[2018] EWHC 3029 (Fam)

IN THE HIGH COURT OF JUSTICE - FAMILY DIVISION

Case No: FD13P02234

Courtroom No. 36

1st Mezzanine
Queen's Building
The Royal Courts of Justice
Strand
London
WC2A 2LL

3.17pm – 16.28pm
Friday, 5th October 2018

Before:
THE HONOURABLE MR JUSTICE COBB

B E T W E E N:

IJEOMA NKEM EGENEONU

and

VICTOR EGENEONU

MR P HEPHER appeared on behalf of the Applicant
MS N SHRAVAT appeared on behalf of the Respondent

JUDGMENT
(Approved)

This judgment was delivered in public.

MR JUSTICE COBB:

1. The application before the court is brought by Ijeoma Egeneonu, the mother of three children. I shall refer to her hereafter as 'the mother'. The three children I shall identify as C, aged 16, O, aged 13, and I, aged 11. They are all boys and they are currently believed to be in Nigeria where they were taken by their parents in 2013. The father of the children is Levi Egeneonu who I shall refer to as 'Levi' so as to distinguish him from the second respondent. At this hearing and by the application before the court, the mother seeks the committal to prison of the second respondent, Mr Victor Egeneonu, who I shall refer to as 'Victor'.
2. The application was issued on 28 February 2018 and has an unfortunate litigation history, having twice previously been listed for final determination. When the case was last before the court, before Moor J, on 22 June substantively, it was clear that Victor was making significant admissions in relation to the matters alleged against him. These admissions were recorded in a document generated on the second day of the hearing before Moor J. Further explanation and concessions were offered in a statement served on 19 September 2018 but Victor continued to dispute other allegations and it was contemplated by the parties, and by Moor J, that those matters would be tried by me.
3. Therefore the case was listed before me with a two-day estimate on 4 and 5 October. I had, at the request of Victor's solicitors, made a production order that Levi should attend this hearing, although in the event he was not called. I received two large bundles of documents containing *inter alia* statements from the mother, statements of evidence from Victor, statements of evidence from Tribal Chief Umbieri, who has also attended at court, a large volume of exhibits and a number of judgments from judges who have previously dealt with the circumstances of these three children.
4. Yesterday, 4 October, the first day of the hearing, there were two material developments in relation to the litigation and its prosecution: (a) the mother formally conceded that she would not be in a position to prove the matters set out in paragraphs 5(b) to (h) of the Schedule of Allegations, and Mr Paul Hepher, counsel on her behalf, indicated that they were no longer going to be pursued; and (b) Victor conceded further facts relevant to proving two of the alleged breaches and further accepted by his counsel, Mr Neelo Shravat, that it was perfectly proper for me to draw an inference about his culpability in relation to those matters from those undisputed facts.
5. It was further indicated yesterday that in so far as there were any differences between the parties on the basis of agreement, Victor himself would not volunteer to give any oral evidence in respect of the same.
6. The case was adjourned part heard yesterday to allow counsel to discuss further the Schedule of Allegations and the record of acceptances by Victor and to reflect on their submissions relevant to mitigation. The application resumed on the second day, this morning.
7. The application has proceeded entirely in line with the requirements of *rule 37* of the *Family Procedure Rules 2010* and the associated *Practice Direction, 37A.* I remind myself that the standard of proof applicable on this application is the criminal standard and it rests upon the applicant to prove each ground to that standard, see *Mubarak v Mubarak* [2001] 1 FLR 698. I have reminded myself of the guidance given by Theis J, sitting as a judge of the Court of Appeal, in the case of *Re L* [2016] EWCA Civ 173, and confirm that I have adhered to that guidance in my management of this hearing and in my consideration of the matters that have been laid before me. In fact, sensibly, no point is taken by Mr Shravat about the form or content of the Schedule of Allegations and no procedural point is taken on

behalf of Victor that this, the process by which I now come to give judgment, has in any way been flawed.

8. The application that is before me has a very, very long history. It is unnecessary for me to rehearse or reproduce that history at any great length here. Few family lawyers, observers or commentators in the field of family law will be unaware of the case of Egeneonu because publicly reported judgments concerning this family are multiple and are easily identifiable on Bailii. I located no less than eight and when they are read together, they give a good flavour of the issues in the case and the dynamics of it.

