IN THE PONTYPRIDD COUNTY COURT

Case No: AOOPD486

Courthouse Street Pontypridd CF37 1JR

8th May 2015

BEFORE:

DISTRICT JUDGE DOEL

BETWEEN:

RCT HOMES LTD

Claimant

-and-

ANDREW LEWIS

Defendant

APPEARANCES:

For the Claimant: Miss Bethan Gladwyn

For the Defendant:

The appeared in person and was not represented

Transcript of Whole Hearing including Draft Judgment

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> No. of folios in transcript: xx No. of words in transcript: xx

2	MISS GLADWYN:	Sir, good morning.
3	DJ DOEL:	Hello. Morning.
4	MALE:	Morning. That's his paperwork there.
5	MISS GLADWYN:	Okay. Is this for Mr Lewis?
6	DJ DOEL:	Yes.
7	MALE:	[Inaudible].
8	DJ DOEL:	Is it warm in here?
9	MALE:	[Inaudible].
10	MISS GLADWYN:	It's warm in the waiting [inaudible].
11	DJ DOEL:	Oh, outside.
12	MISS GLADWYN:	[Inaudible].
13	DJ DOEL:	Hello Mr Lewis.
14	MR LEWIS:	[Inaudible].
15 16	DJ DOEL:	There's a document that you didn't have when you came in there, Mr Lewis, it's a transcript of the hearing last week.
17	MR LEWIS:	Okay.
18 19 20	DJ DOEL:	Okay. So you can see everything that was said, both when you were here later and also before you arrived. What have you done, what have you been able to do since we last met?
21 22	MR LEWIS:	Right, erm, I've been to prison, nothing could be done 'till Tuesday cos we had this long bank holiday.
23	DJ DOEL:	Mhmm.
24 25 26 27 28	MR LEWIS:	Erm, I got in touch with the SO in Cardiff Prison and erm, he went on the computer and he give me the solicitor's, the solicitor's name. I stuck it on my pin number on my phone, and erm, it didn't go through 'till yesterday cos it takes 48 hours to go through. We phoned this firm, erm
29	DJ DOEL:	Tell me, which firm is it?
30	MR LEWIS:	It's called erm, Clarke and Hartland.
31	DJ DOEL:	Oh yes.
32	MR LEWIS:	Cardiff, Wilson Road.

1

1	DJ DOEL:	Mhmm.
2 3 4 5 6	MR LEWIS:	But every time I got through, and the Prison Officer got through, it said, "You're being connected", and as soon as it said that it said, "We cannot connect you". So we couldn't get through to them, but what I've been told now is that the, this company doesn't represent people they represent companies. I'm not sure what it is.
7	DJ DOEL:	It's a big criminal practice.
8 9 10	MR LEWIS:	But I, before I came here last week erm, the day before I was walking round Pontypridd, trying to get civil solicitors, I went to Spicketts, the one across the road, [inaudible] Devonalds.
11	DJ DOEL:	Mhmm.
12 13 14 15	MR LEWIS:	Erm, Kim Treloar, a couple in Treforest, one further up by the old Gareth Henry firm, and they all said that they wouldn't do Civil Courts for me. I explained to them it was an injunction, and as soon as I said that they wouldn't do it like.
16 17 18	DJ DOEL:	Mhmm. Well we had the discussion last week, and you know I disagree with them, but obviously it's up to them whether they choose to do something.
19	MR LEWIS:	They said it's a new a law and erm, I've got to pay for myself.
20 21 22	DJ DOEL:	Erm, yes. Mhmm, well we disagree, but there we are. Erm, yes it occurred to me after we spoke last week that if you were looking for a solicitor on Thursday
23	MR LEWIS:	Yes.
24	DJ DOEL:	you, you knew the application was listed on Friday.
25 26	MR LEWIS:	Yeah, but I was so busy that I, trying to get in touch with everyone, that I fo
27	DJ DOEL:	Okay
28	MR LEWIS:	to be honest with you.
29 30	DJ DOEL:	It just reaffirms the point that you had the papers and you knew about it.
31	MR LEWIS:	I, I
32 33 34 35	DJ DOEL:	Well I mean [fault on recording] that's obviously a matter for you, if you're given them it's up to you whether you read them or not. I created this appointment with no application, but to give you an opportunity.
36	MR LEWIS:	Yes, sir.

