Neutral Citation Number: [2020] EWCA Civ 1860

Case No: B2/2020/1592(C); B2/2020/1952

IN THE COURT OF APPEAL (CIVIL DIVISION)

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday, 17 December 2020

BEFORE:

LORD JUSTICE DAVIS
and
LORD JUSTICE NUGEE

BETWEEN:

BOYS & MAUGHAM (A FIRM)

Claimant
and Respondent

- and -

MOORE

Defendant

MR MOORE appeared in person
MR SNOW (instructed by **Boys & Maugham**) appeared on behalf of the **Claimant/Respondent**

APPROVED JUDGMENT

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(**Please note that due to the poor standard of audio recording it has not been possible to produce a high-quality transcript in this case**)

LORD JUSTICE NUGEE:

Introduction

1. This is an appeal by the defendant, Mr Gary Moore (also known as Mr Gary Bullock) against an order of committal made by HHJ Catherine Brown sitting in the County Court at Canterbury on 27 August of this year. There were four allegations of contempt, and the Judge found three of them (Counts 1, 3 and 4) proved. She sentenced Mr Moore as follows: on Count 1, no order; on Count 3, eight weeks' imprisonment; and on Count 4, four weeks' imprisonment to run concurrently, making a total of eight weeks, suspended for one year on condition that Mr Moore file and serve a witness statement by 27 September 2020 answering various questions concerning his financial position. Mr Moore appeals as of right and does not need permission.

Background

2. There is a long history to the litigation which it is not necessary to recount in any detail. In summary, the Claimants are a firm of solicitors who were retained by Mr Moore in January 2018 in relation to proceedings brought against him by his ex-partner seeking an order for sale of a property which they jointly owned. The Claimants proposed that payment of their costs should be deferred to the end of the matter on the basis that they would be paid out of Mr Moore's share of the proceeds of sale. An order for sale was made by consent in July 2018, and the property was ultimately sold in early 2019, sale being completed on or about 1 February 2019. Mr Moore received his share of the proceeds of sale, which we were told amounted to some £79,000-odd, but did not pay the Claimants, who claimed to be owed the sum of £13,862 for work done. That led to the Claimants bringing the proceedings against Mr Moore for recovery of £13,862. They obtained a freezing order from HHJ Simpkiss in that sum on 21 February 2019, initially on a without notice basis and continued at the return date on 27 February 2019, and a number of further orders including orders for costs in their favour. Then on 20 April 2019 judgment was entered in default against Mr Moore for £14,752. Mr Moore applied to set aside the default judgment, but that was dismissed by Deputy District Judge Ashley in July 2019. Further costs orders have been made

since. Mr Moore had paid £13,862 into court, and that has been paid over to the Claimants, but there remain due to the Claimants various sums under costs orders which had been made. The precise sum does not matter for present purposes but is put by the Claimants at over £16,000. In January 2020 the Claimants applied to the Court for the oral examination of Mr Moore as a judgment debtor.

The Counts

3. That forms the background to the orders sought to be enforced by way of a committal as follows. So far as Count 1 is concerned, on 22 January 2020 HHJ Brown made an order which provided that Mr Moore should attend the County Court at Canterbury on 18 February 2020 before a judge at 10.00 am to provide information about his means and any other information needed to enforce the judgment order, and by paragraph 2 that:

> "The judgment debtor [(Mr Moore] at that time and place produce at court all documents in the judgment debtor's control which relate to the judgment debtor's means of paying the amount due under the judgment or order and which relate to those matters mentioned in paragraph 1."

That forms the basis of Count 1 in the schedule of alleged contempts, which alleges that the respondent, Mr Moore, deliberately attended court upon that date but did not bring or provide any documentation as required by the above order relating to his means of paying the amount due under the judgment order. HHJ Brown found that count proved to the criminal standard.

4. I can pass over Count 2 and the court orders that form the basis of it, as HHJ Brown found that that was not proved, and it is not necessary to refer to Count 2 again.