9. Specifically I have had regard to five such judgments and I identify them as follows: the judgment which is reported at [2015] EWHC 954 Fam, a decision of Newton J; [2017] EWHC 2451 Fam, a decision of McDonald J; a decision at [2018] EWHC 524 Fam, a decision of Holman J; a decision at [2018] EWCA Civ 1714, a decision of the Court of Appeal on an appeal brought by Levi; and [2017] EWHC 43, a decision of the former President of the Family Division, by which he confirmed that the contempt taking the form of an interference with the administration of justice was a criminal contempt.

10. I have also had access to and have read other judgments delivered in recent times by Williams J, Mr David Williams QC, as he then was, and notably the decision of Cohen J of 1 May 2018. Any one of those judgments (but certainly when taken together) will provide all the background that anyone needs to make sense of what follows.

11. In short, the mother and Levi were married in Nigeria in 2001 and came to England, where Levi had already been living, in 2002. The children, C, O and I, were born and grew up in the United Kingdom. On 16 July 2013, the entire family left London to travel to Nigeria. The mother contends before the court that this was a planned holiday and that she never intended to move back to Nigeria permanently. She further contends that whilst in Nigeria, Levi told her that they would not be returning to the United Kingdom despite her wish to do so. The mother contends that she lived with her parents in Nigeria to escape what she alleges was Levi's abuse, and that the children lived with Levi, his family or his staff.

12. Levi, as I understand it, disputes substantial portions of this narrative and I make no findings about it. In short, the mother returned to the United Kingdom from Nigeria without the children, using emergency travel documentation obtained from the British High Commission, on 12 November 2013. On 22 November 2013, she commenced proceedings in this jurisdiction, applying for the children to be made wards of court and for an order that the children be returned to the jurisdiction of England and Wales. Levi's engagement with those proceedings was sporadic but after he returned to the United Kingdom from Nigeria, a number of hearings followed at which he participated. Russell J warded the children. Within those proceedings and over the course of very nearly five years, multiple efforts have been made to secure the return of the children to this jurisdiction. They have, thus far, all failed.

13. It is, I think, sufficient to record that it is a matter of judicial finding that Levi has control and knowledge of the whereabouts of the children, that Levi has been in repeated breach of court orders for not returning or facilitating the children to the jurisdiction of England and Wales, that he is currently serving an 18-month term of imprisonment in respect of breaches of civil orders – this is his third period of imprisonment related to these proceedings – and that the children are believed to be living with a paternal aunt.

14. It is strongly believed that Victor is Levi's *brother*. This is indeed a matter of judicial finding, see paragraph 87 of the judgment of Cohen J, although perhaps not binding for present purposes as Victor was not represented or present in that litigation. Victor claims to be Levi's *son* and a half-brother to the subject children. His precise blood relationship with Levi is actually of little consequence to me in the determination of the matters that are

before me.

15. Victor gave evidence, it appears, on a number of occasions before Russell J and in 2014, and for a period of time, he was joined as a party to the litigation. A number of orders were made against Victor in relation to the production of information and requirements for his cooperation with the return of the children. It has been, and remains, the mother's case that Victor has repeatedly done what he could to assist Levi in defeating the orders of the court so as to keep the children in Nigeria.

16. In 2015 the mother made an application that Victor should be committed to prison for breach of the orders that were then relevant against him. That application was heard by Newton J, who said this in his judgment delivered at that time:

> "In my judgment Victor lied to the court on a number of occasions and continued over several hearings, with the express purpose of misleading what is in fact a very serious enquiry by this court. I am entirely satisfied that it was done deliberately. I do not in any way underestimate the potential influence of Levi Egeneonu upon him, but my findings, therefore, are that in relation to that part of the committal, that is to say that Victor Egeneonu had provided a false statement of truth in his sworn testimony and has actively told lies before a Judge of this Division, I am satisfied so that I am sure that that is what he did and I am sure it was done for one purpose. To that extent I find the committal is proved".

