

Hammerton v Hammerton (2007)

[2007] EWCA Civ 248

23/03/2007

Barristers

Charles Hale KC

Court

Civil Division

Facts

In the absence of unreasonable behaviour a litigant in person who was liable to be sent to prison for contempt of court was entitled to legal representation. Although there would be cases, of which the instant case was an example, where allegations of breaches of an undertaking or court order were relevant to contact proceedings and to committal proceedings, it would seldom be right to hear the proceedings for committal at the same time as the contact proceedings.

The appellant (H) appealed against a decision committing him to prison for three months for breach of an undertaking and breach of a court order. H had separated from his wife and had issued an application for contact with two of his children. He had given an undertaking not to contact or communicate with his former wife, her mother or father, nor her solicitors in any way whatsoever except through his own solicitors, and the county court had made an order forbidding H to use or threaten violence against his former wife and not to instruct, encourage or in any way suggest that any other person should do so, and forbidding him to intimidate, harass, or pester her and not to instruct, encourage or in any way suggest that any other person should do so. H's former wife had filed a notice to show cause alleging nine breaches of the undertaking or the order. H's application for contact and his former wife's application to commit were heard at the same time. H was unrepresented. The judge made an order for indirect contact. On the committal application he found eight of the nine breaches proven. Despite the fact that H was unrepresented, the judge committed him to prison.

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