



Neutral Citation Number: [2025] EWCA Civ 782

Case No: CA-2024-002463

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM the County Court at Hastings
Her Honour Judge Venn
GO2BN018

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 25/06/2025

Before :

LORD JUSTICE BIRSS
and
LORD JUSTICE ZACAROLI

Between :

(1) Janice Elizabeth Turner
(2) Brian David Aberneithy Greenwood
- and -
Mark Gary Coates

**Claimants/
Respondents**

**Defendant/
Appellant**

Iain Colville (instructed by **Holden & Co**) for the **Appellant**
George Woodhead (instructed via the **Direct Public Access Scheme**) for the **Respondents**

Hearing date: 14th May 2025

Approved Judgment

This judgment was handed down remotely at 10.30am on 25 June 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives (see eg <https://www.bailii.org/ew/cases/EWCA/Civ/2022/1169.html>).

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Lord Justice Birss :

1. This is an appeal brought by Mark Gary Coates against the order made in the County Court at Hastings dated 17 September 2024 committing Mr Coates to prison for 448 days for contempt of court. The judgment of Her Honour Judge Venn explaining the reasons for this order was given orally on the same day. The context of this case is a dispute between neighbours over property boundaries. Mr Coates' neighbours Janice Elizabeth Turner and Brian David Abernethy Greenwood brought proceedings against Mr and Mrs Coates to determine the boundary and also including claims under the Protection from Harassment Act 1997. After a 5-day trial on 22 September 2022 HHJ Venn made a series of orders in the claimants' favour including an award of £260,000 in damages, an order for costs and various injunctions. In summary the injunctions included orders requiring Mr Coates to remove various items from a neighbouring track, an order not to engage in threatening behaviour, an order to remove cameras and video equipment with a view of the claimants' property, and an order not to film, photograph or make audio recordings of the claimants or their visitors.
2. Mr Coates breached various of these orders and a first set of committal proceedings was brought for contempt of court. The matter was adjourned to give Mr Coates the ability to obtain legal aid and be represented in the committal proceedings. However two days before the hearing on 26 October 2023, the solicitors came off the record and at the hearing Mr Coates represented himself. HHJ Venn found many of the allegations proven, found Mr Coates to be in contempt and sentenced him to 252 days in prison. On 12 December 2023 the Court of Appeal (*Turner v Coates* [2023] EWCA Civ 1487, Peter Jackson, Newey and Nugee LJJ) gave judgment upholding the judge's findings of contempt save for one ground but allowing the appeal against the length of the sentence. The Court of Appeal held that a sentence of about three months could not have been criticised and so, given the time Mr Coates had already spent in prison, ordered his immediate release. Bearing in mind sentences for civil contempt are reduced in half, at that point Mr Coates had been in prison for 47 days. Although not represented below, Mr Coates had been represented before the Court of Appeal.
3. In giving the leading judgment Peter Jackson LJ (with whom the other two judges agreed) said as follows at paragraph 34:

“Although the appeal succeeds to that extent, it need hardly be said that any breaches of the judge's orders in the future would be likely to lead to a substantial term of committal. The listing of any future applications would of course be a matter for the court, but for my part I see no reason why they should not continue to be heard by HHJ Venn.”
4. On 14 March 2024 an order for sale of Mr and Mrs Coates' home was made. This followed a charging order which had previously been made over their property arising from the financial terms of the original order of 22 September 2022. The sale would take place in June 2024 if the financial terms were not satisfied.
5. On 17 April 2024 the claimants brought a second contempt application against Mr Coates alleging that he had again breached the terms of the original injunctions. This second application, like the first one, also named Mrs Coates as a respondent but in the end the claimants did not pursue this application against Mrs Coates.

