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IN THE COURT OF PROTECTION

[2018] EWCOP 27



Nos. COP12829126/FD18P90007

Royal Courts of Justice

Wednesday, 19 September 2018

Before:

MR JUSTICE WILLIAMS

B E T W E E N :

OFFICE OF THE PUBLIC GUARDIAN

Applicant

- and -

IMRE STALTER

Respondent

ANONYMISATION APPLIES

MISS E. SUTTON appeared on behalf of the Applicant.

MR C. HAMES QC (instructed by Miles & Partners Solicitors) appeared on behalf of the Respondent.

J U D G M E N T

MR JUSTICE WILLIAMS:

- 1 This is my judgment in the application by the Public Guardian for the committal of Imre Stalter. The two applications before me were issued by the Public Guardian in September 2017 and March 2018 seeking the committal to prison of Imre Stalter for alleged breaches of transparency orders made by DJ Batten in June 2016. The case as it has developed raises a variety of interesting legal issues but at its heart is a sad human story.
- 2 The parties are the Public Guardian on the one hand and Imre Stalter on the other and the Public Guardian, Mr Eccles, is represented by Miss Sutton. Mr Stalter is represented pursuant to a criminal legal aid order by Mr Christopher Hames QC and Miles & Partners Solicitors.
- 3 The original proceedings in which the orders were made which form the basis of the committal applications were proceedings in the Court of Protection regarding a lady who is entitled still to the protection of the transparency order and she is referred to as “KR”. There was some debate at the commencement of this case as to whether the transparency orders which had the effect of granting the parties to the proceedings anonymity continued to have effect in these committal proceedings, given that pursuant to general principles these are heard in public in open court. Having referred to the President’s Guidance on Committals from March 2015, it seems that the fact of committal proceedings lifts anonymity in respect of Mr Stalter but it is clear that the mere fact that the committal is heard in open court does not alter the existence of orders which were made which had the effect of granting anonymity so for the purposes of this hearing the protected person and the other individuals named in the transparency orders retain the cloak of anonymity.
- 4 The background to the committal proceedings in very short summary is this. KR was born in the 1930s. Mr Stalter was born, I think, in the 1950s. In about 2011, Mr Stalter and KR met and developed a relationship over the ensuing years which was one of affection and companionship which led them to try to marry in 2013 and 2014 but that aspiration could not be fulfilled because, it seems, KR was unable to express her agreement to marry sufficiently clearly to the registrar to enable the services to be undertaken but, nonetheless, KR and Mr Stalter continued to live in KR’s home, he was her carer and, as DJ Batten found in due course, it was an affectionate, consensual relationship.
- 5 Unfortunately, KR had a number of health difficulties and by December 2015 she was admitted to hospital and, upon discharge from hospital, was moved to live in a residential nursing home. It appears from the judgment of DJ Batten that that was something that she wanted at that time. However, at about the same time, concerns were raised in relation to the nature of the relationship between Mr Stalter and KR and his handling of both her financial affairs and personal welfare which led to proceedings. They, I think, commenced in September 2015 and so it was shortly after their commencement that KR was admitted to hospital. Since that time, KR and Mr Stalter have not shared a home together and, indeed, as far as I can tell, the contact that they have had with each other has been very limited indeed. Initially, that appears to have been because Mr Stalter was arrested. I am not entirely sure of the basis but the net result was that he was not able to return to KR’s home

which he had been living in and was not able to have contact with her and that position endured I think for in the region of a year before, as a result of orders made by DJ Batten in December 2016, Mr Stalter was able to have some limited contact with KR.

