Neutral Citation Number: [2024] EWCA Civ 1598

Case No: CA-2024-002286

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
FAMILY DIVISION
The Hon. Mr Justice Peel
FD23P00126

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19 December 2024

Before :

LORD JUSTICE BEAN
LORD JUSTICE BAKER
and
LORD JUSTICE HOLGATE

- -

Between :

ADIL LAHMER	**Appellant**
- and -	
CHAIMAE CHAT KAHIA	**Respondent**

- -
- -

Gemma Lindfield (instructed by **Anthony Louca Solicitors Ltd**) for the **Appellant**
Teertha Gupta KC and Liz Andrews (instructed by **Duncan Lewis**) for the **Respondent**

Hearing dates : 5 and 19 December 2024

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Approved Judgment

LORD JUSTICE BAKER :

1. This is an appeal by a father against a committal order made by Peel J in proceedings in the Family Division. By that order, the father was found to be in contempt of court by wilfully breaching a summary return order made under the inherent jurisdiction in respect of his son, hereafter referred to as "V", and sentenced to 12 months' immediate imprisonment.

Background

2. There is a lengthy history to this appeal summarised in a chronology filed with the court. For the purposes of this appeal, it is only necessary to refer to the following matters.

3. The father is an Algerian national by origin but he obtained British citizenship by naturalisation on 2 February 2016 and is currently habitually resident in England. The mother is a Moroccan national, at present resident in England, with permission to stay in this country "outside the rules" because of the events described below. She is currently awaiting a decision from the Home Office following the making of an application to extend her visa.

4. In 2018, the parties went through a marriage ceremony in Germany under Sharia law. In November 2019, the mother moved to England to live with the father. On 23 November, she gave birth to V, who is thus just 5 years old.

5. On 21 February 2020, at the outset of the Covid pandemic, the parties and V flew to Morocco. The father returned to the UK three days later for work purposes, and the mother and V remained in Morocco. At that point, there seems to have been a breakdown in the parties' relationship.

6. In autumn 2021, the parties reconciled. The father agreed to sell his house in England and purchase a home for the family in Morocco. On 23 January 2022, the mother and V returned to England. On 9 March 2022, the parties were married in a civil ceremony in this jurisdiction.

7. On 1 April 2022, however, the father removed V from this jurisdiction to Algeria. The circumstances in which this happened are disputed. The mother says it occurred after an incident in which the father assaulted her and locked her in the bedroom at the family home. The father says that he removed V to Algeria to be cared for by the paternal grandmother after his relationship with the mother broke down again and because he was worried about the mother's mental health and ability to look after V, and because of concerns about V's immigration status.

8. On 7 April 2022, the father left V with his family in Algeria and returned to England alone. On his return, he was arrested on suspicion of child abduction and subsequently released on bail. His passport was seized and remains in the possession of the police. On 7 May 2022, the father executed a power of attorney at the Algerian Consulate in London, appointing the paternal grandmother to take responsibility for the child in Algeria.

9. V remains living in Algeria. He has not been in the care of either parent for over two and a half years. During that period, he has had no contact with his mother, save for a very few occasions of contact via video link, the last occurring in October 2023, over a year ago.

10. On 7 March 2023, the mother filed an application in the Family Division under the inherent jurisdiction for V to be made a ward of court and seeking an order for his return to this country. At a without notice hearing before Arbuthnot J on the following day, V was made a ward and an order was made that the father return V to this jurisdiction. A series of protective orders was also made, including a prohibited steps order preventing the father from leaving the jurisdiction or moving from his current address, a passport order directing the tipstaff to seize and retain the father's passport, and a ports alert order. At the first inter partes hearing on 15 March 2023, those orders were continued. But the father contended that the High Court did not have jurisdiction on the grounds that V was habitually resident in Algeria. Therefore, on 4 April 2023, Morgan J stayed the return order, but maintained the wardship and protective orders and made case management directions, including granting permission for the instruction of an expert, Dr Ian Edge, to advise on relevant Algerian law.