6. The claimants' and the defendants' homes are a semi-detached building. On 10 June 2024, three days before the deadline set in the order for sale, Mr Coates started destroying the fabric of his own home. He also climbed onto his own roof and threw roof tiles at Ms Turner, then climbed across onto the claimants' roof and removed and damaged tiles from their roof.
7. The allegations made against Mr Coates in the contempt proceedings were collected together as a list of 20 points. They covered a period from 19 April 2023 up to 10 June 2024. They included a number of allegations about removing fence panels on the boundary and various allegations of harassment and intimidation. These include throwing stones at Ms Turner injuring her hand, at the claimants' greenhouse breaking a window and at Mr Greenwood's car damaging a car window; making a throat slitting gesture at Ms Turner; driving his van at Mr Greenwood attempting to run him over; filming Ms Turner; and threatening to kill the claimants. The allegations also include events on the 10 June: throwing roof tiles from his own house at Ms Turner and damaging the claimants' roof.
8. On 10 July 2024 Mr Coates appeared at Lewes Crown Court and was remanded in custody having been charged with dangerous driving, harassment and criminal damage. These charges related to some but not all of the same facts as giving rise to the allegations of contempt.
9. On 7 August 2024 Mr Coates issued an application to stay the civil proceedings on the grounds that they would prejudice the criminal proceedings as they arise from the same facts.
10. On 12 August 2024 a case management hearing took place relating to the contempt application. The claimants and Mrs Coates were represented at the hearing. Mr Coates was not present and not represented. Various orders were made. The application by Mr Coates to stay the civil proceedings was dismissed.
11. The matter came on for trial on 17 September 2024 before HHJ Venn. Mr Coates represented himself. The 20 allegations of breach were advanced. At this stage it is worth drawing attention to four particularly serious allegations, that Mr Coates:
 - i) engaged in physically threatening behaviour by staring at Mr Greenwood for a prolonged period of time and making a throat slitting gesture after which he pointed at the claimants' property where Ms Turner was at the time (allegation 3),
 - ii) engaged in physically threatening behaviour towards Mr Greenwood and came within 5 metres of him by driving to Mr Greenwood's place of work in an attempt to run him over (allegation 8),
 - iii) shouted abuse towards the claimants and engaged in intimidating behaviour by threatening to kill them (allegation 18),
 - iv) damaged the claimants' property by removing and damaging their roof tiles (allegation 20).

12. The judge found 19 of the 20 allegations of breach were made out, including all four of the particularly serious ones mentioned above. She identified a sentence for each allegation made out and decided they should run consecutively because the incidents were distinct. The total of all the sentences for the identified breaches was 546 days (78 weeks). The judge reduced this to 448 days (64 weeks) having regard to the totality principle, and bearing in mind the particularly serious breaches which had been made out. The specific sentences for the four particularly serious breaches which the judge had identified were 12 weeks, 20 weeks, 12 weeks, and 12 weeks respectively, which amounts to 56 weeks in total.
13. Mr Coates filed a notice of appeal on 7 November 2024. The notice of appeal was issued on 9 January 2025 and directions were given for the appeal on 10 January 2025 by Stuart-Smith LJ, including directions for dealing with any application for a representation order for legal aid.
14. The criminal trial had taken place on 29 November 2024. Mr Coates was convicted of criminal damage to both his own and the claimants' houses and acquitted of the charges of harassment. The harassment offences of which Mr Coates was acquitted included a number of incidents which HHJ Venn had found were proven in the contempt proceedings. On 10 March 2025 Mr Coates was sentenced to 4 years, 16 weeks imprisonment (with credit given for time on remand up to the civil contempt hearing) and to 3 years on another count, running concurrently. In his sentencing remarks Recorder Benjamin Williams KC explained that he took the finding of civil contempt and the sentence imposed by HHJ Venn into account in three ways (paragraphs 36-40), first by not treating the fact the offences were committed in breach of civil injunctions as an aggravating factor, second by taking into account the fact that Mr Coates had received some element of punishment within the civil sentence and third by taking into account the fact that Mr Coates had been punished by the civil courts for offences of which the jury had acquitted him.
15. This appeal was listed to be heard on 1 April 2025. The claimants and Mr Coates were represented by counsel. Arrangements were made for Mr Coates to attend the hearing remotely by video link from Lewes prison. However on the morning of the hearing it emerged that a mix up with the arrangements meant that there was no video link in place. Attempts were made to arrange a link for 2pm however although there had been some success making the arrangements, there was no link when the matter was called on shortly after 2pm. It was not possible to tell whether this was the result of communication difficulties with the prison or whether it was Mr Coates choosing not to attend. In the circumstances we decided that although an adjournment was undesirable, it was nevertheless the right thing to do since there was no reason to assume the absence of Mr Coates was voluntary.
16. The matter was relisted for 14 May 2025. It later emerged that Mr Coates had not been in Lewes prison on 1 April because he had been moved to another prison sometime earlier. In any event Mr Coates was able to attend the hearing remotely on 14 May 2025.
17. On Mr Coates' behalf counsel advanced two grounds of appeal: first that the existence of the parallel criminal proceedings meant that the civil contempt proceedings ought to have been stayed pending the criminal trial and second that the judge ought to have run the sentences she identified concurrently rather than consecutively.

