

IN THE FAMILY COURT SITTING AT WATFORD

Date: 3 January 2025

Before:

HIS HONOUR JUDGE RICHARD CLARKE

Between:

**LILIANA SITON (FORMERLY KNOWN AS
MORRISON)**

Applicant

- and -

JERMAINE NICKIE MORRISON

Respondent

JUDGMENT

His Honour Judge Richard Clarke :

INTRODUCTION

1. This is the judgment of the Court at a contempt hearing, on 3 January 2025, on the Application of Liliana Siton (formerly Morrison) for committal of the Respondent, Jermaine Nickie Morrison, for contempt of Court for alleged breach of an occupation Order made under section 33 of the Family Law Act 1996 on 29 May 2024 (and continued thereafter). The Respondent did not attend the hearing.
2. The parties are married. They separated in or about August 2022. The original application for Orders under the Family Law Act 1996 was issued on 1 December 2023. At a final hearing which took place on 28 and 29 May 2024 before His Honour Judge McPhee (sitting in retirement) the Court made a non-molestation Order for 2 years and an occupation Order. Both parties were self-representing at the hearing and were supported by Qualified Legal Representatives. No appeal has been brought against those Orders.
3. The family home is in Mr Morrison's sole name. There are ongoing financial remedy proceedings with a final decision being imminent.
4. There are 4 children of the family. Following the parties' separation, Miss Siton had left the family home with the children. On 29 May 2024 the Court made the following Occupation Order:
"6. *The respondent, Jermaine Nicky Morrison shall allow the applicant Liliana Siton, to occupy the family home.*
7. *The respondent, Jermaine Nickie Morrison must not occupy the family home.*
8. *The respondent, Jermaine Nickie Morrison, shall leave the family home by 4pm on 19th June 2024*

9. *Having left the family home the respondent, Jermaine Nickie Morrison, must not return to, enter or attempt to enter it except that the respondent may go to the property [without entering it] for the purpose of collecting the relevant children for, and returning them from, such contact with the children as may be agreed in writing between the applicant and the respondent or in default of agreement ordered by the court.*
 10. *The respondent, Jermaine Nickie Morrison, must not obstruct, harass, or interfere with the applicant, Liliana Siton's, peaceful occupation of the family home.*
 11. *The respondent Jermaine Nickie Morrison shall maintain and repair the family home.*
 12. *The respondent Jermaine Nickie Morrison, shall discharge the mortgage payments in respect of the family home.*
 13. *The respondent Jermaine Nickie Morrison shall discharge the following outgoings in respect of the family home:*
 - a. *Council Tax*
 - b. *Water and sewage charges*
 - c. *House insurance for buildings*
 14. *The applicant Liliana Siton shall keep and use the furniture and contents of the family home.*
 15. *The applicant Liliana Siton shall take reasonable care of the furniture and contents of the family home.*
 16. *The applicant Liliana Siton shall take all reasonable steps to keep secure the family home and the furniture and contents.*
 17. *Paragraphs 6-13 inclusive of this order shall be effective against the respondent Jermaine Nickie Morrison once he is made aware of the terms of this order whether by personal service or otherwise."*
5. The Order was silent on duration. The application was listed for further directions on 15 October 2024, to decide whether the order should continue, in conjunction with ongoing Children Act proceedings relating to the children of the family. Before that hearing could take place Miss Siton issued an FC600 application on 15 July 2024 for committal of Mr Morrison for contempt of Court. In it she alleged:
- 5.1. Mr Morrison had been personally served with the Order on 29 May 2024;
 - 5.2. Mr Morrison had stated he would not be paying the mortgage or utilities so that the house would be repossessed by August 2024.
 - 5.3. Mr Morrison had stripped the boiler, water tank, microwave and all integrated white goods from the house by the time she had moved back in with the children, leaving the property with no heating or running hot water, along with a hole in the ceiling.
6. References to the Order or Occupation Order in this judgment are to the Order of 29 May 2024 unless stated otherwise. The FC600 made it clear to Mr Morrison that he had the right to be legally represented, he may be eligible for legal aid, that he was not obliged to give evidence (and was entitled to remain silent) and that the Court may proceed in his absence if he did not attend the hearing.
7. The FC600 is supported by witness evidence from Miss Siton. It states that on 29 May 2024 Mr Morrison informed Miss Siton that he would not be paying the mortgage. It also states that when Miss Siton moved back into the address Mr Siton had removed the boiler and water tank, stripped the house of belongings and furniture, including all integrated appliances, there was a hole in the living

room ceiling and a leak into the ceiling light, a missing wall in the outhouse, broken fences in the garden, and holes and broken doors. Various photographs were attached showing missing appliances and the state of the property. She also attached screenshots of a text message sent by Mr Morrison to her on 30 May 2024 stating he would not be paying the mortgage and would be allowing the mortgage company to repossess the property.

