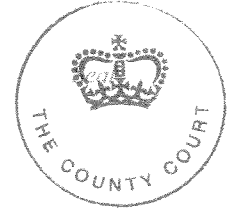


# General Form of Judgment or Order

In the County Court at Wandsworth	
Claim Number	B00WT109
Date	20 August 2015



THE MAYOR & BURGESSES OF THE LONDON BOROUGH OF LAMBETH	<b>1<sup>st</sup> Claimant</b> Ref LS/HP/CST/52506
ADAM DUFFY	<b>1<sup>st</sup> Defendant</b> Ref 0LUA-BO71918001

Before District Judge Swan sitting at the County Court at Wandsworth, 76/78 Upper Richmond Road, Putney, London, SW15 2SU.

Upon hearing Counsel for the Claimant and Counsel for the Defendant

And upon Adam Duffy admitting 10 separate breaches of an injunction made on notice on 24 February 2015, between 11 April 2015 and 19 June 2015 by making loud noises, banging, shouting and swearing audibly to his neighbours causing them nuisance and annoyance and on one occasion voicing intentional threats against the person of a neighbour causing her to be disturbed and frightened

## IT IS ORDERED THAT

1. Adam Duffy shall be committed to prison for a total period of six weeks.
2. The Order is suspended until 14 February 2016 and shall not be put in force if during that time Adam Duffy complies with the terms of the Order made on 24 February 2015.
3. The defendant shall pay the claimant's costs to be assessed in detail if not agreed, not to be enforced without further Order of the Court pursuant to S.26 LASPO 2012.
4. A transcript of the decision given today shall be made on an expedited basis forthwith at public expense and shall be provided to the parties and the national media via the copy direct service.
5. The details contained in this Order shall also be provided to the national media via the copy direct service to the Judicial Office at [Judicialwebupdates@judiciary.gsi.gov.uk](mailto:Judicialwebupdates@judiciary.gsi.gov.uk).

Dated 14 August 2015



IN THE WANDSWORTH COUNTY COURT

No. B00WT1709

Wandsworth County Court  
76-78 Upper Richmond Road  
London  
SW15 2SU

Friday, 14<sup>th</sup> August 2015

Before:

DISTRICT JUDGE SWAN

BETWEEN:

LONDON BOROUGH OF LAMBETH

Claimant

- and -

ADAM DUFFY

Defendant

---

*Transcribed by **BEVERLEY F. NUNNERY & CO.**  
(a trading name of Opus 2 International Limited)  
Official Court Reporters and Audio Transcribers  
5, Chancery Lane, London EC4A 1BL  
Tel: 020 7831 5627 Fax: 020 7831 7737  
[info@beverleynunnery.com](mailto:info@beverleynunnery.com)*

---

MISS HAWKES (instructed by the London Borough of Lambeth) appeared on behalf of the Claimant.

MISS O'DONNELL (instructed by Duncan Lewis Solicitors) appeared on behalf of the Defendant.

---

**JUDGMENT**  
(As approved by the judge)

DISTRICT JUDGE SWAN:

- 1 Mr. Duffy comes before me today, having admitted a number of breaches of an injunction which was initially granted in January 2015 when the London Borough of Lambeth obtained an order without notice which forbade the defendant Mr. Duffy from doing a number of things to cause a nuisance and distress to his immediate neighbours at Hawkesworth House which is on the Oaklands Estate, Poynders Road in Clapham. The order was that:

“The defendant [Mr. Duffy] whether by himself or by encouraging or instructing any other person is prohibited from committing or threatening to commit acts of violence against and/or acts to physically endanger Janet Lindsay, Luisa Puggioni, Bobby Ijaz, Mohammed Mansoor, Emilio Dalmau and any person who resides in Hawkesworth House, Oaklands Estate, any person engaged in lawful activity or in the neighbourhood of Hawkesworth House, any person employed by and/or acting on behalf of the claimant . . . ”
- 2 Then he was restrained from or prohibited from harassing and/or using abusive language. There then followed a list of the same people and classes of people and he was also prohibited from communicating or attempting to communicate with Janet Lindsay, Luisa Puggioni, Bobby Ijaz, Mohammed Mansoor and Emilio Dalmau. He was also prohibited from allowing any noise to emanate from Flat 1, Hawkesworth House between the hours of 10.00 and 8.00 and is prohibited from allowing excessively loud noise to emanate from the premises at any other time. Finally, he was prohibited from using illegal drugs at the premises or in the common parts of the block in which the premises are situated at and/or from allowing his visitors to do so.
- 3 Mr. Duffy had been granted the tenancy of Flat 1, Hawkesworth House in April 2008, but it appears that did he not actually take up residence in the flat for some years thereafter. Soon after he moved in, the other residents in Hawkesworth House began to be disturbed by noise, antisocial behaviour, shouting, swearing and frequent police attendances at his premises. Things got worse when he entertained or allowed two other people to stay at the property and after a number of years of residents complaining, the London Borough of Lambeth finally took proceedings against Mr. Duffy and those proceedings, as I have said, culminated in the order which I have just read on 30th January.
- 4 The order was served upon him on 6th February with a notice of hearing for the return date on 24th February. Mr. Duffy did not attend that hearing and consequently the order continued in the same terms to which I have just referred. The order was served personally upon him on 27th February.

