Case No: EG11C00052

IN THE HIGH COURT OF JUSTICE
FAMILY DIVISION
SITTING AT STOKE-ON-TRENT

Before HHJ Perry sitting as a High Court Judge pursuant to Section 9 of the Senior Courts Act 1981

BETWEEN:

A	**Applicant**
And	
JOHN BRADSHAW	**First Respondent**
And	
STAFFORDSHIRE CC	**Second Respondent**

For the Applicant: Ms Cavanagh
For the First Respondent: Mr Kirwan
For the Second Respondent: Ms Buxton

Hearing Date:
2 December 2015

Sentence

John Bradshaw (R) appears before me today for sentence. He is represented by his solicitor Mr Kirwan.

R has admitted four breaches of harassment and publicity injunction orders made on 22 March 2012, and I have found another three breaches to be proved beyond reasonable doubt.

I have set out in detail in my judgment of 12 November the relevant terms of those injunctions and the circumstances in which those injunctions were breached.

These breaches also put R in breach of the suspended sentence imposed on 4 January 2013. The earlier breaches which led to the imposition of the suspended sentence are particularised in the committal order of that date. They are seven in number. There were two breaches of the harassment injunction and five breaches of the publicity injunction.

When the suspended sentence was imposed the most serious breach of the harassment injunction was found to be sending an email to a College which identified A, her foster carers and their address, and which discussed confidential information about them and made allegations against them. The sentence for that was one of 84 days which ran concurrent to all the other sentences imposed which were for either seven or 14 days' imprisonment.

The sentence was suspended until 4 December 2014 on condition that R complied with the terms of the injunctions ordered on 22 March 2012.

Aside from sending a Facebook friend request (something R still denies), the other breaches which led to the suspended sentence all related to publishing material, in particular publishing material likely to identify A, publishing her address, the name of her school, the names of her foster carers, and details of the children and family of the foster carers.

On R's behalf today it is stressed on his behalf that it is only now that he realises the strength of A's antipathy towards him, and fully understand that she wants nothing to do with him. In terms of future compliance he now appreciates this to be the case and seeks to assure the court that there will be no further breaches.

Mr Kirwan points out that he did not give evidence and that the court did not therefore hear as to his motivation, but he submits on his behalf that he did not intend to cause distress or harm, and was seeking to demonstrate his love. Indeed, the return of the blanket was something which had been sought for some time.

When considering the sentence for the matters found proved before me and the extent to which (if at all) the suspended sentence should be activated, I bear the following mitigation in mind.

First, the allegations proved before me are not of the most serious kind.

Secondly, the proceedings have been hanging over R for nearly a year.

Thirdly, the breaches relating to the April birth notices occurred over 15 months into the suspended sentence, and those related to the October events some 22 months into the suspended sentence and only two months before it expired.

Fourthly, it was apparent from R's presentation at times during this hearing that he loves A dearly, albeit he seems unable to divorce that emotion from a need to still try to exercise control over her. The birth of a child to A (R's grandchild) would inevitably be a time of heightened emotion for him. The emotional context of the breaches is relevant.

Fifthly, R admitted the most serious breach, the disclosure of information to Ms S, at the outset. However, his subsequent further admissions were made only after A had had to give evidence, and he persisted in his denial of some matters found proved against him.

The aggravating features are these.

This is the second time R has been found to be in breach of these injunctions. Noticeably the order of 4 January 2013 also recorded that R had admitted on 22 March 2012 being in breach of a separate earlier injunction order of 26 January 2012 but no separate penalty was imposed for that. Nevertheless, this is now the third time R has been found to be in breach of orders restraining publication of information.

The disclosure of information to A's partner's mother (Ms S) is serious. R well knew from the earlier findings against him the seriousness with which the court would view such a breach.

Until the disclosure Ms S knew nothing of A's background and I am satisfied that it was a deliberate attempt to enlist Ms S to his cause and could have undermined the burgeoning family relationships A was developing with the family of the father of her child.

R knew that A wanted nothing to do with him, and that his indirect communications with her by way of the birth announcements would be troubling and frightening for her.

He also knew the emotional and cultural importance to her of the baby blanket, the return of which she had been seeking for some time. His high-handed endorsement on it not only spoilt it for A, but was also an attempt again to show the control he still wanted to retain by returning the blanket on his terms at a time, and in a condition, of his choosing.

In **Hale v Tanner** [2000] EWCA Civ 5570 Hale LJ as she then was drew attention to a number of matters relevant on a committal application. They included that the court should bear in mind that there is a range of penalties available (including a fine), that imprisonment is not inevitable, and that suspension of any sentence of imprisonment does not require exceptional circumstances. Context is important.

I bear in mind that the sentence must be proportionate to the seriousness of the contempt, reflect the court's disapproval of the breach and be designed to secure future compliance with the order

Committal to prison is only appropriate where no reasonable alternative exists. As Mr Kirwan said "is it necessary?"

In my view it is.

In respect of the admitted allegation (3) Contacting A indirectly by placing a notice addressed to her in the Leek Post and Times dated 30 April 2014 the sentence will be 14 days imprisonment.

In respect of the admitted allegation (4) Contacting A indirectly by placing a notice addressed to her purporting to be from her birth family in the Leek Post and Times dated 30 April 2014 the sentence will be 14 days imprisonment concurrent.

In respect of the admitted allegation (5) Contacting A indirectly by leaving a bag containing items belonging to her and for her with Mr P at 28 Prospect Street, Leek the sentence will be 14 days imprisonment concurrent.

In respect of the proved allegation (6) Harassing, pestering and intimidating A by posting notices in the Leek Post and Times dated 30 April and 8 October 2014 the sentence will be 14 days imprisonment concurrent

In respect of the proved allegation (7) Harassing, pestering and intimidating A by defacing a baby blanket belonging to her the sentence will be 14 days imprisonment consecutive.

In respect of the proved allegation (9) Harassing, pestering and intimidating A by contacting Ms S through letters and postcards knowing A would be made aware of the communications the sentence will be 14 days imprisonment concurrent

In respect of the admitted allegation (10) Disclosing in written communication to Ms S left for her on 3 October information which identifies A as being the subject of proceedings the sentence will be 28 days imprisonment consecutive.

So far as the breach of the suspended sentence is concerned, the sentence will be activated but not in full, to reflect in particular the extended period of compliance. It will be activated as to 42 days imprisonment consecutive.

The total period of imprisonment will therefore be 98 days imprisonment.

2 December 2015 HHJ Perry