allegation 5*

41. On 24 June 2022 the Defendant sent an email to the Claimant. The email has been produced and there is no basis on which its authenticity can realistically be challenged; again, the Defendant

accepts in his witness statement that he sent it. He raises in his defence the excuse that a zoom call with P which had been directed by the court had not happened. Again, there is a limit to how far that fact, even if the Defendant's account is correct, can assist the Defendant in circumstances where other reasonable routes of contacting the Claimant were available to him, including via her solicitors who have been instructed throughout the relevant period. Indeed this means of communication is specifically provided for in the non-molestation order itself.

42. I find this allegation proved.

### **Sentencing hearing: 6 February 2025**

43. Following my findings of breach the matter was adjourned for a sentencing hearing on 6 February 2025. On this occasion Mr Johnson has attended. He continues to be represented by Counsel who has made submissions on his behalf in mitigation. The Claimant, who is also represented, has provided information via her Counsel about the impact of the breaches on her.

44. I am sentencing the Defendant for three breaches of a non-molestation order, on 20 June 2021, 26 October 2021 and 24 June 2022.

45. Guidance for the court undertaking a sentencing exercise in committal proceedings is set out in *Hale v Tanner* [2000] 2 FLR 879. In summary the guidance is as follows:

(1) The application before the court will be an application to commit, but imprisonment is not to be regarded as the automatic consequence of a finding of breach. There is no principle that imprisonment is not to be imposed at the first occasion. Nevertheless, it is a common, and usually appropriate, practice to take some other course on the first occasion.

(2) The range of sentencing options is more limited than in crime. The court can consider the alternatives to immediate custody: adjourn the hearing; make no order; impose a fine; requisition assets; consider orders under the Mental Health Act 1983. Such options may need consideration, particularly in a case where no actual violence has been proved.

(3) If imprisonment is appropriate, the length of the committal should be decided without reference to whether or not it is to be suspended. A longer period of committal is not justified because it is to be suspended.

(4) The length of sentence depends upon the court's two objectives:

- (i) to mark disapproval of the disobedience of the order;
- (ii) to secure future compliance with the order.

The seriousness of what has taken place is to be viewed in that light as well as for its own intrinsic value.

(5) The length of sentence must bear some reasonable relationship to the maximum sentence of two years.

(6) Suspension is possible in a much wider range of circumstances than it is in criminal cases. It does not have to be the exceptional case and is usually the first way of attempting to secure compliance with the court order.

(7) The length of suspension requires separate consideration, although it is often appropriate for it to be linked to continued compliance with the order underlying the committal.

(8) The court must bear in mind the emotional context within which a breach has occurred.

(9) The court cannot ignore the impact of any parallel proceedings in another court based on some or all of the same facts which support the committal. The contemnor should not suffer punishment twice for the same events.

(10) The court should give very brief reasons for the contemnor to know why the sentence is imprisonment; why it is the length that it is, and if it is suspended, why suspension is imposed in that way.

46. I bear in mind that were it not for the delays currently experienced in the criminal courts, the Defendant might have been subject to sentencing in the criminal court for the same breaches for which I am sentencing him today. Although the law is clear that the Family Court does not apply the same approach to sentencing as the criminal court, in the circumstances of this case it would seem permissible for me at least to have an eye to the sentencing guidelines for an offence of this nature.

47. The factors that are relevant to sentencing are as follows:

- (1) There are some mitigating factors in respect of the breaches themselves. On 20 June 2021 the Defendant's attendance at the Claimant's home, while in breach of the order, was at the invitation of her parents who also lived there and the Defendant did not come into contact with the Claimant. On 26 October 2021, albeit misguided, the Defendant was motivated by concern for his daughter. On 24 June 2022 he made contact by email after indirect contact did not take place. I have not found that on any of these occasions the Defendant's behaviour was abusive or threatening.
- (2) The breaches nevertheless had an impact on the Claimant. She suffered undoubted stress and anxiety as a result. She was vulnerable at the time and the Defendant was aware of that. She says that as a consequence of the security of her home being breached in 2021 she felt that she had to leave her home and move into a refuge with her young child.
- (3) The non-molestation order expired in April 2023. It was not renewed and since then the Defendant has not exhibited any similar behaviour.
- (4) The Defendant has written a letter to the court in which he apologises for his behaviour and gives some personal context, including details of his poor mental health at the time, which may go some way towards explaining it. He has provided medical evidence in support of this. His letter also includes some recognition of the impact of his behaviour, and of these proceedings, on the Claimant.
- (5) The Defendant has also produced a letter from a healthcare professional working with the Defendant's mother who confirms that he is acting as her main carer. It seems likely that the Defendant's mother would suffer some hardship were he to be imprisoned.
- (6) In my view the starting point for sentencing in the criminal court, where the breaches are at the lower end of the scale of seriousness and the harm caused was moderate, would be a community order rather than a custodial sentence. A community order is not, of course, an option available to me within these proceedings.

48. Having taken those factors into account I have reached the conclusion that the custody threshold is not met. Given his apology, Mr Ahmed asks me to treat the Defendant as having purged his contempt and to impose no penalty. I do not consider that course to be appropriate in the circumstances of this case, where the breaches had an impact on the Claimant and a penalty is required in recognition of that.

49. In my judgement, having taken into account the information provided to me today about the Defendant's means, the appropriate sentence for the breaches found proved in these proceedings is a fine of £200, payable within 12 months.



### Concluding observation

50. It is unfortunate that the Claimant has had to resort to committal proceedings to enforce the breaches of this non-molestation order, solely because the trial date given by the criminal court, where such offences are usually dealt with, was unacceptably delayed (December 2026 is over five years after the first breach was reported to the police). As it happens the Claimant has been able to access public funding to bring these committal proceedings, but that is by no means the norm and many complainants in her position will be unable to do so.
51. A further disadvantage of this route is that the range of sentencing options available to this court is more limited and, in my judgement, less well suited to offences of this nature, than the options available in the criminal court.