

NEUTRAL CITATION NUMBER [2023] EWHC 2274 (Ch) MR USMAN KHALID RAJA

Case No: BL-2020-001098

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
INSOLVENCY AND COMPANIES LIST

7 Rolls Buildings
Fetter Lane
London
EC4A 1NL

Thursday, 20 July 2023

BEFORE:
MR JUSTICE RAJAH

BETWEEN:

**MS LOUISE MARY BRITTAIN &
MR JAKE BEAKE**

Applicants

- and -

MR USMAN KHALID RAJA

Respondent

MR C BROCKMAN (instructed by Wedlake Bell LLP) appeared on behalf of the
Applicants

MR J FLETCHER (instructed by Birds Solicitors) appeared on behalf of the Respondent

JUDGMENT
(Approved)

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1. MR JUSTICE RAJAH: In light of my judgment, which I have just handed down, I now have to sentence this defendant, Mr Raja, for contempt. The contempt has fallen into two categories: firstly, false statements in witness statements in evidence and in statements made to the court relating to whether or not his wife's mother was alive ('the false death allegations'); and secondly, breach of disclosure requirements of the 2020 and 2022 orders. The maximum sentence for all of these contempts on this occasion is two years.
2. There are no sentencing guidelines for contempt. I have been referred to a summary of the applicable principles in annex I, *Otkritie International Investment Management Ltd v Gersamia* [2015] EWHC 821 (Comm). But while it is a helpful collation of principles, these are not guidelines. As *Liverpool Victoria v Zafar* [2019] EWCA Civ 392 makes clear, sentencing for contempt is a fact-specific exercise in which the seriousness of the contempt must be assessed in all the circumstances of the case. The key questions, apart from mitigation, are culpability of the contemnor and the harm caused or intended or likely to be caused by the contempt. Imprisonment is only appropriate if the contempt is so serious that notwithstanding any mitigating circumstances, no lesser penalty is sufficient, and the term of imprisonment should be the shortest time necessary.
3. Having said that, as *Liverpool Victoria v Zafar* makes clear, the making of a false statement will usually be so serious that nothing less than an order for committal to prison will suffice. Similarly, a substantial breach of the disclosure provisions of a freezing order normally means a prison sentence, and a continuing failure may justify a long sentence to encourage disclosure; see *JSC BTA Bank v Solodchenko & Ors* [2012] 1 WLR 350 at paragraph 55. Where a sentence of imprisonment is appropriate, it must be remembered that the maximum sentence of two years ought to be reserved for the most serious cases. It is therefore necessary to assess where each case sits in the scale of severity.
4. I will make some comments first on the false statement contempt. I assess culpability as high. This was a deliberate deception. The fourth witness statement at least was a planned deception, which required the defendant to produce evidence of someone's death which he could pass off as his wife's mother. I think the claimant says the

deception started with the second witness statement, which laid the groundwork. I am not convinced about that. It may be true, it may not. The fourth witness statement, however, was clearly a planned deception. It was sustained. It was maintained by the defendant in his fourth witness statement on 4 September and in the hearing before Meade J on 6 September and in the hearing before Johnson J on 2 and 3 November 2022. No one put this defendant up to this. No one pressured him. He did it for his own personal gain and his own personal ends and no one else's. I take into account that it was not a particularly sophisticated plan, but this seems to me, so far as culpability is concerned, at the higher end of the scale.

5. So far as harm and potential harm, the intended harm was to set aside or vary a court order on a false basis, and although it was unsuccessful, that is a very serious interference with the administration of justice. I have no doubt that this defendant's objective was to regain the passports for his family so that he could abscond the jurisdiction to Pakistan, where he had undisclosed assets. So on the heading of harm, this is again at the higher end of the scale.
6. Turning to the non-disclosure contempts, i.e. the Isle of Man and the UBL accounts, this is deliberate non-compliance, deliberate concealment, it is persistent and sustained. It was only stopped when he was caught out. Again, he was the architect, he did it for his own personal gain, and it is compounded by the fact he gave positively misleading disclosure because he purported to comply with the 2020 and 2022 accounts orders but in fact did not. So, culpability is high. As for harm, the sums in the various accounts which have been discovered are not that significant. There is £80,000 in the Barclays account, which was in any event frozen; £40,000 in the two UBL accounts which I am concerned with, in which he has been found to have committed a contempt. There is some £1 million transferred to Pakistan which is unaccounted for. But, it seems to me, I cannot take into account assertions of general non-cooperation. I put harm at the lower end of the scale, bearing in mind the comments which are always made that any breach of disclosure requirement in a freezing order is a very serious matter and imprisonment is the ordinary consequence.
7. So far as factors increasing seriousness are concerned, or the absence of mitigation, there has been no remorse. There has been no disclosure of assets in Pakistan

notwithstanding these three accounts coming to light. In relation to the Isle of Man, the defendant has disclosed bank statements, but I am afraid I do not regard that as giving him much credit because that bank account was frozen and plainly of no use to the defendant, and so I can quite understand that he regarded there being no harm in producing the bank statements, albeit after the event.

8. So far as personal mitigation is concerned, I bear in mind the fact that he is of good character, but these are serious offences which he has committed. I have been shown a doctor's letter of 3 March 2023. This defendant suffers from anxiety and depression. He has had an unsuccessful operation for a fistula, and he will need further surgery. It is fair to say that imprisonment will be hard for him and harder than for some. I will bear that in mind. I am told that his wife does not speak English. He has four children under the age of eight. He has a disabled older mother who he cares for, and I have had and read an email from her in which she says that a custodial sentence of any kind on her son will leave a devastating effect on her and her health.

9. I have taken those matters into account, but I have to say I do not regard that personal mitigation as reducing significantly the sentence which I feel compelled to give. I am satisfied that these contempts, and in particular the false death allegations, taken together, are at the upper end of the scale in terms of seriousness and nothing less than a substantial prison sentence will suffice. I therefore will commit this defendant to prison for 18 months. That is the minimum term which is commensurate with the seriousness of the contempts having regard to totality. I observe that the court can reduce that sentence if the defendant cooperates, but I give no indication of what may be appropriate. I have not included an element by way of encouragement, but it is up to the defendant, if he cooperates, to apply and ask for the court to reduce his sentence.

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This transcript has been approved by the Judge