- 6 In March 2016 KR had been diagnosed with dementia and in the course of the Court of Protection proceedings declarations were made that she lacked capacity. Within those Court of Protection proceedings, in pursuance of what was then the Transparency Pilot, orders were made I think on allocation initially and subsequently by DJ Batten at attended hearings that provided that the fact that KR was subject to proceedings was not to be published, nor were the identities of other parties to be published, nor was any information tending to identify those individuals as a patient or parties to be published, nor were their addresses or contact details to be published. I think the first order made at a hearing was 20 June 2016. I will return to the precise terms of the orders later.
- 7 Over the course of 2016 those proceedings continued. By 6 February 2017 a further transparency order was made by DJ Batten which was extended to cover another individual. On 19 April 2017 the final hearing of the applications made began. That continued on 20 April and was adjourned, it seems, to 25 July and I think on that occasion judgment was reserved.
- 8 Before judgment was delivered, the Public Guardian issued the first of the two committal applications which alleged that Mr Stalter had breached the order of June 2016 by publishing information which identified KR and others and which disclosed their addresses or other contact details. That first committal application contained some eleven allegations. On 26 October DJ Batten delivered her judgment in relation to the Court of Protection proceedings and made various findings which were adverse to Mr Stalter both in relation to how he had dealt with KR's finances and as to aspects of the physical or welfare care that he had provided to her.
- 9 The first application which the Public Guardian had issued seeking committal came before me in January. By that time, DJ Batten had made final substantive orders on 3 January 2018 and on 5 January 2018 Mr Stalter had been personally served with the committal application. On 23 January I gave directions on that first application. At that time, Mr Stalter appeared before me in person and without the benefit of legal representation. I gave detailed directions for the conduct of the application, including provision for the Public Guardian to issue a second committal application as it was alleged that Mr Stalter had continued to act in breach of the transparency order and so on, I think, 1 February the application was lodged, albeit perhaps it was not formally issued by the court until, as I think I mentioned earlier, 28 March.
- 10 The original hearing date which I had provided for in January could not be effective because Mr Stalter's legal team who I had specifically identified as potentially appropriate to represent him were unable to attend that hearing and so the final hearing was listed before me on 18 and 19 September. On 24 May I had consolidated the two committal applications and made provision for the filing of a Scott schedule setting out all of the allegations

pursued to include Mr Stalter's response to that and so the matter was listed yesterday for a two-day final hearing.

- 11 Unfortunately, as a result of an error within the court system, the interpreter who had been required for ten o'clock on 18 September did not arrive until two o'clock and so Mr Hames and Ms Dench, his solicitor, who had been disinstructed, I think, late last week by Mr Stalter but who were hoping to reengage with him were unable to commence the process of discussions with Mr Stalter until after two o'clock. As a result, apart from a short hearing yesterday in which I identified some concerns I had as to procedural aspects of the applications, no substantial progress was made. But the investment of time that Mr Stalter, Mr Hames, Ms Dench and the interpreter were able to undertake yesterday afternoon appears to have been valuable because Mr Stalter was able to confirm that he did want to instruct Mr Hames and Ms Dench and he was able to finalise his instructions to them so as to enable them to represent him today and to confirm his position in relation to these applications.
- 12 As a result of that position which Mr Stalter has, I think, wisely adopted, it meant that no evidence has been required to be heard orally today but the matter has proceeded by submissions. I have been provided with a comprehensive bundle which I have attempted to read, at least the essential reading which Miss Sutton identified in her skeleton argument together with various other parts, but I have been able to read: the applications themselves; the grounds; the various orders which have been made; Mr Eccles' affidavits together with samples of the supporting evidence; the judgment of DJ Batten; some documents which previously have been filed by Mr Stalter; and the Scott schedule; together, of course, with the skeleton argument filed by Miss Sutton together with her supplemental skeleton; and the skeleton filed on behalf of Mr Stalter himself.
- 13 In the course of today, submissions have been made by Miss Sutton and Mr Hames as to the procedural aspects of the committal application and the substantive aspects of it. Mr Stalter has been assisted by an interpreter throughout and has been, as far as I can tell, closely following what has been going on.
- 14 The case put by the Public Guardian in essence is that over the period from October 2016 through until January 2018 Mr Stalter had on twenty-six identified occasions, perhaps twenty-five including the deletion of allegation 6, communicated with a variety of individuals in a way which was in breach of the transparency orders, in that, in those communications, he disclosed that KR was the subject of Court of Protection proceedings, he disclosed that other individuals, including himself, were parties to those proceedings, he disclosed his address and he disclosed other contact information, all of which was prohibited by the order. The grounds of committal also contained allegations that Mr Stalter had disclosed KR's address and that he had disclosed sensitive personal information which it was said was in breach of those orders. Miss Sutton's position on behalf of the Public Guardian was that it was clear from the evidence because it was by and large entirely Mr Stalter's emails which evidenced those disclosures which he had copied to the court and to the Public Guardian and to the various third parties which demonstrated that he was in