11. On 18 June 2023, Dr Edge completed his report. He advised that, in traditional Islamic law, a father possesses more rights than the mother over their minor children by being their sole guardian but that, following reforms introduced in Algeria in 2005, both parents, whether married or divorced, have guardianship over their children and are therefore both entitled to be involved in all the major decisions concerning the children's lives. On divorce, custody of a child, meaning responsibility for his day-to-day upbringing, generally passes to the mother until the child attains a certain age but this may be varied by a court in certain circumstances, for example if she is found by a court to be unfit, in which case custody passes to the father. Whichever parent has custody of the child must accord a right of contact to the other parent. Both parents as guardians have the power to stop their minor children (those under the age of 19) from leaving Algeria. They must give authorisation which is recorded in a special official document which will be requested whenever it is sought to take the minor outside Algeria.

12. Algeria is not party to the Hague Convention on Child Abduction. Dr Edge advised that relocation of the child from Algeria by the custodial parent, though rare, could be permitted, if found to be in the child's best interests. It was Dr Edge's opinion, however, that in that context it was

> "unlikely … that an Algerian court would consider it was in the best interests of an Algerian Muslim child to be brought up outside Algeria in a non-Muslim country."

In answer to specific questions posed by the parties, Dr Edge added:

> "It is highly unlikely that an Algerian court would accede to an application by a Moroccan mother to remove her son, considered to be an Algerian Muslim child, from Algeria without the consent of the father. An Algerian court would not consider itself bound by any English family court orders as regards the child….

> The only way would be for the Father to agree to the child returning to the UK which an Algerian court would adhere to."

13. There followed a series of interim case management orders made by several judges in the Family Division. Ultimately, a full hearing took place in November and December 2023 before Ms Katie Gollop KC sitting as a deputy High Court judge. She concluded, inter alia, that the court had power under the *parens patriae* jurisdiction to make orders in respect of the child, that the removal of V in March 2022 had been unlawful having been made without the mother's knowledge or consent, and that it was appropriate to make an order that the father return V to this jurisdiction. There was no appeal against that order.

14. Shortly afterwards, on 25 December 2023, the paternal grandmother made an application to a court in Algeria in respect of the child. The father subsequently asserted that that court had made orders preventing V from leaving the country. No document has been produced to support this assertion. On the contrary, a document included in the papers before the judge indicated that the grandmother's application was later dismissed by the Algerian court in May 2024, apparently on the basis that the court lacked jurisdiction as the child's parents' marriage in Germany was not recognised in Algeria so that the grandmother had no legal relationship with the child.

15. The father did not comply with the return order and the mother therefore applied for his committal for contempt of court. On 7 March 2024, however, that application was dismissed by Cusworth J on grounds of procedural flaws.

16. On 18 March 2024, the mother filed another application within the wardship proceedings seeking a further return order. That application came before Sir Jonathan Cohen on 15 April 2024. At the conclusion of the hearing, he made an order (under paragraph 17) that the father return V to this jurisdiction by 4pm on 7 May 2024. In addition, he ordered the father (1) under paragraph 18, to purchase flight tickets for the child and send copies to the mother's solicitors by 4pm on 29 April and to inform the mother's solicitors as to the identity of the third party who was to accompany V back; (2) under paragraph 19, to provide written authority to the third party who was going to accompany the child, and (3) under paragraph 21, to make the child available for interim indirect contact with the mother three times per week.

17. On 8 May 2024, the father filed a notice of appeal out of time against the order of 15 April. On 29 May, the mother filed an application to commit the father for breach of the return order. On 12 June, the father's application for permission to appeal was refused by Moylan LJ. On 26 June, directions were given in the committal application by Williams J.

18. On 12 September 2024, the father was charged with an offence of child abduction. He was released on bail.

19. The committal application was listed for hearing before Peel J on 17 September, on which date it was adjourned part heard with directions. On 25 September, the hearing resumed. At the conclusion of the hearing, the judge found the allegations of contempt of court proved. In particular, he found the following breaches proved, as recorded in paragraph 6 of his order:

(a) a breach of paragraph 17 of the order of 15 April, in that the father did not procure the child's return to this jurisdiction by 4pm on 7 May 2024;

(b) a breach of the first element of paragraph 18 of the order, in that the father did not purchase flight tickets for the child and send copies of the tickets to the mother's solicitors by 4pm on 29 April 2024;

(c) a breach of paragraph 21 of the order, in that the father did not make the child available for interim indirect contact with the mother three times per week.

A further allegation that the father had broken paragraph 19 of the order was struck out because of a defect in the order of 15 April 2024. A further alleged breach in respect of the second element of paragraph 18 was not found.