Ground 1 – civil and criminal cases in parallel

18. Counsel for Mr Coates submits that it was unjust for the judge to determine the contempt application and sentence Mr Coates before the outcome of the criminal proceedings. The submission is that the injustice suffered is demonstrated by the fact Mr Coates was acquitted of two harassment offences which cover the same matters as the corresponding allegations in the civil case, including particularly serious allegations 3, 8 and 18 identified above. The harassment allegations were found proved by the judge and amounted to 46 weeks of the initial 78 week total. The court has power to intervene when there is a real risk of serious prejudice (see *First Capital East Ltd v Plana* [2015] EWHC 2982 (QB) at [43]-[48]). Thus, the submission goes, had the judge stayed the civil application then, after the criminal trial, the harassment allegations would have been dismissed because they conflict with the jury's decision.
19. To address this ground the starting point is *Barnet LBC v Hurst* [2002] EWCA Civ 1009 in which the Court of Appeal (Brooke LJ with whom Dyson and Browne LJJ agreed) addressed the concurrent jurisdictions in civil contempt proceedings and in criminal proceedings. At [33] the principles were summarised. They were derived from the law before the Human Rights Act 1998 but were held in *Barnet v Hurst* not to be altered by that Act. The principles are:
 - (1) The jurisdiction of the court when exercising its jurisdiction in contempt proceedings is quite separate from any criminal proceedings which may be brought in the criminal courts, notwithstanding that it may arise out of the same set of factual circumstances.
 - (2) It is founded on an inherent power which derives from the jurisdiction of the court to enforce its orders.
 - (3) It is important that contempt proceedings should be dealt with swiftly and decisively.
 - (4) On the other hand a court has a discretion to adjourn contempt proceedings pending the outcome of other proceedings, but only where it is satisfied that there would otherwise be a real risk of prejudice which might lead to injustice.
20. In *Lomas v Parle* [2003] EWCA Civ 1804, albeit in the specific context of the management of domestic abuse proceedings in the family, civil and criminal courts, the Court of Appeal reiterated a number of general points which are worth highlighting ([47]-[49]). The sentencing courts have different objectives and operate in different ranges. Given that an important objective of sentencing for contempt is to uphold the authority of the court by demonstrating that its orders cannot be flouted with impunity, it is important to issue and list committal applications without delay. In terms of sentencing itself, the first court should not anticipate a likely future sentence. It is for the second court to reflect the prior sentence to ensure the defendant is not punished twice for the same thing. The Court of Appeal also drew attention to the difference between civil (and family) proceedings on one side, which are brought by the victim of

the conduct in question, and criminal justice system in which the victim has little control (at [45]).

