

IN THE COUNTY COURT AT BRISTOL

No. WR15F00236

Bristol Civil and
Family Justice Centre
2 Redcliff Street
Bristol
BS1 6GR

Friday, 12th February 2016

Before:

DISTRICT JUDGE COPE

THOMAS

-v-

KOUZARIS

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J U D G M E N T

(For Approval)

DJ COPE:

1. The court is concerned with the applicant's committal application in respect of her former partner, Kosmas Kouzaris. Today the applicant is represented by Miss Fox of Counsel. The respondent has appeared by video link from prison and he acts in person.
2. For the benefit of there being one judgment, I emphasise at this stage that the respondent had previously written to the court because he wanted there to be an adjournment so that he could take legal advice. I heard from him in that respect and I declined his oral application. There is not a formal application, he has made it by letter and I declined it on the basis that this matter has been dragging on for a considerable period of time. It was clear on 1 July (and I have checked my notes in this respect) when the applicant was represented by different counsel, that the respondent had been told to take legal advice on that occasion because when he attended court on 1 July he was already said to be in breach of an earlier non-molestation or at least other orders. The position was clear on that occasion. Likewise it was when sentences were passed by Judge Singleton on 23 July and likewise when I dealt with the matter back in January, so I was not prepared, taking into account the over-riding objective, for this matter to be further adjourned.
3. With regard to this committal application I have also given a judgment satisfying myself that I do indeed have jurisdiction to deal with the matter. That was addressed previously and the procedural guide at page 155 of the Red Book confirms that a district judge has jurisdiction to deal with the

matter. Likewise, I also referred to the Family Court (Composition and Distribution of Business) Rules 2014 which also confirm that I have jurisdiction to deal with this matter.

4. All other procedural requirements have been complied with. The respondent has received all the relevant documents. Housekeeping was dealt with on the last occasion and he is fully aware of the breaches that the applicant asks the court to make findings about today.
5. In that respect I remind myself that the original committal application which was made on 29 September requested that the court dealt with the telephone call that was allegedly made to the respondent's mother on 24 July and, likewise, a message and photograph that the applicant says were passed on to her by a neighbour on 21 August, but on the last occasion I allowed the applicant to amend her committal application to rely on letters that she says have been sent by the applicant to her and that was addressed in recitals to the my previous order. So that, essentially, summarises the position. Let us deal with the breaches in turn:
6. On 24 July, the day after the last non-molestation order was made by Judge Singleton, the applicant alleges that the respondent telephoned his mother saying essentially:

'This is a message for both of you. You can get fucked, Amy can get fucked and I don't want anything to do with the kids.'

Further, when the respondent's mother referred to three males being at her home the respondent is alleged to have said:

'Yeah, I know, they're going to beat you lot up and I don't give a shit 'cos they think I care but I don't.'

There is a statement from Miss Taylor made to the police on 24 July, that states:

'This is for you and fucking Amy, because of you two I can't hire a car from anywhere and in respect of the three males yeah, I know 'cos they're going to smash you both fucking up. I don't care about when they get all of you.'

So that is the first allegation.

7. The second allegation is that on 21 August the applicant saw a text from a neighbour, Kieran, who showed her a picture apparently of the respondent on the edge of a field and, essentially, in breach of the non-molestation order that had been made; it was very close to her home. There is no evidence from Kieran in that respect.
8. Then, of course we now have, in so far as the third breach is concerned, the letters in the bundle at B79 one addressed to the applicant, at B82 to the boys and B85 *'To my lovely little boys.'*
9. So those are the matters that I must deal with. I remind myself that the onus is on the applicant to satisfy the court to the criminal standard, so a higher standard than the balance of probabilities and beyond reasonable doubt that these allegations are made out. I have read the bundle of documents. I have heard brief evidence from the applicant. I have heard from the respondent's mother and I have also heard from the respondent as

well, despite the fact that he has not filed any evidence. I felt it only fair that he should have an opportunity to participate properly in the proceedings.