1 2	DJ DOEL:	You said to me what you'd said about trying to contact a solicitor for advice, is there anything else you want to say to me?
3 4 5	MR LEWIS:	Yes, erm, the time before I was in front of you, I was also in the Magistrates' Court and erm, we were in two Courts at the same date. I was in front of [inaudible] Judge.
6	DJ DOEL:	Mhmm.
7 8 9 10 11 12 13 14 15	MR LEWIS:	Which I was given a 4 16 weeks suspended sentence, which I was turning up, [inaudible] I was turning up late once, and erm, I was told by my legal aid criminal system, Mr Foley, to come over here. When we got over here I come over this lad called Huw Davies, we handed the papers in but this Court had finished, and erm, so oh I, the lad who was on the desk, I think he phoned through to tell the Court that I had been here, but this Court already had finished, so I didn't know what happened after that. Erm, so then I had, when I went back over there I'd been breached by that Court.
16	DJ DOEL:	Mhmm.
17 18 19	MR LEWIS:	So I was in no-man's land. So I, I didn't know what to do. Erm, you know with two on the same day, you know, I didn't know which Court to go to.
20 21 22	DJ DOEL:	Alright, that's a bit historical though isn't it? Is there anything you want to say to me about this, the application that was made to commit you and the decision that I made?
23	MR LEWIS:	When was the date that I was supposed to be in front of last week?
24	DJ DOEL:	A week ago today at
25	MISS GLADWYN:	1 st May at 10:00.
26	DJ DOEL:	10:00 or 10:30.
27	FEMALE:	10:30.
28	MISS GLADWYN:	10:30.
29	DJ DOEL:	Mhmm.
30	MR LEWIS:	Well, it totally slipped my mind, Your Honour, I must be honest
31	DJ DOEL:	Mhmm.
32 33 34 35	MR LEWIS:	I'm not lying to you, I was in Pontypridd that day and erm, I was trying to get solicitors then, and erm, the Police Officer come on to me and arrested me, and then I was taken to the Magistrates' Court where I was given the 16 weeks
36	DJ DOEL:	That was later on, yes.
37	MR LEWIS:	then I was brought straight here.

1	DJ DOEL:	Yes.
2	MR LEWIS:	But I, it did slip my mind and I apologise.
3	DJ DOEL:	Mhmm.
4	MR LEWIS:	Erm, but there were so many things going on, Your Honour, I didn't
5	DJ DOEL:	I understand that. Anything else you want to say to me?
6 7	MR LEWIS:	Erm, the flat I live in, it's well where the Council Offices where this breach is, it's only about 50 yards away, and
8	DJ DOEL:	Mhmm. A bit more than that, but we had that conversation in March.
9	MR LEWIS:	it's yes, yes, a bit more.
10	DJ DOEL:	You cross the road.
11 12 13	MR LEWIS:	Yeah, yeah, but at the time there was a murder gone on and I did go round the [Inaudible] road way, which was also blocked off, because of this crime that's happened, erm
14 15 16	DJ DOEL:	Mhmm. Can I just stop you simply for this reason Mr Lewis, I mean that may be a matter for the future when you're out of prison and you're back in your flat; this breach occurred in December.
17	MR LEWIS:	Yes.
18	DJ DOEL:	And nobody had been murdered then as far as I'm aware.
19	MR LEWIS:	No, no.
20 21	DJ DOEL:	So I'm focused on the allegations that I found proved in relation to the events last December, and obviously the decision I made last Friday
22	MR LEWIS:	[Inaudible].
23	DJ DOEL:	to execute a six months in prison.
24	MR LEWIS:	Yes, sir.
25 26	DJ DOEL:	Now that's, I just want to know if there's anything you want to say about that?
27 28	MR LEWIS:	I just appeal to you, you know, and I just [pause] I would have got here in the end, but erm, erm
29	DJ DOEL:	I understand you weren't here.
30	MR LEWIS:	No, I was brought
31	DJ DOEL:	Is there anything else you want to say?
32 33	MR LEWIS:	I apologise for that, and you know, it's, as I say, there was a lot of things going on

