CASE NOTES:
O'Connell v Ministry of Defence

ADDUCING UNDERLYING JUDGMENTS IN CONTEMPT PROCEEDINGS: *MINISTRY OF DEFENCE V O'CONNELL* 2026] EWHC 2683 (KB)

In *Ministry of Defence v Debbie O'Connell* [2026] EWHC 2683 (KB), Sweeting J dismissed an application to exclude from a committal trial the judgment dismissing Ms O'Connell's personal injury claim and finding it fundamentally dishonest. The judgment contains an illuminating examination of the approach to judgments from earlier proceedings in subsequent contempt applications, seeking to reconcile the disparate authorities in this area.



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Background

The underlying claim arose out of a riding accident suffered by Ms O'Connell whilst serving in the King's Troop Royal Horse Artillery. Following an eight-day High Court trial before Christopher Kennedy KC, sitting as a Deputy High Court Judge, the claim was dismissed and findings of fundamental dishonesty were made against the claimant. The Ministry subsequently commenced contempt proceedings against Ms O'Connell.

The question whether the "Kennedy Judgment" should form part of the material available to the judge hearing the committal proceedings came before Sweeting J at a PTR. The Defendant contended that it should be excluded entirely. The Ministry argued that it was admissible, whilst accepting that the contempt allegations would have to be proved independently and to the criminal standard.

The Defendant's position – reliance on *Ajao*

The Defendant's submissions rested principally on Martin Spencer J's decision in *Commerzbank AG v Ajao* [2025] EWHC 1914 (KB), in which a prior employment tribunal judgment containing heavily critical credibility findings had been excluded from contempt proceedings. The Defendant also appealed to the principle derived from *Hollington v F Hewthorn & Co Ltd* [1943] KB 587 that findings in earlier proceedings are not generally admissible as evidence of the truth of the facts found. It was argued that fairness required the committal judge neither to read nor be influenced by the Kennedy Judgment.

Admissibility and weight

The central theme of Sweeting J's judgment is the distinction between admissibility and weight.

The judge identified what he considered to be a difficulty at the heart of the Defendant's position. During argument, leading counsel for the Defendant had accepted that no unfairness arose merely because a judge was aware, from previous acquaintance with it, of the existence and contents of the Kennedy Judgment. If that was right, the question ceased to be whether the trial judge should somehow be insulated from the judgment and became instead what legitimate use could be made of it.

That question, the judge held, is answered not by exclusion but by recognising that findings in earlier proceedings are not binding and that contempt allegations must be proved afresh and to the criminal standard. It was a matter of the weight to be attached to the content of the judgment.

A careful reading of the authorities

The court reviewed a large number of authorities in this area, from *Hollington* through to *Super Max Offshore Holdings Ltd v Malhotra* [2018] EWHC 2979 (Comm), and *Ajao*.

Particular reliance was placed on Cockerill J's observations in *Super Max*, treating relevance as the key criterion for admissibility, and distinguishing between treating an earlier judgment as determinative and having regard to findings of primary fact and giving them whatever weight the court thinks fit.

What about *Ajao*

Sweeting J held that *Ajao* had to be read in its factual context. It was not authority for a universal rule that judgments from earlier proceedings become inadmissible whenever they have determined questions of honesty or credibility.

Indeed, such a rule would sit uneasily with earlier authorities and would, in practice, create a *de facto* exclusionary rule, shutting out precisely the judgments most likely to give rise to later committal proceedings.

The court also pointed out that Martin Spencer J had himself taken a different approach in *Aviva Insurance Ltd v Kovacic* [2017] EWHC 2772 (QB), permitting reliance upon findings made in earlier proceedings. Accordingly, the authorities addressed matters of relevance, purpose and weight rather than prescribing rigid exclusion.

Context and pragmatism

The court observed that substantial civil litigation frequently spans years, generates extensive documentary material and culminates in lengthy judgments. In many such cases the judgment provides the essential framework needed to understand later allegations. Requiring parties and judges to reconstruct the entire architecture of the underlying litigation from first principles would be artificial, inefficient and unnecessary.

The Kennedy Judgment, the court held, performed an important contextual function. It identified the issues, explained the course of the litigation and recorded the findings that ultimately prompted the contempt application. That contextual relevance was sufficient to justify its admissibility.

Why It Matters

The judgment clarifies and confirms that the admissibility of an earlier judgment turns upon relevance, and that an underlying fundamental dishonesty judgment will frequently form an important part of the factual and procedural background to a related contempt application. Most importantly, it reaffirms that the true protection against unfairness lies not in exclusion but in judicial discipline: The later tribunal must reach its own conclusions on the evidence before it.

Niazi acted for the Ministry of Defence, leading Matthew Leitch of 1 Crown Office Row, They were instructed by Keoghs LLP.

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