17. It is a matter of record that Newton J deferred sentence on the committal to see if that would encourage Victor to facilitate the return of the three children. It did not have that effect and Victor was sentenced to a three-month term of imprisonment which Newton J suspended for a period of 12 months. I drew attention to this as it serves to remind me that Victor has been in this position of contemnor or alleged contemnor before.

18. The evidence before the court now relevant to the allegations raised by the mother is largely contained within a number of transcripts of telephone recordings of conversations between Levi and Victor. It is not necessary for me to determine the admissibility of those recordings. That has already been determined by Williams J. Nor is it disputed that the voices heard on the phone recordings are indeed Levi and Victor. Cohen J, when he considered the allegations against Levi on the committal application relevant to him, carefully considered the reliability of the recordings to the perhaps unprecedented extent of hearing from the translator himself (some of the conversations in the native language of Levi and Victor, namely Ebu) and the Court of Appeal took the view that Cohen J was fully entitled to conclude that they were overall dependable. The contents of these recordings significantly undermine Victor's initial denials that he had been responsible for misleading the court and/or placing false evidence before the court during the course of 2017.

19. Mr Hepher in his presentation of the case took me, in passing only given the level of agreement between the parties, to extracts of the transcripts of the conversations (which I do not propose to reproduce in this judgment), and to documents generated and filed in the proceedings which, said Mr Hepher, strongly are associated with the content of the conversations to which I have referred; he invites me to draw the only possible conclusion, that Victor was deeply involved in the generation of misleading information and knowingly gave false information to the court.

20. I indicated at an earlier stage in this judgment that Victor had indicated through counsel that he would not wish to give oral evidence. Yesterday I debated briefly with counsel whether he was in fact compellable in these circumstances. I parked that issue during the hearing. In fact the issue did not arise for determination but I have resolved, in any event, that I do

not believe that he is compellable having regard to the provisions of *section 35(4)* of the *Criminal Justice and Public Order Act 1994*.

21. Given the level of acceptance now by Victor of the matters alleged against him, the fact of his silence before the court does not assume the sort of significance it might otherwise have done. Nonetheless I have reminded myself of the directions given in the case of *Cowan* [1996] QB 373 and remind myself that Victor has an absolute right not to give evidence, that the burden of proving the case rests upon the mother and the fact that Victor did not give evidence means that there is no evidence from him which rebuts, contradicts or explains the evidence of the applicant's witnesses. I gave, through Mr Shravat, due warning to Victor of the possible consequences of not giving evidence and the clear risk that I might conclude that the reason he was not willing to give evidence was because he has no answer to the points raised or none that would stand up to cross-examination.

22. I turn then to deal specifically with the Schedule of Allegations, with the response to that schedule and my conclusions upon the same. The mother contends first that Victor committed contempt in the face of the court by giving false evidence as to his knowledge of the children's whereabouts and his ability to assist in their return to the jurisdiction. In particular (a) on 11 August 2017, Victor gave the following oral evidence under oath, that Levi telephoned him on 9 August 2017 and, (1) told him that he, Levi, wanted the children to be brought back to England; (2) asked Victor to go on and bring them; (3) asked Victor to telephone Caro Nwanko, sister of Levi and Victor, who the mother believes is currently caring for the children; and (4) asked Victor to telephone Samuel Osuji, the brother of the mother and who Levi says is caring for the children, to tell him that he, Levi, wants the children brought back to the jurisdiction. It is a matter of record that is what Victor told the court and Victor accepts that the above statements were false. Pausing there for a moment, given that acceptance, I find the allegation proved.

23. Secondly, that Victor told the court that he does not speak to Caro Nwanko regularly and that in the eight months prior to 11 August he could not remember any calls with her apart from a call he made a week before. Victor accepts that he spoke to Caro Nwanko on 14 occasions in a 24-week period. Victor maintains before this court that he did not regard that as 'regular' contact. I respectfully disagree. In my judgment, 14 occasions in a 24-week period approximating to slightly more than once a fortnight, is regular contact. Furthermore, it is in my judgment impossible to accept that Victor could remember no calls with Caro Nwanko apart from a call he had made the week before, when 13 calls had preceded that call in the preceding six months. In the circumstances, I am satisfied so that I am sure that Victor materially misled the court in this respect and in the circumstances the allegation made by the mother in this respect is made out.