1	DJ DOEL:	Mhmm.
2 3 4 5	MR LEWIS:	and erm, I would have been, if it was one Court on one day I could have been here straight away. I took it over the the time before I went to the Mag instead of coming here first, and when I came here this place was closed.
6	DJ DOEL:	Mhmm.
7	MR LEWIS:	The lad was still here.
8	DJ DOEL:	But the problem is
9	MR LEWIS:	I apologise
10	DJ DOEL:	Mr Lewis, you've not had any advice
11	MR LEWIS:	No.
12 13 14	DJ DOEL:	and I can't put words in your mouth otherwise the words become meaningless. I just want to know if there's anything you want to say at all
15	MR LEWIS:	I apologise
16	DJ DOEL:	about the circumstances of all of this?
17 18	MR LEWIS:	the allegation, which I was supposed to have walked past RCT Homes
19	DJ DOEL:	Mhmm.
20	MR LEWIS:	and
21 22	DJ DOEL:	Well there are two aspects to it; one is walking in the area you're not supposed to walk
23	MR LEWIS:	Yes. Yes.
24	DJ DOEL:	the other is what you said to Miss Pru.
25 26 27 28 29 30 31 32 33	MR LEWIS:	Yes. I apologised to Miss Pru, because I was, I was obviously very drunk, I have alcohol difficulties and I'm, I'm on the disability because I - my loss of lung, and erm, all I do the last few years, Your Honour, is drinking all the time. I don't even know where I am half the time, and erm you know, I shouldn't have said that to this lady, I didn't [inaudible] know who she was, and to be honest, Your Honour, I was trying to get home and I shouldn't have spoke to her like that, and you know, it was the drink coming out and I didn't mean it, and I just want to apologise to her.
34 35	DJ DOEL:	She obviously, as I said to you on Friday last week, she took your remarks to mean
36	MR LEWIS:	Yes.

1	DJ DOEL:	that you were threatening to rape her.
2	MR LEWIS:	No, no.
3 4	DJ DOEL:	What do you think your remarks meant, if anything at all? Was it something like, "I'm going to take you up the lane, wasn't it?"
5	FEMALE:	Yes, sir.
6	DJ DOEL:	What do you think you meant by that?
7 8 9 10 11 12 13 14 15 16	MR LEWIS:	Yes, that's unfortunately, cos when you're drinking, Your Honour, and your very drunk, erm, you say silly things which you don't mean and it comes out like that, I mean, I, I, and she must have obviously she took it the wrong well obviously she took it the right way but I didn't mean that what I said, but erm, as I said that I walked straight to my flat. I knew I was wrong, and you know, I, I, it was too late then, I didn't know what to say. I can apologise now but I, it was, I know it was totally out of order. I think I'd drunk about 7 litres that day, and erm, and it was cider, and erm, I don't think that was the only lady I had a go at that day.
17	DJ DOEL:	Well don't make it worse, Mr Lewis.
18	MR LEWIS:	No, but there was a lad further up
19	DJ DOEL:	Just stick to what you're accused of.
20 21	MR LEWIS:	[inaudible] the flats, I asked him [inaudible] when I couldn't open my door with my key.
22	DJ DOEL:	Mhmm.
23 24	MR LEWIS:	And erm, I asked him to get out the way, so I didn't mean it, but that's the word I said, but I totally apologise, it's ridiculous.
25	DJ DOEL:	Right.
26 27	MR LEWIS:	But that was the only time, I've never been [inaudible] you know since last October, you know, that was the once, you know erm.
28	DJ DOEL:	Sorry, for some reason the Officers want to say something.
29 30	OFFICER:	Can I speak? I know Andrew personally, I grew up with Andrew and he's a nice guy when he's sober.
31	DJ DOEL:	Mhmm.
32 33 34	OFFICER:	But he's an absolute pain in the butt when he's drunk, and, but when he's sober he's a nice guy. But it's his drink dependency, it is out of control.
35	DJ DOEL:	Mhmm.
36	OFFICER:	And he needs help.

