

**IN THE COUNTY COURT AT BRISTOL**

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

Date: 28<sup>th</sup> October 2016

BEFORE:

**HIS HONOUR JUDGE AMBROSE**

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BETWEEN:

**Bristol City Council**

**Applicant**

**- and -**

**Richard Smith**

**Respondent**

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**J U D G M E N T**

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Mr Denford appeared on behalf of the Applicant  
Mr Ray appeared on behalf of the Respondent

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**APPROVED**

Transcribed from the official tape recording by  
**MENDIP MEDIA GROUP**  
Rockeagle House, Pynes Hill, Exeter, Devon, EX2 5AZ  
Telephone : 01392 213958 Fax : 01392 215643  
Email: ttp@mendipmediagroup.com

36 folios in transcript  
2,575 words in transcript

**HIS HONOUR JUDGE AMBROSE:**

1. Mr Smith, you can remain seated please. Sit down, please.
2. You were made the subject of an injunction on 15<sup>th</sup> July of this year and that injunction provided for an exclusion zone into which you must not go, and it was to last for a year.
3. The specific location within the exclusion zone which has caused all the trouble is Trenchard Street Car Park, which is a multi storey car park just behind the Colston Hall in the centre of town.
4. It is the car park that is used by members of the public who go to large venues such as the Colston Hall or the Hippodrome, or who come into town to do their shopping or who attend hospital appointments at the Bristol Royal Infirmary or the Oncology Centre which are just up the hill from the car park.
5. It is a busy multi storey car park but it is, like a lot of car parks of its type, a rather unwelcoming place, with draughty stairwells, concrete floors and at night it is a slightly forbidding place for members of the public to go. Within the car park there are machines at which members of the public have to pay for their parking. This means they have to take their purses out of their handbags or their wallets out of their pockets. When, in this situation, they encounter someone begging, who is very obviously in the grip of a serious drug problem, they find it intimidating and frightening.
6. Whatever your true motives, and it is not suggested for a moment that you have actually attacked a member of the public or tried to rob anybody, you are intimidating by your presence there and you are making the use of the car park problematic. It has led to complaints from members of the public about your presence and that of your partner who I will be seeing in a few moments time.
7. That concern led the council to try and engage with you to try and get you away from there. Those attempts came to nothing and in the end the council sought an injunction. They did not do it lightly but in the end they were left with very little alternative.
8. That injunction was made on 15<sup>th</sup> July. Between 22<sup>nd</sup> July and 17<sup>th</sup> August you breached it no fewer than 24 times.
9. On 25<sup>th</sup> August the council applied for a warrant for your arrest. The warrant was issued the following day and you were in due course arrested, and a committal hearing took place on 16<sup>th</sup> September, at which the 24 breaches were put to you and you admitted them.
10. The Deputy District Judge on that occasion imposed a suspended committal order for 28 days' imprisonment suspended for six months, on condition that you attend the Bristol Drugs Project on 23<sup>rd</sup> September and that you abide by the injunction. That was the sentence passed for each of the breaches concurrently.

11. You left court that day and you went pretty much straight back to the Trenchard Street Car Park.
12. Between 16<sup>th</sup> September and 9<sup>th</sup> October there were a further 19 breaches of the injunction, immediately following the hearing at which a suspended committal order was made. There was a twentieth breach but it predated the hearing on 16<sup>th</sup> September.
13. Given this repeated breaching, a further application was made for a warrant for your arrest. The warrant was issued, you were arrested and brought before the Court on 21<sup>st</sup> October. You were bailed to 26<sup>th</sup> October, which was Wednesday of this week, when you were due to appear before me.
14. Whilst on bail, there were a further five breaches of the injunction, by your presence in the car park on 21<sup>st</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> October.
15. You did not attend court on 26<sup>th</sup> October and in fact shortly after the time when you should have been at court, you were again seen in the Trenchard Street Car Park.
16. There is a pattern here of repeat breaches.
17. All those breaches have been put to you today. You admit them quite candidly. There is no realistic way of disputing them because you are caught on CCTV at the car park and the footage has a time and date on it. It is irrefutable evidence that you were where you should not have been.
18. Nevertheless, you do not try to pretend that it was something that it was not and you admit the breaches. You also admit there is a breach of the suspended sentence that was made on the last occasion.
19. You are represented today by Mr Ray. The breaches having been admitted, I must consider what sanction I should impose for them.
20. There are guidelines that are relevant to this sentencing exercise. I bear in mind the case of Amicus Horizon Limited v Thorley [2012] EWCA Civ 817. I bear in mind the definitive guideline for breach of an antisocial behaviour order. Whilst not precisely analogous to your situation they offer broad assistance to the sentencing exercise.
21. The council who bring these proceedings invited me to put you into the second category, defined as a 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. A starting point of six weeks' custody, a sentencing range of a community order to 26 weeks' custody.
22. I am in no doubt that this case does properly fall into that second category within the

guidelines.