24. Thirdly, on 10 November, Victor gave oral evidence under oath to the court that he does not know where the children are or were, who was looking after them, or who has looked after them. Victor tells me now that while he does not know where the children are, he accepts that he believes that Caro Nwanko knows of their comings and goings, and did at that time I infer, that possibly the children sometimes stay with Caro and that Levi and Caro may have some control of the children's movements. The concessions made by Victor in this regard in my judgment amply demonstrate that the allegation made by the mother in this respect is proved.

25. On 10 November 2017 when he gave evidence, he again said that he did not speak to Caro Nwanko often on the phone. Again, he accepts that he had spoken to Caro on 14 occasions in 24 weeks and that that, therefore, amply demonstrates in my judgment that the allegation made by the mother is proved.

26. The evidence on 10 November from Victor was to the effect that he had not written letters

purporting to be from the children. These were letters which I have seen, and which are contained as an exhibit to the fifth affidavit of the mother, at page 437, 438, 439, 440 and 441 of the bundle. Victor accepts now, contrary to the evidence he gave in November 2017, that he was involved in the process whereby these letters were prepared but he did not write them. Additionally, he says, in relation to the typed letter, purportedly from child C, the 16-year-old, he accepts that Levi dictated the wording of a letter to him and that the dictation was in most part reproduced in that letter. However, he has no recollection whatsoever of writing down the dictation. Victor does not dispute that it would be proper for the court to infer from the accepted facts that he, Victor, did in fact make a written note of the dictation. It is indeed proper for the court to draw that inference; indeed it is, in my judgment, the only proper inference to draw. It follows that the second respondent, Victor, has, to my satisfaction, materially misled the court in November in that regard. The mother's allegation is, in this respect, duly proved.

27. It is further alleged that Victor has committed contempt in the face of the court by causing false evidence as to the children's wishes and feelings to be produced to the court, namely that in August 2017 he was involved in causing the children to copy out by hand letters that he had written and for these to be sent to the court on 28 August with the intention of misleading the court as to the children's wishes and feelings. Now, at this hearing, some 15 months later, Victor accepts that he was involved in the process of the production of these letters prepared by the children, knowing that the intention of the letters was to mislead the court as to the children's wishes and feelings.

28. Further, on 23 August 2017, the second respondent, Victor, wrote down a letter dictated to him by the first respondent, Levi, in the name of the child, C, and caused it to be typed and sent to the court on 28 August with the intention of misleading the court as to C's wishes and feelings. Again, Victor accepts that he was involved in the process of the production of that letter. He accepts that Levi dictated the wording of the letter to him and that the dictation was, in most part, reproduced in the letter. Victor today tells me, through his counsel, that he has no recollection of taking the dictation but does not dispute that it is proper for the court to infer from the accepted facts that he did make a written note of the dictation. As I have earlier indicated in a similar regard, it seems to me pellucidly clear that Victor did take down the dictation of the letter, because it appears word for word in the document at page 441 and I reject Victor's lapse of memory in this regard and find the allegation that the mother makes in this respect proved.

29. It is further said that on or around 23 August, Victor was involved in causing an email address to be set up in the name of the child C, without C's knowledge, and for the above mentioned letters to be sent to the court from that address. He says now that he did not set up an email address in the name of the child C but admits that he spoke to Okey about setting up an email address for C and passed on this request from Levi. To that extent only, he had involvement in causing an email address to be set up in the name of C and for letters to be sent to the court from that address. He himself did not send any letters from the court from that address and the mother does not seek to say otherwise. In that regard, his acceptance in my judgment confirms to the required standard that he was involved in causing an email address to be set up in the name of the child C without C's knowledge and the allegation is therefore proved.

30. It is further said that he has committed contempt in the face of the court by causing a false statement from a third party to be produced to the court. In particular on 25 August he caused a false statement to be typed and signed and caused this false statement to be sent to the court on 26 and 31 August 2017. This is a statement or letter purporting to be from a friend of the mother's, Mrs Ola Ajibola. It is a letter replete with scandalous allegations

implicating the mother and her purported associates. Victor accepts that he was involved in causing a false statement to be produced to the court in that he accepts that Levi asked him to do these things and he listened and participated in telephone calls with him when he made the requests. He says that he did not have any involvement in the typing, preparation, (save for the undisputed inference above), or sending of any false statement, although he may have passed on messages from Levi to Okey and Caro in relation to this. He accepts, therefore, that he was involved in causing false statements to be produced to the court. In that regard, given his acceptance of the facts, I find the allegation to the required standard proved.