- 5 By 16th April the London Borough of Lambeth found it necessary to issue a notice for the defendant to show cause why he should not be committed to prison for breach of the order and the notice was served on him at the latest by 1st May. The particulars under the notice had three allegations: on 11th April 2015 the defendant, whilst inside the premises, made several loud bangs between the hours of 12.30 and 4.00 am which were audible in neighbouring properties and which woke up the neighbours, causing them a nuisance and annoyance. This conduct on the part of the defendant is in breach of clause 4 and clause 8 of the injunction. The numbering of the injunction as it was made on the return date is slightly different from that which I have read out, but clause 8 is engaging in conduct which is capable of causing nuisance and annoyance. Clause 4 is the clause which relates to allowing noise to emanate from the premises between 10.00 pm and 8.00 am and excessively loud noise at any time at any other time.
- 6 There is an allegation of a further breach on 13th April, which Mr. Duffy does not admit, which has been adjourned to be dealt with at the hearing of the possession proceedings which are due to take place in November.
- 7 The third allegation was that on 15th April 2015 the defendant was banging loudly and intermittently in the early hours of the morning inside the premises, including at 3.00 am, 3.49 am, 3.58 am and 4.11 am. The noise was audible in neighbouring properties and it woke up the neighbours. The defendant caused and/or permitted noise nuisance to occur in breach of clauses 4 and clause 8 of the injunction. Mr. Duffy admitted that also. I have today been told that in relation to 11th April he had just returned to the property, having been away for a while since the making of the injunction on 24th February, and he says he was tidying the property and made the banging noises in so doing. In relation to 15th April, the excuse put forward by counsel on his behalf, on his instructions, is that the noise might have been made by him shutting doors in the premises.
- 8 Having received the notice to show cause why he should not be committed, far from immediately admitting the matters, Mr. Duffy continued to commit breaches of the injunction. On 20th and 21st April there was more banging loudly, starting at midnight until 3.45 am; again, audible in the neighbouring property and waking up the neighbour, causing him nuisance and annoyance. On 8th May, so a week or more after service of the first notice to show cause, the defendant, whilst inside the premises, made several loud thuds around midnight which continued sporadically until 2.00 am, audible in the neighbouring property, waking up the neighbour. On 9th May, made several loud thuds around midnight, continued sporadically until 2.15 am, audible in the neighbouring property, woke up the neighbour. On 2nd June 2015: the defendant shouting loudly in the premises, audible to his neighbours. The neighbour is woken up at 4.30, including children, causing them nuisance and annoyance.

The noise went on until 5.30 am.

- 9 Because no admissions had been made and because the breaches continued, an updated notice to show cause was served, but I accept that it may be that Mr. Duffy had no opportunity to respond to it until the hearing of the first notice and, indeed, after permission had been granted to rely on the updated notice and particulars (the hearing of those further matters was on 19th June).
- 10 Mr. Duffy has to have some credit for admitting everything, bar the incident on 13th April, at court on 19th June. However, it is not to his credit -- and, indeed, it seems to me a significantly aggravating factor -- that he continued to commit breaches after the first notice had been served upon him and, indeed, he admitted a further breach which was added on the very day, 19th June, which was an incident which took place in the early hours of that very morning. That incident is that the defendant and his girlfriend at 4.01 am created excessively loud noise by shouting and swearing whilst inside the premises. The noise nuisance resumed at about 7.05 am and woke up the defendant's neighbours and their children. The defendant swore frequently, using the word "fuck" and this was audible to the children in the neighbouring property. So that is a serious breach committed on the morning of the contempt hearing.
- 11 I come to what seems, in my judgment, to be the most serious breach, which is on 1st June 2015 at around 9.30 pm. The defendant was just outside his premises and he said, "I wouldn't have this problem with the door if it wasn't for her." His girlfriend said, "I bet she's there right now." The defendant responded by saying, "Stop it, we'll be accused of tampering with her spyhole again. We are the ones who keep getting in trouble, not her." The defendant's girlfriend replied, "She's the one who should be in trouble." The defendant said, "Well, she will be if I lose my home." This conversation was audible to a neighbour in her own flat and to another neighbour. She was disturbed and frightened by what she heard and, again, this is conduct in breach of the first clause and clause 8 of the injunction; the first clause is about threats of violence. There is one further breach which was admitted which I should have mentioned before, which is on 2nd June when the defendant was shouting loudly in his premises which was audible to his neighbours, who were woken up at 4.30 am, including children.
- 12 I am satisfied that the threats contained within the conversation between the defendant and his girlfriend on the evening of 1st June were made with the intent that the neighbours should hear them. I can see no other reasonable interpretation of that conversation. The clear evidence of Miss Lindsay, who is the neighbour who was the recipient of the threats, is that she was frightened. She says:

