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FD24P00632

Neutral Citation Number: [2026] EWHC 981 (Fam)

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION

THE SENIOR COURTS ACT 1981
THE CONTEMPT OF COURT ACT 1981

Royal Courts of Justice
Strand, London, WC2A 2LL

BETWEEN

CLAIRE MIREILLE N'DJOSSE

Applicant

And

IFEDAYO ADEDAPO KOLAWOLE ADEYEYE

Defendant

Tori Adams, counsel appeared on behalf of the Applicant
(instructed by Dawson Cornwell LLP)

Nadia Zaman, counsel for the Defendant
(instructed by Shalom Legal Services Ltd)

JUDGMENT

Nicholas Stonor KC sitting as a Deputy High Court Judge
Hearing date: 20 April 2026
Judgment: 20 April 2026

1. Introduction

1. By an application dated 26 March 2026, CLAIRE MIREILLE N'DJOSSE ("the Applicant") invites the court to find that IFEDAYO ADEDAPO KOLAWOLE ADEYEYE ("the Defendant") is in contempt of court for breach of the following orders:

   (1) Paragraph 13 of the order of the Honourable Mr Justice Hayden dated 18 March 2026 which provided: *"The respondent shall return, or effect the return, of the child to the Mother in France by 4pm on 23 March 2026".*

   (2) Paragraph 21 of the order of the Honourable Mrs Justice Judd dated 21 January 2026 which provided: *"The father shall pay to the applicant for the benefit of the child of the family a lump sum of £3,000 by 4pm on 6 February 2026 to enable her to engage in proceedings in Nigeria in order to secure the return of the child to France."*

   (3) Paragraph 22 of the order of the Honourable Mrs Justice Judd dated 21 January 2026 which provided: *"The father will pay the applicant's costs of the hearing on 11 September 2025 summarily assessed at £2,000 inclusive of VAT by 4pm on 6 February 2026."*

2. At a hearing before Judd J on 30 March 2026, directions were given towards a hearing of the contempt application on 15 April 2026. Those directions included a direction that the Defendant should file a statement by 10 April 2026.

3. The hearing on 15 April 2026 was listed before Morgan J. The hearing was adjourned over to today because there had been delay in bringing the Defendant to court which meant that there would have been insufficient time for the matter to be concluded.

4. The Applicant has been represented by Ms Tori Adams, counsel, instructed by Dawson Cornwell LLP. Both Ms Adams and her instructing solicitors have been acting *pro bono* on behalf of the Applicant for some considerable time. With my permission, the Applicant did not attend today's hearing on the basis that she would be available to give instructions if required to do so.

5. The Defendant has been represented by Ms Zaman, instructed by Shalom Legal Services Ltd. Ms Zaman's understanding is that the Defendant now has public funding. The Defendant was produced from HMP Pentonville where he is currently serving a six month custodial sentence for contempt of court which was imposed by Judd J on 21 January 2026. The Defendant's expected automatic release date is tomorrow, 21 April 2026.

6. In preparation for today's hearing, I was able to consider a core bundle of 858 pages. This included two statements in support of the contempt application which were signed by Gemma Adams, associate solicitor at Dawson Cornwell LLP, on 26 March 2026 and 13 April 2026.

7. At 2226 on 19 April 2026, an unsigned statement from the Defendant, with exhibits, was sent to the court and to the Applicant's legal representatives. This was signed at court by the Defendant before the substantive hearing began on 20 April 2026.

2. Adjournment Application

8. On behalf of the Defendant, Ms Zaman sought an adjournment of today's hearing to allow the Defendant and his legal representatives more time to prepare in circumstances where it was said that:

    (1) Whilst the Defendant's current solicitors were first instructed by him on 30 March 2026 and represented him on a QLR basis at the hearing on 30 March 2026, there had been difficulties in communicating with the Legal Aid Agency which had left insufficient time to take the Defendant's instructions and provide him with advice.

    (2) Whilst the Defendant was represented by counsel at the hearing before Morgan J on 15 April 2026, that counsel was unable to attend today and Ms Zaman had been instructed late on 17 April 2026.