5. So far as Count 3 is concerned, on 8 June 2020 HHJ Brown made an order which included at paragraph 3 an order that:

> "The Defendant [Mr Moore] shall reply in writing to the further questions set out by the Claimant at page 1094 and at pages 1101-1102 of the supplementary electronic bundle provided for this hearing by 4 pm on 19th June 2020. The Defendant's replies shall be verified by a statement of truth in accordance with CPR Rule 22.1 and PD 22."

Count 3, having referred to that part of the order, is that the respondent deliberately did not and has not at the time of writing complied with this order by providing a witness statement answering the additional questions as mentioned above. Again HHJ Brown found that proved to the criminal standard.

6. So far as Count 4 is concerned, that is based on a series of orders as follows:

(i) firstly, the Order of 22 January 2020 of HHJ Venn, paragraph 2, which I have already referred to under Count 1;

(ii) secondly, an Order of HHJ Brown dated 18 February 2020, paragraph 4 of which reads as follows:

> "The Defendant, at the adjourned hearing, must produce all documents in his control which relate to his means of paying the amount due under the judgment or order and which relate to those matters mentioned in Form EX140/1."

(Form EX140/1 is a form for a record of an examination of a debtor); and

(iii) thirdly, the Order of 12 March 2020 of HHJ Brown, paragraph 6 of which provides:

> "The Defendant must file and serve a CPR compliant witness statement in response to the Claimant's witness statement and provide all evidence and supporting documentation in support of his response as well as all documents in his control which relate to his means of paying the amount due under the judgment or order and which relate to those matters mentioned in Form EX140/1 by 4 pm 26 March 2020."

7. Count 4 alleges a breach of those three orders as follows:

> "The Respondent has deliberately failed to comply with paragraph (6) of the order dated 12 March 2020 [originally it read 12 May 2020 but it was amended to 12 March by the order of HHJ Brown on 27 August 2020], paragraph (4) of the order dated 18 February 2020, and (2) [of the order dated] 22 January 2020 by failing to provide all documentation in his control which relates to his means of paying the amount due under the judgment or order and which relates to those matters mentioned in Form EX140/1 by 4 pm on 26 March 2020. The Respondent has deliberately not provided the

> evidence requested in relation to his personal circumstances in relation to being able to pay the debt owed including, but not limited to, copy statements of his credit card receipts in the name of Gary Bullock and/or Moore, the location of and value of his chattels including computer equipment, guitars, mobile telephones etc.
>
> These documents and this knowledge are clearly within the possession and control of the Defendant, and yet he has still not disclosed them."

Again, HHJ Brown found that proved to the criminal standard.

8. I will say at once that although this is not a point that has been taken by Mr Moore, Count 4 seems to me to give rise to a question whether the count is properly framed, as it seems to me to allege breaches of three different orders. Although each order required Mr Moore to provide documentation in similar terms, they are not identical and in particular they required Mr Moore to produce documents at different times. The Order of 22 January 2020 required him to produce documents on 18 February 2020; the Order of 18 February 2020 required him to provide documents on 12 March 2020; and the Order of 12 March 2020 required him to file a witness statement and provide documents on 26 March 2020. I do not think it was in fact appropriate to charge breaches of these three separate orders in a single count. CPR r 81.10(3)(a) provides (or provided at the relevant time):

> "The application notice must –
>
> (a) set out in full the grounds on which the committal application is made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; …"

This is evidently analogous to the general rule that a single count in an indictment is bad for duplicity if it charges two separate offences. The failure to produce documents on 18 February 2020 is self-evidently a separate act of contempt from failing to produce documents (even if they are the same documents) on 12 March 2020 or failing to include them in a witness statement by 26 March 2020. This is a point to which I will return.

Unfair hearing?

9. Mr Moore, who has appeared before us in person, has not addressed us orally but has submitted a number of written documents starting with his skeleton, which is where I will go to identify the issues that he has taken. At paragraph 8 of his skeleton, under the heading of "The facts", he first submits that he did not receive a fair hearing, and under that head he identifies a number of different matters which he relies on.