20. The court's sentence for these breaches was set out in paragraphs 8 and 9 of the order:

> "8. The court determining that the threshold for a custodial sentence has been met for all breaches found. The following terms having been given:
>
> (a) In respect of the breach of paragraph 17, a term of 12 months imprisonment;
>
> (b) In respect of the breach of paragraph 18, a term of 6 weeks imprisonment;
>
> (c) In respect of the breach of paragraph 21, a term of 6 weeks imprisonment.
>
> 9. All terms are to run concurrently. There is to be no suspension of the sentence and the custodial sentence is therefore active immediately."

21. In addition, the judge made a number of further orders including listing the matter for a welfare hearing and for the disclosure of court papers to the Algerian authorities and lawyers in that jurisdiction and to the Home Office and immigration solicitors. The protective orders which were made by Arbuthnot J at the outset of the proceedings and subsequently extended were extended again. The father was taken to prison where he remains.

22. On 16 October, the father filed a notice of appeal against the committal order. Under the rules, he is entitled to appeal against such an order as of right without seeking permission to appeal.

23. At a further welfare hearing on 5 November 2024 before HHJ Vavrecka sitting as a deputy High Court judge, the court order the father to return the child to the jurisdiction by 9 December 2024. The father was further ordered to revoke the power of attorney at the Algerian Consulate, and orders made for the disclosure of the order and for the continuation of all ancillary protective orders.

24. The appeal hearing was originally listed on 5 December 2024, but on that date the CVP link system at the court failed and as the father wanted to attend the hearing, either in

person or remotely, the hearing was adjourned until today. The father was produced in court for the hearing today.

The contempt judgment

25. Peel J started his judgment by setting out the provisions of the order of 15 April which the father was alleged to have broken. He defined the "essential issue" before him as being whether the father was able to comply with the order or whether, as was submitted on his behalf, he was prevented from doing so by his own mother, the child's grandmother. He reminded himself that the burden of proof was on V's mother, the applicant for committal. He recorded that both parties were represented before him, that he had reminded the father of his right to remain silent, but that, in the event, no oral evidence had been called on either side. He said that he was satisfied that the documents filed by the mother in support of the application were compliant with the rules.

26. The judge then set out the applicable legal principles by reference to the summary in his earlier judgment in *Bailey v Bailey (Committal)* [2022] EWFC 5. He noted that paragraph 29 of his judgment in that case was of particular relevance. That paragraph reads:

> "If it be the case that [the] applicant cannot prove that the defendant was able to comply with the order, then s/he is not in contempt of court. It is not enough to suspect recalcitrance. It is for the applicant to establish that it was within the power of the defendant to do what the order required. It is not for the defendant to establish that it was not within his/her power to do it. That burden remains on the applicant throughout, but it does not require the applicant to adduce evidence of a particular means of compliance which was available to the defendant provided the applicant can satisfy the judge so that s/he is sure that compliance was possible. The judge must determine whether s/he is sure that the defendant has not done what s/he was required to do and, if s/he has not, whether it was within his/her power to do it. Could s/he do it? Was s/he able to do it? These are questions of fact. That said, breach may occur where compliance is difficult or inconvenient but not impossible see *Perkier Foods Ltd. v Halo Foods Ltd.* [2019] EWHC 3462 (QB)."

27. The judge then summarised the background in terms similar to those set out above. At paragraph 17, he continued:

> "17. I am entitled, in my view, to take into account express findings made by Sir Jonathan Cohen on 15 April 2024. He heard oral evidence from F, during which I am told that F referred to the purported refusal of his mother to cooperate. The judge reached a number of important conclusions contained in his ex tempore judgment:

> (i) He found F's evidence to be "very unsatisfactory", saying that "It is absolutely clear that he has taken no step to obtain the return of V to this jurisdiction" (para 10).
>
> (ii) He recorded that F "has provided no documents in relation to Algerian proceedings. He says there is a port alert. He says there is a care order but he can provide not one document that supports that being the case" (para 11).
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> (iii) F told him that "the power of attorney is now all irrelevant because the Court in Algeria will act on welfare principles", even though the Power of Attorney was the basis of the grandmother's application to the Algerian court (para 14).
>
> (iv) "It seems to me the father has not begun to discharge the argument that the paternal grandmother in Algeria is not just doing his bidding" (para 15).
>
> (v) "In short, it seems to me that the father has done absolutely nothing to attempt to bring [V] back to this jurisdiction and has not produced a shred of evidence to show that it is impossible for him to do so" (para 17).
>
> These are all evidential findings, albeit made to the civil standard, which I am entitled to take into account, and which were left undisturbed by the Court of Appeal."