23. Aggravating features. You have a history of disobedience of court orders. The injunction was made on 15<sup>th</sup> July, there followed 24 breaches. A suspended committal order was made on 16<sup>th</sup> September, there followed 24 breaches. There was an order that you attend court on 26<sup>th</sup> October, you did not attend. I regret to say there is a significant history of disobedience to court orders.
24. Second. The breaches were committed immediately or shortly after the order was made. Well, that has been true at each stage. The 24 breaches came hot on the heels of the injunction being made on 15<sup>th</sup> July. The next 24 breaches were immediately following the suspended committal order of 16<sup>th</sup> September. The obvious conclusion is that you have no intention of complying with the order.
25. There is the impact on the users of the car park which I have already described. The photographs from the CCTV show precisely what I was describing: individuals at night using the cash machines with you either standing nearby or sitting on the ground beside the machine or walking beside them. They do not know your intentions. They are intimidated by your presence. There is also evidence of you sleeping across stairwells and blocking access that members of the public need in order to get back to their vehicles.
26. As far as mitigation is concerned, firstly of course your prompt admissions today. On one view there was no alternative but to admit these breaches. Nevertheless, I give you full credit for admitting them.
27. It is said on your behalf that you live in the car park, that is where you have chosen to go because you consider yourself to be safer there than elsewhere. However, I cannot avoid the observation that you were recently very badly beaten up in the car park, which led to you being hospitalised and placed in intensive care for a while. You still have some of the marks on your face from that attack. Despite this, you discharged yourself from the hospital and returned to the car park, which was the location of the assault. It may be that you think you are safer there, but the facts do not bear that out. You would undoubtedly have been safer if you had taken up one of the very many offers of assistance that were made to you at the time.
28. I am told that you have a destination you would like to return to, which is a derelict pub near Bristol Temple Meads Train Station, where you would like to live. It is a squat and it is somewhere outside the exclusion zone that you would like to go to.
29. I am told that you have an appointment at the Bristol Drugs Project today at 1.00pm that you would like to attend and that you are about to start receiving Employment Support Allowance, which will, I am told, remove the need for you to beg.
30. I am told that you have at times attempted to speak to the various authorities and various agencies with whom you had appointments, to explain your non-attendance. I am told that

this communication has taken place by text. Again, I cannot help but observe that if you are able to manage a mobile phone, own one and keep it topped up and charged, then you should be capable of attending appointments, especially important ones such as your court appearance on Wednesday. The court is, after all, only a short distance from the Trenchard Street Car Park and you were able to get there without difficulty that day.

31. There is no alternative conclusion but that if this order continues with you at liberty, you will breach it again and as Mr Denford said, the time has come where the cycle has to be broken. The only way that that can be done is by a period of imprisonment.
32. The combination of the number of breaches, the timing of the breaches and the circumstances in which they have occurred, represents repeated and one can only conclude wilful defiance of the court order. In my judgment this case is so serious that only an immediate prison sentence can be justified for it.
33. It would not be appropriate for me to suspend any term of imprisonment, despite Mr Ray's submissions to that effect.
34. The appropriate sentence, balancing the aggravating and mitigating factors, would have been 15 weeks after a contested hearing. With full credit for your early admissions, that reduces to 10 weeks. That sentence will be passed for each of the admitted breaches concurrently.
35. In addition, the suspended committal order that was made on 16<sup>th</sup> September will be activated in full, to run consecutively to the sentence of 10 weeks. There will therefore be a sentence of 4 weeks consecutive for each of the breaches dealt with on 16<sup>th</sup> September, making a total sentence of 14 weeks. You will serve half of that term before being released.
36. Upon your release the injunction will still be in place. You must abide by it upon your release.
37. You will not be released without assistance. The prison authorities will offer you assistance which you must accept. You have been extraordinarily resistant to people helping you so far but that must change in future.
38. The sentence is 14 weeks' immediate custody.

Mr Denford                      Sir, may I request an order for no order for costs save for a detailed assessment of the defendant's publicly funded costs, so my friend can get paid.

HHJ Ambrose                  Yes.

Mr Denford                      I am obliged.

HHJ Ambrose                  Thank you and may I ask that you draw up the order.

Mr Denford                      Certainly and we need to order a transcript as well.

HHJ Ambrose            And I will order a transcript.