

IN THE COUNTY COURT
AT BROMLEY

Case No: E02BR282

College Road, Bromley
BR1 3PX

Date: 20th December 2018

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Before:

DISTRICT JUDGE CRIDGE

Between:

OPTIVO
- and -
MELANIE REYNOLDS

Applicant

Defendant

MR KING appeared on behalf of **OPTIVO**
Ms MELANIE REYNOLDS appeared in person

SENTENCING REMARKS

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JUDGE CRIDGE: :

1. I have considered what sentence I should impose on the Defendant Melanie Reynolds, and following my findings of ten allegations of breach of an order of the Court made on 18th October this year, in considering sentencing, I have regard to the general principles that the purpose of a sentence is punishment, in this case, for breach of an order of the Court, and the sentence must be commensurate with the seriousness of the offence, determined by assessing the culpability of the offender and any harm which the offences caused, or was intended to cause, or might foreseeably have caused.
2. The purpose of sentence is also to secure future compliance with the Court's orders if possible, and the third general principle is that of rehabilitation.
3. I also have to have regard to the relevant sentencing guidelines, which, in this case, are guidelines issued on 1st October 2018 applicable to breach of an anti-social behaviour order under the Anti-social Behaviour Crime and Policing Act 2014. Whilst those are guidelines for the criminal courts, they are obviously relevant for me when considering breach of an anti-social behaviour injunction.
4. The guidelines suggest that I need to first determine the offence category: in other words, I need to determine culpability under three possible levels, A, B and C. A is for very serious or persistent breaches; B is a deliberate breach falling between categories A and C; and C is for minor breaches or a breach just short of a reasonable excuse.
5. I have heard submissions from Mr King on behalf of the Claimant. (Although the defendant gave a short statement in mitigation, she did not address me on culpability.) Mr King said this is a matter which falls squarely within culpability level A. As these are ten proven allegations all taking place within a month or so of each other, Mr King says these are persistent breaches and that is why A is the correct level. However, it is obviously a matter for this Court to decide which of those three levels is appropriate and, in my judgment, the correct level is level B. I accept that these breaches are persistent but when I look at level A ("very serious or persistent breaches") and then compare that to the other levels, it seems to me that level A is reserved for the most serious of offences in those guidelines. In my judgment, whilst the defendant's breaches are serious, I do not find that they fall within level A. I find they are deliberate breaches which fall between A and C and, therefore, I will consider sentence using culpability level B.
6. I then have to consider the level of harm on categories 1 through 3. The level of harm is decided by weighing up all the factors of the case to determine the harm that has been caused or is at risk of being caused, and in assessing any risk of harm posed by the breach the Court should give consideration to the original breaches or the activity for which the injunction was imposed and the circumstances in which the breaches have arisen.
7. Category 1 relates to breaches causing very serious harm or distress or breaches which demonstrate a continuing risk of serious criminal and/or serious anti-social behaviour.
8. Category 3 -- so the lowest category -- is for breaches which cause little or no harm or distress or a breach which demonstrates a continuing risk of minor criminal and/or anti-social behaviour. Category 2 is for breaches falling within those two categories.

9. In my judgment, this is a case where the level of harm is at category 2, falling between categories 1 and 3. I say that because most of the breaches concerned the Defendant returning to the property at a time when she was enjoined by the Court not to do so. Nothing more. In respect of those breaches, nothing more serious has been evidenced in court today.
10. In respect of the final breach, allegation 13, that is one that I consider far more given the effect it likely had on the elderly resident. Balancing the seriousness which the Court attaches to that thirteenth breach and the lesser seriousness of the other 12 breaches, it seems to me that the proper category of harm is category 2.
11. That means that the starting point -- and I need to award sentences in respect of each of the ten allegations and then consider the totality of the awarded sentence in the round -- but that means the starting point that I should look at under the guidelines is twelve weeks' custody but with a range of sentence from a medium level community order, which this Court has no power to make, to one year's custody at the upper level. The sentence is then found within that range, determined by the aggravating and mitigating factors.
12. The guidelines produce a non-exhaustive list of additional factual elements to be viewed in the context of the breach in this case and the factors relating to the offending. Running through the lists and the guidelines, the statutory aggravating factor that the breach was committed whilst on bail applies very much in this case. On 23rd November, there was a bail hearing before District Judge Prevatt at which the Defendant was released on her own recognisance under bail conditions, the condition being not to commit further breaches of the injunction. And I have found that some few days later, on 27th November and also on the 30th and 1st December, there were further breaches by the Defendant of the injunction and, therefore, these were breaches committed whilst she was on bail.
13. Additional aggravating factors are that the breaches were all committed shortly after the order was made and that the parties intended to be protected by the order itself included the residents and staff of sheltered accommodation. Residents of such accommodation are, by their very nature, vulnerable due to their age, disability or other factors. So I find that this is also an aggravating factor.
14. I also take into account that the final allegation concerned the Defendant having, together with a male acquaintance, been involved in the harassment and physical assault of one of the residents of the property (albeit the defendant did not herself assault the resident). I saw the actual assault taking place on the CCTV footage and I accept entirely that the resident was harmed, albeit not physically; certainly emotionally. I accepted the evidence that the victim had been particularly shocked and frightened by what had happened. That is a further aggravating factor.
15. I asked the Defendant whether there were any factors that I should take into account in relation to personal mitigation. She said that she intended not to breach the injunction again. And given her time and experience in prison on remand, she said she had no intention of ever breaking the Court's order again. The defendant also said she was the partner of Mr Colin Hanson at flat 161 Bentham House which was why she was visiting the premises. But I have seen no evidence that this is so and I know the Claimant denies it.. So I have not taken that into account in relation to the mitigation. The defendant also

said that she has, so far as she is concerned, committed no harm to anyone at the property but as I found today, that is not the case.

16. It has also been brought to my attention by the Claimant that the Defendant does suffer with alcohol abuse difficulties and that is a mitigating factor which I do, therefore, take into account in my sentence.
17. So taking the guidelines and all of these factors into account, in respect of all of the breaches that I have found, save for allegation 13, in my judgment, the appropriate sentence for each of those counts is four months. In respect of count 13, given the additional aggravating factors that I have identified, I consider that the appropriate sentence should be six months. Given the closeness in time and the similar nature of these offences, I direct that these sentences are served concurrently.
18. I next have to consider whether the sentence I have imposed ought to be suspended. The seriousness of the breaches and the Court's disapproval of them have been properly and sufficiently marked by the custodial sentences that I am imposing but I also have to consider if future compliance with the injunction can be achieved and, with it, the rehabilitation of the Defendant, by suspension.
19. The defendant has been in custody since 1st December 2018 -- so some, I think, 19 days -- and she has confirmed to me today that she understands the seriousness of her actions and she has told me that she will not commit any further breaches of the injunction order. However, my significant concern is that given the repetitive nature of these breaches; given the fact that, in respect of certainly a number of them, they took place whilst she was on bail having been warned by a Judge that she was not to return to the property, I have no faith in the Defendant's assertion that she will not breach the injunction order again. So I do not find that it is appropriate for this Court to suspend the sentence and I will impose an immediate custodial sentence on the Defendant.
20. So stand up, please, Ms Reynolds.
21. Given the serious breaches which this Court has found proven against you and given the nature of those breaches and the aggravating factors which I have referred to and having taken into account the mitigating factors, I am imposing a total sentence of six months less 38 days for time spent on remand, being a total of four months and 22 days in prison.
22. Thank you. Sit down.
