

News Release

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Human rights victory to help parents unjustly jailed by CSA

Two North West lawyers have won a major human rights battle at the Court of Appeal to protect parents from being unjustly jailed by the Child Support Agency (CSA).



Stephen Lawson

Cheshire solicitor Stephen Lawson, a child support specialist and partner at QualitySolicitors Forshaws Davies Ridgway, and Liverpool barrister Matthew Stockwell, from St Johns Buildings Chamber, worked with QC Richard Gordon to bring two test cases before the Court of Appeal five months ago.

The Judgment issued today by three judges, Lord Justices Ward, Richards and Patten directs the Child Support Agency to review “as a matter of urgency” its current legal procedures for making applications to send parents to prison when they fail to keep up maintenance payments.

In the judgement, Lord Justice Ward condemned the lack of robustness and confusion in the current legal practices as “obnoxious” and “unreasonable” and stated: “the procedures adopted do not comply with the rights to a fair trial and were flawed.” The ruling also recommends suspended sentences should now be limited to a maximum of two years.

This means two fathers, Mr Kambiz Karoonian, on appeal from the Liverpool Family Court, and Mr Christopher Gibbons, on appeal from the Manchester Family Court, have now had the threat of prison quashed, although they both still owe child maintenance arrears.

Mr Lawson, who is based in Frodsham, is delighted with the judgement. He said: “This case was always about fairness and justice. I hope this ruling will now end the unjust practice of non-resident parents, usually fathers, being jailed or threatened with jail without the opportunity to



Matthew Stockwell

defend themselves properly. It is outrageous this has been happening in Britain in the 21st century.

“Parents may have heard nothing from the CSA for many years and then suddenly out of the blue they receive a demand for thousands of pounds. Many are simply unable to pay and are met with an application to put them in prison or disqualify them from driving.

“In another recent case, a father was arrested, taken to court and sent to prison all on the same day, with no opportunity to challenge the evidence against him. The CSA has been sending summons notices through the post, often to an old address, so this has led to some parents being tracked down and arrested, knowing nothing of the court proceedings. And the onus has been on the parent to prove why he shouldn't be sent to prison, which reversed the traditional burden of proof.

“The ruling means the burden of proof, the serving of summons notices and disclosure of documents will now be improved to a level similar to criminal proceedings – which is only fair if people are threatened with the ultimate sanction of imprisonment.”

The appeal centred on the case of two fathers. Mr Gibbons was appealing against a prison sentence of 21 days, suspended for 11 years, for non-payment of £2,895, issued on 3 August 2011, and Mr Karoonian was appealing against a suspended prison sentence of 42 days for non-payment of £10,959.21 - an amount he still disputes.

Mr Karoonian is relieved and delighted to have the threat of prison removed. He claimed the CSA harassed him and his current family so much, the stress led to his current marriage breaking down - a tragedy for his two small sons, aged four and six. He believes he is a responsible father and says he is in regular contact with his three daughters aged 19, 16 and 14, from two previous relationships. But after years of being unemployed or in low paid jobs he disputed the CSA's interim assessments and firmly refutes he owes this level of arrears.

“The CSA were phoning every day, saying you are not a good father, demanding me to pay all the time. It felt like harassment. On the phone they were not professional – they were like loan sharks demanding their money. The stress caused by the CSA was the main reason why my wife and I separated,” he said.

The Department of Work and Pensions may apply for leave to appeal to the Supreme Court.

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EDITOR'S NOTES:

About Quality Solicitors Forshaws Davies Ridgway

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