9. I refused that application for the following reasons:

    (1) Taking into account all of the circumstances, including the seriousness of these proceedings with the Defendant's liberty once again at stake, I was satisfied that the Defendant and his solicitors had had sufficient opportunity to prepare for this hearing. Morgan J had been of the same view on 15 April 2026, as recorded on the face of her order, at a time when the Defendant had not yet filed a statement. I was emboldened by the fact that the Defendant had now filed a 10-page statement with exhibits.

    (2) Whilst the late change of counsel was unfortunate, such a turn of events is not unusual.

    (3) Whilst the core bundle is sizeable, the key issues for today are relatively narrow with the focus being on what steps, if any, the Defendant could and should have taken to comply with the orders which he is alleged to have breached.

10. I then proceeded to hear the application. The Defendant elected to give oral evidence even though he was not obliged to do so.

3. Procedural Compliance

11. It is not suggested by the Defendant that there has been any breach of the strict procedural requirements which apply to contempt proceedings. However, for the avoidance of any doubt, having regard to Family Procedure Rules 2010 Part 37 and case law (including MacDonald J's summary in *Allami v. Fakher* [2023] EWFC 59 at [43]), I note that:

    (1) The application sets out the details of the alleged breaches of both the order of Hayden J and the order of Judd J, including the dates of the orders, the terms that are said to have been breached and the details of those breaches.

(2) The requirement for personal service of both orders was dispensed with and the Applicant's solicitors were directed to send them to the prison at which the Defendant was located, which they have done.

(3) Both orders have a clear penal notice on their face.

(4) The application includes a summary of the facts.

(5) The application sets out the Defendant's rights in accordance with FPR 2010, r 37.4(2)(o-s).

(6) Today's hearing has been conducted in open court.

(7) I reminded the Defendant of his right to remain silent and informed him that he is not obliged to give evidence in his own defence.

(8) I am proceeding on the basis that the alleged contempt must be proved to the criminal standard, i.e. beyond reasonable doubt.

12. Notwithstanding the strictures of FPR 2010, r 37.8(7), I acceded to Ms Zaman's request to permit her to appear without her wig and gown (which she had misplaced). I was satisfied, against the background of this case which includes previous contempt proceedings, that the Defendant was fully aware of the solemnity of the proceedings and that his liberty was at stake.

4. Legal Framework

13. In *Re A (A Child)* [2008] EWCA Civ 1138, Hughes LJ (as he then was) said at [6]:

"So far as the law is concerned I for my part accept the following propositions. (1) The contempt which has to be established lies in the disobedience to the order to return rather than in the original abduction. At the time of the abduction there was no court order which forbade the removal of the child from the jurisdiction. That such removal was an appalling mistreatment of both child and mother and, moreover, that it may be the crime of child abduction contrary to section 1 of the Child Abduction Act 1984 do not in either case make the abduction a contempt of court. (2) Contempt of court must be proved to the criminal standard: that is to say, so that the judge is sure. Whatever the traditional form of notice to show cause may say, the burden of proof lies at all times on the applicant. (3) Contempt of court involves a contumelious, that is to say a deliberate, disobedience to the order. If it be the case that father cannot cause the return of the child he is not in contempt of court, however disgraceful and/or criminal the original abduction may have been. Nor is it enough to suspect recalcitrance, it has to be proved: see LB of Southwark v B [1993] 2 FLR 559. That the onus remains on the applicant throughout is clearly demonstrated by Mubarak v Mubarak [2001] 1 FLR 698."

14. In *Re L-W (Children)* [2010] EWCA Civ 1253, Munby LJ (as he then was) reviewed authorities including *Re A* (above) and said (at [34]):

"What I derive from these authorities are the following further propositions: (1) The first task for the judge hearing an application for committal for alleged breach of a

mandatory (positive) order is to identify, by reference to the express language of the order, precisely what it is that the order required the defendant to do. That is a question of construction and, thus, a question of law. (2) The next task for the judge is to determine whether the defendant has done what he was required to do and, if he has not, whether it was within his power to do it. To adopt Hughes LJ's language, Could he do it? Was he able to do it? These are questions of fact. (3) The burden of proof lies throughout on the applicant: it is for the applicant to establish that it *was* within the power of the defendant to do what the order required, *not* for the defendant to establish that it was not within his power to do it. (4) The standard of proof is the criminal standard, so that before finding the defendant guilty of contempt the judge must be sure (a) that the defendant has not done what he was required to do *and* (b) that it was within the power of the defendant to do it. (5) If the judge finds the defendant guilty the judgment must set out plainly and clearly (a) the judge's finding of what it is that the defendant has failed to do and (b) the judge's finding that he had the ability to do it."

