

The County Court at Derby

Between:

Salvation Army Housing Association

Claimant

v.

Mr Matthew Donnan

Defendant

1. By an ex-parte order made on 29 January 2019, as varied on 8 February 2019 (**Order**), the defendant was, amongst other matters, prohibited from:
 - a. Using or threatening to use, violence towards any person who:
 - i. Resides at Magee Court, Regent Street, Derby, DE1 2TD ("**Scheme**")
 - ii. Is visiting the scheme
 - iii. Is engaged in lawful activity at the Scheme; or
 - iv. Is a member of the Claimant's staff, or agent or contractor of the Claimant.
 - b. Engaging in conduct that causes, or is likely to cause, harassment, alarm, or distress to any person set out in 'a' above
 - c. Using threatening, abusive or intimidating behaviour or language towards any person set out in 'a' above.
2. A power of arrest was attached to the Order. The Order was served on the defendant.
3. At the return hearing on 8 February 2019 following the making of the Order the defendant stated he would contest the making of the Order, and a contested hearing was listed for 12 August 2019.
4. It is alleged that on 29 June 2019 the defendant assaulted a resident of the Scheme. The matter was reported to the Police, and an investigation begun.
5. On 11 July 2019 defendant was arrested for an alleged breach of the Order said to have been committed on 10 July 2019.
6. He appeared before District Judge Davies sitting in the County Court at Derby on 12 July 2019 in respect of (only) the alleged breach of 29 June 2019, and was bailed to appear again on 17 July 2019. The defendant was represented at that hearing by a solicitor.

7. Whilst the Police were reviewing CCTV evidence they identified from it that in respect of the alleged breach on 10 July 2019 the defendant was also seen to carry a machete. This alleged breach and was raised at the hearing on 17 July 2019 before District Judge MacCuish; the claimant opposed bail and sought a remand in custody, and after hearing submissions the defendant was remanded in custody to appear again on Wednesday 24 July 2019. The defendant was represented at that hearing by a solicitor.
8. At the hearing on 17 July 2019, directions were also given as to the committal proceedings, which were listed to be heard first on 12 August 2019. Further to those directions, the claimant filed and served an application for committal dated 22 July 2019, together with evidence; that application listed some seven separate breaches of the order.
9. At the hearing on 24 July 2019, and following discussions between the parties a compromise was reached, subject to the court's agreement. The defendant was represented at that hearing by a solicitor.
10. The compromise agreed between the parties was that the defendant would surrender forthwith his tenancy, the Order would be extended in duration, amended to provide an exclusion zone in respect of Magee Court and made final. However, the proposal was also that the committal proceedings be adjourned and, if not relisted by a certain date, dismissed. On that basis the claimant proposed not to present evidence on 24 July 2019.
11. The court would not accept the disposal of the committal proceedings on those terms, as it had an interest in seeing the court's orders complied with, and there being adverse consequences for non-compliance if admitted or proven (in general terms, the other elements of the compromise were acceptable to the court). The court indicated two potential ways to proceed concerning the committal proceedings; deal with the matter that day if the defendant admitted the breaches, or adjourn to 12 August 2019, the defendant being released on bail in the interim to 12 August 2019 with the consent of the parties.
12. As a consequence, the defendant admitted the seven breaches of the order as set out in the committal application dated 22 July 2019, subject to mitigation submissions. The starting point for sentencing was 14 days, but allowing for time served on remand of 7 days, the sentence was 7 days immediate custody.
13. On 25 July 2019 the defendant purged his contempt, and his discharge from custody was ordered.

District Judge MacCuish

County Court at Derby, 24 July 2019