

IN THE COUNTY COURT
AT GLOUCESTER AND CHELTENHAM

Claim No: A00GL451

Kimbrose Way
Gloucester
GL1 2DE

Friday, 10th July 2015

Before:

DISTRICT JUDGE DAVIS

Between:

CHELTENHAM BOROUGH COUNCIL

Claimant

-v-

PHILIP NIELD

Defendant

Solicitor for the Claimant:

MISS FENNELL

The Defendant appeared In Person

JUDGMENT APPROVED BY THE COURT

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JUDGMENT

A

DISTRICT JUDGE DAVIS:

B

1. Mr Nield, I do not know what you were thinking. When you received this injunction it was exceptionally clear. It told you what you should and should not do. I do not know what the last judge dealing with this case told you, but I want to make something very clear to you, which is this. If this court makes an order, we expect people to do as they are told. That is because if they do not we may as well go home, or we may as well exact some penalty. Let me reassure you, I am not going home and neither are my colleagues here. We do not tolerate a breach of our orders.

C

2. You can be sent to prison in respect of a case like this, which I identify as being of a moderate level for the purpose of the tape, for up to six months. That is the sentencing guideline. The entry point is, I think, eight weeks in custody. Cheltenham Borough Council is satisfied with a suspended sentence. I have to tell you the only reason you are not going to prison today is because there have been no further breaches of the injunction. Had there been a hint of any further breach after 10th April I would have sentenced you to three months imprisonment, without warning, like that. That is because the injunction has to be respected. What we say has to go.

D

3. I do not like people leaving this building in a state of uncertainty. People have a right and an expectation to know what will happen if they do or do not do certain things. I think it is fair that people know that. Sometimes in the past people have looked at documentation from the court and thought, "Ah well, it will be all right." You should understand it will not be all right.

E

4. The message you should take out of this room today is that if you breach this injunction in any way again, it will come back before the judge. It may be me, I hope it is, because I will remember you, let me reassure you, and the suspended sentence which I am going to give you will fall. You will not only get the three months on this suspended sentence, you will get additional time for the breach.

F

5. Neither I nor my colleagues want to send you to prison, but we will. You must understand that. It is not on, dragging people into court. Noise nuisance blights people's lives. It is not fair and you saying, "I do not know what happened" is not very convincing. That is an excuse for one. You have got six here. There will not be a seventh. Am I making myself clear?

MR NIELD: Yes, sir.

G

6. THE DISTRICT JUDGE: For the avoidance of doubt, for the benefit of the tape then, I am accepting your admissions. I am giving you credit for the fact that you have accepted these breaches. I am sentencing you to three months custodial sentence suspended on the exceptional circumstances basis. I am satisfied there are exceptional circumstances in this case, which are that you have not breached the injunction in any further way since April and I am accepting your degree of remorse which I think is sufficient on this one occasion, one occasion, to justify a suspended sentence. Is that clear?

H

MR NIELD: No, absolutely, I understand, yes.

A THE DISTRICT JUDGE: Do sit back down. The injunction is extended for a year. I assume you have no problem with that?

MR NIELD: No, that is fine.

THE DISTRICT JUDGE: What is the current expiry date?

B MISS FENNELL: 15th July of this year, sir.

THE DISTRICT JUDGE: The date of it was the 14th, was it? Yes.

MISS FENNELL: Yes.

C THE DISTRICT JUDGE: To 15th July 2016. Custodial sentence of 13 weeks, whatever that is, 91 days, suspended for one year on the basis of compliance with injunction dated 15th July, was it?

MISS FENNELL: Yes, sir.

D THE DISTRICT JUDGE: 2014. Costs. When a case comes to court costs have to be paid. You have seen the costs schedule. The sum of £485 in costs is being claimed. Do you have any comment about that?

MR NIELD: No, sir. I am on benefits so I have been told I will be able to pay it back weekly.

E THE DISTRICT JUDGE: Yes. I am allowing the costs at £485. Defendant shall pay claimant's costs summarily assessed in the sum of £485. Shall I specify how those costs are to be paid or are you going to deal with that between yourselves?

MISS FENNELL: We can deal with that, sir.

F THE DISTRICT JUDGE: So I am not going to include a date by which payment should take place, I am just leaving it at £485?

MISS FENNELL: That will get added on to his rent account as a recharge.

THE DISTRICT JUDGE: Shall I say, to be added on to the rent account?

G MISS FENNELL: Yes.

THE DISTRICT JUDGE: To be added to defendant's rent account. Anything else?

MISS FENNELL: No, that is it, thank you, sir.

H THE DISTRICT JUDGE: Thank you for your hard work in respect of this case. I appreciate they are a bit of a burden. I want you to understand that when these cases come to court they are taken seriously. They are. Thank you for your hard work in respect of this case. I appreciate the inconvenience you have been put to in having to come to court. I hope you understand what I have said today and understand the

A sentiment behind what I have said. Thank you very much for producing the documentation. I wish you well. I suspect we will not meet again.

MR NIELD: No, sir.

THE DISTRICT JUDGE: All right, thank you very much.

B MR NIELD: All right, thank you. Cheers.

MISS FENNELL: Thank you, sir.

THE DISTRICT JUDGE: Good morning.

C MISS FENNELL: Good morning.

THE DISTRICT JUDGE: If you can draft the order, thank you. If you would like to wait outside for the documentation.

MR NIELD: Yes.

D THE DISTRICT JUDGE: Please do not leave until you have got the order.

MR NIELD: No.

THE DISTRICT JUDGE: Thank you very much.

E MISS FENNELL: Thank you, sir.

[Court adjourns]

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