10. The first reads as follows: "Disability, reasonable adjustments, not permitted to obtain expert evidence when that has been organised". Mr Moore has provided a medical report from his GP, Dr Cleverley, dated 10 April 2020, which states that he was first diagnosed as having anxiety and depression in 2007 and that the first mention of post-traumatic disorder in his notes was in 2017, when he disclosed that he had been in an abusive relationship for over three years. This worsened in late 2018 through 2019. The report indicates that he does not suffer from any other medical conditions. Dr Cleverley says:

> "He would be able to answer questions in writing regarding his financial circumstances, ability to pay and recollection regarding bank transactions. However, he does get flashbacks and periods of stress increase his flashbacks, and he is likely therefore to need longer to respond than other people would as he may have to leave the task and come back to it later.
>
> Because of his reactions to stress, I do not think he will be able to orally answer questions in Court and I doubt whether giving evidence behind a screen, or by video link or by telephone would be any more successful. I do think answering via an intermediary would be an option."

11. By Order dated 16 May 2020, HHJ Brown directed the listing of a ground rules hearing and directed Mr Moore to serve proposals for reasonable adjustments. That was a hearing at which he was represented by counsel, and the ground rules hearing took place on 8 June 2020. Again, Mr Moore was represented by counsel. Paragraphs 5 and 6 of the order made on that occasion by HHJ Brown were as follows:

> "5) The Defendant, at the adjourned hearing referred to in paragraph 1 above, will answer, on oath or affirmation, all of the questions which the Court asks and which the Court allows the Claimant to ask. If the Defendant maintains that he is unable to talk, the oath will be read to him and he will confirm, in writing, that he understands the same, and

the Defendant will respond to any questions in writing which answers will then be read out for the Court for the Claimant's benefit.

6) The Court determined that the reasonable adjustments set out in the Excel sheet attached to this Order shall apply at the hearing."

Paragraph 7 provided that if the Defendant suggested that he was unable to take part in the adjourned hearing even with reasonable adjustments, he must produce a further medical report. The list of reasonable adjustments that were requested and the Court's response to them is a lengthy document in which the Court has accepted most requests, some of them have been identified as not practical (for example, Mr Moore requested to be screened off from the Claimants and the Court's answer was that was not practical because no screens were available), and in relation to other matters the Court gave further directions.

12. Nothing in Mr Moore's skeleton or in the other written material that he provided to us suggests any particular adjustment which was unfairly refused. In fact, when it came to the hearing on 27 August 2020, the judgment of HHJ Brown included at [5] the following assessment:

> "Having had the chance to see and assess the Defendant over the last few months, I am quite sure that he has capacity, that he is clearly an intelligent man, that he fully understands what is required of him by Court orders and that his presentation (refusing to speak and insisting on communicating by writing everything down) is a deliberate affectation and part of his deliberate attempt to prolong and frustrate these proceedings, rather than a product of a genuine psychiatric or psychological impediment. Whilst I accept he clearly does have some psychological issues, and in order to ensure his fullest participation in the proceedings I made adjustments including permitting him to write out his answers and taking frequent breaks, ultimately I am quite sure that he was able to participate and that he was not prevented from having a fair hearing by reason of his alleged impairments."

We have not been shown anything which suggests that the Judge's assessment in that paragraph was an unrealistic one or that there was anything in the way in which the Judge conducted the hearing, which she seems to have done with a scrupulous attempt to be as fair as possible to Mr Moore as well as to the Claimant, was in any way

conducted unfairly. I do not think that this ground suggests that Mr Moore did not receive a fair hearing.

13. The next head in the skeleton is that it was unjust, unreasonable and unfair of the Judge to expect the appellant to cope, especially as he was a litigant in person of no fixed abode suffering from mental health issues. Mr Moore appeared in person on 18 February 2020 and asked for an adjournment to obtain legal advice. That was granted by HHJ Brown, and in her order she not only recited that the Defendant was informed that legal aid might be available for him but also provided in the substantive order that the hearing be adjourned so that he might obtain legal advice. On 12 March 2020 he was represented by solicitors and counsel, as he was also on a number of further hearings in April and June, and on 7 August. On 27 August 2020, which was the substantive hearing of the committal application, what happened is referred to in the Judge's judgment at [8], when she said:

> "He dismissed his legal representatives and made it clear that he wished to represent himself. However, at my request, his counsel, Mr McBarnet, remained in court to assist the court."

