

ENGLAND AND WALES / JUDGMENT

Lee Mavin v Kare Wyatt

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Neutral Citation Number: [2026] EWCA Civ 585 IN THE COURT OF APPEAL (CIVIL DIVISION) ON APPEAL FROM MILTON KEYNES AND OXFORD COUNTY COURT HH Judge Clarke K3PP6075
Case No: CA-2025-001864 Royal Courts of Justice Strand, London, WC2A 2LL Date: 8 May 2026
Before : LORD JUSTICE BAKER and LORD JUSTICE SNOWDEN

- ----- Between : LEE MAVIN

- and - KAREN WYATT

- -----

- ----- Appellant Respondent Christopher Jacobs (instructed by Scott-Moncrieff and Associates) for the Appellant Osaro Richards (of Crystals Solicitors) for the Respondent Hearing date: 8 May 2026

- ----- Approved Judgment Judgment Approved by the court for handing down. Double-click to enter the short title LORD JUSTICE BAKER : 1. 2. 3. 4. 5. On 17 April 2026, we handed down judgment in an appeal by Lee Mavin against two orders of HHJ Melissa Clarke sitting in the Milton Keynes and Oxford County Court. Under the first order dated 16 April 2025 (“the contempt order”), the judge found Mr Mavin in contempt of court on seven counts. Under the second order dated 25 June 2025 (“the sentencing order”), she sentenced him to 9 months’ imprisonment, to take effect immediately. Our judgment is reported as Mavin v Wyatt [2026] EWCA Civ 448. By the order made following the hearing on 17 April, we allowed the appeal against two of the seven counts in the contempt order (counts 6 and 7) but dismissed the appeal in respect of the remaining five counts. We concluded that the procedural irregularity that led us to set aside counts 6 and 7 also infected the judge’s sentencing decision and that the sentencing exercise should therefore be carried out again. We considered whether we should remit the matter to the judge for re-sentencing but concluded that we would be in an equally good position to determine the sentence and, with the agreement of the parties, listed the matter for a further hearing before us today to determine the appropriate sentence. The background to the case is fully set out in the earlier judgment and will not be repeated in detail here. The contempts arise out of Mr Mavin’s fraudulent misuse of the debt respite scheme known as “Breathing Space”, established under the Debt Respite Scheme (Breathing Space Moratorium and Mental Health Crisis Moratorium) (England and Wales) Regulations 2020, made under section 7 of the Financial Guidance and Claims Act 2018, under which a debtor can get temporary protection from their creditors for up to 60 days. During that period, no