21. Reference was also made to the decision of Ferris J in *Priority Stainless Steels Ltd, Secretary of State for Trade and Industry v Crane (No 2)* [2001] BCC 825. In that case Ferris J overturned a decision of a registrar to stay directors disqualification proceedings pending the outcome of pending criminal charges arising from the same facts. At [9] Ferris summarised the principles applicable, which included the proposition that a civil court has the jurisdiction to stay the civil proceedings if it appears that justice requires it. I respectfully agree with the principle identified. The question is always how it is to apply on the facts of a given case.
22. Standing back, it is clear from *Barnet v Hurst* and *Lomas v Parle* that there is no general principle that it would be unjust for there to be parallel proceedings for civil contempt and criminal proceedings relating to the same allegations. The nature and purposes of these proceedings differ, as do the objectives and ranges of sentences. Given the objective of civil contempt arising from breach of an order, it is important for the civil proceedings to go quickly and necessarily therefore it is unlikely to be unjust for civil proceedings to be heard first before criminal proceedings arising from the same allegations. The fact that the jury at the criminal trial may find the defendant not guilty of matters found proven in the civil court is an example of the two different systems operating as they should, and is not an injustice or prejudice to the defendant. It may well be (as the claimants submitted happened in the present case) that the evidence at the criminal trial is different from the evidence before the civil court.
23. The way the justice system as a whole normally addresses the potential for injustice arising from two sets of proceedings of this kind is to ensure that at the sentencing stage the second court is fully appraised of the first court's sentence, which is precisely what Recorder Benjamin Williams KC did in this case.
24. In this context I turn to *First Capital East Ltd v Plana* relied on by the appellant. That case concerned committal proceedings for contempt of court for making allegedly false statements of truth. These raise different considerations from committals for breach of a court order, and reflective of that, permission is required to bring them. At the application for permission the respondent relied on the fact that in criminal proceedings on the same facts, the alleged contemnor had been acquitted. The judge, Peter Hughes QC sitting as a Deputy Judge of the High Court, refused permission. The judge drew attention to the principle that contempt proceedings need to be brought with urgency, doubting that the application before him would have been made at all if the respondent had been convicted in the criminal trial. In my judgment this decision is entirely understandable given the context in which it arose but does not establish a principle distinct from anything in *Barnet v Hurst* and *Lomas v Parle*.
25. I would therefore dismiss ground 1 of the appeal in any case but there is another independent dimension to this ground which needs to be addressed. Ground 1 is really an attempt to appeal HHJ Venn's decision made on 12 August 2024 to refuse to stay the civil case in the light of the criminal proceedings. That decision was made in Mr Coates' absence under CPR r23.11 but once the order was made no application under CPR r23.11(2) was made to relist the application given that the order had been made that way. Moreover no attempt was made to appeal that 12 August decision either in

time or later, and while Mr Coates' original grounds of appeal raised a number of points, they do not raise this ground.

26. The way ground 1 is put in the amended grounds of appeal filed when counsel was instructed to represent Mr Coates in this court is that the judge "erred in proceeding to determine the civil contempt proceedings and sentence the appellant given the parallel proceedings in the Crown Court relating to the same facts". In other words the ground is carefully drawn as a submission that at the substantive contempt hearing on 17 September 2022 the judge erred, in effect in not taking the point of her own motion. Given what I has said so far, I can see no basis on which to conclude that the judge erred in continuing with the civil proceedings on 17 September. Therefore for all these reasons ground 1 is dismissed.