28. The judge continued:

> "19. In late April 2024 (after the making of the order which is the subject of this committal), F accepted in correspondence between his solicitors and M's solicitors that he had not complied with the paragraphs of the order identified above. It was said on his behalf that he was not able to do so because the grandmother would not assist."

The judge set out the terms of an email sent by the father's solicitors to that effect. He continued:

> "20. F's assertions in that email about his inability to comply must, in my judgment, be seen in the context of the history of this litigation.
>
> 21. He has repeatedly confirmed that, regardless of any orders made in this country, he will not return V. In a statement dated 24 March 2023 he said: "My son…is very happy now and I will not change his surrounding and I will never take him anywhere…No one can take my son from Algeria except me and I am not going to do it at all". On 31 August 2023, he referred to what he described as V's quality of life in Algeria and said: "I will not facilitate my son's return to the UK if a summary return

> order is made". In a statement dated 5 October 2023 he said that "…when I took my son to Algeria, my intention was for him to live there permanently". He had no intention of permitting him to return, and has fought tooth and nail to prevent a return. In none of these or other statements throughout 2022 and 2023 did he intimate that his mother had the power to determine whether V returned to the UK. On the contrary, on a plain reading of his own words, he considered he held that power himself, regardless of the fact of a Power of Attorney having been granted in his mother's favour. At the final hearing in December 2023 (and, so far as I can tell, at all hearings before then), F did not advance a case that he had no power to secure a return because of his mother's opposition. Even after the final hearing, in a statement dated 22 January 2024, he said nothing about his mother preventing him from complying.
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> 22. The first time he set out his purported inability to effect a return due to his mother's opposition was in a statement dated 5 March 2024 in response to the first committal application. His case is that his mother's views supersede his. A short formal letter from his mother attached to that statement asserts legal rights although it does not say in terms that she would not assist F if requested to do so. I have already referred to the trenchant findings made by Sir Jonathan Cohen.
>
> 23. The court has made numerous previous orders for return, and must therefore have been satisfied that F could secure such a return. Most recently, Sir Jonathan Cohen made explicit findings to that effect and duly made the return order."

29. The judge noted that the court had made numerous previous orders for return and concluded that it must therefore have been satisfied that the father could secure such a return. In particular, Sir Jonathan Cohen had made explicit findings to that effect and duly made the return order.

30. This led Peel J to the following conclusion:

> "26. I do not accept what is submitted on F's behalf as to his inability to comply. I am satisfied from everything I have read and heard, and to the requisite standard of proof, that F, not his mother, has the power and control to take the significant decisions in V's life. I am equally satisfied, to the requisite standard of proof, that such decisions include procuring the return of V to this country, together with ancillary provisions, and the arrangement of indirect contact. I am satisfied that the grandmother does not take these decisions and cannot or would not thwart F if he wanted to comply and ensure a return of V to this country. F deliberately abducted the child to Algeria, and never had any intention to return him. In my judgment, his mother is no more than a cipher for his actions. Insofar as F relies upon the Power of Attorney granted to his mother (which he

> himself told Sir Jonathan Cohen is now irrelevant), he has chosen not to take the necessary steps to revoke it in the past two and a half years."

31. The judge then observed (at paragraph 28) that, regardless of the dynamics between the father and the grandmother, he was satisfied that the father was able to ensure V's return through the Algerian courts. He referred to Dr Edge's opinion that the only way to secure a return under Algerian law was for the father to agree to the child returning; that the Algerian court would adhere to the father's authority and consent to this effect, and would not accede to an application by the mother without the father's consent. He declared that he was satisfied beyond reasonable doubt that the father has made no attempt to secure from the Algerian court an order which would enable V to be returned. He continued (at paragraph 28):

> "F says through counsel there are ongoing proceedings in Algeria pursuant to which the Algerian court has prohibited V from leaving the country. So, it is said, that is a logistical and practical hurdle to compliance. The problem is that Sir Jonathan Cohen said there was no evidence of such an order, nor is there any such evidence before me. There is evidence that the grandmother issued proceedings in Algeria on 25 December 2023, but there is not a scrap of evidence that any substantive orders in her favour were made by the Algerian courts (port alert, or the equivalent of s8 orders). The only evidence (contained in the bundle before me) is that the Algerian court dismissed the application on 19 May 2024. In any event, I am satisfied that F is well able to ensure that there are no legal steps to [prevent] V leaving Algeria if he so wishes; the truth is, however, that he does not so wish."