enforcement action can be taken against the debtor. The criteria for entering a scheme include a provision that the debtor applying to enter the scheme has not been subject to another such moratorium in the period of 12 months before the date of the application. As described in the earlier judgment, in September 2022, Mr Mavin, together with another tenant, rented a property in Aylesbury from the respondent to this appeal (the claimant in the proceedings) under an assured shorthold tenancy at a rent of £1,000 per calendar month. The rent went unpaid and the respondent took possession proceedings. As described in the earlier judgment, Mr Mavin through a series of fraudulent representations was able to enter a breathing space moratorium on several occasions, as a result of which, as described in the earlier judgment, the respondent's attempts to obtain possession of the property were frustrated and the arrears of rent accumulated. It was not until 21 November 2023 that Mr Mavin was finally evicted from the property. By that stage, the arrears of rent exceeded £23,000. The respondent started committal proceedings, which had a tortuous history as described in my earlier judgment. On 16 April 2024, in Mr Mavin's absence, Judge Clarke found him in contempt of court on seven counts and adjourned sentence to a further hearing. After further difficulties, also described in my earlier judgment, the sentencing hearing took place, also in Mr Mavin's absence, and he was sentenced as set out above. Judgment Approved by the court for handing down. Double-click to enter the short title 6. 7. After a delay, Mr Mavin appealed against the findings and sentence, the sentence was stayed pending appeal and, after further delays, all described in my earlier judgment, the appeal was finally heard on 19 February 2026, with the outcome as set out above. Prior to shortly before the appeal hearing, Mr Mavin had been acting in person. Fortunately, at the hearing in February and at the hearing today, through the assistance of Advocate, he has had the benefit of representation by Christopher Jacobs of counsel instructed by Adam Tear of Scott-Moncrieff & Associates, initially on a pro bono basis and then with the benefit of legal aid. As a result, his appeal has been presented with clarity and professionalism. We are grateful to Mr Jacobs and Mr Tear for their assistance in this case. 8. The findings for which Mr Mavin now falls to be sentenced, as summarised by Mr Jacobs, are as follows: Count One - On 13 February 2024, Mr Mavin sent an email to the court giving details of another breathing space moratorium which he claimed to have entered and, as a result, the enforcement proceedings were halted (by bailiffs). HHJ Clarke found that Mr Mavin acted knowing that the details were false and in order to stop the eviction, and that by so acting Mr Mavin unlawfully interfered with the due administration of justice. Counts Two and Three - On 23 April 2024, Mr Mavin entered a further breathing space moratorium with a different debt advice provider and deployed it to prevent a lawful eviction. The moratorium was cancelled a few weeks later when the provider discovered that he was ineligible. The judge found that Mr Mavin had entered the breathing space, and deployed it fraudulently, to avoid lawful eviction, and that by doing so he prevented the eviction and therefore interfered with the due administration of justice. Count Four - On 16 May 2024, Mr Mavin again misrepresented to bailiffs that he had entered a breathing space moratorium and provided a false reference number. The judge found that he had again acted in this way to avoid eviction and thereby unlawfully interfered with the due administration of justice. Count Five - On 25 July 2024, Mr

Mavin and his co-defendant filed an application to suspend the warrant of possession. That application was listed for hearing on 29 July 2024, but in the event neither applicant attended court. Instead, Mr Mavin sent an email to the court stating that he had entered a breathing space moratorium, giving a false reference number and attaching a print-out falsely purporting to be a gov.uk document as evidence in support. As a result, the hearing was adjourned, and the eviction suspended, until 2 October 2024. The judge found that Mr Mavin had used forgery, deception and misrepresentation to induce the court to suspend the eviction, and that by this conduct he unlawfully interfered with the due administration of justice. 9. Under section 14 of the Contempt of Court Act 1981, a sentence of imprisonment passed by a superior court for contempt of court must not on any occasion exceed two years. The principles to be applied were summarised by Coulson LJ in *Bruce v Wychavon District Council* [2023] EWCA Civ 1389 at paragraph 63. First, the court must consider culpability, to see whether the custody threshold has been passed. Judgment Approved by the court for handing down. Double-click to enter the short title Secondly, if the threshold has been passed, the court must determine the least period of committal which properly reflects the seriousness of the contempt of court. Thirdly, having identified the appropriate length of the term, the court must consider whether that sentence should be suspended. At paragraph 72, Coulson LJ, by reference to Sentencing Council Guidelines in criminal cases, cited three factors which, if present, may indicate that suspension is appropriate, namely a realistic prospect of rehabilitation; strong personal mitigation; and the fact that immediate custody would result in significant harmful impact to others. 10. In *Lovett v Wigan Borough Council (Re Breaches of ASBIs)* [2022] EWCA Civ 1631, Birss LJ said (at paragraph 43): “The concept of a custody threshold, as used in criminal sentencing, has application here, bearing in mind that the civil context has its own objectives and range of penalties. Custody should be reserved for the most serious breaches, and for less serious cases where other methods of securing compliance with the order have failed. It is good practice to consider a penalty for each breach found proved, and the terms of imprisonment may be concurrent or consecutive to each other. Nevertheless consideration must also be given to the totality of the penalties imposed. Simply adding up what may well be appropriate penalties for each individual breach is likely to lead to an excessive total. A custodial sentence should never be imposed if an alternative course is sufficient and appropriate. If the court decides to impose a term of imprisonment, that term should always be the shortest term which will achieve the purpose for which it is being imposed.” 11. 12. Birss LJ proceeded to cite the approach to culpability and harm recommended by the Civil Justice Council, based on the Sentencing Council’s model, with three levels of culpability and three levels of harm: see paragraphs 47 to 57, with a helpful grid at paragraph 54. Dealing first with culpability, Mr Jacobs realistically concedes that the custody threshold is crossed in this case. In passing judgment in June 2025, HHJ Clarke observed: “In this case all of [Mr Mavin’s] acts were intentional and some included significant premeditation and sophistication in the production of forged documents purporting to be from government sources. Accordingly, I consider his culpability to be high and towards the top of the range.” Mr Mavin repeatedly deceived the court and others by pretending to be legitimately entitled to a breathing space moratorium.