8. The committal application was listed for a hearing at Hertford Magistrates Court on 13 August 2024 at 10:00am before HHJ McPhee. In advance of the hearing Mr Morrison had written to the Court seeking HHJ McPhee recuse himself from dealing with the case. The letter also indicated Mr Morrison was intending to appeal what was described as "the interim occupation order".
9. Mr Morrison filed a witness statement on 10 August 2024 in which he accepted he had failed to pay 3 mortgage payments and had removed the white goods from the property. He sought to argue inability to pay and that Miss Siton did not need the property as she had use of another property.
10. The Order of 13 August 2024 confirmed that Mr Morrison attended the Court building, but refused to enter the courtroom. HHJ McPhee listed the matter for a further hearing on 15 November 2024 to consider the recusal application, and for further directions on the committal application in the event he did not recuse himself. The Occupation Order was extended to 6pm on 15 November 2024. Mr Morrison was given an opportunity to file evidence in response to the application if he wished to do so and the Court determined the proceedings should be heard in private. The Order made it clear that should Mr Morrison not attend the next hearing the Court may proceed to hear both matters in his absence, as well as repeating his legal rights.
11. Mr Morrison did not attend the hearing on 15 November 2024. Prior to the hearing he wrote to the Court asserting he was unwell and had tested positive for Covid. HHJ McPhee made an Order listing the case before me on 5 December 2024. The "interim Occupation Order" was extended to 6pm on 19 December 2024, with a further hearing on 19 December 2024 at 10am. The Order on the committal application again made it clear should Mr Morrison not attend the hearing the Court may proceed in his absence, as well as repeating his legal rights.
12. At the hearing on 5 December 2024 Miss Siton was unable to provide evidence of personal service of the Order of 15 November 2024, or the original application. A "deemed served" Order was made in respect of the original Application. Mr Morrison had failed to provide an address for service in response to the Application and a "substituted service Order" was made allowing for service by email. The committal application was adjourned to the hearing on 19 December 2024 to allow Mr Morrison a further opportunity to attend.
13. Mr Morrison filed a position statement for the hearing on 19 December 2024, containing a statement of truth. In it he stated he could not afford to pay the mortgage, accepted he had removed the appliances, sought to argue the original Order was unclear on what he could take and stated that everything he had taken had been fully paid for by him.

14. Mr Morrison attended the hearing on 19 December 2024. He acknowledged Miss Siton was seeking his committal for non-payment of the mortgage and removal of white goods, the water tank and the boiler. He accepted he had not paid the mortgage, but said it was impossible. He sought to argue he had not been aware of his entitlement to free legal advice, despite the contents of the FC600. He also sought to argue he had not breached the occupation Order because he had removed contents which belonged to him and which Miss Siton was able to replace. The Court made it clear that its preliminary view was that his removal of the items from the property was a breach of the Order of HHJ McPhee, that Mr Morrison had not brought an appeal against that Order and the Order remained in place.
15. The Court asked whether Mr Morrison was prepared to reinstate the goods within 14 days. Mr Morrison queried how long he was likely to be sent to prison if the goods were not reinstated. He was informed he would find out on the next occasion, if they had not been reinstated. He agreed to reinstate the goods by 2 January 2025. As far as mechanics, it was explained to the Court that he had employed a tradesman to remove the goods and that Mr Morrison remained under a non-molestation Order which prohibited him communicating with Miss Siton, save in writing in respect of contact with the children. Mr Morrison was informed that he should contact the tradesman, who Miss Siton had been in contact with, and the tradesman could then contact Miss Siton to arrange attendance to re-install the items. It was also made clear to him that such communication would not amount to breach of the non-molestation Order.
16. The Order adjourning the committal application was drawn up immediately and handed to Mr Morrison before he left Court. A further hearing was listed for 10am on 3 January 2025 and Mr Morrison was again reminded that the Court may proceed to hear the Application in his absence if he failed to appear. The occupation Order was further extended, but there was insufficient time to draw up the Order and serve it on Mr Morrison before he left the building due to pressures of Court business.
17. Mr Morrison has failed to attend the Court today. No legal representative has sought to place themselves on record. Mr Morrison filed a further position statement yesterday, stating he was unable to arrange reinstatement of the items due to the existence of the non-molestation Order preventing him communicating with Miss Siton. He asked the Court to vary or discharge the non-molestation Order so that he can contact Miss Siton to arrange for the items to be reinstated, although no formal application has been brought. He also stated he would not be attending today's hearing "because it would be wasting mine and the court's time".
18. The Court reminds itself that the non-molestation Order was put in place to protect Miss Siton. The Court is satisfied that at the time that Mr Morrison left the last hearing he was clearly aware of how he should arrange reinstatement of the premises, a method which meant he would not be in breach of the Order and would maintain protection of Miss Siton. Amendment of the Order, which is not a formal application before the Court in any event, would expose Miss Siton to further abuse.