5. Background

15. The Applicant is from Cameroon. She has refugee status in France and has been residing and working there since the end of 2019. The Defendant is a dual Nigerian / British national. The parties met in France in 2019 whilst the Defendant was working there temporarily. Their relationship was short-lived. Their son, L, was born in France in 2021. On 30 June 2023, the Defendant obtained parental responsibility in France following DNA testing which confirmed that he is L's father. On 30 October 2023, an order was made in France which granted full custody of L to the Applicant and made provision for contact between L and the Defendant to progress gradually, beginning with supervised contact. On 27 July 2024, L was due to spend time overnight with the Defendant for the first time, to be returned to the Applicant at 4pm on 28 July 2024. L was not returned. It subsequently came to light that the Defendant had travelled to England and then on to Nigeria. The Defendant had managed to obtain a British passport for L who also has a Nigerian passport. In Nigeria, the Defendant left L with his brother and sister-in-law (Mr and Mrs O). On 19 March 2025, the Nigerian court made an order appointing Mr and Mrs O as legal guardians for L, having received affidavits purporting to show that both the Applicant and Defendant consented to such an order.

16. The Applicant commenced proceedings in the High Court on 17 December 2024. A final hearing was conducted before Hayden J on 01 May 2025. Hayden J determined that the High Court had jurisdiction pursuant to its inherent jurisdiction, invoking the doctrine of *parens patriae* in respect of L, a British citizen. In his judgment dated 20 June 2025 (reported as *ND v. K* [2025] EWHC 1548), Hayden J said:

    (at [11]):
    "It is clear that the Nigerian Court was given entirely false information. ND knew nothing about the application, had not received any documentation from the Court and most certainly had not given her consent for Mr and Mrs O to take over parental responsibility for her son."

    (at [16]):
    "It is obvious that K's conduct, even on his own account, is at the extreme end of the index of gravity. It requires to be identified as such. K's disregard for his son's safety and emotional welfare has resulted in him being in an extremely vulnerable situation

which requires every effort to be made to achieve a speedy resolution. It is difficult to imagine a situation where delay could be more inimical to the welfare of the child."

(at [33]):
"Whilst the mother's distress in this case is visceral, I too consider that my focus must be on the child. I do not think that this exercise should be constrained to L's immediate circumstances. It is important to consider his situation in the context of his experience. I emphasise that this abduction was, in my view, in the most serious class of cases. It involved the brutal severance of L's loving relationship with his mother and his complete deracination from every aspect of life as he knew and understood it. It involved complex, sophisticated, long-term planning and deception on the Courts, the Contact Centre, the mother and, most importantly, the child himself. It can only have been profoundly emotionally damaging to him. It has also been a protracted separation, even potentially involving L being retraumatised now by the loss of his father. The photographs and school reports, presented by the father, purporting to show L happy at school in Nigeria, are of little, if any, evidential significance against the wider canvass of the evidence. K has no credibility. Indeed, his attempts to portray L as happy, serve only to raise further concern, in my mind, as to his lack of empathy."

(at [36]):
"The parens patriae has been described as an essentially protective jurisdiction. L's need for protection, on my assessment of the evidence, is both clear and clamant. Recognising the rarity of circumstances in which the inherent jurisdiction can be invoked, I regard L's situation as 'exceptional'."

17. At a hearing on 16 July 2025, Hayden J made an order for L's return to France on or before 20 July 2025. The Defendant sought permission to appeal that order. This was refused by King LJ who observed: *"On the agreed facts the applicant was guilty of the most egregious behaviour having removed L from the care of his mother from whom he had never been separated and placed him in a foreign company* [*sic* – I interpose to note this is clearly a typographical error and should read *'country'*] *with complete strangers and thereafter obtained an order in favour of those strangers under false pretences."*

18. On 27 August 2025, Hayden J made a further order requiring L's return to France by 29 August 2025. L was not returned.