He used a series of different agencies to perpetrate the deceit and on one occasion presented forged documents. His actions were deliberate and in my view there can be no doubt that he realised the seriousness of what he was doing. His deceits amounted to a flagrant interference in the administration of justice. The breathing space scheme provides a valuable lifeline for people struggling with the anxieties and stresses caused by debt. Creditors such as the Judgment Approved by the court for handing down. Double-click to enter the short title 13. 14. 15. 16. 17. respondent have to forego the enforcement of their rights because society deems it important that vulnerable people facing the many hardships caused by debt have the opportunity to get back on their feet. Abuse of the kind perpetrated by Mr Mavin undermines the scheme. As a result of Mr Mavin's contempts, the respondent was deprived of the enjoyment of her property and the opportunity to relet or sell it for many months. She also experienced the frustrations and anxieties of the prolonged proceedings to recover the property. This is a significant degree of prejudice and harm caused by Mr Mavin. In all the circumstances, a custodial sentence is inevitable. In my view the degree of culpability is high – very serious and persistent contempt – and the level of harm, to the respondent and to the administration of justice, is very serious harm. Applying the CJC guidelines, the starting point for a single offence would be 6 months and in my view that is also the shortest appropriate sentence for each of the five offences, to be served concurrently, taking into account all the matters urged upon by way of mitigation and the totality principle. It is shorter than the 9-month sentence imposed by the judge. It should be noted that the number of offences for which sentence is being passed is smaller (5 instead of 7) and the time period of the offending is shorter (5 months instead of 9). But the degree of culpability and harm is substantially the same. The real issue in this case is whether the sentence should be suspended. The factors to consider are, as already mentioned, whether there is a realistic prospect of rehabilitation, strong personal mitigation, and whether immediate custody would result in significant harmful impact to others. In assessing these matters, we have the benefit of a helpful report from Dr Karim (forensic psychiatrist) and a statement in mitigation from Mr Mavin, plus detailed written and oral submissions from Mr Jacobs. Dr Karim had access to the court papers and Mr Mavin's medical records, and interviewed him via video link. She referred to Mr Mavin's difficult childhood and traumatic abusive experiences which are described in the document but need not be spelt out here – we have them firmly in mind. On Mr Mavin's account, in this statement and repeated to Dr Karim, those experiences have had a chronic impact on him as an adult and he has suffered adverse mental health at various stages, with some occasions of suicidal thoughts and incidents of self-harming, and more frequently anxiety, flashbacks and low mood. His evidence (not confirmed in the medical report) was that he has undergone CBT in the past. Dr Karim refers to his being referred for group therapy in 2024, but he only attended 2 out of 6 sessions. His medical records disclosed episodes of cardiac problems and occasions when he has been prescribed anti-depressants. Although he has attended hospital on a number of occasions – some on dates when he was due in court – he has not, so far as I read Dr Karim's report, been admitted at any stage. 18. Dr Karim reached the following conclusions, based as I read them, principally on Mr Mavin's self-reporting with some support from his medical