breach of those orders. The Public Guardian's position was that all the necessary procedural requirements had been demonstrated which would enable the court to determine the substance of the committal applications.

- 15 As a result of exchanges between myself and Miss Sutton particularly in relation to matters of the drafting of the grounds for committal and service of the orders, Miss Sutton made an application to me in relation to the service of the February 2017 order that I should dispense with personal service of that order, it appearing that it had not been personally served on Mr Stalter prior to I think 5 January 2018. The effect of that absence of personal service prior to January 2018 potentially meant that any breaches which occurred between February 2017 and January 2018 could not be the subject of committal. Miss Sutton invited me to conclude that the evidence demonstrated that Mr Stalter had been aware of the contents of the February 2017 order either on the day it was made or very shortly afterwards and that there would be no injustice in dispensing with personal service in those circumstances.
- 16 Again as a result of exchanges between myself and Miss Sutton, it emerged that although the committal notices and grounds themselves pleaded reliance on the June 2016 order as being the order which was breached, in fact, that order had been replaced by the order made in February 2017 and so thus any breaches alleged after February 2017 could not have been in breach of the June 2016 order but could only have been in breach of the February 2017 order and so Miss Sutton invited me to waive the defect in the committal notice in the erroneous identification of the relevant order on the basis that no injustice to Mr Stalter would arise because the operative terms of those orders were identical and it was clear from the evidence that Mr Stalter was aware of a restriction on his ability to communicate that information. Again as a result principally of exchanges between myself and Miss Sutton as to the proper construction of the transparency orders and what they covered, Miss Sutton has I think undertaken a process by which aspects which were said to be in breach of the orders, namely, in particular, the disclosure of sensitive personal information about KR, have been removed from the grounds for committal and the associated Scott schedule, she accepting, I think, my indication that the wording of the orders themselves, albeit in standard form, did not cover, in my view, the disclosure of personal information having regards to the fact that orders with penal consequences must be construed strictly and only to cover that which is expressly referred to in the order.
- 17 It is, as I observed in submissions, quite different to the position which is in play in children proceedings where the effect of the Children Act and the Administration of Justice Act is, effectively, to prohibit the publication of information relating to the proceedings themselves as well as the identity of the parties. The transparency order in essence only protects the identity of the parties, their contact details and their addresses rather than anything else. The grounds for committal have been amended to exclude reference to matters which are not truly within their proper construction. Furthermore, one of the allegations which was numbered (6) in the first application and numbered (6) in the Scott schedule has been deleted, it in effect being duplication of the previous five grounds and so the totality, I think, of the grounds ultimately covered is ten from the first notice and I believe fifteen from the second.

