

IN THE COUNTY COURT
SITTING AT GLOUCESTER & CHELTENHAM

Claim No. B00GL206

2 Kimbrose Way
Cheltenham
GL1 2DE

Friday, 24th April 2015

Before:

DISTRICT JUDGE DAVIS

Between:

GUINNESS PARTNERSHIP

Claimant

-v-

LOUISE GARDNER

Defendant

Counsel for the Claimant:

MR IAN WIGHTWICK

Solicitor for the Defendant:

MR STEVEN YOUNG

JUDGMENT APPROVED BY THE COURT

Transcribed from the Official Tape Recording by
Apple Transcription Limited
Suite 204, Kingfisher Business Centre, Burnley Road, Rawtenstall, Lancashire BB4 8ES
DX: 26258 Rawtenstall – Telephone: 0845 604 5642 – Fax: 01706 870838

Number of Folios: 14
Number of Words: 974

JUDGMENT

A

DISTRICT JUDGE DAVIS:

B

1. I am concerned today with the case of Guinness Partnership v Gardner. It is a case that has been brought back before me because of a breach of an injunction. That injunction was made by Deputy District Judge Payne on 17th April. It was made without notice and it was served by way of personal service at 17:20 on 17th April, so that injunction has been in force. The application before me today is for breach. That breach is effectively accepted.

C

2. The statement of Caroline Coombes sets out the factual background which led to the arrest of Miss Gardner by the police officer, Mark Love. He is in attendance today. He has confirmed the arrest and the details of it. I have also, I should say before going any further, had a chance to read the statement of Neil Duffy, dated 25th March 2015. That is a comprehensive statement, which sets out the allegations, and at this stage, they are no more than that, made by the Guinness Partnership against Miss Gardner. The return date for this injunction, I understand, is next week.

D

3. I am not concerned today with whether or not the injunction should remain in force. I am specifically and solely concerned with the breach, which has been admitted. That breach, set out in the statement of Caroline Coombes, confirms that at around 4:00am in the early hours of Thursday morning, that is 23rd April, there was a noise disturbance generated by Miss Gardner, which clearly and specifically caused significant distress to Caroline Coombes. That is recorded within her statement, which is effectively unchallenged. Miss Coombes called the police. The noise disturbance was significant enough to be able to be heard by the police during the telephone call, which suggests that it was significant indeed. I remind myself that this is only five days since the grant of the injunction.

E

F

4. I have had the chance to consider the sentencing guidelines in respect of this case, of course, and I have listened very carefully to the mitigation offered by Mr Young on behalf of Miss Gardner. I also heard sworn evidence from Miss Gardner during which she confirmed that she had drunk eight cans of alcohol, presumably lager or some similar drink, and that this had effectively resulted in and aggravated her behaviour and argument. She had not realised she was shouting, she told me, because she had had drink. She told me that she was sorry and that this would not happen again.

G

H

5. She told me also that she did not fully understand the injunction, despite the fact that the injunction was explained to her in great detail when it was served upon her. She says that, as she is dyslexic, she had not retained that information, something which I am afraid I did not find particularly persuasive. The reality is that the professionals involved in this case took great pains to make sure that the terms of the injunction were properly explained. The terms are not particularly complicated in the circumstances where Miss Gardner was ordered not to cause nuisance, or annoyance or threat or engage in conduct capable of causing nuisance or annoyance, or to cause noise nuisance so that it can be heard outside the property by banging, shouting, singing and playing loud music and slamming doors.

6. Guinness Partnership say that paragraph 3 of the injunction is engaged here, I believe, and I entirely agree with them. There has been a clear breach of an order of the court.

A

The starting point for dealing with issues such as this is to refer, of course, having considered the circumstances of the case, to look at the sentencing guidelines. I consider that this is a middle ranking lesser degree issue where the starting point is six weeks in custody, leading up to a maximum, I think, of 26 weeks in custody.

B

7. I also have to consider mitigating factors. I understand that Miss Gardner is dyslexic and suffers from depression. She is in receipt of employment and support allowance and there is a limited issue of mitigation there. I also take into account the fact that this is effectively a first offence in respect of this injunction order and that it is met by a formal admission that is effectively a guilty plea and I am going to consider a reduction in sentence accordingly.

C

8. However, this court has exceptionally limited tolerance to breach of orders. Miss Gardner, the injunction order was properly served, it was correctly made and it was explained to you. You, for whatever reason, through your behaviour have chosen to disregard that injunction and a consequence must follow. You cannot ignore orders of this court. They are made for a purpose. That is to restrain people's behaviour. You have ignored that. The starting point at this bracket is six weeks of custody. I am reducing that figure to four weeks of custody, but that is the sentence you will receive, 28 days imprisonment.

D

MISS GARDNER: Today?

THE DISTRICT JUDGE: Today.

E

9. There are no circumstances which justify in my judgment any degree of suspension. You received an injunction and you ignored it and this is the consequence. 28 days.

[Judgment ends]

F

G

H