32. The judge then set out his ultimate conclusion:

> "I am satisfied that M has discharged the burden on her of establishing to the criminal standard of proof that F has deliberately refused to comply with the order of this court made on 15 April 2024, and that it was at all material times fully within his power to comply. I reject the contention that the grandmother prevents him from so complying."

He found that the father was in breach of the order in respect of indirect contact because he was "wholly satisfied that he was able to ensure such arrangements were implemented."

The appeal

33. Two grounds of appeal are advanced on the father's behalf.

(1) The judge erred in concluding that the father had the ability to comply with the terms of the order and if he had not then he would not have been able to go on to conclude, to the criminal standard of proof, that the father had wilfully breached the order of Sir Jonathan Cohen made on 15 April 2024 and was in contempt of court.

(2) The judge erred in relying upon historic and irrelevant matters in concluding that the father had breached the order, which if he had not done so he would not have been able to conclude, to the criminal standard of proof, that the father was in contempt of court.

In the section of the appeal notice asking the appellant to set out the part of the order he wished to appeal against, the appellant's solicitors wrote: "We would like to appeal paragraph 8 of the … order…". The mother's representatives pointed out that this confined the appeal to the issue of sentence rather than the findings of breach. In email correspondence, the father's solicitors have stated that their appeal is directed to the issue of breach. It is clear from the grounds of appeal and the skeleton argument that this was indeed the focus of the appeal. The father has belatedly sought leave to amend the appeal notice to cover paragraph 6, rather than 8. At the outset of the hearing, we granted leave to that effect. The appeal is against the findings of breach, not against the sentence.

34. Under the first ground, it is submitted that the judge fell into error by inferring that the father was able to comply with the order when there was insufficient evidence adduced on behalf of the mother to establish that to the criminal standard. It is asserted that the mother's case was simply that the father had not done what he was ordered to do and therefore he was in breach. Ms Lindfield submitted that the mother's case was, in effect, that adverse inferences could be drawn from circumstantial evidence. She cited the decision of this Court in *Re A (A Child) (Removal from Jurisdiction: Contempt of Court)* [2009] 1 WLR 1482 and in particular the observations of Hughes LJ at paragraph 6 that "the contempt which has to be established lies in the disobedience to the order to return rather than in the original obduction" and that "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". Ms Lindfield submitted that, as in that case, there was no clear finding that the father was able to achieve the return of the child.

35. Ms Lindfield further submitted that there was insufficient evidence to support the judge's conclusion that the paternal grandmother was no more than a "cipher" and that the father could exercise control over her to secure the child's return. She also pointed to practical difficulties identified by the appellant, including concerns about the validity of V's British passport, and the fact that the judge had not made a finding of breach in respect of arranging a third party to facilitate V's return. Ms Lindfield submitted that, as the father was unable to travel to Algeria himself, the child's return could only be facilitated with the assistance of a third party and the mother was unable to show that there was such a person available, given the position which the father asserts is taken by the paternal grandmother.

36. It was also argued that there was no evidence on which the judge was able to conclude, to a criminal standard, that the father was in breach of the order concerning indirect contact. There was no analysis in the judgment of how it was said the father was able to comply with that order.

37. Under the second ground, Ms Lindfield submitted that "disproportionate reliance" was placed by the judge on statements made by the father in 2022, before the commencement of family proceedings, and in 2023, prior to the court establishing it had jurisdiction to order V's return. It was further argued that the judge had attached

disproportionate weight to the findings made by Sir Jonathan Cohen which were only made applying the civil standard of proof and did not address whether or not the father had the ability to comply with the order. Ms Lindfield also submitted that the judge had been selective in his reading of Dr Edge's report. It was said that, in particular, he had failed to address an issue raised on behalf of the father that the Algerian court will not allow a child to be removed to a non-Muslim country even at the request of a parent.

