



IN THE COURT OF APPEAL, CIVIL DIVISION

REF: CA-2025-002562

DAVID –v– KHAN



CA-2025-002562

ORDER made by the Rt. Hon. Lord Justice Foxton

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal against the Judge's decision of 16 October 2025.

Decision: Application for permission to appeal and for production of documents and stay of costs order refused.

Reasons

1. The applicant (A) seeks permission to appeal against the order of Stacey J (“the Judge”) of 15 October 2025 in which the Judge held that she was satisfied to the relevant standard that A was guilty of contempt of court and adjourned the committal application for sentence. The Judge also ordered A to pay £80,000 of costs.
2. R commenced proceedings in England and Wales seeking to enforce a judgment it obtained against A in the USA. R obtained a freezing injunction and an order appointing a receiver over assets of A within this jurisdiction from Calver J on a without notice basis. The order required A to produce an affidavit setting out his financial position. The injunction was later continued on an “on notice” basis by Freeman J. No affidavit was provided nor the full disclosure ordered.
3. R brought an application to commit A for contempt of court for failing to comply with the injunctions. On 23 July 2025, Cotter J adjourned that application after a day's hearing, giving A a further opportunity to comply. There was no compliance with the requirement to provide an affidavit and the committal application was listed before Stacey J who found the contempts proved. A now seeks permission to appeal against Stacey J's order.
4. For the purposes of this application A has filed a very substantial body of material with the court. Having read through that material (including, for the avoidance of doubt, the “All-in-One Master Filing Document” of 29 March 2026) I am satisfied that it is appropriate to determine the very limited issues arising on this application in the usual way, on paper. I am also satisfied that none of A's grounds have a realistic prospect of success and that there is no other compelling reason for granting permission to appeal.
5. It is striking that none of the grounds of appeal directly challenge the Judge's conclusion that A failed to comply with the court's orders.

Ground 1: failure to engage material evidence

6. It is clear A filed a substantial body of irrelevant material as A did for this application. The Judge is not obliged to rehearse every document placed before the court where it has no material relevance to the issues to be decided. The Judge offered sufficient reasons for the conclusions reached. A has been unable to point to any material before the Judge of material relevance to those conclusions which was not dealt with.

Ground 2: failure to apply the Equality Act 2010

7. The Judge accepted that A had suffered a TBI and specifically considered the potential impact of this issue on the fairness of the proceedings. The Judge confirmed at [18] that she had taken steps to confirm A was able to follow the proceedings and participate fully. There is no

reasonable basis for challenging that assessment on an appeal. The material filed by A and the points made by A before the Judge provide no support for the suggestion that some further (unidentified) adjustments were reasonably required for A to be able to participate fairly and effectively in the hearing.

8. As the Judge noted at [28], Cotter J had previously found A to have the capacity to participate in an effective and fair way in these proceedings.

Ground 3: failure to determine service

9. The Judge noted that she had made orders for substituted service of the committal application and had made orders deeming service of that application to be effective ([2]). No timely challenge to those orders was brought. So far as service of the original orders are concerned, the Judge addressed this at [25], [26] and [29].
10. In any event A participated at the hearing before the Judge and was clearly aware of the nature of the application and the evidence relied upon. A has engaged either personally or through legal advisers with prior stages of the proceedings including the hearing before Cotter J on 23 July 2025.
11. To the extent this concerns criminal allegations as to the circumstances of service, which are strongly denied by R's solicitors, those should be raised with the police. There is nothing which undermines the Judge's conclusion that A was effectively served with the relevant documentation.

Ground 4: the costs order was disproportionate

12. R filed a schedule of costs for the hearing on 9 October 2025 in the amount of £71,465.24 and a schedule for the hearing on 16 October 2025 in the amount of £44,853. The Judge assessed the costs of the entire committal application to date at £80,000.
13. Having seen the volume of material A has filed in relation to this application, it is easy to see why R has had to incur very significant legal expenses in dealing with it. The figure of costs award - £80,000 – is modest compared with the litigation burden A has imposed.

