

IN THE COUNTY COURT AT ROMFORD

A02RM390.

Romford County Court,
2A Oaklands Avenue,
Romford,
RM1 4DP.

Wednesday, 2nd September 2015.

Before:

DISTRICT JUDGE DODSWORTH

CIRCLE HOUSING OLD FORD

Applicants

- v -

CLAIRE ROBINSON

Respondent

MR GLEN (*instructed by Capsticks, Staple House, Staple Gardens, Winchester S023 8SR*)
appeared on behalf of the Applicant.

The Respondent appeared in person.

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APPROVED JUDGMENT and
SENTENCING REMARKS

Wednesday, 2nd September 2015.

JUDGMENT:

DISTRICT JUDGE DODSWORTH:

01 Miss Robinson has appeared before me today in relation to two applications by the Claimant, Circle Housing Old Ford, to commit her to prison for breach firstly of an antisocial behaviour injunction and secondly in relation to an undertaking which she gave to the court on 13th August 2015. I will deal first with the allegation that she is in breach of the antisocial behaviour injunction. The background to the grant of the antisocial behaviour injunction and its material terms were set out in my judgment of 16th April 2015 in this case in relation an earlier application to commit Miss Robinson to prison. I adopt paragraphs 12 and 13 of that judgment. The present allegation of breach of the injunction is set out in a Schedule of Breach which was prepared following the hearing on 13th August 2015. The allegation against Miss Robinson is in the following terms:

‘On 11th August 2015 at around 9 pm the Defendant threatened violence towards two neighbouring residents by trying to open the door to the property where they were and shouting through the door “Come out and face us, you slags, and I’m going to fucking kill you!”’

In relation to the alleged breach of the injunction I am satisfied that if it is true it is a breach of paragraphs 1 and 2 of the injunction.

02 The history of this matter is that Miss Robinson appeared before me on 13th August 2015. She was produced from custody following her arrest in relation to the alleged breach. On that date I adjourned the matter, ordered that a typed Schedule of Breach be produced, and ordered that typed versions of the statements be prepared. At that hearing Miss Robinson denied the allegation against her. She was advised to seek legal representation in relation to today's hearing. She was also advised as to the availability of Legal Aid in respect of this hearing. At that hearing Miss Robinson also gave two undertakings; firstly, to reside between that date and today's date at her parents' address, and secondly, not to enter the estate where her flat was situated other than on one occasion when accompanied by a police officer for the purpose of collecting some belongings.

03 The evidence in support of the allegation consists of statements from Angela Knight and Natalie Scurr, both dated 12th August 2015. Neither of those two witnesses attended today as I am told that they are on holiday, separately, in Turkey. The statements of Miss Knight and Miss Scurr are consistent and give a graphic account of an incident on 11th August 2015. Miss Robinson did not file a witness statement prior to today's hearing but gave oral evidence as to the events of that evening. In looking at the two witness statements, and Miss Robinson's account of what took place, there is in fact much common ground. Miss Robinson accepts that at an earlier point in the evening she was in her then partner's flat, Mr John Murphy's flat, at Barley Court. At some point she emerged and accepts that she was indeed covered by blood which she says was as a result of having been punched by Mr Murphy in the mouth. She also accepts that she had been drinking during the evening, that she was also with her brother, and that at certain points she was outside Miss Scurr's flat. She also accepts that her brother

used offensive language as set out in the Schedule of Breach. The only material point of difference between Miss Robinson's account and that of Miss Scurr and Miss Knight is whether Miss Robinson herself used the language alleged.

04 I bear in mind that I need to be satisfied on the criminal standard of proof as to whether or not Miss Robinson did that which she is alleged to have done. I also bear firmly in mind that the evidence of Miss Scurr and Miss Knight is hearsay evidence. Hearsay evidence is of course admissible but when I am weighing the weight to attach to that evidence I must, as section 4 of the Civil Evidence Act 1995 makes clear, consider all the circumstances from which any inference can reasonably be drawn as to the reliability or otherwise of that evidence. Section 4(2) sets out a number of factors to which regard may be had although they are not an exclusive list. In relation to both Miss Knight and Miss Scurr's evidence I find that I can place substantial weight on their accounts. There is a good reason for them not being present before the court today to give live evidence. They are on holiday and this matter was listed at short notice without reference to any witnesses' availability dates. Their statements were made contemporaneously with the events in question: they were made the day following the events of the previous evening. The statements do not contain multiple hearsay and they have no motive to conceal or misrepresent their account of the incident. Indeed previous statements by both Miss Knight and Miss Scurr have been accepted by Miss Robinson as being accurate in relation to the previous committal hearing. I also bear in mind that the conduct alleged on this occasion is extraordinarily similar to Miss Robinson's conduct on previous occasions which she has previously admitted. I bear in mind that Miss Robinson has suggested that others on the estate do not like her and, to paraphrase her, are 'out to get her.' That may or may not be true but there is no reason

that has been sensibly advanced as to why these witnesses would lie about the events. I also have in mind that Miss Robinson accepted that she had been drinking on the evening and did not have a clear recollection of what had gone on, in part as she says she had some concussion from an incident on the previous day. In short, on the crucial issue of whether Miss Robinson used the words alleged to have been used, I do not find her to be a reliable witness and prefer the evidence of Miss Scurr and Miss Knight. Accordingly, I am satisfied to the criminal standard that the incident set out in the Schedule of Breach took place and that Miss Robinson was in breach of the injunction.

