

IN THE COUNTY COURT AT CENTRAL LONDON

Case No: G01EC155

Courtroom No. 5

Thomas More Building  
Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Monday, 29<sup>th</sup> June 2020

Before:  
HIS HONOUR JUDGE LETHEM

B E T W E E N:

LONDON BOROUGH OF TOWER HAMLETS

and

MS KAREN PARKER

MS RAI appeared on behalf of the Applicant  
NO APPEARANCE by or behalf of the Respondent

JUDGMENT  
(Approved)

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HHJ LETHEM:

1. This judgment relates to an application to commit the respondent, Karen Parker, to prison, for breach of an injunction granted by the Clerkenwell and Shoreditch County Court on 2 April 2020 in relation to anti-social behaviour.
2. The background is that Chancellor House is a residential block containing some 16 properties, which forms part of the Wapping Estate. The respondent is the tenant of Flat 11 at Chancellor House. I have had an opportunity of considering her tenancy agreement, which plainly sets out, at Clauses 10 and 11, provisions to prevent the tenants from behaving in an antisocial manner towards their neighbours. The property is, as I understand it, a one-bedroom flat in the sole occupancy of the respondent.
3. Historically, there have been difficulties with the conduct of the respondent, such that on 14 August 2012 the applicants had to seek an injunction, for anti-social behaviour, restraining the respondent from causing nuisance on the estate, including using abusive or insulting, threatening words and behaviours, and also noise nuisance. Happily, that injunction was successful, in that it had the desired effect, and the difficulties that the residents of the estate had with the respondent abated. I am told that no breaches were recorded in respect of the respondent's behaviour, following the grant of the 2012 injunction.
4. It seems that in early 2018 again there were problems with anti-social behaviour in the form of shouting, swearing, and noise emanating from 11 Chancellor House. At that stage, a MARAC was convened, and the future of Ms Parker's tenancy discussed, such that the applicants formed the view that they would have to bring possession proceedings. At the time the applicant made appropriate enquiries of medical practitioners to discover if there was some mental illness that was driving the behaviour and was told that that was not the case.
5. For reasons unknown to me, possession proceedings were not taken at that time and matters continued with an application for an injunction.
6. At the end of November 2019 the applicant was informed that the respondent was in residential rehabilitation for substance abuse. It seems that she discharged herself from that treatment, yet remained in touch with those treating her, and was on the prescription of methadone. In the early part of this year, there were a number of incidents which have been testified to by Ms Olayinka Vincent, who is the team leader for the anti-social behaviour team with the applicants. I have heard evidence, and it is unchallenged evidence, that there was an incident on 16 January 2020 when the respondent was abusive to and spat at the tenant of 12 Chancellor House, Ms Syeeda Khanom. On that occasion, the respondent was arrested but not charged.
7. Shortly after, on 22 January 2020, there was more abuse of Ms Khanom, and it is alleged, and again not contradicted, that a bottle of Dr Pepper drink was thrown at her. Again, the medical practitioner was contacted, and it seems that there are no mental health issues that are underpinning the respondent's conduct. There was a further incident at the end of January when another tenant complained of similar noise, shouting, and abuse from the respondent. Indeed, it would be right to record that one of the employees of the applicant, a housing officer, also saw the respondent shouting and being abusive in the area.
8. That led to an application to the Clerkenwell and Shoreditch County Court for an injunction on 2 April 2020. District Judge Hayes, at that court, granted an injunction. The order prohibited Ms Parker from;
  - 1) using abusive, insulting, foul, threatening language or behaviour towards anybody residing, visiting or otherwise in the Wapping House estate and, in particular, in the vicinity of Chancellor House, Green Bank, London E1W 2QB;