We were not told why Mr Moore chose to dispense with the services of counsel and represent himself, and of course he is not obliged to give any reason, but having chosen to represent himself at that hearing, he can scarcely complain that he was thereby disadvantaged. In any event, although the Court will do what it can to ensure that litigants in person have a fair hearing, taking into account the disadvantages that litigants in person necessarily suffer from, it is clearly established that acting as a litigant in person is not a reason for exempting a litigant from compliance with the rules and orders of the Court. I see nothing unreasonable, unjust or unfair in HHJ Brown expecting the appellant to continue with the hearing in those circumstances.

14. As to the mental health issues, I have already referred to the extent of the medical evidence that was before the Court and the conclusion of the Judge, which seems to be well-founded, that although Mr Moore did have some psychological issues, he did not lack capacity and could understand what was going on and what was required of him.

15. The next point under this head taken by Moore is that he is covered by FPR 29.1. That is a reference to the Family Procedure Rules, the particular rule providing that a party is not required to reveal certain personal details. The Family Procedure Rules apply to family proceedings. Neither the underlying ToLATA proceedings, nor these proceedings, which were to enforce a claim for a debt, were family proceedings, and the Family Procedure Rules have no application.

16. The next point taken by Mr Moore is as follows. Regarding disclosure, it was unjust and unreasonable and unfair of the Judge to expect the appellant to be in a position to defend himself when there were such serious disclosure problems in the case. Various details of that are given and that has been further elaborated in other documents which Mr Moore has provided us with during the course of the hearing. What it comes to is that Mr Moore complains that the Claimants have not provided proper disclosure. There is in my judgment nothing in this complaint. It is very doubtful if the Claimants ever came under any disclosure obligations in these proceedings, as they obtained judgment in default and usually that would take place before any obligation to disclose had arisen. But even if they had been, it would make no difference to Mr Moore's liability for contempt.

17. The liability of a person for contempt depends on three things: (i) what orders have been made against that person; (ii) whether he has complied with those orders; and (iii) whether he had the requisite knowledge to be guilty of contempt. The requisite knowledge is set out in many places but can conveniently be found in the recent judgment of Henshaw J in *Dell Emerging Markets (EMEA) Ltd v Systems Equipment Telecommunications Services SAL* [2020] EWHC 561 (Comm) at [21] where he said:

> "In order to conclude that any particular Respondent is guilty of contempt of court, it is necessary to be sure that: (1) the Respondent in question knew of the terms of the order; (2) he or she acted (or failed to act) in a manner which involved a breach of the order; and (3) he or she knew of the facts that made his or her conduct a breach."

One could add to that a fourth requirement, which is (iv) that the application to commit has complied with the necessary procedural safeguards. Disclosure is not usually likely to be relevant to the issues whether the respondent knew of the order, whether he has complied with the order and whether he knew of the facts that made his conduct a

breach of the order, and there is no general obligation of disclosure in a committal application. Rather, the obligation on the applicant is to serve the evidence which he relies on in support of the application, and that is also dealt with in CPR r 81.10, in this case in r 81.10(3)(b), which at the relevant time provided that the application notice must:

> "(b) be supported by one or more affidavits containing all the evidence relied upon".

That is clearly designed to ensure that the respondent knows what the material is on which the Court will be invited to find him guilty of contempt. It does not generate a disclosure obligation, and I do not see (even if Mr Moore were right, as to which we cannot possibly decide, that there had been breaches of disclosure obligations) that it affected his liability for committal for contempt.