1	DJ DOEL:	Miss Gladwyn?
2	MISS GLADWYN:	Sir, yes.
3	DJ DOEL:	Mr Lewis has apologised.
4	MISS GLADWYN:	He has, sir, yes.
5 6 7 8 9 10	DJ DOEL:	He's [inaudible] I don't go seeking apologies but he's apologised to me, but more importantly he's apologised to Miss Pru, and he's admitted saying what he said but said also that the state he was in, which in some way isn't an excuse, but there we are, the state he was in, he said it but he had no such intention and he's sorry that understandably she took it that way.
11 12 13	MISS GLADWYN:	Sir, yes. My first point on that is of course today's hearing is Mr Lewis' opportunity, or was Mr Lewis' opportunity to make an application and [inaudible] I accept
14 15	DJ DOEL:	Well, I don't think you have to make a written application to purge of contempt.
16 17 18 19 20	MISS GLADWYN:	his, sir, yes, sir, absolutely you do and it's rule 81.31, there has to be a written application, it has to be attested to by the Governor, or a Senior Officer within the prison, and it has to be served upon the claimant, sir, before, at least one day before the application is made, part 81.31, sir.
21	DJ DOEL:	That's to set aside.
22 23 24	MISS GLADWYN:	Sub-section 2. No, sir, discharge of a person in custody. "A person committed to prison for contempt may apply to the Court to be discharged"
25	DJ DOEL:	Give me the number again.
26	MISS GLADWYN:	81
27	DJ DOEL:	Oh I'm sorry.
28	MISS GLADWYN:	sir, .31.
29	DJ DOEL:	I'll just get the right rule and I might be with you.
30	MR LEWIS:	I'd just like to apologise that's all [inaudible].
31	DJ DOEL:	CPR?
32	MISS GLADWYN:	Yes, sir.
33 34 35 36	DJ DOEL:	Oh yes, sorry. Discharge of a person in custody. "A person committed to prison for contempt of Court may apply to the Court to be discharged. The application must be in writing and attested by the Governor".

1	MISS GLADWYN:	And sir, it needs to be served.
2	DJ DOEL:	Alright, that's to discharge him.
3	MISS GLADWYN:	Well it's [inaudible]
4	DJ DOEL:	Supposing I was minded to reduce his sentence?
5 6 7 9 10 11 12 13	MISS GLADWYN:	purge his contempt. So, sir, I would ask you to take that into account first of all in, before deciding what, whether you do accept what the defendant says. Sir, secondly, the fact that the defendant has admitted that this incident occurred in drink does not, I would say, weigh in his favour at all. It is not a mitigating circumstance that this occurred in drink. If anything it's an aggravating factor which, was the Court to reconsider its sentence a submission I would be making is that the fact this occurred in drink would be an aggravating factor and I'd be asking you to increase not decrease the sentence.
14 15	DJ DOEL:	I think it's a, I think it's a relevant factor in deciding whether words said actually carried an intention or not.
16	MISS GLADWYN:	But, sir
17 18 19	DJ DOEL:	Of course saying because you were drunk isn't a good argument, but having said it, in weighing up what actually was meant by it then I think that the state of intoxication is a relevant factor isn't it?
20	MISS GLADWYN:	Well, sir, the relevant factor is the victim.
21	DJ DOEL:	Well it's one of them.
22 23	MISS GLADWYN:	It mat the victim, the victim may not have been aware as to whether Mr Lewis was drunk or not
24	DJ DOEL:	I appreciate that.
25 26 27 28 29 30 31 32	MISS GLADWYN:	all the victim sees is an individual she doesn't know, a man she doesn't know making threats towards her. And the whole purpose of this injunction and the Order made by the Court is to protect her, regardless by a large extent as to what Mr Lewis actually meant by it, what the Court should be paying attention to, sir, in my respectful submission, is the way in which the victim took it. And you accepted, sir, on the last occasion, that she took that, it's in her affidavit, she is unchallenged
33	DJ DOEL:	Mhmm. I've said nothing to change my mind about that.
34	MISS GLADWYN:	that that
35	DJ DOEL:	Mr Lewis accepts that as well, actually.
36	MISS GLADWYN:	He accepts that that's the way that she took it.
37	DJ DOEL:	Mhmm.