18 Mr Stalter's position as put forward by Mr Hames has been essentially one of frank admission to communicating the information. He has not in the position statement which was filed on his behalf taken and vigorously argued the technical points which might sometimes be taken in cases of this nature, which seems to me to be both sensible but also a reflection of his acceptance of the fact that he ought not to have broken a court order. Mr Hames rightly pointed out that, of course, the court has its own independent duty in criminal proceedings of this nature to satisfy itself that the procedural requirements have been complied with and to satisfy itself that if service is to be dispensed with or defects are to be waived that that only takes place if it is just so to do. Mr Hames also rightly took the point that the construction of the orders required aspects of the grounds to be amended to exclude those matters which as a matter of law could not be covered by the construction of the orders but on the substance, as the Scott schedule frankly discloses, Mr Stalter accepts each of the remaining twenty-five allegations that he communicated information which he was prohibited from doing by court order. Although I have not seen it yet, I understand that Miss Sutton has undertaken the process of amending the grounds of committal and that, subject to my final approval, they are, I think, agreed now with Mr Hames on behalf of Mr Stalter.

Contempt: Substantive Law

19 The summary of the substantive law of contempt in relation to the breach of an order below derives from the following cases.

- a) *London Borough of Southwark v B* [1993] 2 FLR 55
- b) *Mubarak v Mubarak* [2001] 1 FLR 698
- c) *Re A (Abduction: Contempt)* [\[2008\] EWCA Civ 1138](#), [\[2009\] 1 FLR 1](#)
- d) *Re S-C (Contempt)* [\[2010\] EWCA Civ 21](#), [\[2010\] 1 FLR 1478](#)
- e) *Re L-W* [\[2010\] EWCA Civ 1253](#), [2011] 1 FLR 1095.
- f) *Re J (Children)* [\[2015\] EWCA Civ 1019](#)
- g) *Y v Z* [2016] EWHC 3987 (Fam)

20 The principles are:

- a) The contempt which has to be established lies in the disobedience to the order.
- b) To have penal consequences, an order needs to be clear on its face as to precisely what it means and precisely what it prohibits or requires to be done. Contempt will not be established where the breach is of an order which is ambiguous, or which does not require or forbid the performance of a particular act within a specified timeframe. The person or persons affected must know with complete precision what it is that they are required to do or abstain from doing. It is not possible to imply terms into an injunction. 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.

- c) Committal proceedings are essentially criminal in nature, even if not classified in our national law as such (see *Benham v United Kingdom* ([1996](#)) [22 EHRR 293](#) at [56], *Ravnsborg v. Sweden* (1994), Series A no. 283-B);
- d) The burden of proof lies at all times on the applicant. The presumption of innocence applies (Article 6(2) ECHR)
- e) Contempt of court involves a contumelious that is to say a deliberate, disobedience to the order. If it be the case that the accused cannot comply with order then 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 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 accused provided the applicant can satisfy the judge so that he is sure that compliance was possible.
- f) Contempt of court must be proved to the criminal standard: that is to say, so that the judge is sure. The judge must determine whether he is sure that the defendant has not done what he was required to do and, if he has not, whether it was within his power to do it. Could he do it? Was he able to do it? These are questions of fact.
- g) It is necessary that there be a clear finding to the criminal standard of proof of what it is that the alleged contemnor has done that he should not have done or in this case what it is that he has failed to do when he had the ability to do it. The judge must 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.
- h) 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.

Committal for Contempt of Court: Procedural Issues

- 21 The following principles relating to the procedural aspects of applications for committal for breach of a court order also emerge from the authorities referred to above. I have also considered the following decisions:
 - a) *L (A Child)* ([\[2016\] EWCA Civ 173](#)) in particular the judgment of Theis J,
 - b) *Cherwayko v Cherwayko* (No 2) (Contempt, contents of application notice) ([\[2015\] EWHC 2436 \(Fam\)](#)) Parker J.

- 22 The need for compliance is based on rules of natural justice in that:
 - a) A person needs to know in advance of committing an act or omitting to do an act that there are potentially penal consequences in acting or omitting to act and,
 - b) A person accused of contempt of court is entitled to a fair hearing both under the European Convention and in domestic law.

As well as the court's own duty counsel and solicitors have their own independent duty to assist the court, particularly when considering procedural matters where a person's liberty is at stake.