18. Head (e) under this heading of unfair hearing is "Fake and false claims made by a regulated firm". Again, some details are given, the general thrust of which is that the Claimants misled the court. I should make it clear that the Claimants naturally do not accept this, but even if it were the case, again it does not in my judgment affect the liability of Mr Moore for committal. Again, the law is very clearly established. It can be found among other places in the judgment of Lord Diplock in *Isaacs v Robertson* [1985] AC 97 at 101 approving the passage of Romer LJ in *Hadkinson v Hadkinson* [1052] P 285 at 288:

> "It is the plain and unqualified obligation of every person against, or in respect of whom, an order is made by a court of competent jurisdiction, to obey it unless and until that order is discharged. The uncompromising nature of this obligation is shown by the fact that it extends even to cases where the person affected by an order believes it to be irregular or even void. 'A party who knows of an order, whether null and void, regular or irregular, cannot be permitted to disobey it. ... It would be most dangerous to hold that the suitors, or their solicitors, could themselves judge whether an order was null and void – whether it was regular or irregular. That they should come to the court and not take upon themselves to determine such a question. That the course of a party knowing of an order, which was null and irregular, and who might be affected by it, was plain. He should apply to the court that it might be discharged. As long as it existed it must not be disobeyed.' Such being

> the nature of this obligation, two consequences will, in general, follow from its breach. The first is that anyone who disobeys an order of the court … is in contempt and may be punished by committal or attachment or otherwise."

It follows that whether Mr Moore is right or not that at an earlier stage in these proceedings the Claimants misled the Court does not affect the question whether the orders which were made against him had been made or whether he did or did not comply with them, and do not therefore affect the question whether he was liable for committal. I may add that of course, as the background shows, Mr Moore did apply to set aside the judgment which the Claimants had obtained against him and that application was unsuccessful and indeed, as a result of that unsuccessful application, a limited civil restraint order was, we are told, made against Mr Moore, although we have not seen its terms.

19. The next heading in relation to this ground is that there is an unfair, important anomaly in legal aid and representation regarding a civil case where legal aid has been granted in respect of an application to commit for contempt. Mr Moore says that Tuckers (his solicitors) said that they were not paid by legal aid to raise civil issues, even though they realised and were warned that the Respondents were misleading the court, and that a solicitor should be ready to raise matters when it comes to solicitors misleading the Court rather than just saying they cannot deal with it because they are not being paid to raise those issues. This, if anything, seems to me to be a complaint against Tuckers, but I will say at once that it does not surprise me that solicitors acting on legal aid in a committal application (for which legal aid, which is criminal legal aid, is available) should decline to deal with other aspects of civil litigation for which legal aid is not available and which they would not usually be instructed on. But in any event, again, it does not affect the question, which was the question before HHJ Brown and is the question before us, whether Mr Moore did or did not commit the contempts with which he was charged.

Procedural failures?

20. The next head relied on by Mr Moore is CPR Part 71, whereby, cross-referenced to his grounds of appeal, Mr Moore complains of a number of what are said to be failures to comply with the rules of CPR Part 71. CPR Part 71 does provide for very limited

circumstances in which a committal application can be made against a debtor who has been summonsed to an oral examination. But in this case the committal application was not brought under CPR Part 71 but under CPR Part 81. That was something expressly decided by HHJ Brown on 29 June 2020, as appears from recital 7 to her order which reads:

> "The Court decided that, in the circumstances of this case, the procedure for committal under CPR 71.8 was inappropriate, and that any application to commit the Defendant must be made in this case by the Claimant pursuant to CPR 81."

She then ordered at paragraph 4 that the Claimant should issue any application to commit the Defendant pursuant to CPR 81 by 4 pm on 13 July 2020. Whether or not CPR Part 71 was complied with at earlier stages, the orders which were the basis for the findings of contempt were made and on the findings of the Judge were not complied with.

21. As to the specific points which were taken in his grounds of appeal under this head by Mr Moore, under Count 1 he took a point on service, saying that service was short service and the documents were not served personally on him. The Order of 29 January had provided for substituted service. Mr Moore says he only saw the documents the day before, but HHJ Brown found in her judgment at [15]:

> "I am quite sure that the Defendant was lying when he said that he had not seen the order of HHJ Venn until 24 hours before the hearing on 18 February 2020. I am also sure that he knew of the requirement to bring the documents to the hearing."

