



Neutral Citation Number: [2026] EWCA Crim 966

Case No: 202602679/B3

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM THE CROWN COURT AT WOOLWICH
Mrs Justice Cheema Grubb

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 24/07/2026

Before:

LORD JUSTICE MALES

- and -

MRS JUSTICE CUTTS

IN THE MATTER OF CONTEMPT PROCEEDINGS
AGAINST RAJIV MENON KC

Adrian Waterman KC and Anthony Hudson KC
(instructed by Hickman and Rose) for the **Appellant Rajiv Menon KC**

On paper without a hearing

Approved Judgment

This judgment was handed down remotely at 3 p.m. on Friday 24 July 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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LORD JUSTICE MALES:

1. These proceedings are concerned with whether a contempt of court was committed by Rajiv Menon KC in the course of his closing speech for the defendant Charlotte Head during a trial which took place in the Crown Court at Woolwich before Mr Justice Johnson. The history of this matter up until 12th May 2026 is set out in the judgment of the Civil Division of this court handed down on that date ([2026] EWCA Civ 573). The upshot was that it was left with the trial judge, Mr Justice Johnson, to decide whether to take any of the steps indicated in paragraph 62 of the judgment. Those steps, in short, were either to refer the alleged contempt to the Attorney General, or to the Bar Standards Board as an alleged breach of the Code of Conduct, or to refer the alleged contempt to another High Court Judge sitting as a judge of the Crown Court.
2. On 22nd June 2026 Mr Justice Johnson concluded, after hearing argument which included extensive citation of authority, that it was appropriate to institute summary proceedings for contempt of the court's own motion. He concluded that the court had power to institute such proceedings, saying that:

‘58. In the light of these authorities, I reject the submission that the court is prevented from invoking the contempt jurisdiction because there has been delay since the original allegation of contempt, or because the trial of Ms Head is over. On the contrary, as was the case in *Griffin* [(1989) 88 Cr App R 63], there are unusual features of the present case such that it is particularly important to apply the general principles that emerge from the authorities rather than “seize upon short passages from judgments delivered in very different contexts.” The particular and unusual feature of the present case is that the alleged contemnor is counsel who was acting in ongoing proceedings. It would have derailed these proceedings if the court had invoked the summary contempt jurisdiction at the time the original allegation was made, or at any subsequent stage before sentencing. The first point at which the issue can be addressed without risking unfairness to either Ms Head or to Mr Menon, and without risking the derailment of the underlying proceedings, is now. Wilkinson recognises that it is right, in such a case, to delay invoking the summary jurisdiction until after the end of the trial. There is therefore no jurisdictional bar to the institution of summary proceedings for contempt of court now.’

3. He considered that the contempt proceedings should be heard by another High Court Judge, who was not personally involved in the underlying events with which the proceedings would be concerned. Accordingly he directed the court officer to report the incident to a Presiding Judge pursuant to rule 48.5(4)(a) of the Criminal Procedure Rules, who would be able to decide whether contempt proceedings should be instituted and if so, to assign the matter to a High Court Judge sitting as a judge of the Crown Court.
4. In so holding Mr Justice Johnson rejected the submissions advanced on behalf of Mr Menon which were, in short, that this course was no longer available.

5. The Presiding Judge to whom the matter was referred was Mr Justice Nicklin. On 29th June 2026 he considered the matter. He directed that summary contempt proceedings should be instituted of the court's own motion and caused a 'Summons and order' to be issued for Mr Menon to attend a hearing before Mrs Justice Cheema Grubb, sitting as a judge of the Crown Court at Woolwich, on 28th July 2026.
6. Since then, there have been a number of case management hearings before Mrs Justice Cheema Grubb. By an order made on 9th July 2026 she ordered, among other things, that:

‘The hearing on 28 and 29 July is not vacated, there being no application for stay of these proceedings and no appeal against the orders of Johnson J and Nicklin J. A further application to vacate the hearing may be made if any appeal against the orders of Johnson J on 22 June 2026 and Nicklin J on 29 June 2026 is lodged and likely to remain unresolved by the date of the hearing (28-29 July 2026).’
7. Mr Menon has now lodged an appeal, lodged with the Criminal Appeal Office on 20th July 2026. The appeal is an interlocutory appeal which is said to be made under section 13 of the Administration of Justice Act 1960.
8. In this appeal Mr Menon contends that Mr Justice Johnson and Mr Justice Nicklin both acted without jurisdiction and/or wrongly, and that the directions given by Mrs Justice Cheema Grubb were also made without jurisdiction and/or wrongly for a variety of reasons. He contends also that a fair-minded and informed observer would conclude that there was a real possibility of bias and that Mr Menon would not receive a fair trial. In very brief outline, Mr Menon's case is that the power for the Crown Court to institute summary proceedings for contempt is no longer available because that power must be exercised more or less immediately or not at all. Although that was one of the courses referred to in paragraph 62 of the judgment of the Civil Division of this court, it appears that this court's judgment did not decide, and the court was not asked to decide, whether the power to institute summary proceedings was one which it was by then too late to exercise. We will assume, therefore, but without deciding, that this is an argument which is open to Mr Menon.
9. On 17th July 2026 Mrs Justice Cheema Grubb ordered, among other things, that counsel instructed by the Director of Public Prosecutions would act as advocate to the court and, in that role, would respond to submissions made on behalf of Mr Menon. This too is challenged by Mr Menon.
10. Within the grounds of appeal those representing Mr Menon made an urgent application to this court for a stay of the proceedings before Mrs Justice Cheema Grubb. However, it is at least questionable whether this court has power to order a stay of contempt proceedings in the Crown Court. Having raised this point with Mr Menon's representatives, the Registrar enquired whether a further application for a stay of proceedings in the Crown Court had been made to Mrs Justice Cheema Grubb pursuant to her order of 9th July 2026.
11. In response, Mr Menon's representatives contended that this court did have such a power, but it appears that they also made an application for a stay to Mrs Justice