23 The principles are:

- a) There must be complete clarity at the start of the proceedings as to precisely what the foundation of the alleged contempt is: contempt in the face of the court, or breach of an order.
- b) Prior to the hearing the alleged contempt should be set out clearly in a document or application that complies with the relevant Rule and which the person accused of contempt has been served with. The question is 'would the alleged contemnor, having regard to the background against which the application is launched, be in any doubt as to the substance of the breached alleged'? Provision of particularisation of allegations in an attached affidavit is insufficient, and the application itself must include the pleaded assertions. There is an important distinction between the charges made and the facts supporting them.
- c) Autfois acquit and convict applies.
- d) If the alleged contempt is founded on breach of a previous court order, the court must be satisfied that the person accused had been served with that order, and that it contained a penal notice in the required form and place in the order.
- e) Whether the person accused of contempt has been given the opportunity to secure legal representation, as they are entitled to. By virtue of the quasi-criminal nature of committal process, Article 6(1) and Article 6(3) ECHR are actively engaged (see *Re K (Contact: Committal Order)* [2002] EWCA Civ 1559, [2003] 1 FLR 277 and *Begum v Anam* [\[2004\] EWCA Civ 578](#)); Article 6(1) entitles the respondent to a "a fair and public hearing"; that hearing is to be "within a reasonable time". Article 6(3) specifically provides for someone in the position of an alleged contemnor "to defend himself in person or through legal assistance of his own choosing", The accused is also entitled to "have adequate time and the facilities for the preparation of his defence" (Article 6(3)(b)).
- f) In respect of contempt in the face of the court whether that judge should hear the committal application should do so, or whether it should be heard by another judge.
- g) Following the conclusion of the applicant's evidence, the respondent is entitled to make a submission of 'no case to answer'.
- h) Immediately prior to the commencement of the Defence case the person accused of contempt must be advised of the right to remain silent. The court must inform the accused of the possibility of adverse inferences being drawn against them if they choose not to give evidence.
- i) If the person accused of contempt chooses to give evidence, the court must warn them about self-incrimination and their right not to incriminate themselves. The court must inform the accused of the possibility of adverse inferences being drawn against them if they choose not to answer any questions.

See section 35 of the Criminal Justice and Public Order Act 1994) and *Khwaja v Popat* [2016] EWCA Civ 362 per McCombe LJ and paragraph 81.28.4 of Civil Procedure 2015 Vol. 1 (p.2460) as follows:

A person accused of contempt, like the defendant in a criminal trial, has the right to remain silent (Comet Products UK Ltd. v Hawkex Plastics Ltd. [1971] 2 QB 67, CA). It is the duty of the court to ensure that the accused person is made aware of that right and also of the risk that adverse inferences may be drawn from his silence (Interplayer Ltd. v Thorogood [2014] EWCA Civ 1511, CA...

j) Before the court moves to sentencing the contemnor must be given an opportunity to mitigate or to purge his contempt.

24 Any court order which carries with it penal consequences also carries with it a raft of procedural requirements which have to be complied with if the court is to be invited to find an individual to be in contempt of court. Some of those are to be found in the Court of Protection Rules in r.21. Rule 21.5 requires that:

“Unless the court dispenses with service under rule 21.8 a judgment or order may not be enforced under rule 21.4 unless a copy of it has been served on the person required... not to do the act in question...”

Rule 21.6 specifies that the order must be served personally. Rule 21.8 provides that:

“ In the case of a judgment or order requiring a person not to do an act, the court may dispense with service of a copy of the judgment or order... if it is satisfied that the person has had notice of it by—

(a) being present when the judgment or order was given or made; or

...

(c) being notified of its terms by telephone, email or otherwise.”

25 COPR 21.10 sets out how a committal application is to be made and 21.10(3) says that the application notice must 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 and be supported by one or more affidavits containing all the evidence relied upon.

