



**JUDICIARY OF
ENGLAND AND WALES**

District Judge (MC) Gary Lucie

**IN THE BARKINGSIDE MAGISTRATES' COURT
IN THE MATTER OF A CONTEMPT OF COURT**

MR. MIRZA KHAN aka MR. MISHA

JUDGMENT ON CONTEMPT

NB: This judgment is not, nor is intended to be, a full record of proceedings but a summary pursuant to para 13 of Practice Direction: Committal for Contempt of Court – Open Court.

Hearing: 28th April 2017

1. At about 12 noon on 28th April 2017 the case of Ms Gipson was called on in Court 5 at Barkingside Magistrates' Court. The case was being prosecuted by Mr Rulewski, a Barrister with the London Borough of Barking and Dagenham. Ms Gipson was sitting at the back of the court with a man known only as Mr Misha (this is, apparently, the name he gave to the usher but subsequent enquiries by the court manager have revealed that his name is thought to be Mr Mirza Khan. I shall refer to him as "D" in this judgment). He came forward but gestured to Ms Gipson to stay seated at the back of the court. The legal adviser, Ms Jenny Scarpenter, asked Ms Gipson to come forward at which point D told her to stay seated and started to shout rant about "common law" and my oath of office. I asked who he was and in what capacity he represented Ms Gipson and he said he was a solicitor (again, I do not believe this to be the case given his subsequent behaviour). D continued to rant and I asked him to be quiet but he ignored me. I asked him to leave court but he refused. I warned him about the court's powers regarding contempt and explicitly told him that if he did not behave he could be

detained in the cells and could face imprisonment for contempt. These warnings had no effect and so security and a police officer came into court and I rose.

2. It took the officers quite some time to remove him from the court and my very busy list was disrupted as a result. When I came back in to court I could still hear D arguing with the officers and further obstructing court business so I took the decision to have him temporarily detained pursuant to section 12(2) of the Contempt of Court Act 1981 (“the Act”). I adopted the procedure set out in Part 48 of the Criminal Procedure Rules 2015 (“CPR” as amended). When D was brought back into court he was taken into the dock but his behaviour was so disruptive that he had to be sent straight to the cells. I was, therefore, unable to deal with the matters set out at Rule 48.5 (2) as D’s behaviour made it impracticable to do so.
3. I immediately arranged for legal representation for D and Mr Ramdhary, a solicitor with David Phillips Partnership, agreed to provide D with advice and representation. He went to the cells to see D. On his return, Mr Ramdhary confirmed to me in open Court that he was told by D that he was a solicitor and would represent himself. Mr Ramdhary confirmed that had advised D of the court’s powers regarding contempt and that the case would be called on once D had had a period of time for reflection.
4. After the short adjournment at about 2.10 pm I asked D to be produced so that I could review his detention pursuant to Rule 48.6. I was not sure how D was going to behave and so I arranged for an allegation of contempt of court to be drafted, in case his behaviour continued to be disruptive. The allegation was under s 12(1)(b) of the Act, namely, “wilfully interrupting the proceedings of the court or otherwise misbehaving in court.” When D entered the dock, I asked him for his name but he refused on more than one occasion. D started talking over me and not listening to anything I said or attempted to say. He said that the earlier proceedings had been filmed and that the footage would be uploaded to You Tube. I advised it was an offence to film in court but he said it was by someone else. I warned him that if his behaviour continued I would proceed with the enquiry into the alleged contempt. He ignored me and carried on ranting about other matters and my oath of office. His behaviour left me with no option but to send him back to the cells. I entered a not guilty plea to the allegation of contempt.

5. With the permission of my Justices' Clerk I decided to sit with 2 lay justices, Mrs Linda Perham JP and Mr Imran Ali JP, as a full adult court to hear the enquiry into the contempt.
6. At about 4 pm we sat and had D brought up to court to allow him a further opportunity to address us and to take part in the enquiry. The legal adviser started explaining the procedure but D kept interrupting her saying he did not recognise the court and that the court did not have jurisdiction. He was asked several times if he wanted to participate in the proceedings but refused to answer and carried on shouting. He was sent to the cells and we decided to proceed in his absence.
7. We conducted an enquiry into the alleged contempt with our legal adviser calling witnesses and examining them. We heard from the usher in court 5 at the time (AW), one of the security guards that was called to the incident (J K-O) (full names on court file) and the prosecution barrister (Mr Rulewski).
8. Having heard the prosecution evidence, we asked our legal adviser to call down to the cells to inform D that we had heard evidence of the contempt and to give him an opportunity, should he wish, to give evidence. The officer made enquiries and was told that D did not wish to give evidence or make representations.
9. We therefore retired to consider our verdict. We considered relevant case law on the meaning of "wilfully interrupts" which is made out if D commits the acts causing the interruption deliberately with the intention that he should interrupt the proceedings of the court or if, knowing that there is a risk that his acts will interrupt the proceedings, D nevertheless goes on deliberately to do those acts (see ***Bodden v Metropolitan Police Commr* [1989] 3 All ER 833, CA**). We were unanimously satisfied so that we were sure that D had committed contempt of court by wilfully interrupting the proceedings of the court and by misbehaving in court. We made the following findings of fact that constituted the contempt;
 - (a) D refused to give his details to the court and instead started ranting and raving at the court asking the judge to produce an "oath of office".

- (b) D threw Ms Gipson's birth certificate at the prosecution barrister;
 - (c) D refused to be quiet when asked to do so even after being warned about being held in contempt.
 - (d) D refused to leave court when asked to do so and had to be physically removed by security staff.
 - (e) As one of the witnesses had said in their evidence, we took the view that D was deliberately making a mockery of the court system.
 - (f) All the above amounted to wilful interruption of the proceedings of the court and misbehaviour in court.
10. Having convicted D, we asked Mr Ramdhary to go to see D again in the cells to offer advice and representation. We asked him to point out that the court considered that the custody threshold had been met and that this was his last chance to make representations about how we should deal with him.
11. Mr Ramdhary came back into court and said that he had spoken with D and passed on what we had said. D had said he did not want to be represented or brought back to court to make representations himself. In short, he did not recognise the authority of the court.
12. We therefore decided to sentence D in his absence. We were aware that our powers were limited to a fine or a maximum of 1 month in custody. We were not able to impose any form of community penalty and could not suspend any custodial sentence. We were unanimously of the view that the case was so serious that only an immediate custodial sentence could be justified because:
- (a) It was a prolonged incident of disruption;
 - (b) Incident required substantial resources to resolve including 3 security officers and 2 police officers;
 - (c) Complete lack of respect for the court process and failing to recognise the court or its dignity;

- (d) Failing to comply with court request to leave when asked to do so;
 - (e) Very heavy court list interrupted meaning other court users, including other defendants, were delayed and inconvenienced;
 - (f) Throwing birth certificate at prosecution barrister;
 - (g) Generally making a mockery of the court system which strikes at the very root of the criminal justice system and cannot be tolerated.
13. We unanimously agreed that the shortest period of custody commensurate with the seriousness of the offence was 14 days and that is the sentence we passed.

District Judge (MC) Lucie
3rd May 2017