31. It is further said that by an injunctive order made by Holman J, dated 25 September, whose terms were brought to Victor's attention by the order being personally served on him, Victor was required to act in the following way, by paragraph 5:

> "Victor, having failed to attend today's hearing in breach of paragraph 16 of the order of Parker J, dated 24 August 2017, shall by no later than 16.00 on 20 October 2017, file and serve a statement giving full information as to why he did not attend today, attaching documentary evidence".

Victor accepts that he failed to file and serve the statement directed to be filed and, in view of his acceptance, I find the allegation proved.

32. By an injunctive order made in this action by Williams J on 9 February 2018, whose terms were brought to the second respondent, Victor's attention at the hearing on 9 February, and by a sealed copy of the order being personally served on him, Victor is required to act as follows: 'By paragraph six – Victor shall inform the applicant mother's solicitors the telephone number that he can be contacted on during his visit in Nigeria by no later than 16.00 hours on Thursday, 15 February 2018'. It is said that, in breach of this provision, Victor failed to inform the applicant mother's solicitors of the telephone number that he could be contacted on during his visit in Nigeria by 16.00 hours on Thursday, 15 February or at all. Victor accepts that he failed to inform the applicant mother's solicitors of the telephone number of 15 February. He says that he sent a text to the mother's solicitors on 16 February and that his telephone was then stolen.

33. Mr Hepher has told me that the mother's solicitor is not able to confirm that a text was sent on 16 February or, frankly, to dispute it. She did not receive a text, nor is the mother able to demonstrate to my satisfaction that Victor laboured under the disadvantage of thereafter having experienced the theft of his phone, but the failure to inform the mother's solicitors of the telephone number, in accordance with the order, is accepted and represents the final proven breach on which I must now pass to consider penalty.

34. Pausing here for a moment, in view of the fact that the allegations were as to their facts largely accepted, almost entirely accepted save where inferences were left to be drawn, this hearing today has proceeded to focus upon issues around the penalty for such breaches. In relation to this, Mr Shravat has reminded me of my powers which are statutory and which are to be found in *section 14* of the *Contempt of Court Act 1981*, specifically that the committal, or any committal shall be for a fixed term and that term shall not, on any occasion, exceed two years.

35. Mr Shravat has further, most helpfully, drawn my attention to the decisions of *Chrystal Mews Ltd v Metterick & Ors* [2006] EWHC 3087 Ch and specifically there to paragraphs eight, 11 and 13. Drawing the principles from that authority, it is clear that penalty for contempt of court must be directed both to punish conduct in defiance of the court's order, as well as serving a coercive function by holding out the threat of future punishment as a

means of securing the protection which the injunction is primarily there to do.

36. The decision reinforces, for me, the importance of considering the suspension of any period of imprisonment on such terms as I think fit and there is reference there to the case of *Hale v Tanner* [2000] EWCA Civ 5570, to which I will turn in a moment, wherein it is, of course, said that suspension of a sentence is usually the first way of attempting to secure compliance. Other matters to which consideration may be given include where the claimant or applicant has been prejudiced by virtue of the contempt, the extent to which the contemnor has acted under pressure, whether the breach of orders was deliberate or unintentional, and the degree of culpability. I am enjoined to consider whether he appreciates the seriousness of his breach and whether he has subsequently cooperated. The decision of *Hale v Tanner* [2000] EWCA Civ 5570 or [2001] 1WLR 2377 is well-known territory in applications of this kind and I specifically have had regard to those passages at paragraphs 24 to 35 of the judgment and the ten matters to which the court should specifically have regard when considering what penalty to impose. I have reflected on those and do not propose to read that part of the judgment of the Court of Appeal in *Hale v Tanner* into this judgment.