26 The accumulated case law makes clear that the committal notice must identify the order which it is alleged has been breached, the terms which have been breached and the way in which it is alleged the order has been breached. The Practice Direction which accompanies COPR 21 provides at para.11.2 that the court may waive any procedural defects in the commencement or conduct of a committal application if satisfied that no injustice has been caused to the respondent by the defect. That reflects decisions by this court and the Court of Appeal in other contexts in relation to committal applications that ultimately the test for the court is whether any injustice is caused by the waiver of defects.

- 27 The question of whether the contempts are established is a matter of evidence. If the Public Guardian satisfies me so that I am sure that Mr Stalter has acted in breach of the orders, then contempt will be established. As it happens, in this case, the acts alleged are essentially admitted by Mr Stalter.
- 28 In terms of the procedural issues, my conclusions in respect of service are these. The order of June 2016 was served. That is evidenced in the bundle and so no issue arises in respect of that. That covers allegations 1 to 4 in the schedule. However, there is no evidence confirming service of the February 2017 order until it was personally served on 5 January 2018 and so for a period of some eleven months it was not personally served. The majority of the allegations contained in the committal notices actually take place within that period. Allegations 5 all the way through to 22 fall within that period of time and at no time has the court previously dispensed with personal service. Miss Sutton has submitted that I should dispense with personal service pursuant to COPR 21 because it is said that Mr Stalter well knew the contents of the prohibition given that he was at the February hearing, that he acknowledged in his oral evidence in April 2017 that he was aware of the injunctions and that it was very much an issue within the final hearing. She also says that no issue has been taken by him about service and that no injustice will be done to Mr Stalter by dispensing with personal service of the order in that period because he fully understood the content and its penal nature. For the reasons essentially which Miss Sutton relied upon, I agree that no injustice arises if I were to dispense with personal service and I am satisfied that the provisions of COPR 21.8 are established, in that Mr Stalter had notice of the order in that he was present when the judgment or order was made and that he subsequently had been aware of its terms through communication by email or otherwise so I will therefore dispense with personal service for the period between February 2017 and January 2018.
- 29 In respect of the potential detail in the committal notices in identifying the wrong order, as I think I have already said it seems to be accepted by the Public Guardian that the February 2017 order replaced the 2016 order and so to the extent that the committal notices identify the June 2016 order as the order breached after February 2017 they are defective. They should both in the first committal notice and the second committal notice have specified that the relevant transparency order breached was that made in February 2017. However, should I waive that defect to allow the committal to proceed? Miss Sutton has submitted on behalf of the Public Guardian that this is in the nature of a technical defect because the terms of the February order which are said to have been breached mirror the terms of the June order which was specified and that Mr Stalter has been fully aware of the operative terms of the orders throughout and so she submits that, given that technical nature and the absence of any prejudice to Mr Stalter, the court can be satisfied that no injustice will be caused by waiving the defect. Of course, justice is a matter which cuts both ways, in favour of the defendant and in favour of an applicant. It seems to me that Miss Sutton is right that this is more in the nature of a technical defect rather than a substantive defect and that because Mr Stalter has been aware of the nature of the allegation that the fact that the wrong order was identified in the committal notice does not result in an injustice being caused to Mr Stalter so I will waive the defect in the date so as to allow the committal application to proceed on the basis of

alleged breaches post February 2017 of the order that was made on, I think, 6 February 2017.

30 In terms of the question of construction of the orders, the terminology of the orders is as follows:

“The material and information (the information) covered by this injunctive order is:

(i) any material or information that identifies or is likely to identify that (a) KR and members of KR’s family are respectively the subject (and so AP as defined in the Court of Protection Rules 2007) of these proceedings...”

I think there is a typo in the June order.

“... or that (b) KR and IS are parties to these proceedings or that (c) DS, NT and IB has taken a part in or been referred to in these proceedings; and
(ii) any material or information that identifies or is likely to identify where any person listed above lives, or is being cared for, or their contact details.