Cheema Grubb, which she refused. She said in an email from her clerk timed at 16:48 on 22nd July 2026 that a bare assertion of a lack of jurisdiction did not justify vacating the hearing, but made it clear that it would be open to Mr Menon to challenge her jurisdiction to determine the allegations of contempt at the hearing itself.

12. It is not clear to us whether the proposed grounds of appeal were provided to Mrs Justice Cheema Grubb. If, as appears to be the case, she was simply told that an appeal had been lodged, it is not surprising that she regarded this as no more than a bare assertion which would not justify vacating the hearing. Moreover, pursuant to her order of 9th July 2026, those representing Mr Menon should have submitted any jurisdictional objections by 16th July, but it appears that this was not done. If it had been, Mrs Justice Cheema Grubb would have been able to consider them before deciding whether to vacate the hearing or to direct that the jurisdictional objections should be dealt with as a preliminary issue. We would add that, going forward, it is important that the court's directions are followed and, if there is any difficulty, that an extension of time is sought, with reasons, before the date for compliance.
13. Mrs Justice Cheema Grubb's email was followed within minutes by an email to the Registrar from Mr Menon's counsel asking this court to consider and determine its application for a stay as a matter of urgency. Counsel submitted that it would be wrong for Mr Menon to be tried for contempt before his appeal raising issues of jurisdiction and procedural fairness had been decided.
14. We are doubtful, but do not need to decide, whether this court has power to order a stay of the proceedings in the Crown Court. But now that there has been an application to Mrs Justice Cheema Grubb which she has refused, it seems to us at least possible that there can be an appeal against her refusal of a stay, which this court has power to determine. As a matter of substance, therefore, we can and in our view should decide whether Mrs Justice Cheema Grubb was wrong to refuse a stay.
15. The general rule in such a case, explained by Lord Justice Edis in his order of 10th April 2026 and endorsed by the Civil Division of this court in its judgment of 12th May 2026, is as follows:

‘The general rule is that a defendant in or respondent to court proceedings, who raises an arguable challenge to the jurisdiction of the court which is to try the case, is entitled to have that jurisdictional challenge determined before he is required to engage with the merits. ...’
16. In view of the urgency of this matter, with the contempt hearing due to begin in a matter of days, we have had no opportunity to consider in any detail whether the challenge which Mr Menon seeks to bring is arguable. We have not, for example, had time to consider the authorities which were cited to Mr Justice Johnson. Nor have we had an opportunity to consider any arguments which may arise as to this court's jurisdiction. However, Mr Menon is represented by leading counsel and we are not in a position, without hearing argument (which there is no opportunity to do in the time available), to say that his position is unarguable. It appears to us that it may at least surmount the relatively low hurdle of arguability. In those circumstances we have concluded that the general rule applies here.

17. The question then arises, how should that general rule be given effect? In practice, there appear to be two possible ways in which Mr Menon's jurisdictional challenges may be dealt with. The first, as proposed by Mrs Justice Cheema Grubb, would be for those challenges to be determined at the hearing of the substantive contempt application. However, that would have the disadvantages that the parties would need to prepare to deal with the merits of the contempt allegations, as well as the jurisdictional arguments, and that there might be an appeal to this court as of right if the jurisdictional arguments were to fail before the judge. It could therefore be unsatisfactory if the judge were to go on to determine the merits of the contempt allegations, while the jurisdictional issues had not yet been finally determined. It would in addition be unsatisfactory for one High Court Judge sitting in the Crown Court to be asked to rule on whether orders made by other High Court Judges also sitting in the Crown Court were made without jurisdiction or were otherwise wrongly made.
18. The second course, which is what Mr Menon seeks, would be for the jurisdictional issues to be determined by this court before the hearing of the substantive contempt application. That seems to us to be the better course.
19. As a matter of practicality it is impossible for any appeal to be listed before 28th July 2026, when the hearing before Mrs Justice Cheema Grubb is currently due to commence. However, while it is clearly very desirable that this matter should be concluded as soon as possible, there appears to be no urgency which compels that the hearing on 28th July should go ahead despite the disadvantages which it would entail.
20. For these reasons, prepared at short notice in view of the time constraints because it is necessary for all concerned to know where they stand, we direct that those representing Mr Menon should lodge a formal appeal against the decision of Mrs Justice Cheema Grubb to refuse a stay. We allow that appeal and order a stay of the proceedings before Mrs Justice Cheema Grubb.
21. That will leave the existing appeal, lodged on 20th July 2026, to deal with Mr Menon's extant jurisdictional and procedural challenges. That will need to be listed once it is ready. Plainly the court would be assisted on that appeal by an advocate to the court who is able to respond to those challenges, as well as to deal with any issues as to the jurisdiction of this court. It may be that further directions will need to be given, but that is not a matter which we are able to consider now.