37. Inevitably in addressing me on the question of penalty, and specifically in this case given the fact that no oral evidence and no specific factual findings were required by me, Mr Hepher has taken the opportunity at my invitation to draw my attention to some factors which he maintains aggravate the culpability of Victor in these circumstances. Mr Hepher has first described this case as one of the most serious cases of child abduction in the sense that these three children have been uprooted from their home some five years ago and have been denied any relationship with their mother for a significant part of that time. Secondly, that Victor has himself already been the subject of a suspended committal order in 2015 and, says Mr Hepher, he therefore knows the seriousness of the situation he is in. He can have been in no doubt about the view the court took of his actions in 2015 and yet he deliberately, or wilfully, repeated that behaviour in 2017 and early 2018.

38. Thirdly, that Victor has engaged in the very conduct which had attracted the censure of the court in the past. His previous contempt arose through lies he had repeatedly told to the court and, again, he comes before the court as a proven liar. Fourthly, that, says Mr Hepher, the behaviour which is under consideration and on which I have now made findings, is both deliberate and repeated. Fifthly, that the information which he has withheld or misrepresented to the court has been central to the court's enquiry about the whereabouts of the children and the securing of their return. Sixth, that his admissions have been slow to emerge and they have done so only in a piecemeal way. He is a man who has been reluctant, says Mr Hepher, to face up to his wrongdoing and has wasted considerable court time as a consequence. Finally, that the breaches are of the greatest seriousness and I should mark my disapproval by the sentence I impose.

39. Mr Shravat in his careful and realistic submissions urges me to consider a further suspended sentence in this case. He realistically accepts that I would have to be considering a custodial sentence given the fact that there has already been a suspended sentence passed on Victor three or so years ago. In urging that outcome for his client, Mr Shravat addresses me on a number of mitigating factors as follows. In relation to the circumstances of the contempts, he submits that Victor has today made what Mr Shravat described as 'real' admissions and in that way has spared the mother the burden and distress of a trial. Secondly, that there is in fact no continuing alleged breach, given that his alleged failure to use his best endeavours to return the children to this jurisdiction is no longer pursued. Indeed, says Mr Shravat, and there is no evidence to dispute this, Victor has sought to redeem himself by trying to make contact with members of the paternal family in Nigeria

this year, by phoning family members, but to no avail. Thirdly, in this regard, urges Mr Shravat, Victor has been under the thrall of Levi, that Levi is the main player, 'bullying and forceful', says Mr Shravat, and that Victor is less able and less confident as a person and has been 'passive and obedient' to Levi's instruction. Mr Shravat urges on me that Victor is not a sophisticated or educated man and has, in his conduct, merely acted as a cipher or puppet of Levi.

40. Fourth, Mr Shravat has argued that Victor has demonstrated contrition by engaging Chief Umbieri and assisting Chief Umbieri in trying to locate the boys. Chief Umbieri has corroborated to some extent what has been said on Victor's behalf, namely that he, Victor, has no influence over Levi, far from it, Levi referring to Victor as 'the goat'. Chief Umbieri takes the view that Victor has, in fact, in the course of this year, done all that he realistically could as a man with no influence over the family or community to assist in the location and recovery of the children.

41. Mr Shravat turned next to Victor's personal circumstances, the anxiety under which he has lived and the stress on his family having taken its toll, both on himself, as his general practitioner, Dr Oghogho, told me in a letter of 18 June, and that these events have taken their toll also on his wife and children. Mr Shravat draws attention to the fact that at the time that Levi was applying the pressure upon him, Victor, Victor's then three-year-old son had been hospitalised with a history of abdominal pain and nausea which would, says Mr Shravat, have been preoccupying and stressful to Victor, and a distraction which may have caused him to have some lapses of recollection of what he had been asked to do and/or lapses in judgment.

42. Mr Shravat draws my attention to the fact that, undeniably, Victor has a young family at home, young children, aged six, four and two. He has work and a wife who also suffers from the anxieties around the outcome of this process. Finally, I am invited to take into account, as I do, what Victor says in the concluding passage of his most recent witness statement, namely this:

> "I am extremely sorry that I have succumbed to pressure from my father (sic) to have some involvement in this matter. I very much regret that I have not told the entire truth when I have given evidence in court and I wish to humbly apologise to the court for this".