05 The incident on 16th August 2015 relates to an alleged breach of an undertaking given on 13th August 2015. The allegation is that Miss Robinson entered Barley Court. The evidence in support of the allegation that the undertaking had been breached consists of some CCTV footage showing two individuals entering Barley Court from the underground car park. Miss Robinson accepts that the video footage shows Barley Court and that the male in the footage is John Murphy, her former partner. No clear facial view of the woman in the footage is apparent from the footage itself; indeed the individual on the footage has made a deliberate attempt to conceal her face from the camera. It is clear she is aware a camera is there. A jumper or coat has been pulled over her head to conceal her appearance. Mr Jonathan Vincent, an Antisocial Behaviour Officer with the Claimant, gave evidence that the woman in the footage was Miss Robinson. The basis for his assertion that she was the person depicted was that he recognised her gait and characteristic manner from the two years or so he has spent dealing with her and meeting her in connection with this case. Miss Robinson's evidence was that she was not present at Barley Court and, at the time in question, the evening of 16th August 2015, she was at home with her parents. She is supported by

evidence from her mother who stated that she was at home with Miss Robinson at the time. Again I bear firmly in mind that I must be satisfied on the criminal standard as to whether there has been a breach of the undertaking. Although I found Mrs Robinson senior's evidence to be rather unreliable as she was unable to provide any clear recollection of the events of 16th August 2015 I am not satisfied that the woman shown in the CCTV footage is Miss Robinson. The appearance is similar but I bear in mind that the clips were very short, a few seconds in total, and from those clips I do not think it is possible to be satisfied beyond reasonable doubt that the person shown is Miss Robinson. Accordingly, I do not find there has been any breach of the undertaking. Those are my findings of fact and I will now hear representations on the appropriate punishment in relation to breach of the order.

(Representations heard)

06 These are my sentencing remarks in relation to Miss Claire Robinson. Miss Robinson, as you are aware, I have just found you guilty of a breach of the injunction of 6th October 2014. I have to decide how serious that breach is and what the appropriate punishment is, and in doing so I have to have regard to the Sentencing Guidelines Council Definitive Guidance on Breach of Antisocial Behaviour Orders. That is what the Court of Appeal says I have to have a look at. The first thing I have to do is to assess how serious this case is to find out the appropriate starting point in the sentencing exercise. Where there is a breach of an Antisocial Behaviour Order there are essentially three categories of breach; those described as serious, lesser degree or no degree of harm. Your case in my view fits just into the lesser degree, the mid-range. I have found that you did make threats of violence and threats to kill but nonetheless in the context of

how they were made I think that they were not made with any intent to follow them through but they were such that they would cause Miss Scurr and Miss Knight to be in fear. So I think you are in the lesser degree. That suggests a starting point of six weeks custody.

07 I have now to consider whether there were any aggravating features in this case. Unfortunately I find that there are. This is the second time you have appeared before me and been found guilty of breach of this injunction. Last time I gave you an immediate custodial sentence of 14 days which represented a discount to take account of the fact you had on that occasion spent five days in custody already. As my judgment on that occasion made clear I would otherwise have given you 28 days immediate custody. You cannot keep disobeying court orders. It does not work like that. If you continue to disobey court orders the response is likely to be that judges will send you to prison for a longer occasion each time until the message gets through. Fourteen days in HMP Holloway clearly did not dissuade you from continuing your behaviour. As I say, this breach was committed subsequent to earlier breach proceedings from the same injunction and again the targets of your behaviour were those who the injunction was supposed to protect, your neighbours. In effect you have been making your neighbours' lives hell. That is not acceptable, not to this court nor to any other court. It cannot continue. You must learn to stop.

08 Are there any mitigating factors in this case? The only thing that might possibly act as a mitigating factor is the fact that today in separate proceedings you lost your property because of the possession order made against you on the basis of your previous antisocial behaviour. You have denied the breach on each occasion you have come

before the court and fully contested the matter today. By fully contesting the matter today you can get no reduction in your sentence for a guilty plea. I do not think that any other ancillary orders are necessary in this case. I am going to impose a sentence of 10 weeks immediate custody. As before, you will serve half in prison and half on licence. You need to take this opportunity to sort yourself out. I will order that there be a transcript at public expense of the sentencing remarks and the fact finding ruling.