New evidence or inability to adduce evidence

14. A identifies no evidence of material relevance to the issues actually before the Judge at the 16 October hearing. A had ample opportunity to adduce evidence as to his knowledge of and purported compliance with the Court's orders.
15. None of the further evidence A seeks to rely upon meets the requirements of being (i) evidence materially relevant to the issues which (ii) could not by the exercise of due diligence have been placed before the Judge. The material is aimed at the issue of whether the US judgment was appropriately entered. However that issue was not before the Judge and material going to that question is of no relevance to the issue the Judge had to decide.

Ground 5: parallel proceedings

16. Cases addressing pending proceedings in other jurisdictions are of no relevance to this case, which involved an application to commit for breaches of orders of the High Court. Only the High Court has jurisdiction to determine such applications and it has a special interest in ensuring its orders are complied with.
17. The Judge was right to focus on the issue before this court, and not to be drawn into irrelevant issues concerning proceedings in other jurisdictions. Whatever the rights and wrongs of those other proceedings, the High Court in this jurisdiction made an order which A is obliged to comply with. A has not done so.

A's application for production of documents

18. A has also sought an order requiring R to produce all original correspondence and statements, for the purposes of challenging the Judge's costs order. As I have refused permission to appeal against that order, this application falls away. In any event the relief sought was wholly disproportionate and no basis for it was made out. R's costs application was supported by a schedule of costs in approved form certified by solicitors who owe a duty to the court. The hugely valuable jurisdiction summarily to assess costs would be rendered futile if, for no objectively sufficient reason, the successful party had, in effect, to do the work which a detailed assessment would have required. Even a detailed assessment would not have required the level of disclosure A seeks.
19. The order seeking a stay of the costs order pending production of this material is, in these circumstances, refused, there being no basis to order production.
20. If A was assaulted at the hearing, as he claims, he should report the matter to the police for investigation. Such an allegation does not provide a basis for impugning the Judge's order.

Information for or directions to the parties

Court of Appeal Mediation Scheme (CAMS)

Where permission has been granted or the application adjourned:

a) Does the case fall within the Automatic Referral Scheme (see below)? Yes/No (delete as appropriate)

| <u>Automatic Referral Scheme categories:</u> | |
|---|---|
| <ul style="list-style-type: none"> • All cases involving a litigant in person (other than immigration and family appeals) • Personal injury and clinical negligence cases; • All other professional negligence cases; • Small contract cases below £500,000 in judgment (or claim) value, but not where principal issue is non-contractual; | <ul style="list-style-type: none"> • Boundary disputes; • Inheritance disputes. • EAT Appeals • Residential landlord and tenant appeals |

b) If yes, is there any reason not to refer to CAMS mediation under the Automatic Referral Scheme? Yes/No (delete as appropriate)

c) If yes, please give reason:

d) Cases outside the Automatic Referral Scheme: Do you wish to make a recommendation for mediation? Yes/No (delete as appropriate)

Where permission has been granted, or the application adjourned

a) time estimate (excluding judgment)

b) any expedition

Signed: BY THE COURT
Date: 13 April 2026

Notes

- (1) Rule 52.6(1) provides that permission to appeal may be given only where –
- a) the Court considers that the appeal would have a real prospect of success; or
 - b) there is some other compelling reason why the appeal should be heard.
- (2) Where permission to appeal has been refused on the papers, that decision is final and cannot be further reviewed or appealed. See rule 52.5 and section 54(4) of the Access to Justice Act 1999.
- (3) Where permission to appeal has been granted you must serve the proposed bundle index on every respondent within 14 days of the date of the Listing Window Notification letter and seek to agree the bundle within 49 days of the date of the Listing Window Notification letter (see paragraph 21 of CPR PD 52C).