19. On 03 September 2025, the Applicant brought a contempt application. At a hearing before Judd J on 05 November 2025, the Defendant declined to give evidence, as is his right, but called his daughter to give evidence. For the reasons set out in her judgment ([2025] EWHC 3516), Judd J found that the Defendant was in contempt of court in that he had deliberately breached the return orders made by Hayden J, in that he had:

    "a. Failed to take necessary steps to enable him to exercise his parental responsibility in Nigeria and if necessary in the Nigerian Courts in breach of paragraph 13(iv) of the Order of 16 July 2025;

b. Failed to take necessary steps to enable him to exercise his parental responsibility in Nigeria and if necessary in the Nigerian Courts in breach of paragraph 13(iv) of the Order of 27 August 2025; and

c. Failed to swear such affidavits or equivalent as may be necessary to facilitate the Nigerian courts to facilitate the above and in so doing, taking such steps including the obtaining of copies of his passport from the Tipstaff by request from his solicitor; in breach of paragraph 13(v) of the Order of 27 August 2025."

20. Sentencing was adjourned and was ultimately determined on 21 January 2026. During the intervening period:

    (1) The Defendant made an application to set aside the Guardianship Order in Nigeria, in which he asserted in an affidavit of urgency that he had *"concealed and suppressed material facts and misled the Honourable Court into granting the Order of Joint Custody to the Applicants/Respondents"*.

    (2) An expert in Nigerian law was jointly instructed. After considering the application to set aside which had been made by the Defendant, he advised:

    "*In my view, the safest course would be to prepare and issue a fresh motion/application supported by affidavit evidence, fully setting out the case in relation to the fraud and adducing relevant evidence. This application ought to be accompanied by an affidavit of urgency buttressed by direct and frequent approaches to the registrar's office seeking an early listing. There must be cogent evidence of how L will be safeguarded and cared for in the absence of the guardianship order.*"

    (3) The Defendant was given the opportunity of filing evidence relating to his financial position and any mitigation.

21. On 21 January 2026, Judd J sentenced the Defendant to an immediate custodial sentence of six months for breaching the return orders made by Hayden J on 16 July 2025 and 27 August 2025. In her judgment (reported as *N'Djosse v. Adeyeye* [2026] EWHC 277), Judd J said (at [18]):

    "Following my findings in November, the respondent points out that he made applications to the Nigerian court to set aside the guardianship order together with a certificate of urgency, and says he is doing what he can to progress things there. Whilst I accept that he has made applications to the Nigerian court, I simply do not accept that he is doing what he can to progress things there, even now. The application he made fell short of informing the court as to the false basis upon which the Guardianship order was obtained. He seeks to lay some of the blame for this on his lawyers, both here and in Nigeria. In my judgment, the responsibility is his own. He has given conflicting accounts of how the orders in Nigeria came to be made and the truth of it is that very little has changed over time. The prospect of this child being returned to his mother appears little closer than it ever did."

22. Judd J ordered the Defendant to pay to the Applicant for the benefit of L a lump sum of £3000 by 4pm on 6 February 2026 to enable her to engage in proceedings in

Nigeria in order to secure the return of the child to France. In making that order, Judd J noted (in her judgment at [28]):

"I have absolutely no doubt that I should make that order, which is in this child's best interests, given the lack of progression of the case in Nigeria without her input. I also bear in mind what has been said about her, without her being able to answer it, by the relatives in the Nigerian proceedings."

23. Judd J also ordered the Defendant to pay the Applicant £2000 inclusive of VAT for the costs she incurred at the start of the proceedings. In making that order, Judd J noted (in her judgment at [29]): *"They have all been brought about by his conduct"*.

24. In making the schedule 1 order and costs order, Judd J made explicit reference to the Defendant's means, taking into account his debts, the fact that he would be unable to work whilst incarcerated, and the continuing uncertainty over his potential extradition to France.

25. On 13 March 2026, the Applicant applied for a further return order. The matter came before Hayden J on 17 March 2026. The Defendant refused to board the prison transport. The matter was put over to 18 March 2026 with an order backed by a penal notice requiring the Defendant to attend.