1 2 4 5 6 7 8 9 10 11 12	MISS GLADWYN:	So, sir, in terms of reducing his sentence, on behalf of the claimant I say that there is nothing Mr Lewis has said today, firstly because no application has been properly made, and secondly because his, his reason for doing so is actually an aggravating not a mitigating circumstance and the sentence should remain exactly as it is. And thirdly, sir, Mr Lewis admits he has a drink problem. A period of time in custody will obviously assist him in that regard because should he wish support, should he wish to detox, this is the perfect opportunity to do so. Should he wish to have support when he's released from prison to maintain that, then that can be arranged by the prison. Sir, the fear is if this gentleman was released today would he return to his [inaudible]
13 14	DJ DOEL:	No, let's get real, this gentleman is in prison for 4 months because of the Magistrates' Order.
15	MISS GLADWYN:	Yes.
16 17 18	DJ DOEL:	So even if I did discharge him today, which I have to say I'm not minded to do, but if I did he wouldn't be free to go anywhere, he'd be going back to prison.
19 20	MISS GLADWYN:	Yes, sir, but it wouldn't be under this Court's Order and the whole point of this application
21	DJ DOEL:	No it doesn't matter. He wouldn't be on the streets
22	MISS GLADWYN:	no, no
23	DJ DOEL:	which was where you were going with your argument.
24 25 26 27 28 29 30 31	MISS GLADWYN:	No, sir, but the whole point is the Court made an Order, the Court has to when a breach has been found the Court has to stand by that Order, and sir, what I'm saying is that the submissions that Mr Lewis has made today, in my submission go nowhere near what the Court would expect to see if they were to even reduce the sentence in any way, shape or form. What I'm saying is a period of custody might actually assist this gentleman in being able to comply with the Order going forward, once he is released.
32	DJ DOEL:	Anything else?
33	MISS GLADWYN:	No, sir. Thank you.
34	[Judgment given]	

JUDGMENT

DISTRICT JUDGE DOEL:

- This is a matter which I dealt with last week when Mr Lewis did not appear in Court. The application to commit him was apparent from the papers that he had been served with, and it is further apparent today that he knew the hearing was on and he was trying to get legal assistance, but he simply did not attend. I found the allegations proved and I sentenced him to a total of six-months in prison.
- 2. Shortly after that he was found by the Police in the centre of Pontypridd. He was taken first of all to the Magistrates' Court, where what I now understand to have been a suspended sentence of sixteen-weeks was imposed immediately for the breach of a Restraining Order made by that Court. He was then brought to this Court, and I explained to him then that I was not reconsidering the matter, but I did want him brought to me before he went to prison. I urged him to obtain legal advice, and I listed the matter today to create a vacancy for any applications that he wished to make to be heard, and for him in the meantime to obtain advice.
- 3. It seems he is still having difficulty getting advice. Miss Gladwyn who appears for RCT Homes (by facial gesture) seems to agree with me that legal aid is available when someone is allegedly in breach of an injunction and faces going to prison, so I do not understand why Mr Lewis has not been able to obtain advice with the assistance of legal aid. It may lie perhaps in a breakdown in communication between him and the solicitors involved, but in any case he is here today again in person.
- 4. Mr Lewis' appearance today is significant; he has done two things. He has apologised for not coming to the hearing last week. He has explained his difficulties again in obtaining advice, and a degree of confusion on his part in being back and forth between this Court and the Magistrates. But he has apologised. More importantly he has

apologised to Miss Pru for the remarks that he made, and he said that he has a serious problem with consuming too much alcohol, and when he does he really does not know where he is or what he is doing. He accepts he said these things, but he certainly had no intention to rape Miss Pru, or in any way assault her at all. I do not mean this to sound as though it does not matter, but it was just a vulgar language and bad behaviour, there was no serious intent on Mr Lewis' part to harm Miss Pru at all. He accepts, if she saw it that way, and as I say, he apologises for that.

- 5. Miss Gladwyn has pointed out to me that if I were minded to discharge Mr Lewis there would be the need to make a written application. That is not in my mind, but Mr Lewis without prompting has taken the opportunity to apologise to the Court, and to Miss Pru, and I think that is significant.
- What I propose to do is to reduce the totality of the sentence to four-months from last Friday, so it coincides with the Magistrates' sentence.