(c) Subject to further order of the court and save as provided by subparagraph (d) the persons bound by this injunctive order shall not by any means directly or indirectly: (1) publish the information or any parts of it, or (2) cause, enable, assist in or encourage the publication of the information or any part or parts of it.”

31 The persons bound by the injunctive order are identified in para.5(a) which includes the parties which obviously included Mr Stalter. The February order as I have referred to earlier repeated that in substantially the same terms save that another individual was referred to in the information that was restricted.

32 It is clear that the express wording of the order has limited the sort of information that is covered by the injunctive provisions and that is the identity of the relevant individuals as being subject to the proceedings or parties to the proceedings or the individuals who have taken a part in or been referred to in these proceedings and that it covers material or information that identifies or is likely to identify where any of those persons listed lives or is being cared for or their contact details. That on its plain words is not in my view apt to cover the more extensive sort of information which originally formed parts of the contents of the committal application. Personal information in relation to KR is not covered by the terms of that order, save to the extent that its being placed in the public domain would of itself tend to identify her as being subject to the proceedings or a party to the proceedings, and, of course, the usual sort of material would not of itself tend to do that and so in respect of the committal application it is only information that Mr Stalter published which identified KR as a subject of the proceedings or information that identified KR or himself as parties to the proceedings or material or information that identified DS, NT, IB and AM as having

taken part in or been referred to in these proceedings and any material or information that identified or was likely to identify where any of those individuals lived or was being cared for or their contact details, which is covered.

33 Now, I think, is not the time to explore interesting issues which might arise from the coverage provided by that order but that is what the order is in this case and I do not intend to embark on any exploration of those interesting issues as to coverage which will have to await another day. The order though is, in my view, clear as to what it covers and the evidence is clear that information which breaches those terms has been published in breach of the order on various occasions. The evidence of Mr Eccles and, in particular, Mr Stalter's emails but also his admissions make clear beyond reasonable doubt that on the occasions alleged he has published that information which was in breach of the terms of either the order of June 2016 or of February 2017 and so the Public Guardian has established to the necessary degree of proof that Mr Stalter has acted in contempt of court on those I think twenty-five occasions which are alleged and which will be annexed to the order to set out the basis of those contempts of court. The order will also record that I have dispensed with personal service and will permit the Public Guardian to amend the committal notices to reflect that.

34 I would say that, again, applications to commit individuals to prison are essentially criminal in nature. When applications are brought by public authorities it seems to me that the burden on them to ensure that procedurally those applications are sound is even more onerous than it might be in applications brought by a private individual. I note that in the Public Guardian's skeleton it is said that the Public Guardian has attempted to assiduously comply with the procedural requirements relating to a committal application. The contents of this judgment, I suppose, illustrate that even when everybody is attempting to comply, sometimes they fall short. It is in part at least as a result of the pragmatic approach that Mr Stalter has taken to the issue of procedural defects that twenty-five allegations remain and twenty-five allegations have been established. I think that tells me a lot about Mr Stalter's current approach to these proceedings which will I think have some significant bearing on the issue of what disposal ought to be imposed as a result of my finding that he is in contempt of court. That is my judgment on the substantive issue.

FOLLOWING FURTHER SUBMISSIONS THE COURT DETERMINED THAT NO ORDER NEEDED TO BE MADE IN RESPECT OF THE 25 FINDINGS OF CONTEMPT HAVING REGARD TO THE FACT THAT MR STALTER HAD CONFIRMED HE WOULD ABIDE BY THE ORDER AND THAT THE PURPOSE OF THE COMMITTAL HAD BEEN ACHIEVED AND NO PUNISHMENT WAS APPROPRIATE HAVING REGARD TO THE EXTENT TO WHICH MR STALTER HAD ALREADY SUFFERED AS RESULT OF THE SITUATION.

CERTIFICATE

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