10. The applicant, essentially, says what she has said in her many witness statements. With regard to the phone call she was not asked too much about that because really that was something for the respondent's mother to deal with, but there was an issue with regard to addresses and where she was living and where the respondent's mother was living. Her evidence was that they were, essentially, spending time at each other's houses.
11. With regard to the message and photograph of 21 August, she had said in her witness statement that the respondent was in the photograph, but today she said that he was not in the photograph, but I have not got it anyway so her evidence was not desperately helpful in that respect.
12. With regard to the letters she accepted upon questioning from the respondent that she had indeed written to him in July 2015, it was part of her therapy, if I can call it that. She was not expecting a response to it and she says that she had not asked any questions to result in the respondent having to send a reply to her, but it had been part of a piece of work that she was undertaking with her social worker and the social worker had shown the respondent the letter. I think there were other points that she made as well, but that essentially summarises the salient parts of her evidence.
13. Miss Taylor, was asked about addresses as well. She said that they had been switching houses for about six or seven months, so from about March

to September. When asked about references to 'our address' said that is 'talk of Bristolians', but I am not entirely sure of the relevance of this in any event. In short, she confirmed what she had said in her witness statement with regard to the telephone call back in July.

14. The respondent gave his evidence. He essentially says that all of this is an attempt at entrapment on the part of the applicant and he is faced with false allegations and slander.
15. With regard to the telephone call on 24 July he accepts that there was a call between himself and his mother, but he said that was the extent of it. He denied that he had sworn or made any threats. He says that is simply not true. He said that all he said to his mother was 'Thanks to you and Amy I can't get a courtesy car' but he did accept that he was angry.
16. He is concerned about the picture because he did contact Kieran because he wanted to meet him and so this was him just simply sending a message to Kieran so that Kieran could ring him and they could meet.
17. As for the letters, he said that he had a letter from the applicant, so it is entrapment. I think, on reflection, he could see perhaps that the letters might be intimidating now that the non-molestation order had been explained to him properly, but that was essentially the thrust of his evidence. That, essentially, summarises the evidence.
18. Dealing with the first breach, first of all, I accept the statements of the applicant and the respondent's mother. The police statement of Simone Taylor was given on the very day, so 24 July. That is consistent with what

she has said subsequently in her statement for the purpose of these proceedings. I am afraid that the respondent's evidence was implausible in this respect, particularly when one bears in mind what he had said at B78. At B78, and there was no dispute that this was his evidence, he referred when writing to the applicant to this:

'Those kids that went to my mum's they tried stitching me up on a moped I was buying.'

So it was some explanation on his part for these boys having turned up on his mother's house which he appeared to deny today, but I am satisfied to the required standard that that allegation is indeed made out. I say also that I am satisfied that the words were used as set out in the statement of Miss Taylor and the reference to both of them being smashed or similar was indeed referring to the applicant and the respondent's mother.

19. The second allegation is unclear. It gets nowhere near to the required standard of beyond reasonable doubt. I do not have the photograph. The applicant's evidence was unclear with regard to the photograph and she had signed a statement saying that the respondent was in the photograph and today said that was not the case. Whilst it might be an understandable omission on her part, it is not made out.
20. As for the third allegation and the letters, my impression from the respondent's evidence was that he was rather more accepting than he was with regard to the other allegations, but looking at B79 what he says is this:

'My only witness is you, yet you'd rather lie through your teeth every time.'

So he wrote to her in that respect and I am satisfied that this letter was sent, as he says, at some point in October. Even if the applicant had written to him in July, the court does not have that letter, I am satisfied that this was a spontaneous letter, but it matters not, it was in breach of the injunction and the injunction prevented the respondent from communicating with the applicant.

21. Turning to the letters to the children at B82 it starts off: *'Dear boys, I hope you're all doing well ...'* but then it goes on to say: *'... I should be able to get the help I need now, ain't going to lie but inside jail it's like a jungle ...'* and so it goes on, but crucially: *'... I know about Alan and he can come too ...'* this was with regard to there being a visiting order. On any view this letter, even if it was in part to the boys, there were serious and significant parts of it that were plainly directed at the applicant. These two young boys could not read given their ages at the time and so it was an attempt to circumvent the order that had been put in place.
22. Likewise, the letter at B85 starts off: *'To my lovely little boys ...'* and then it goes on: *'I'm sure you'll understand when you're old enough to hear the truth, all the paperwork and the letter I received really contradicts itself. I can't be accused of any more breaches ...'* whilst he is locked away and this is not written to two boys, despite what the respondent said about the fact that if he had succeeded in taking his own life then it would have been something for the boys to have read at a later date. It was

directed to the applicant. The allegation with regard to the letters is also made out. So two of the three are made out in that respect.

