

**IN THE COUNTY COURT AT
GLOUCESTER & CHELTENHAM**

Claim No. B00GL386

Kimbrose Way
Gloucester
GL1 2DE

Friday, 17th July 2015

Before:

DISTRICT JUDGE HEBBLETHWAITE

Between:

CHELTENHAM BOROUGH COUNCIL

Claimant

-v-

JOHN HENRY MATEAR

Defendant

Counsel for the Claimant:

MISS FENNELL

Solicitor for the Defendant:

MISS SMITH

JUDGMENT APPROVED BY THE COURT

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JUDGMENT

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DISTRICT JUDGE HEBBLETHWAITE:

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1. As far as the injunction is concerned, the one that was made without notice, that will continue in the same terms and for the length of time as the original injunction. I am not changing that at all. I now deal with the punishment for the breach of the injunction. The proven allegations are set out on a schedule that has been produced and I remind myself and everybody else that, although there are four separate breaches, they all happened on the same occasion, more or less leading one into the other. I think probably there is enough gap to put them down as four. I suppose there could have been an argument that they just appeared as one breach but I remember saying, at the conclusion of the hearing last week, that they were all on the same occasion and that they were in the immediate aftermath of the defendant being served with the papers, namely the interim injunction and the application and the statements. The words that he used put that in context. He had obviously seen that Mr Dukes was one of the two complainants, along with his neighbour on the other side, and he says, "I have got to go to fucking court because of them," pointing at Mr Dukes' address and then, of course, he swears at Mr Dukes.
2. I would like to mention something else that came up last week and that featured in my judgment on the main items in the allegations for the main injunction, after we had had a contested hearing where Mr Dukes had been one of the witnesses. The parties who were present on that occasion will recall that I made some findings that did not put Mr Dukes in a particularly good light, especially on one particular incident where I dismissed the allegation against Mr Matear from that incident and made it plain, in my judgment, that I thought Mr Dukes had been the main aggressor on that occasion. Just to remind you what it was, it was when Mr Dukes had got annoyed with council contractors who were working on Mr Matear's property, on the guttering, and it was in the aftermath of that, and you will recall that the police officer, I am afraid I cannot remember her name, she was present last week for some part of the hearing, had found that she could not calm him down and she could not prevent him and he would not accept her advice about going out and having an argument with Mr Matear. However, that does not necessarily make it all right to go swearing at him.
3. If the matter was no more than swearing at him because he had received the papers and, at that moment in time, was feeling that he had got to go to court because of Mr Dukes and if it was just calling him a "fucking bastard" and nothing much more than that, I would think the sentencing could be very lenient, possibly no further order. He was after all, although it was not overnight, he was arrested and carted off to the police station and in custody for an hour or so. What means that I cannot let it rest at that is where he said to Mr Dukes, "I am going to chop your fucking head off with a machete," whilst intimating how big the machete was, and then repeating the words, "You hear me, you fucking cunt, I will chop your head off." Now, I do not believe that Mr Matear seriously intended to chop Mr Dukes' head off. It was part of the way he was coping with having been served with the papers. However, on the face of it, it is a threat to kill the man. Mr Dukes seems to have been upset by this and you can understand why.
4. So saying those words, although I make a finding that there was no serious intent to carry out the threat, nevertheless would cause extra distress to Mr Dukes, which means

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that I cannot deal with the matter by simply saying no further penalty. Therefore, I will deal with it as a medium-term breach with a suspended sentence, in other words what Miss Smith has advocated to me, that does seem appropriate. Therefore, it will be a term of six weeks in prison suspended for one year. Before you leave, Mr Matear, do be sure that you have had another word with Miss Smith to clarify exactly what that means but I will say that if you do not breach the injunction, and remember this injunction is now rolling on, so it is about another ten months to go. You have got the date it runs to on your paperwork. This is rolling on so you obviously are in a possible situation where you could breach it again so you have got to be careful not to. If you were to, as well as the new breach, the court could invoke your suspended sentence. So the six weeks suspended you would then actually have to go inside for six weeks, that is what it means.

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5. There was a very interesting word used by Miss Smith in her mitigation, which was that the neighbours found it difficult dealing with Mr Matear's eccentric character, and the word 'eccentric' I thought was interesting. Maybe he is a bit eccentric, certainly his attentions on his female neighbour were unwelcome by her and, in looking at the allegations that I found proven and those that I dismissed, you will see that I found the majority of the allegations against the female neighbour proven but dismissed many of the allegations that involved Mr Dukes and maybe eccentric is the word for it. He wants to be friendly with people who do not necessarily welcome his friendly overtures and I made that clear last week in relation to the female neighbour. However, the words uttered to Mr Dukes, having received the papers, just go too far and therefore you have to have this suspended sentence imposed.

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6. Turning now to the application for costs, it is a perfectly proper application and my judgment is that there should be a contribution to the costs. I am not going to order the defendant to pay the full amount claimed, which is £1,340. Not only does he not have the means, but we can get around that with an instalment order, but I do not think it would be appropriate for him to have an instalment order that is going to go on for months and months, possibly years. I accept he is on benefits so what I am going to order is simply a contribution to the costs to reflect the fact that his original conduct made the application to court necessary in the first place and that contribution is going to be in the sum of £400, payable at £4 per week, not £5 as was suggested by Miss Smith, I think that is an excessive amount given his circumstances. So £400 payable at £4 a week, not hard to work out that that will take 100 weeks to pay, which is about two years.

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7. That concludes the committal proceedings. Can I be reminded please what paperwork, if any, the defendant needs to wait to receive? Does he need to wait to receive anything? There will be some papers you must be given before you leave the court so I would be very grateful if you would wait. You will need to have a word with Miss Smith anyway but can you then wait in court until one of the court staff brings you confirmation of what has happened today and then you can leave?

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MR MATEAR: Can I ask a question?

THE DISTRICT JUDGE: Yes.

A MR MATEAR: Mr Dukes, obviously, what you don't know is for some reason he's got it in for me, right, so he can ring at any time to make lies up about me and I'll be in prison for six weeks.

B THE DISTRICT JUDGE: If he makes lies up about you, Mr Matear, it would have to be proved in court and it would be the criminal standard, beyond reasonable doubt and the court would listen. Can I just remind you, I am not taking sides in this, obviously not, but can I remind you that there were a number of the allegations that Mr Dukes made last week that were actually dismissed. In other words, I, last week, was not satisfied on a number of the allegations. I was satisfied on some of them.

MR MATEAR: I know.

C THE DISTRICT JUDGE: Of course, I was satisfied on the allegation, what you said on 1st July that has led to the committal.

MISS SMITH: Can I assure you that I will give some advice that a judicial standard would always have to be applied to such allegations.

THE DISTRICT JUDGE: Thank you, Miss Smith.

D MISS SMITH: That he should be confident in that, that a mere phone call with an allegation is not going to result in him going to prison.

THE DISTRICT JUDGE: Yes, thank you, Miss Smith, if you do. Have another chat about with Miss Smith outside while you're waiting. She is on the right lines there.

E MR MATEAR: It's just that he's got no witnesses so why isn't it his word against mine?

THE DISTRICT JUDGE: I am not going to go over what happened last week. You will no doubt remember all that was said in court.

MR MATEAR: Okay.

F THE DISTRICT JUDGE: That is all for now. If you go outside and wait with Miss Smith and when she has to go do not forget you have then still got to wait for some paperwork.

MR MATEAR: Thank you very much.

G *[Hearing ends]*

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