records: "Mr Mavin has poor coping skills, and often struggles to manage even small stressors. This often leads him to feeling Judgment Approved by the court for handing down. Double-click to enter the short title hopeless, helpless and trying to seek support, often in the wrong way. In addition he has a history of poor emotional regulation, emotional instability (unpredictable variations in mood, both happy/sad), impulsivity (doing things on impulse and without consideration of the consequences), and acts of self-harm and suicidality. These symptoms are suggestive that Mr Mavin suffers with strong traits of Emotionally Unstable Borderline Personality Disorder. He would benefit from psychological work to help him strengthening his coping skills, and help him to regulate his emotions better. This could be done via the CMHT or community based psychological therapies.... Following the review of the history given to me by Mr Mavin, and his medical and psychiatric records his symptoms would meet the criteria for moderate depression (currently well treated). It is clear his mood symptoms seem to be reactive to his life events and although presently well managed on a low dose of an antidepressant, there is a risk that if not given the right support, further life events may trigger further relapses. He has however always sought the support of external services, has a good social support system and seems to have a good level of insight into his illness which are protective.... Mr Mavin's records indicate an established diagnosis of Post Traumatic Stress Disorder (PTSD).... [He] has reported that he struggles in a locked door environment and there is a risk that he would deteriorate and unravel in a custodial setting. He himself feels this would set him back, and certainly is keen to avoid this. He has stated that he would comply with all conditions set to him, and given his level of insight and a more stable mental state, I believe he is more likely to comply with conditions imposed in a community setting." 19. In his mitigation statement, Mr Mavin says that he takes responsibility for what he has done. He expresses remorse and apologies to the respondent and to the court. It is to his credit that he does so, but the fact is that he has not accepted responsibility until recently and did not express remorse to the respondent or the court at any point before this statement was filed. In the statement he says: "I want the Court to know that I have learned from this experience. I am not someone who has a pattern of defying the Court. I made mistakes when I was overwhelmed and unwell, and I regret them deeply."

20. Mr Mavin describes his personal history in similar terms to those in Dr Karim's report, and adds: "At the time of these events my life had completely collapsed. I was facing homelessness, with no income except Universal Credit. I had no family support. I was desperately trying to Judgment Approved by the court for handing down. Double-click to enter the short title avoid being on the streets and was terrified of losing what little stability I had left. I made extremely poor decisions under pressure." Mr Mavin says, however, that he has now turned his life round. He is in Housing Association accommodation. He plans to press ahead with therapy and is receiving medical help with his mental health problems.

21. Mr Mavin says that, because of his PTSD and physical health problems, he would not cope well in custodial settings. During the course of the proceedings, he has spent two brief periods in custody which, he says, had an adverse effect on him. He stresses the adverse effect a sentence of imprisonment would have on his father, to whom he speaks every day. His father is unfortunately seriously ill and being cared for by Mr Mavin's mother. Mr Mavin has not told him that he faces prison and fears that a custodial sentence would cause his parents great distress and prevent him from providing them with support. 22. 23. All those points, developed by Mr Jacobs in submissions, must be taken into consideration. I regret to say, however, that they do not persuade me that the criteria for suspending the sentence are met in this case. Although Mr Mavin says he has committed to therapy, he has not yet accessed it and his past record does not provide convincing evidence that he will do so. I am also not persuaded that there is strong personal mitigation here. There is no independent evidence to corroborate Mr Mavin's account about his father – he says he has not told him of his predicament – but even taking Mr Mavin's account at face value, while I accept that immediate custody would be a source of great distress to his parents, I do not consider that it would result in the degree of significant harmful impact to others which would justify suspending this sentence. Mr Mavin may be providing a degree of emotional support to his father, but is not taking a direct role in his care. Taking all the circumstances into account, if my Lord agrees, the sentence of the court is therefore 6 months' imprisonment on each count to be served concurrently and to take effect immediately. It is not appropriate to make any deduction for the time of less than one day that Mr Mavin spent in custody earlier in these proceedings, but under section 258 of the Criminal Justice Act 2003, one half of the custodial term will be served in prison before automatic release. SNOWDEN LJ 24. I agree.

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