Ground 2 – concurrent or consecutive

27. In *McKendrick v Financial Conduct Authority* [2019] EWCA Civ 524 Hamblen and Holroyde LJJ together explained at [37] the appellate court's reluctance to interfere with decisions on sentence in contempt of court given its multifactorial nature.
28. In the present case the judge's judgment on sentencing starts at [45], following the decisions on the allegations of breach. The judge referred to and applied the general approach set out by the Court of Appeal in *Lovett v Wigan County Council* [2022] EWCA Civ 1631, in particular by examining the degrees of culpability and of harm associated with each breach relied on. No point was taken on this but I mention it because *Lovett* was a case about anti-social behaviour injunctions (ASBIs) and the guidance set out in the judgment of the court on that occasion (given by Andrews LJ, Edis LJ and me) was expressly focussed only on those circumstances (see also *Allami v Fakher* [2023] EWCA Civ 532 at [29]). Nevertheless applying *Lovett* in this way was supported by the Court of Appeal on appeal from HHJ Venn's earlier decision dealing with the first contempt application against Mr Coates, on 26 October 2023. Although the length of the sentence imposed on the first occasion was found to be manifestly excessive by the Court of Appeal, that court did not criticise the application of *Lovett* and applied the same principles (see [26] to [32] of Peter Jackson LJ with whom Newey and Nugee LJJ agreed).
29. As the present case also shows, the principles in *Lovett* and the structured approach can be applied in cases other than ASBIs, but I wish to emphasise that they do not have to be. It also bears emphasising that the particular lengths of sentences in *Lovett* are derived from and are focussed upon the ASBI context in particular.
30. The judge went through the various proven breaches, classified them in terms of culpability and harm and identified what a sentence might be for that breach. Then at [75] the judge expressly took into account the totality principle and whether any of the sentences should be consecutive or concurrent. The judge identified, from the Sentencing Council Guidelines, the principle that concurrent sentences are usually appropriate for offences or incidents arising out of the same instances or facts, and that the lead sentence has to be just and proportionate overall for the level of criminality. HHJ Venn accepted the submission of counsel for the claimants that the various proven breaches arose from distinct facts and the only thing which ties them together is the fact that they all ultimately come out of a boundary dispute. Therefore the judge held that

it would not be right to impose concurrent sentences. Overall applying the totality principle she reduced the sentence to 448 days from the aggregate of 546.

31. It cannot be said that the judge did not have the question of concurrent or consecutive sentencing firmly in mind. However on appeal counsel for Mr Coates take two points. First he contends that these incidents ought properly to be regarded as arising from the same facts for the purposes of the question and second he draws a comparison with the decision of the Recorder in which he held that the two sentences for the proven offences should run concurrently rather than consecutively.
32. Standing back, in my judgment a sentence of 64 weeks is well within the range of sentences the judge might have imposed in this case given the numerous proven civil contempts, some very serious, and also crucially bearing in mind this is the second contempt application and noting the Court of Appeal's warning on that first appeal (see above).
33. The judge was entitled to view the various allegations as distinct incidents and in dealing with them in that way by adding up individual sentences for each then standing back and reflecting on the overall result. Another way of looking at the case would have been to view the conduct as a whole as stemming from the neighbour dispute and reaching a single sentence in the round. Done that way the single sentence would be in very much the same range as the result the judge arrived at, but would not raise a question of concurrent as opposed to consecutive sentencing. I prefer the judge's approach, which I cannot fault, but I recognise others might deal with the matter differently. Given the importance of securing compliance with court orders as an objective of sentencing for civil contempt, either method could be used. This distinction illustrates why drawing an analogy with the approach of the Recorder does not assist. The two criminal sentences the Recorder held to be run concurrently were punishments for the offences concerned and each was much longer than the maximum sentence for civil contempt. The fact the Recorder decided they should run concurrently does not undermine HHJ Venn's approach.

Conclusion

34. I would dismiss the appeal on both grounds. These grounds were advanced by counsel instructed to represent Mr Coates on the appeal and were the only grounds pressed on his behalf. In preparing this judgment I also reviewed Mr Coates original grounds of appeal. None of the matters raised there would have justified allowing the appeal.

Lord Justice Zacaroli:

35. I agree.