43. I have already referred to what is said in *Hale v Tanner* about custodial sentences being sentences of last resort. Indeed, as recently as 18 July of this year, in proceedings concerning Levi Egeneonu, Peter Jackson LJ in the Court of Appeal made this observation: 'A custodial sentence is always a last resort, the maximum being two years on any one sentencing occasion. A term of this length must be reserved for the most serious cases.' Peter Jackson LJ considered that that was such a case, involving the calculated separation of three children from their mother and what he described as 'a contemptuous disregard for court orders'.

44. Peter Jackson LJ went on to say this: 'Those who abduct children in this way must expect lengthy sentences if they are found to be in contempt of court.' I add this. Those who assist, materially assist, those who abduct children in this way, must also expect lengthy sentences from this court if they are found to be in contempt. I say so because the abduction of children from a loving parent is an offence of unspeakable cruelty to the loving parent and to the child. Any reference in mitigation to Victor's family life and the impact on them of the sentence which I propose to impose in this case has, frankly, little place alongside the effect on this mother of being deprived of contact, of any relationship with her

three sons for now very nearly five years.

45. I take the view that the breaches of the order and the contempt in the face of the court, to which I have made reference during this judgment, are so serious that only an order committing Victor to prison will properly reflect the court's condemnation of his conduct. I accept that there is evidence that in recent times Victor has sought to make contact with members of the paternal family. I accept Chief Umbieri's comment that Victor is a man in his family or community with little influence, but I am driven to the conclusion that an immediate custodial sentence is the only sentence that can be imposed because of the seriousness of the contempts, their repeated nature and the fact that I have before me a man who has been in this very situation before. He must have realised what he was doing when he materially and gravely misled a judge of the Family Division in the legitimate and serious pursuit of information concerning the whereabouts of these missing children.

46. The sentences which I propose to impose are as follows. In relation to the first contempt, that on 11 August Victor gave misleading, false information to the court as set out in paragraphs 1(a)(a)(i) to (iv), there will be a term of imprisonment of three months. In relation to the second matter, that Victor falsely maintained that he did not speak to Caro Nwanko regularly, that in the eight months prior to 11 August he could not remember any calls with her apart from a call made one week before, I propose to impose a sentence of one month, which will be concurrent with the sentence already passed.

47. For the contempt proved that on 10 November he gave oral evidence under oath that he did not know where the children are or were, who was looking after them or who has looked after them, when I am satisfied on his acceptance that he had relevant information to give, I propose to impose a sentence of three months' imprisonment and that will be consecutive to the three months already imposed.

48. In relation to the contempt, proven contempt, that Victor did not often speak to Caro on the telephone, that is 1(b)(vi), there will be no separate penalty. In relation to 1(b)(vii), that Victor told the court that he has not written letters purporting to be from the children when he accepts that he was involved in that process, there will be a term of imprisonment of three months. That will be concurrent with the sentence that I imposed in relation to his misleading information about Caro.

49. In relation to causing false evidence to be produced to the court, and that is of course the letters, a sentence of three months, again concurrent.

50. For the proven contempt that Victor was involved in the production of the letter purporting to be from the mother's friend, who I shall refer to as Ola, there will be a sentence of one month's imprisonment. That will be consecutive to the sentences I have imposed.

51. For the proven contempt that on or about 23 August he was involved in causing an email address to be set up in the name of the child C without the child's knowledge, there will be a sentence of imprisonment of one month which will be concurrent to the sentences I have imposed.

52. That he committed contempt in the face of the court by causing the false statement to be produced from Ola, there will be a sentence of one month concurrent with the one-month sentence that I have already imposed in a similar regard concerning the letter from Ola.

53. His proven failure to file and serve a statement will be met with a sentence of seven days' imprisonment, concurrent with the sentences I have imposed.

54. His failure to inform the mother's solicitors of the telephone number that he could be contacted on during his visit in Nigeria, there will be a sentence of seven days' imprisonment concurrent with the sentences I have already imposed.

55. That leaves in aggregate a sentence of seven months' imprisonment. That is all I propose to say in relation to this application.

End of Judgment

Transcript from a recording by Ubiqus
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This transcript has been approved by the judge.