We have no basis to go behind her assessment of Mr Moore. In any event, no penalty was imposed by HHJ Brown in relation to Count 1, as I have referred to.

22. Under Count 3, Mr Moore alleges that he has evidence that the debt had been settled dating back to February 2020, referring to something which we have not seen as it was a private record of the parties and relying on the fact that the Respondents had failed to challenge it. That is not something which is accepted by the Respondents, and we, as I have said, have not seen evidence of any settlement. But in any event, on Mr Moore's own account, all that he says it did was to discharge the orders up to February 2020. I

do not understand how it could affect the orders subsequently made, including the Order of 8 June 2020 which forms the basis of Count 3.

23. Under Count 4, Mr Moore complains of a failure by the Claimants to comply with the Order of HHJ Brown of 18 February 2020, which ordered them to file and serve at least three days before the adjourned hearing a bundle containing all the relevant documents, applications, orders and evidence. I will assume he might be right that there were deficiencies in compliance with that order, but I do not see that that explains or excuses or takes away from the fact of Mr Moore's own failure to comply with the orders listed under Count 4 and in particular the Order of 12 March 2020.

24. Going back to his skeleton argument, the next head relied on by Mr Moore is CPR Part 81. Here he says that to be convicted of contempt of court, the conduct must be a voluntary act. He says that his conduct was not voluntary: this all happened because there were so many things wrong all the way through to the lead up to the hearing of 27 August 2020 and that it was an unfortunate circumstance that the very dominant behaviour of the Respondents misled everyone and created complete breaches of the Rules. No breaches of the Rules are here specifically identified, and in any event the clear finding of HHJ Brown was that the failure of Mr Moore to comply with the various orders was in each case deliberate. That is sufficient to amount to voluntary conduct within the meaning of the authorities. We have not been shown anything to suggest she was wrong to reach that conclusion.

25. Mr Moore then says that procedural errors were made under CPR Part 81, but that allegation is not particularised at all.

Other points

26. In submissions during the hearing before us, which were all made in writing because of Mr Moore's reluctance or inability to address the Court orally, Mr Moore took a number of other points. It is not necessary to go through them all one by one. They confirm insofar as there is anything new that Mr Moore suffers from a profound sense of grievance, but they do not add anything to the substance of the appeal, nor do they address singly or taken together the questions which are the questions which arise in

this appeal, namely whether the Judge was entitled to come to the conclusion she did that Mr Moore was guilty of the contempts with which he was charged and of which she found him guilty.

27. In his skeleton Mr Moore makes a general plea that the Judge was wrong to find the contempts proved beyond reasonable doubt and says that the Judge was wrong in law in not holding that his defence was made out, though indeed he does not here specify what his defence was.

28. Having considered all the material put before the court by Mr Moore, I have reached the conclusion that there is nothing in that material which suggests that the Judge erred in her careful and thorough judgment or was not entitled to reach the factual conclusions that she did reach. Subject to the one point I mentioned earlier on duplicity, I would dismiss the appeal.

Duplicity

29. So far as the point on duplicity is concerned, Mr Snow, who appeared for the Respondents to the appeal, put forward as his primary submission that there was in fact no failure to comply with CPR r 81.10(3)(a) because the conduct alleged was all the same conduct, namely the failure to provide the relevant documentation. I have already indicated that I have difficulty accepting that. It is well established that a mandatory order which requires a person to do something by a particular date is broken once and for all when they fail to do it on or by that date: see *re Jones* [2013] EWHC 2579 (Ch) at [20]-[23] per Sir James Munby P, and my own judgment in *Kea Investments Ltd v Watson* [2020] EWHC 2599 (Ch) at [71]-[73]. That means that the three orders, as I referred to earlier, did contain different obligations, each requiring Mr Moore to provide the documents on different occasions, and there were in my judgment three separate acts of contempt, and they should have been charged as three separate acts, although it may be noted that the failure to comply with paragraph 2 of the first order, that of 27 January 2020, had already in effect been charged as Count 1 and should not in my view have been charged again.

