

IN THE COUNTY COURT
SITTING AT GLOUCESTER & CHELTENHAM

Claim No. B00GL0206

Kimbrose Way
Gloucester
GL1 2DE

Tuesday, 9th June 2015

Before:

DISTRICT JUDGE DAVIS

Between:

GUINNESS PARTNERSHIP LTD

Claimant

-v-

LOUISE GARDENER

Defendant

Representative for the Claimant:

MR WELCH[?]

The Defendant appeared In Person

JUDGMENT APPROVED BY THE COURT

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[The quality of the recording was extremely poor throughout;
the transcriber has endeavoured to provide as accurate a transcript as possible.]

JUDGMENT

DISTRICT JUDGE DAVIS:

1. I am concerned again with the case of Guinness Partnership Limited and Louise Gardener. An arrest took place in the early hours of this morning at midnight plus 22, I am told by one of the duty police constables in Gloucester. I have had the chance, I should say, to read evidence prepared by both PC Cadwell and Police Sergeant Holt that sets out the circumstances of the arrest and the alleged, now admitted, breach of the court's injunction dated 1st May.
2. That injunction is an important piece of paper. It is important for several reasons. The first and I think possibly the most important reason is that Miss Gardener was present when the injunction order was made. She and I talked about what was being required of her, because at the time this order was made she was in custody having breached a previous order. I made it very clear to Miss Gardener that if there were further breaches of the injunction there would be further consequences. I thought she understood what I was saying.
3. Clearly I must be wrong because in the early hours of this morning Miss Gardener caused a significant noise nuisance disturbing the quiet enjoyment of the surrounding area. She was using illegal substances and she was most certainly causing nuisance and annoyance to other residents of Lansdown Crescent which is in direct breach of paragraphs 3, 4 and 5 of the injunction. I know this to be true because it is admitted by Miss Gardener and the evidence produced by the police officers and by Rachel Robbins is clear and rather damning, I am afraid, so we are looking at an admitted series of breaches.
4. I am concerned today that Miss Gardener has no legal representation. That is not her choice. I think it is fair to say she would have liked to have somebody present today to speak on her behalf but nobody is available. That is because, I am told by Mr Welch who represents Guinness Partnership, that there is a lack of willingness, perhaps an understandable lack of willingness, on the part of solicitors in the town to come to court to deal with issues such as this which apparently fall between two legal aid schemes. Further discussion will have to take place in respect of this issue because it is important that people such as Miss Gardener are given the chance to have their say, because the court has to carry out a very important process today and it relies upon both parties, the claimant and the defendant, having representation.
5. Notwithstanding the fact that she is not represented, I have been very careful to make sure that Miss Gardener is given a proper and clear chance to express her views. To her credit, she has admitted the breaches of the injunction as put in the case papers and answered some questions from me which were deliberately open. I asked her why she had behaved in the way that she had behaved and she said that she had a lot of issues going on. I asked her how she thought that might make other people feel and she said, "Not good". She said that she wanted to have her flat taken from her if that was the way that things are going. She told me she needed help. She wants to be put "on an

A *order*” to help with her drinking. She does not know what to do when she is drinking. Whilst welcome, those comments did, in my judgment, fall somewhat short of an appropriate and fulsome degree of remorse. It did not seem to me that Miss Gardener was particularly remorseful for behaviour that has seen her brought before me for the second occasion and which must have caused considerable distress to people living around her.

B 6. As I have already said, the breach as put, or the breaches, as put have been admitted. I give Miss Gardener credit for that but I turn to the sentencing guidelines in respect of antisocial behaviour injunctions and I identify this as being a lesser degree of harassment, alarm and distress where such harm would have been likely and again I remind myself that the starting point for such a breach is six weeks in custody up to a maximum of 26 weeks in custody. On the last occasion that this case was before me C Miss Gardener effectively admitted the breaches and received four weeks in custody. It seems to me that the breaches before the court on this occasion are significantly worse. They have come about as a result of a deliberate disregard to the court’s injunction and must be met with significant penalty.

D 7. I am not satisfied that Miss Gardener was sufficiently remorseful to give her any credit for that degree of remorse, although I of course do give her credit for admitting the breaches. I am going to sentence her to 56 days in prison. That is giving her credit for what she has already admitted and I warn you now if this case comes back before me I will deal with it, I will deal with it again and there is likely to be a similar outcome. It is not going to do you any good. You need to consider what I have said with regard to your behaviour, you have to serve your time. I do hope we do not meet again but if we do there will be consequences for any further breaches. I hope I make that clear. E Now, officers, can you remain here please with this young lady until the people from the prison service arrive?

MR WELCH: Sir, can I raise one final matter?

THE DISTRICT JUDGE: You may.

F MR WELCH: It may be that you are not willing to deal with this today but on the last occasion I am told that an exclusion order was raised and a variation of, a potential variation of the current injunction order. Those who are from Guinness here today produced a map with a red outline showing a potential exclusion zone which would exclude her from her home, exclude her from those flats along Lansdown Crescent and given, sir, the nature of how soon the second breach has come along after the first one, G what the Guinness Partnership are asking is whether the injunction... the Partnership are saying there are grounds for now granting an exclusion order because it has got to the point where it is so serious, the disturbances are continuing, there does not seem to be any let up, that she ought to be excluded from her own home and the surrounding areas, from the shops or anything like that [*inaudible*] it is a smallish area but it would provide those neighbours who have had to put up with this for now some time to be H able to get on with their lives and quietly enjoy those lives as they should be entitled to do so.

THE DISTRICT JUDGE: Are there possession proceedings pending?

A MR WELCH: Yes, sir notice of possession has been served and I am told that the expiry on the notice is on Monday. No decision has been made as to whether to action that officially yet, sir, but I expect on the back of this breach those possession proceedings are going to be going ahead, sir, and I appreciate you have got the balance between the two.

B THE DISTRICT JUDGE: Thank you. I think my position is this, Mr Welch. I have just sentenced this lady to two months imprisonment. She is going to serve at least 28 days. By that time I suspect possession proceedings will be well in train. It would be disproportionate, I think, even after a second series of breaches to render this woman completely homeless when she is released from prison. I do not want her being released into the community with absolutely nowhere to go but I say this to Miss Gardener and I say it clearly. If you are released from prison after 28 days and you return to your home and you breach the injunction again, you know what is going to happen unless there are exceptionally good circumstances suggesting why you should not be punished, all right?

C MISS GARDENER: Yes.

D THE DISTRICT JUDGE: I cannot say it any clearer than that.

MISS GARDENER: Thank you.

E THE JUDGE: All right but you need to have somewhere to put your head when you come out even if it is only going to be for a short time because I suspect there will be possession proceedings but I do not want to kick someone when they are down.

MISS GARDENER: Yes.

F THE DISTRICT JUDGE: But again I will give you this opportunity. If you waste it, you know what is going to happen. I cannot be clearer than that, all right?

MISS GARDENER: Yes.

THE DISTRICT JUDGE: So anything else?

MR WELCH: Thank you, sir. We just need to do a record of committal form.

G THE DISTRICT JUDGE: Yes, I am going to deal with that. Thank you very much. Well, officers, if you do not mind waiting with this lady in a secure room which the clerk will show you. Thank you very much. Anything else you want to say at this stage, Miss Gardener?

MISS GARDENER: No.

H THE JUDGE: Thank you.

MISS GARDENER: *[Inaudible]* take my flat *[inaudible]*.

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THE JUDGE: Well, you may need to discuss that therefore some order by consent might be possible. Thank you.

MR WELCH: Thank you, sir.

[Hearing ends]

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