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## Exclusive Brethren member not jailed

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AN APPEAL court has removed the threat of jail from an Exclusive Brethren mother who repeatedly flouted orders to give the father access to three of her children.

In February, Family Court justice Robert Benjamin convicted the mother, sentencing her and one of her elder sons and son-in-law to suspended jail sentences for failing to turn the children over to their father, who has left the sect.

But three judges of the Family Court last week overturned the four-month suspended sentences, saying they were too harsh, and that Justice Benjamin had failed to explain why the breach was so serious that it warranted jail.

The judges did not impose a new penalty on the mother, instead calling for another court date to hear arguments about what the penalty should be.

The son, 22, and the son-in-law won their appeals against their penalties for aiding and abetting the mother.

Meanwhile, the two children, 12 and 8, have not been produced for access visits for the past two months, and the father will take the mother to court again later this month over two more alleged breaches.

A panel of three family court judges was highly critical of Justice Benjamin, who had justified his sentence in February by saying his access orders had been blatantly flouted.

"What happened in this case is that the court said to these people, 'Do not breach these orders', in circumstances where the finding was clear that the separation of the children and their father was at the higher end of emotional abuse," Justice Benjamin said in February.

"I made it absolutely clear. Yet some two or three weeks later, a breach occurred. In this case a term of imprisonment is entirely appropriate."

But the panel, made up of the Family Court's deputy Chief Justice, John Faulks, with Joseph Kay and Julienne Penny, said that since the case involved the strong beliefs of the Exclusive Brethren, it was "hardly surprising" that there would be difficulties in ensuring that the orders were "smoothly implemented".

Rather than a suspended jail sentence, a rethink of "some of the mechanics of the orders" was appropriate, the judges said.

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