26. At the hearing on 18 March 2026, the Defendant attended unrepresented. Hayden J made an order requiring the return of L to France by 23 March 2026. Para 13 of the order made that day provides:

"The respondent shall return, or effect the return of, the child to the Mother in France by 4pm on 23 March 2026 and the following directions shall apply on an ongoing basis until the return of the child:

a. The respondent must take any reasonable step that may be requested of him by the mother's solicitors, Messrs Dawson Cornwell, in order to procure the return of the child to the jurisdiction of France, specifically Paris and onward to Grenoble, including but not limited to:
    i. Providing any necessary written or other authorisation to allow the child to travel from Nigeria to France;
    ii. Ensuring that the child is handed over into the care of any individual nominated to accompany him to France in accordance with this paragraph and ensuring that the child's passport (together with any other necessary travel documentation if applicable) is handed over to that individual at least 24 hours prior to the scheduled departure time for the flight, so as to enable that person to travel with the child from Nigeria to France;
    iii. Instructing [Mr and Mrs O] to facilitate the return of the child to France in accordance with this Order;
    iv. Taking any necessary steps to enable him to exercise his parental responsibility in respect of L in Nigeria and, if necessary, in the Nigerian Courts; and
    v. Booking and paying for tickets for the child and one adult passenger (the identity of whom shall be nominated in accordance with paragraph 12 above) to travel on a direct flight from Nigeria to France on or before 23

March 2026. The father must provide details of the flight tickets to Messrs Dawson Cornwell by no later than 4pm on 20 March 2026.

b. A penal notice attaches to this paragraph.

27. L was not returned.

28. The Defendant applied for permission to appeal against Hayden J's order. Permission was refused by Moylan LJ. In his statement, the Defendant has indicated that he still intends to pursue an appeal against Hayden J's order.

29. As I have already noted, this contempt application was brought on 26 March 2026 and there have been hearings before Judd J on 30 March 2026 and Morgan J on 15 April 2026.

6. Discussion

6.1 The Defendant's Evidence

30. I have considered with care everything that the Defendant has said both in writing and orally.

31. The Defendant's statement included detailed information about his own personal history, his relationship with the Applicant and L, and L's current situation in Nigeria. This information is of little if any relevance to the contempt application. The Defendant also protested, without justification in my view, about the unfairness of these proceedings.

32. I am afraid I found the Defendant's written and oral evidence to be self-serving. I gained the strong impression that he has been simply waiting for his sentence to expire and that he has had no real intention of abiding by the court's orders.

6.2 The Return Order

33. The Applicant's case is that the Defendant could and should have taken steps to secure L's return to France, in particular by causing a fresh application to be made in Nigeria for the set aside of the legal guardianship order in favour of Mr and Mrs O, which fully sets out the case in relation to fraud. This is what had been recommended by the jointly instructed expert on Nigerian law. The Defendant's failure to do so had been a key consideration for Judd J in her judgment on 21 January 2026 (noted above).

34. The Defendant accepted that, since the sentencing hearing before Judd J on 21 January 2026, and since the making of the further return order by Hayden J on 18 March 2026, he had not done anything to cause a fresh application to be made.

35. The Defendant was unable to provide a cogent explanation for his failure to do so. His evidence was far from convincing.

36. At one point, the Defendant purported to have been unaware of what Judd J had stated so clearly in her sentencing judgment. This was frankly implausible.

37. The Defendant asserted that, because he is in prison, he was unable to communicate with lawyers in Nigeria or anyone else with a view to progressing a fresh set aside application. His assertion rang hollow when, whilst in prison, he has been able to take

a number of steps which required communication with lawyers and/or the assistance of family members, including: (1) completing a legal aid form and conducting a video conference with lawyers in relation to his extradition proceedings; (2) launching an application for permission to appeal against Hayden J's order dated 18 March 2026; (3) communicating with his solicitors instructed in these contempt proceedings.

38. If, as the Defendant insisted at the end of his evidence, he really does want L to be returned to the Applicant in France, he was quite unable to explain why he had not even tried to use his own communication skills, and those of his family, to progress a fresh set aside application.

39. The Defendant insisted that his previous set aside application was progressing in Nigeria and was not being opposed by Mr and Mrs O. He produced some letters from lawyers in Nigeria which he said supported that contention. However, the position remains far from clear.

40. Ms Zaman submitted that the problem lies in the Defendant simply not understanding properly what has been expected of him. Having regard to the Defendant's obvious intelligence (evidenced not least by his work as an engineer), his calculated behaviour in the past, his attendance at relevant hearings, his representation at relevant hearings, I reject that submission outright.

