

THE COUNTY COURT AT BRISTOL

Claim No. C00BS578

Bristol Civil Justice Centre
2 Redcliff Street, Bristol

Friday, 14th October 2016

Before:-

DEPUTY DISTRICT JUDGE HATVANY

B E T W E E N:-

BRISTOL CITY COUNCIL

Claimant

-and-

STEPHEN ILES (1)
CHERECE CUBB (2)

Defendants

(Transcribed from the official digital recording by
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J U D G M E N T
(As Approved)

EXTEMPORE JUDGMENT

DEPUTY DISTRICT JUDGE HATVANY:

- 1 This is my Judgment in the case of Bristol City Council and Stephen Iles, who is the First Defendant but we are not concerned with him. This is about Cherice Cubb, who is the Second Defendant; the Claim No. is C00BS578. I will direct the court to make sure that on the order she is named as the Second Defendant because I am told that that has not been done previously.
- 2 My first concern is that the Second Defendant, Cherece Cubb, is not here today. I have been provided with a Certificate of Service to show that she was personally served with notice of the hearing today and, indeed, the order of 22nd August, on 7th October, and so she would have known about the hearing today and I am told by Mr. Denford that she advised at that time that she would get legal advice from Dan Woodman & Co., a firm of solicitors, but she has not done that and she has had some time to get legal advice but instead she has chosen not to be here today. In those circumstances, I see little point in adjourning the matter. She has had sufficient opportunity to organise legal advice and I am not going to adjourn the matter off any further for that reason.
- 3 She is clearly aware of the breaches or the promises to the court that she has broken. I am told that when she gave the undertaking on 11th May 2016 His Honour Judge Ambrose reminded her of the seriousness of those promises to the court. She also had her support worker, Natasha Williams, with her and she too did not mince her words about how serious these promises were. The Second Defendant appeared to understand the nature of the promises that she had given and I note that on the undertaking itself she has signed a statement to say that she understands the undertakings that she has given and that, if she breaks any of those promises, she may be sent to prison for contempt of court.
- 4 On 20th May Mr. Denford, who is here today, spoke to the Second Defendant about her undertakings and warned her that there had been reports of possible breaches, and Mr. Denford has informed the court that he was assured that she would not break her promises to the court. Notwithstanding that assurance, on 22nd August it is recorded on the face of the order that the Second Defendant, who appeared at that hearing in person, admitted all the breaches set out in the application notice dated 25th July 2016; and the breaches are numerous. She had given an undertaking not to enter any part of 37 Huntvale Road, St. George, Bristol, including the internal communal areas of the block in which number 37 is situated, and the grassed areas of that block between 5pm and 9am on any day, and the breaches are that she entered on 21st May 2016, 23rd May 2016, 28th May 2016, 30th May 2016, 31st May 2016, 5th June 2016, 6th June 2016, 7th June 2016, 8th June 2016, 10th June 2016, 11th June 2016 and 13th June 2016, all between the prohibited times. She has caused alarm and distress as a result of those breaches to nearby elderly and vulnerable residents and in particular a Ms. Hill and a Ms. Coghlin, and I have read a statement from Dan Berlin – it is an affidavit – in which he says that they are suffering and are very concerned about these what are referred to as “brazen breaches” of the undertakings, and so Cherece Cubb is operating beyond the

law, and the effects on those two and other neighbours in terms of the anxiety and distress that has been caused as a result is palpable.

- 5 As a result of those breaches the matter was adjourned to today for sentencing and, given that the Second Defendant was here on 22nd August and we are now 14th October, she would have had plenty of time to prepare for the hearing today but, as I have said, she has chosen not to attend. There is no need for me to make any findings of fact as to these breaches because of these admissions that are recorded on the face of the order. I remind myself of the objectives today which is to mark the court's disapproval of the Second Defendant's breaches of her promises to the court or breaking her promises to the court and those breaches have occurred some 12 times notwithstanding the warning that Mr. Denford personally gave the Second Defendant on 20th May.
- 6 So the first task I have to consider is whether a custodial sentence is appropriate and I have formed the view that it is appropriate in view of the numerous breaches, the warnings given by His Honour Judge Ambrose on 11th May, by the support worker on 11th May and subsequently by Mr. Denford on 20th May, and the effect of those breaches on other residents. I then have to consider whether or not it would be appropriate to suspend any custodial sentence on terms. I think that, given the warning that was given and was ignored, it is not appropriate to suspend. This is a lady who seems to regard herself as beyond the reach of the court and, given the distress and alarm, needs to be brought to account, so I do not propose to suspend the sentence.
- 7 Looking at the sentencing guidelines, I have to look at the nature of the failure and the harm. It is the lesser degree of harassment, alarm or distress, and I do take into account that matters since June have improved so I am looking at the starting point in the guidelines which is six weeks' custody, and that is what I so order.

MR. DENFORD: Would you order six weeks as...

DEPUTY DISTRICT JUDGE HATVANY: As a total.

MR. DENFORD: As a total and concurrently.

DEPUTY DISTRICT JUDGE HATVANY: Concurrently, and the reason for that is that, given that there have been some 12 identical breaches, I think it becomes too artificial to try to allocate a short term for each breach and, indeed, these are repeat breaches. So I am looking at the totality of the 12 breaches and to run concurrently as a six weeks total sentence.