38. Despite Ms Lindfield's strenuous advocacy, I find that there is no merit in these arguments. It is crystal clear from the judgment that the judge did make a finding that the father was able to achieve the child's return – see most obviously paragraph 26 of his judgment quoted above. That finding was based on the judge's own assessment of the evidence, in particular on (1) the father's own repeated statements to the effect that he was in control of his son's movements, for example in his statement on 23 March 2023 that "no one can take my son from Algeria except me and I am not going to do it at all"; (2) the father's repeated assertions that he would not return V to this country; and (3) the fact that, until a late stage, he had never suggested that the grandmother was able to prevent him removing V from Algeria. The fact that some of the father's statements had been made some time ago is irrelevant. The judge was entitled to rely on them as indicative of the father's clear state of mind.

39. In the course of oral submissions, Ms Lindfield went so far as to argue that the judge was not entitled to take earlier findings into account. There is no merit in that argument. The judge was obviously entitled to have regard to earlier findings, including findings made by Sir Jonathan Cohen, but in doing so he correctly reminded himself that those findings had been made applying the civil standard. Ultimately, however, Peel J's conclusions on this application were based on his own assessment of the evidence applying the criminal standard.

40. As part of that evidence, the judge also relied on the opinion of Dr Edge that the only way to secure a return under Algerian law was for the father to agree to the child returning and that the Algerian court would adhere to the father's authority. He rejected the father's assertion that an Algerian court had prohibited V's removal from the country, on the grounds that there was "not a scrap of evidence" to support that assertion and such evidence as there was about Algerian court proceedings was to the effect that the application brought by the grandmother had been dismissed. There is no merit in the assertion that the judge's reading of Dr Edge's report was "selective". Dr Edge's opinion that it was "unlikely … that an Algerian court would consider it was in the best interests of an Algerian Muslim child to be brought up outside Algeria in a non-Muslim country" was in the context of a hypothetical opposed application by a parent to relocate with the child. As he added later in his report, "it is highly unlikely that an Algerian court would accede to an application by a Moroccan mother to remove her son, considered to be an Algerian Muslim child, from Algeria without the consent of the father." It is the father's consent that is the essential requirement. As Ms Lindfield frankly conceded before us, the father in this case has not given his consent to V's return to this jurisdiction.

41. In her skeleton argument, Ms Lindfield sought to adduce evidence about an issue concerning proceedings in Algeria which had arisen since the committal order was made. She stated that in pre-hearing discussions at court on 5 November, the father was informed through counsel that the mother had an extant application in Algeria to which the paternal grandmother is the respondent in which she is seeking the child's return to

this country. Ms Lindfield submitted that, in light of Dr Edge's expert report, it was very possible that the Algerian courts were now seised of proceedings involving V and would not permit him to leave Algeria. It was submitted that this had implications for the outcome of this appeal. First, if the application was extant at the time that the return order was made by Sir Jonathan Cohen, the respondent ought to have disclosed it as this may have had a bearing on the father's ability to comply with the order. Secondly, the burden of proof was on the mother to show that the father had the ability to comply with the order and that he failed to do so. If the mother had information that undermined the facts that she sought to prove, it should have been disclosed to the court.

42. There was no formal application to admit this fresh evidence made to this Court. But on the basis of counsel's assertions, there is no real prospect that this Court would find that the evidence, if given, would probably have had an important influence on the result of the case. There is nothing in this new information that undermines Dr Edge's opinion on which the judge relied that the only way to secure V's return under Algerian law was for the father to agree to the child returning; that the Algerian court would adhere to the father's authority and consent to that effect, and would not accede to an application by the mother without the father's consent.

43. The practical hurdles identified by Ms Lindfield have no bearing on the matter. The judge concluded that the father could not be held in breach of an order requiring him to identify a third party. But it did not follow from that finding, as seems to be suggested, that the mother had failed to demonstrate that the father was able to comply with the order.

44. The judge was entitled to find that the father was in breach of the order for indirect contact in circumstances where he was "wholly satisfied that he was able to ensure such arrangements were implemented".

45. I conclude that the judge was entitled to find on the totality of the evidence that the father was in breach of the order of 15 April 2024 and was therefore in contempt of court for which he was liable to be punished. In those circumstances, I would dismiss this appeal.

LORD JUSTICE HOLGATE

46. I agree.

LORD JUSTICE BEAN

47. I also agree.