End of judgment

1	MISS GLADWYN:	[Inaudible].
2	DJ DOEL:	Do you understand what I've done Mr Lewis?
3	MR LEWIS:	Yes, sir.
4	DJ DOEL:	So both sentences will expire on the same date.
5	MR LEWIS:	Thank you, Your Honour.
6 7 8 9	DJ DOEL:	But you heard what Miss Gladwyn said, she's right of course, that - and I don't wish to sound naïve, I understand alcohol is a very difficult thing to deal with when you get on the wrong side of it, but if you don't do something about it then either
10	MR LEWIS:	Erm
11 12	DJ DOEL:	you're going to be seeing me or my replacement when I retire, or you can be seeing the Magistrates on a regular basis.
13	MR LEWIS:	I'm actually
14 15	DJ DOEL:	And you're going to be seeing these gentlemen and their colleagues as well.
16	MR LEWIS:	I'm actually on a detox in Cardiff now, and erm, I started last week.
17	DJ DOEL:	Mhmm.
18 19 20 21 22	MR LEWIS:	Which is a six weeks course, and we are in meetings and stuff, and well, after that they're going to give me some stickers to put on me, and if I do attempt to drink I'll be violently sick, and you know, it'll go from there. Hopefully then I can get outside support, and in the end I actually want to move from this block of flats.
23	DJ DOEL:	Mhmm.
24	MR LEWIS:	Cos it's awkward just to walk around, you know.
25 26	DJ DOEL:	Well I assume you're going to have problems anyway aren't you? Won't your housing benefit finish after three months?
27	MR LEWIS:	I've well
28	MISS GLADWYN:	It's normally 16 weeks.
29	DJ DOEL:	Oh I see, so in fact the flat may be there when he comes out.
30	MISS GLADWYN:	Mhmm.
31	MR LEWIS:	So 16 weeks and this [inaudible] this is more than 16 weeks isn't it?
32	DJ DOEL:	It's the same, I think.

1 2 3	MR LEWIS:	Yeah. I, I'll try to get in touch with my landlord now, in the next couple of days and see if I can get a move somewhere [inaudible] Treforest or [inaudible] closer to the Rhondda.
4 5	DJ DOEL:	Okay, but the important thing is your housing benefit claim is up to date, it will continue to be paid.
6	MR LEWIS:	Yeah, it will be paid cos I think you can claim
7	DJ DOEL:	You won't lose that accommodation.
8	MR LEWIS:	for 13 weeks.
9	MISS GLADWYN:	Mhmm.
10	DJ DOEL:	Do you gentleman need anything in writing before you go back?
11	MALE:	We need a warrant that says
12	DJ DOEL:	You need another warrant for the amended
13	MALE:	four-months instead of six.
14	SECOND MALE:	Yes.
15	DJ DOEL:	Okay, well I'll ask the staff to do that but it may take a little while.
16	MALE:	Yes, we'll wait. That'll be great, sir.
17	DJ DOEL:	Okay. Alright.
18 19	MISS GLADWYN:	Sir, in respect to the transcript, there were some typing errors; I don't know whether if you want that back or whether you're [inaudible].
20 21	DJ DOEL:	I corrected some yesterday. I mean you appeared in the afternoon when you weren't here.
22	MISS GLADWYN:	Yes.
23	DJ DOEL:	But I pointed out to [inaudible].
24	MISS GLADWYN:	Yes, sir.
25	DJ DOEL:	We mostly corrected, they missed one.
26	MISS GLADWYN:	The only
27	DJ DOEL:	[Inaudible]
28	MR LEWIS:	the only other thing, sir, was the spelling of the surname of Pru.
29	DJ DOEL:	Pru, I know, but I thought I'd leave that as wrong actually.
30	MISS GLADWYN:	But no, other than that [inaudible].

- 1 **DJ DOEL:** Fine okay.
- 2 **MR LEWIS:** Okay thanks. Thank you, Your Honour.
- 3 **DJ DOEL:** Thank you.
- 4 MISS GLADWYN: Thank you, sir.
- 5 **DJ DOEL:** Thank you, bye.
- 6 [End of hearing]