



Neutral Citation Number: [2020] EWFC 92

Case No: ZC16D00299

**IN THE FAMILY COURT**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 04/09/2020

**Before :**

**Mr Justice Mostyn**

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**Between :**

**ALESIA VLADIMIROVNA HASKELL**

**Petitioner/  
Applicant**

**- and -**

**PRESTON HAMPTON HASKELL**

**Respondent**

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## **RULING**

1. The applicant has issued a judgment summons against the respondent pursuant to sec 5 Debtors Act 1869.
2. Although an application under sec 5 Debtors Act 1869 is technically to seek imprisonment for debt the application is nonetheless a species of contempt proceedings. The applicant must prove the existence of the order and that since the order the respondent has had at any point the means to pay the sums due under the order and has refused or neglected to pay them. If these are proved to the criminal standard then the court has a discretion to sentence the respondent to imprisonment for up to six weeks.

3. The maximum length of imprisonment aside, this is indistinguishable from the process that obtains in contempt proceedings.
4. Therefore, it is my opinion that the respondent is entitled to non-means tested legal aid. See *Re O (Committal: Legal Representation)* [2019] EWCA Civ 1721. That right is now codified in the new FPR 37.4(2)(i) and (j) which comes into force on 1 October 2020.
5. Time was when the High Court itself would award legal aid. That power has been doubted and the correct procedure is for the respondent to apply to the Legal Aid Agency. See *CH v CT* [2018] EWHC 1310 (Fam); [2019] 1 FLR 700 and *The All England Lawn Tennis Club (Championships) Ltd v McKay (No. 2)* [2019] EWHC 3065 (QB).
6. I grant permission to the respondent to produce this ruling to the Legal Aid Agency on any application for legal aid.