(Later)

23. I must now consider the appropriate punishment in light of the breaches that I have found to have been made out to the required standard.
24. I remind myself that the maximum period of imprisonment is two years and that is pursuant to the Contempt of Court Act 1981, Section 41(1) I also remind myself that the statutory provisions on criminal sentencing are not to be applied, my authority for that is *Cambridgeshire County Council v D [1999] 2 FLR at 42*.
25. I have also reminded myself of the guidance on sentencing for contempt in the case of *Hale v Turner*, which is a 2000 case in which Lady Justice Hale gave guidance. First of all, imprisonment is not to be regarded as the automatic consequence of a finding of a breach and there is no principle that imprisonment is not to be imposed at the first occasion. Nevertheless, it is a common and usually appropriate practice to take some other course on the first occasion. The range of sentencing options is more limited than in crime. I can consider the alternatives to immediate custody, such as adjourning the hearing, making no order, imposing a fine and the like. If imprisonment is appropriate the length of committal should be decided without reference to whether or not it is to be suspended. A longer period of committal is not justified because it is to be suspended and the length of

sentence depends on the court's two objectives; one, to mark disapproval of the disobedience of the order and, secondly, to secure future compliance with the order. The length of sentence must bear some reasonable relationship to the maximum sentence of two years. There is other guidance as well which I need not refer to but which I have considered.

26. I am particularly concerned with regard to the first breach, that it happened so soon after my colleague, District Judge Singleton, imposed three suspended sentences to run concurrently on 23 July. The breach was the very next day. Today the respondent flatly denied that breach and I did not accept his evidence. That is particularly concerning and it is an aggravating feature for the purpose of my judgment now.
27. In the first instance, I activate the suspended sentence of 28 days that was made on 23 July. It is only one lot of 28 days because those sentences were to run concurrently, but in addition I can and do impose a sentence on top of activating the suspended sentence, given the breach, the timing of it and the aggravating factors, namely the serious nature of the words that I have found to have been said. That must have been worrying for the applicant. Fortunately, she only knew of the telephone call through the respondent's mother and did not experience the lads turning up at her home and nothing further happened. Otherwise, it would be a very different sentence indeed. So I provide for there to be a further 28 days, which will run consecutively, to the activated 28 days suspended sentence.
28. With regard to the three letters, the contents I have already referred to. It is troubling that the respondent made reference to the applicant and Alan,

who he thought was her partner. It suggests that he knew what was going on in her life. The letters to the boys, in parts, were to get at the applicant.

29. That said, I got the impression that he was somewhat remorseful today. He told me that he had been in a very bad place when he wrote the letter to the applicant and he says that the first letter to the boys was sent or written at about the same time and he says he did not really understand that he could not be writing to the boys in breach of the injunction. It is absolutely clear to him now and the injunction has been amended in that respect.
30. It seems to me that the letter to the applicant and the first letter to the boys should be dealt with separately, a 28 day sentence is imposed in that respect. In respect of the third letter to the boys, a 28 day sentence for that is imposed. The sentences I impose with regard to the letters are to run concurrently.
31. In short, given the breaches and the activation of the suspended sentence, so that the respondent fully understands the sentence that I am imposing, there are three blocks of 28 days which will run consecutively. They start from today. The defendant is already in prison for an unrelated offence. He tells me that he is due to be released at the end of June. If that is right then these sentences will expire before he is released, but I have not seen any evidence with regard to his release date. But taking all matters into account, I bear in mind the totality principle, I am satisfied that three 28 days sentences to run consecutively, so one after the other, is appropriate,

particularly when I take into account the court's maximum sentence of two years.