19. Adjournments have previously been granted to ensure that Mr Morrison has received all the papers and evidence against him, that he has been afforded the opportunity to obtain legal advice and that he has the ability, if he chooses to do so, to file evidence on his own behalf and attend the hearing to argue his case. The Court is satisfied Mr Morrison is fully aware of these proceedings, the allegations he faces and of today's hearing. He has been given the opportunity to obtain legal representation and has not taken this up. The Court is also satisfied he was aware that the Court would be proceeding with the committal Application today.
20. The Court notes it is for Miss Siton to prove her allegations to the criminal standard, namely beyond all reasonable doubt. Miss Siton has given evidence before the Court today confirming the accuracy of her FC600 and statement in support. She has also given evidence that Mr Morrison has not reinstated the appliances in the property since the hearing of 19 December 2024, which is consistent with his own position statement, and the bank have previously confirmed the mortgage has not been paid. She is not named on the mortgage, and therefore not entitled to copies of any account statements to confirm the amount in default.
21. The Court is satisfied Miss Siton has proven her allegations, beyond all reasonable doubt, as follows:
 - 21.1. Mr Morrison has failed to discharge the mortgage (paragraph 12 of the Order);
 - 21.2. Mr Morrison has removed the following items from the family home, and deprived Miss Siton of the use of them and thereby interfered with her quiet enjoyment of the property (in breach of paragraphs 10, 11 and 14 of the Order):
 - 21.2.1. The water tank;
 - 21.2.2. The boiler;
 - 21.2.3. The fridge
 - 21.2.4. The freezer;
 - 21.2.5. The hob;
 - 21.2.6. The oven;
 - 21.2.7. The microwave;
 - 21.2.8. The washing machine; and
 - 21.2.9. The tumble dryer.
22. The Court is satisfied both that Mr Morrison has breached the Occupation Order in the past and that the breach is ongoing, unless and until he has reinstated the items in the family home and discharged any arrears which have accrued to the mortgage since the Order was made. The Court is only dealing with the contempt which has occurred to date. Any financial ramifications of Mr Morrison's actions are a matter which it is open to the Court in the financial remedy proceedings to take into consideration on any final Orders.
23. When considering the appropriate sentence following a finding of contempt of Court it is open to the Court to order imprisonment, either immediate or suspended, for a period of up to 2 years. Alternatively, it can impose a fine, or adjourn sentencing to allow a further opportunity to comply. Any sentence imposed must be proportionate to the seriousness of the contempt, reflect the

Court's disapproval and be designed to ensure future compliance. Committal to prison is only appropriate where no reasonable alternative exists.

24. Despite the ongoing financial remedy proceedings, there is no clear information before this Court of any financial ability of Mr Morrison to pay any fine. Indeed, it has formed part of his own defence that he is unable to afford the payments originally Ordered by the Court. In those circumstances it is reasonable to accept he would not pay any fine imposed. Miss Siton has no clear information on any form of employment of Mr Morrison, and believes he is not currently working. Any fine would not be enforceable through an employer as an alternative method of enforcement.
25. In assessing the seriousness of the contempt it is important that the Court considers the purpose of the original Order, the purpose of the contempt and the likelihood of any risk to the process of justice. The Court takes into consideration the fact that Mr Morrison has been given a clear opportunity to comply, and he has failed to co-operate with this. It is now in excess of 4 months since the first hearing in the committal application and Mr Morrison has taken no steps to reinstate the property. At the hearing on 19 December 2024 he agreed to take steps to reinstate the property and he has failed to do so. The Court is satisfied any further opportunity to comply with the initial Occupation Order, short of an immediate custodial Order, is unlikely to achieve any different result.
26. Mr Morrison was clear at the hearing on 19 December 2024 that he did not see why he should reinstate the items in the property and could see no reason why he should pay for this to be done. His agreement to reinstate the removed items into the property was made after seeking to ascertain how long he was likely to be sentenced for in the event that he did not comply. It was clear to the Court that he was seeking to balance the length of any possible custodial term against the cost of reinstating the property.
27. The Court has heard evidence that Miss Siton raised her concerns about compliance with the Order at the time it was originally made. The Court is satisfied that the actions of Mr Morrison in contempt of the Court Order are calculated, willful and deliberate. Having considered the sentencing options available to the Court, the Court is satisfied it is appropriate to sentence Mr Morrison to an immediate custodial sentence and that no other Order is likely to secure compliance with the original Occupation Order. Whilst the Court has considered whether it would be appropriate to suspend that sentence, the Court is satisfied there is a high degree of culpability and ongoing harm is being caused to the Applicant and the children of the family such that suspension would not be appropriate.
28. When considering the length of any custodial term the Court must bear in mind that a sentence of 2 years is normally reserved for the most serious of cases. The Court finds no reasonable mitigation for the actions of Mr Morrison. It is clear he was not happy with the original decision of the Court and has decided to seek to frustrate the Order as a result. It is also clear that he has absolutely no intention of complying with the Order of the Court unless forced to do so. The Court is satisfied that the appropriate sentence in these circumstances is one of 3 months' imprisonment.

29. The Court respectfully reminds Mr Morrison that he is entitled to apply to purge his contempt of Court, which if accepted may lead to his prompt release from custody. Purging of contempt would require the Court to be satisfied of regret and remorse for the conduct which gave rise to the committal, a recognition that repetition will be likely to lead to further imprisonment, and an expression of desire to atone and have the slate wiped clean.