

IN THE COUNTY COURT AT BRISTOL

Case No: C00BS695

Sitting at:
The Magistrates' Court
Marlborough Street
Bristol BS1 3NU

Friday, 27th May 2016

Before:

DEPUTY DISTRICT JUDGE CLOSE

B E T W E E N:

MERLIN HOUSING

Claimant

- and -

KIERON NASH

Defendant

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MS LLOYD appeared on behalf of the CLAIMANT
MR ROSE (Solicitor) appeared on behalf of the DEFENDANT

JUDGMENT RE SENTENCE
(Approved)

DEPUTY DISTRICT JUDGE CLOSE:

- 1 Mr Nash, this is a very serious matter that you are back before the court in this case, and particularly after the judge, when he made an injunction order at the hearing that you attended, gave you a very clear understanding and warning that, if you breached it, you were likely to end up in prison. Only nine days after that hearing, you breached the order.
- 2 In this case, there are three allegations made against you with regard to your breach of the injunction order that was first made on 4th April 2016 and then was heard at a full hearing on 6th May 2016. The original injunction was extended and confirmed at that hearing on 6th May.
- 3 I am informed by the claimant's representative and I am informed by your solicitor that you admit the third allegation that is made against you: that, on 15th May, you swore at Ms Sharon Hammod who was identified in the injunction, saying to her: "Come on, you fucking pussy" as well as other abuse, and by your body language intimating that you wanted a fight. You have essentially admitted that allegation. On that basis, the claimant has not proceeded with the other two allegations.
- 4 I therefore must deal with the one allegation that is before me, and that is that allegation of your behaviour against Ms Hammond that you have admitted. So to that extent, and by reason of that alone, you breached the injunction that had been made just nine days before, and that is a very serious matter. It is therefore for me to determine what is the appropriate sentence bearing in mind that breach of the injunction.
- 5 It has been submitted to me by the claimant's counsel that it comes at the bottom end, so to speak, of the top bracket where serious harassment, alarm or distress has been caused or where such harm was intended. However I note – and whilst I am conscious of the words that were used - it was just one sentence, albeit it was abusive language. I do not take into account the fact that Ms Hammond responded to it. I take into account purely the words that were said by you, Mr Nash, in this instance. Taking into account those factors I am satisfied that the seriousness of the breach comes in the middle category; that is, a lesser degree of harassment, alarm or distress where such harm was intended, and I agree that it was designed to be abusive language to Ms Hammond in breach of that injunction. But I consider that it comes into that lesser degree.
- 6 The starting point therefore of the sentence is a six weeks' custodial order. What I also should take into account in determining the sentence is

aggravating factors. To that end, I note that this is the first breach of the order that was made against the defendant. I do take into account that fact, but I also take into account that the breach was committed very shortly (i.e. nine days) after that order was made. In particular, the district judge at that hearing made it clear to Mr Nash the serious consequences of breaching the order.

- 7 I also take into account that the person targeted by the abusive language, Ms Hammond, was somebody who had voluntarily given evidence in this matter and had assisted the claimant to that extent. The injunction made was obviously one to protect her, amongst other people.
- 8 So taking all those factors into account, I think the appropriate sentence is a custodial one, and, on that basis, the appropriate custodial sentence would be one of eight weeks.
- 9 I then turn to whether or not it is appropriate in this case to suspend the sentence. To that end, I do take into account the fact that, in particular, Mr Nash has, very sensibly, agreed to extend the original injunction that was made against him so as to exclude him completely from Gypsy Patch Lane, which is the place where much of the problem has occurred. I also take into account that that will have a significant impact on Mr Nash's family life. He has a small child with his partner, his partner being resident at Gypsy Patch Lane, and obviously, until now, he has spent a considerable amount of time there. In future, he is not going to be able to do that. If he does do so, Mr Nash, you will be in breach of this order and you will be back before this court in the same position and you are very likely to go to prison that time round.
- 10 It has been said to me that Mr Nash is immature in that he is 22 years old. He may have an element of immaturity and it may be that the fact that he has been brought before this court will bring home to him the seriousness of the order that was made and also the consequences of breaching that order. I very much hope that what has happened today will bring home to him that he must abide by the court order; it is not just something that is written on paper.
- 11 I note that his grandmother is with him today giving him the support that she, by her mere presence in court, is able to do so, and I hope that she is able to provide him with that continuing support and give him the mature guidance that he obviously needs. But it is something that he will have to learn to do himself. He is an adult; he is 22 years old; he has responsibilities, particularly towards his child.

- 12 So taking all the factors into account and, as I say, particularly with regard to the injunction that Mr Nash has agreed to the extension of - which I sincerely hope and I do believe will actually, I think, calm matters down and that appropriate behaviour can continue between the relevant parties concerned - it is appropriate that the eight-week custodial sentence is suspended for the period of the injunction, which is two years.
- 13 Mr Nash, if you breach the suspended sentence you will be sent to prison, and I sincerely hope that you will do all you can to avoid that, aware of what the consequences of that would be not just for you but for your child.

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