30. The question is what we should do in those circumstances. Mr Snow's second submission was that we should exercise the dispensing power now found in Practice Direction 81 – Applications and Proceedings in Relation to Contempt of Court at paragraph 16.2, which reads as follows:

> "The court may waive any procedural defect in the commencement or conduct of a committal application if satisfied that no injustice has been caused to the respondent by the defect."

31. I for my part would accept the submission that no injustice has been caused to Mr Moore by the defect. I would treat Count 4 as if the references to the two earlier orders were otiose and should be struck out of it and that Count 4 should be read as if it only charged failure to comply with the third order, that is, paragraph 6 of the Order dated 12 March 2020. That does not seem to me to be unfair or to cause any prejudice or difficulty to Mr Moore, specifically for two reasons. Firstly, although all three orders are recited, the allegation is that he had failed to comply with them by failing to provide the documentation by 4 pm on 26 March 2020, that is a breach of the third order; and secondly, because of the way in which HHJ Brown dealt with this in her judgment at paragraph 28, where she said:

> "The position is that although the Defendant produced a lot of documents on 12 March 2020 in partial compliance with the orders dated 22 January 2020 and 18 February 2020, as set out in the questions referred to in paragraph 3 of my order dated 8 June 2020, I am sure that there were and remain a number of documents or classes of documents the defendant could and should have produced in compliance with those orders and that of 12 March 2020 in particular."

The Judge therefore found that there was a failure to comply with the Order of 12 March 2020, and subject to anything that my Lord wishes to say, for my part I would propose that we should exercise the power to waive the procedural defect in paragraph 16.2 of the Practice Direction, treat Count 4 as confined to a breach of the third order, that of 12 March 2020, and uphold the Judge's conclusion that Mr Moore was guilty of that count as well. In those circumstances, for my part I would dismiss the appeal in all respects.

LORD JUSTICE DAVIS:

32. I agree with the judgment of Nugee LJ and simply add a few observations of my own. This case has been listed to come on for a hearing in this court for some time. In the preceding week, Mr Moore has submitted a number of written requests and applications seeking a stay or an adjournment or a ground rules hearing and things like that, all of which requests were declined by this court. Today Mr Moore, appearing in person, has further sought a stay, which this court refused. One reason which he advanced for needing a stay was, as he said, that he had not a chance to digest all the relevant documentation and, what is more, there was much more documentation to be obtained. That is completely by the way. This appeal hearing is not designed to be an opportunity for Mr Moore to reargue his case all over again. The position is to be assessed as it was before Judge Brown. Indeed, Mr Moore's requests for documentation underline how flawed his whole approach is. He clearly bitterly resents the conduct of the claimant firm. He has taken the view that they were negligent or misconducted themselves in the original transactions on which he had instructed them, and he has taken the view, it seems, that they have been evasive, lacking integrity, lying to the court and so on in the proceedings to recover the debt due to them and in the proceedings thereafter.

33. But that, as my Lord has pointed out, is nothing to the point. The point is that orders of the court were made. It is not for Mr Moore then to refuse to comply with them simply because he does not himself agree with those orders. Those orders having been made, and they have never been successfully appealed, he has to comply with them. As Judge Brown found on the evidence, applying the criminal standard, she was sure that he had deliberately not complied with them. That answers virtually all the criticisms which Mr Moore now seeks to pursue, which in truth are irrelevant to what really matters now. Mr Moore ought clearly to understand his position. He must comply with those orders. It is no good him saying that he does not agree with those orders. If he does not comply with those orders, and if he continues to maintain his current stance, not only will he continue to incur further costs liabilities but in addition he may find that the suspended sentence is activated and he may go to prison. He should be very careful to avoid such a consequence. Therefore he should even now comply with what he is required to do under the relevant orders.

34. For the reasons given by my Lord (and I also agree with him about the waiver point) I too would dismiss this appeal.

Order: Appeal dismissed

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