41. What is clear, is that the Defendant has failed to do that which he ought reasonably to have done: to cause a set aside application to be made in Nigeria which fully sets out the case in relation to fraud. By reference to Hayden J's order, he has failed to take *"any necessary steps to enable him to exercise his parental responsibility in respect of L in Nigeria and, if necessary, in the Nigerian Courts."*

42. On all the evidence, I am satisfied beyond reasonable doubt that the Defendant is in breach of the return order made by Hayden J on 18 March 2026.

<u>6.3 The lump sum of £3000; the costs order of £2000</u>

43. The Applicant's evidence in support demonstrates the efforts that have been made on her behalf to facilitate payment by the Defendant. He has been provided with relevant bank details.

44. The Defendant conceded that he has taken no steps whatsoever to make any payment. Again, he was quite unable to provide a cogent explanation for his failure to do so.

45. The Defendant asserted in oral evidence, for the first time, that in order to claim income owed to him he needed to complete time sheets and use his phone for authentication purposes. This had not been mentioned in his statement. He conceded that he had not made contact with the companies who owe him money (some £10 000 he says), nor asked his family to make contact on his behalf.

46. The Defendant asserted, implausibly, that he did not know that he could make contact with the Applicant's solicitors direct to discuss the outstanding monies.

47. The Defendant asserted that he had no idea about the cost of his recent permission to appeal application as this had been organised by his family. He could offer no

explanation for why he had not asked his family to assist in communications relating to the outstanding monies.

48. The Defendant has produced no bank statements or any other up-to-date evidence as to his financial situation.

49. On all the evidence, I am satisfied beyond reasonable doubt that the Defendant is in breach of the orders made by Judd J at paragraphs 21 and 22 of her order dated 21 January 2026.

50. Ms Zaman, I will now rise to allow you to consider with your client any submissions you may wish to make by way of mitigation.

****

7. Sentencing
7.1 Applicable Principles

51. In *Elkndo v. Elsyed* [2024] EWHC 2230, Cobb J (as he then was) said:

"11. I have had regard to the provisions of part 37 of the Family Procedure Rules 2010 ('FPR 2010'). I have considered the guidance offered by Hale LJ as she then was in *Hale v Tanner* [2000] 2 FLR 879. I have further studied the judgments of Peel J in *Bailey v Bailey (Committal)* [2022] EWFC 5; of Nicklin J in *Oliver v Shaikh* [2020] EWHC 2658 (QB) (at [14]-[21]); and of MacDonald J in *Allami v Fakher* [2023] EWFC 29.

12. I approach my task having regard to the following points:

i) There are two objectives in contempt of court proceedings. One is to mark the court's disapproval of the disobedience to its order. The other is to secure compliance with that order in the future. Thus, the seriousness of what has taken place is to be viewed in that light as well as for its own intrinsic gravity (*Hale v Tanner* (above) at [29]);

ii) The disposal of this application must be proportionate to the seriousness of the contempt;

iii) In imposing the penalty, I have wide powers of sanction: per rule 37.4 and rule 37.9(1) FPR 2010;

iv) I may impose a sentence of up to two years imprisonment (Contempt of Court Act 1981, section 14(1)), or a fine of an unlimited amount. If I impose a sentence of imprisonment, it is open to me to order that execution of the committal order can be suspended for such period or on such terms as I consider appropriate (rule 37.28 FPR 2010);

v) The length of any sentence of imprisonment should be decided without reference to whether or not it is to be suspended;

vi) The length of the committal has to bear some reasonable relationship to the maximum of two years which is available;

vii) I have not assumed that imprisonment is the automatic punishment for breach of a family court order;

viii) I have not assumed that a contemnor should not be imprisoned for a 'first offence'; each case turns on its own facts;

ix) Where imprisonment is contemplated, the Court needs to be satisfied that the contemnor's conduct is so serious that no other penalty is appropriate; imprisonment is a measure of last resort."

52. In the case of *Egeneonu v. Egeneonu* [2018] EWCA Civ 1714, the Court of Appeal upheld a sentence of eighteen months' imprisonment for contempt, in circumstances where the contemnor had been found to have been in breach of court orders on multiple occasions. Those orders included orders for the return of children to the jurisdiction from Nigeria. Peter Jackson LJ stated:

"[19] . . . I deal in a little more detail with Mr Egeneonu's claim that he is being repeatedly punished for the same contempt. That relies upon the argument that the abduction (which is anyhow denied by him) happened once, and can only be punished once. That argument is unsound, as was made clear by McFarlane LJ in *Re W (Abduction: Committal)* [2011] EWCA Civ 1196:

> "37. … As in the case of prohibitive injunctions, it must in my view be permissible as a matter of law for the court to make successive mandatory injunctions requiring positive action, such as the disclosure of information, notwithstanding a past failure to comply with an identical request. A failure to comply with any fresh order would properly expose the defaulter to fresh contempt proceedings and the possibility of a further term of imprisonment.
> 38. While such a course is legally permissible, the question of whether it is justified in a particular case will turn on the facts that are then in play. It will be for the court on each occasion to determine whether a further term of imprisonment is both necessary and proportionate."