"I took this conversation to refer to me. The defendant has said to the tenancy housing officer that I am the only one complaining and that I'm

picking on him because he's young. I was upset that I could hear this conversation from within my own flat and the content of the conversation really concerned me. It seemed to me that the defendant has focused on me and that he is threatening that I will be in trouble if he is evicted. This is very scary."

13 Of the generality of the behaviour, she says she and her family, as well as many of the neighbours -- and I pause here to note that many of the neighbours are very elderly and in poor health and some, I think, suffer from disability -- have suffered for a long time caused by the defendant and his visitors to the premises:

"The antisocial behaviour has been awful. My whole life [says Miss Lindsay] has been turned upside down. I have suffered from loss of sleep. My children have been disturbed and I feel stressed and frightened because of the defendant's behaviour."

She goes on shortly thereafter to say:

"I am so stressed by these incidents [and she is talking here not about the threats but about the thumping and banging and shouting]. The defendant has only been back in the premises a few days and he is already causing trouble, disturbing me, my family and other neighbours. I am even more stressed now, worrying that I will have to suffer the same awful antisocial behaviour that I did in the past and I am losing sleep again. This is not acceptable. My children should not have to witness this kind of behaviour and they have to go to school the next day. I need to be able to sleep, my husband needs to sleep, I am also frightened that this behaviour will escalate into violence."

14 With the exception of the threats on 1st June, which I find to be clearly intentional, it is submitted to me that the other breaches, the bangings, thuddings, shouting and such like are not intentional. I accept that they are not intentional but in the context of the order made on 24th February confirming the without notice order of 30th January, they are in my judgment breathtakingly reckless and clearly so as to be virtually indistinguishable from intentional behaviour. It beggars belief that Mr. Duffy, having received the injunction, should go back to his premises and start behaving in such a way in the early hours of the morning on a frequent basis so that his neighbours are woken. This is wholly unacceptable and shows to my mind a blithe disregard for the order of the court. It is not at all assisted by the fact that he only admitted the first set of allegations on the day of the hearing on 19th June, which meant that all the frightened neighbours had to attend court in order to give evidence.

- 15 I have been referred to a number of reported authorities set out in the notes to the relevant section of the Housing Act 1996, as in the notes at volume 2 of the White Book at para.3A-1782. I have also been referred by counsel for the defendant to the Sentencing Guidelines Council guidelines for sentencing in breach of an antisocial behaviour order, which of course this is not. However, it is not dissimilar because of course the injunction was only granted on the finding of the various facts which were alleged and which were found to have been proved on 24th February. So whilst there have not been previous convictions, there are previous factual findings of antisocial behaviour.
- 16 Looking at the starting point guidelines, I am satisfied that the behaviour admitted and proved is far more serious than the lowest bracket where no harassment, alarm or distress was actually caused by the breach and none was intended. I am tempted to find that in fact the defendant has caused serious harassment, alarm or distress which has been intended where the starting point would be 26 weeks' custody. But, given that this is the first breach and the only intentional breach with really unpleasant threats has been that on 1st June, I am satisfied that the proper bracket is that which is set out in the middle, lesser degree of harassment, alarm or distress where such harm was intended or where it would have been likely if the offender had not been apprehended. As I say, the difference between intentionality and the degree of breathtaking recklessness in the other breaches involving noise and shouting and swearing seems to me to be very little.
- 17 Looking at the aggravating factors or mitigating factors beneath the brackets set out at p.9 of the guidelines, I have in fact dealt with all those factors but it is, in my judgment, quite clear that the factors aggravating Mr. Duffy's breaches far outweigh any mitigating factors, which indeed are hard to find at all.
- 18 I consider that an appropriate sentence in this case is six weeks' custody concurrent on each breach. I am, however, satisfied that in the first instance that sentence can be suspended and it seems to me that a six-month period of suspension is appropriate, which should take Mr. Duffy through or nearly through to the end of the period of rehab which I hope he is about to start in order to attempt to address his misuse of alcohol and other illicit substances.
- 19 So the sentence is six weeks' imprisonment, suspended until 14th February 2016.
-