[20] These children are wards of court and the High Court is empowered to make whatever orders it responsibly considers to be in their interests. The fact that its orders have not been obeyed cannot deprive it of the power to make further orders, and if those orders are also disobeyed, it has its normal powers of enforcement. Once the punitive element of a sentence has been achieved, it will be a matter for the court to gauge whether making continued orders is likely to have a coercive effect: see Re W (above) per Hughes LJ at [51]. But where an order designed to secure the return of children has been properly made, the jeopardy in which a respondent to a further committal application finds himself is no more than the direct result of his deliberate decision to disobey the court's orders."

7.2 Breach of Return Order

53. When considering the seriousness of this breach, I have particular regard to the following:

(1) This is the second time that the court has found the Defendant to be in breach of return orders. The six month custodial sentence imposed by Judd J served to mark the court's disapproval with the Defendant's breach of earlier orders. Sadly, it has not been effective in securing future compliance.

(2) The Defendant's breach has been flagrant. As I have described, he has essentially done nothing to comply with the return order made by Hayden J on 18 March 2026. His conduct reflects a serious disregard for the authority of the court.

(3) Whilst I am sentencing for the breach of the return order made on 18 March 2026 and not for the abduction or previous breaches of orders, it is right that I consider the context in which the order dated 18 March 2026 was made. In short, it was made with a view to addressing the serious harm which has been to L by the Defendant, and restoring L to the care of the Applicant.

54. In my judgment, the Defendant's breach of the return order is a gravely serious matter.

55. I have read and listened carefully to the mitigation advanced on behalf of the Defendant. In summary:

(1) Apart from 17 March 2026 when he refused to attend court, he has generally co-operated with these proceedings. Albeit late, he prepared a substantial statement which was of assistance to the court in its determination of today's application.

(2) He is aged 58 and, he says (though no medical evidence has been provided), suffers from poor physical and mental health, including panic attacks and high blood pressure. He says that he has also had a recent diagnosis of ADHD and dyslexia. He is finding life in prison difficult – which I readily accept.

(3) He has close relationships with, and responsibilities for, adult family members including his own children who he misses greatly.

(4) He has financial difficulties, including debts of around £200 000, and is unable to earn money for so long as he is incarcerated.

(5) He is of previous good character.

(6) He has experienced several changes of solicitor which, it is said, has caused him some confusion – though, for the reasons set out above, I rejected the submission that he did not understand what was expected of him.

56. In my judgment, taking these factors together, they do little to mitigate the seriousness of the breach. Nothing less than a custodial sentence will suffice in order to mark the court's disapproval of the Defendant's disobedience and with a view to securing future compliance. The appropriate period of imprisonment is twelve months. There is no proper basis for that sentence to be suspended.

7.3 Breach of lump sum order; breach of costs order

57. The breach of the lump sum order is the more serious of the two: as explained by Judd J (and set out above), it was made with a view to facilitating another means by which L's return to France might be secured.

58. The Defendant remains liable to pay both amounts. If he were truly wanting to demonstrate a willingness to secure L's return to France, it remains open to him to make these payments. Doing so might assist any application he may be minded to make in due course to purge his contempt.

59. Given the sentence I am imposing in respect of the breach of the return order, it is not necessary or proportionate in the interests of justice to impose a separate penalty in respect of the failure to pay the lump sum or costs orders.

60. In accordance with FPR 2010, r 37.8(12), I remind the Defendant that he is entitled to appeal my decision without permission, within 21 days, to the Court of Appeal. He is also entitled to apply to the High Court to purge his contempt.

61. In accordance with FPR 2010, r 37.8(13), this judgment will be published on the website of the judiciary of England and Wales.

62. The Defendant will now be taken down please.

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