- 2) causing or allowing any act which causes noise nuisance to anyone residing, visiting or otherwise in the Wapping House estate, and in particular in the vicinity of Chancellor House, Green Bank, London E1W 2QB. Noise nuisance includes but is not limited to playing loud music and shouting.;
  - 3) using or threatening violence against anybody residing, visiting or otherwise in the Wapping House Estate and, in particular, in the vicinity of Chancellor House, Green Bank, London, E1W 2QB. This includes spitting by the defendant;
  - 4) using or being in the possession of any illegal drugs or paraphernalia, including but not limited to cannabis; heroin; crack cocaine; crack pipes; foil and syringes in the London Borough of Tower Hamlets, being the area set out in the plan attached.
9. Additionally, District Judge Hayes attached the power of arrest to the first three provisions contained in his order. He made provision at paragraph 4, for service of the order in the COVID environment that presently exists, providing; firstly, that the order could be sent by text to the mobile phone number of the defendant; secondly, by sending a copy of the order by email to the defendant solicitors; and thirdly, by posting a copy of the order through the letterbox of Flat 11, Chancellor House, Green Bank, London E1W 2QB. I have seen evidence from Ms Vincent, and from the police, confirming that the order was served in accordance with District Judge Hayes' order. Indeed, it seems that having received the text from the applicants, advising the respondent of the order, she texted a reply saying, 'Fuck you'.
  10. It is alleged, in a schedule of allegations, that were then breaches of the injunction on; 10 April 2020, 16 April 2020 and 7 May 2020, and I return to those allegations shortly. The respondent was arrested and came before His Honour Judge Monty QC on 7 May 2020, when the respondent's solicitor was present, and the judge made an order, warning that the case may go ahead in the absence of the respondent. He dispensed with the formal requirements of a notice of application in Form 244, but ordered that there be a schedule of allegations served by 21 May 2020, and affidavit evidence on 21 June 2020. Those directions have been complied with.
  11. Pursuant to the COVID difficulties that existed at that time, His Honour Judge Monty QC ordered that the affidavits be signed but not sworn so that they could be sworn today. Today I have heard the evidence of two witnesses; Ms Olayinka Vincent, the team leader at the applicant's, and also the resident of 12 Chancellor House, Ms Khanom.
  12. Referring then to the schedule of breaches, two breaches are alleged on 10 April 2020 as follows; that the respondent breached paragraphs 1 and 2 of the injunction, by shouting and using insulting, foul and threatening language from 6am in the morning, in and outside 11 Chancellor House; and,
  13. Secondly, that when the police came on the same day, that she breached paragraphs 1 and 2 of the order by shouting and using insulting, abusive, foul, threatening language when interacting with the police in the vicinity of 12 Chancellor House; again, contrary to paragraphs 1 and 2 of the order.
  14. The third allegation is that on 16 April 2020, the respondent went to 12 Chancellor House, and there smashed, with a hammer, the window in the front door of 12 Chancellor House while the tenant, Ms Khanom, was in property.
  15. The last allegation is that when the police went to arrest Ms Parker for the criminal damage, on 7 May 2020, they found that she was in possession of a quantity of cannabis, being a controlled drug, and again that is contrary to paragraph 4 of the Judge Hayes' order.
  16. Following the respondent's arrest on 7 May, the respondent was charged with criminal offences arising out of the incident, and on 9 May 2022, she was convicted of the possession of cannabis, for which no separate penalty was imposed, and she was convicted of the

- criminal damage which had taken place on 16 April 2020.
17. In respect of the criminal damage, she received a sentence of four weeks' imprisonment, and served a sentence in that respect. An additional offence of breach of the injunction was withdrawn.
  18. Perhaps as anticipated, the respondent has not appeared before the court today, and for reasons that I gave in an earlier judgment, I have decided to proceed in her absence. Accordingly, I have heard evidence Ms Vincent's evidence, and I have heard the evidence of Ms Khanom. They have largely adopted their affidavit evidence which, of course, is unchallenged because Ms Parker, who was until very recently represented by solicitors, has chosen, as is her right, not to file any evidence. It follows therefore, that I must decide, to the requisite standard of proof, namely that I am sure beyond reasonable doubt that the respondent has committed the four offences that I have outlined.
  19. In respect of the two offences for which Ms Parker has been convicted, I accept those convictions as the most compelling evidence, that the respondent is guilty of the offence in question. I also accept the passages in Ms Khanom's evidence, which confirmed that it was the respondent who smashed the front window. I therefore accept that the third and fourth allegations, namely that of the criminal damage and the cannabis, have been proved.
  20. That simply leaves me with the incident on 10 April, which of course founds the first two of the allegations made against the respondent. The allegation, of course, is that from 6am in the morning, the respondent was shouting and making a noise outside her flat. This included incessantly and consistently opening and closing a chute, shouting and using foul language directed towards Ms Khanom and her family, to such an extent that Ms Khanom was able to video the respondent conducting that behaviour, and I have seen part of the video in that respect. I am entirely satisfied, having seen the evidence and heard from Ms Khanom, that the respondent did create a noise by shouting, by using foul language, by directing that language to Ms Khanom her family from 6am in the morning, until the police arrived at approximately 10.30am.
  21. In relation to the second count, namely the conduct towards the police, I have had an opportunity of seeing the entire sequence from police body cameras. I am entirely satisfied that the respondent; shouted; she swore; she directed that swearing, in part, towards Ms Khanom and her family; she swore at the police; she was aggressive; she spat, and I take into account, in this respect, that this was, of course, after the commencement of the COVID-19 lock down when such conduct engaged enhanced risk of spreading infection. I am satisfied that the police persistently tried to calm her, that she refused to be calm, and that it took many minutes in order to arrest her and take her to the police station. In those circumstances, I am satisfied beyond reasonable doubt that she also committed the second of the offence.
  22. In summary therefore, I am satisfied that the allegations in this matter come against a background of longstanding problems emanating from the respondent's behaviour, that particularly from late 2019 onwards, that the main brunt of that conduct was directed towards Ms Khanom. To that extent there was a degree of targeting and, indeed, I noted during the police camera video that again she was directly foul and abusive language towards Ms Khanom and her family.
  23. Before passing sentence, I would like to thank Ms Khanom for coming to court. It is not easy, and I understand that, to a certain extent, she is putting her head above the parapet. She is standing up and being identified as somebody who is prepared to come to court, and to support the applicants in making this application. It is as simple as this; if people do not what Ms Khanom has done, then justice will cease to occur, because cases cannot be proved. She has been courageous in coming to court, in making the statements that she has, and I thank her for doing that.

24. I also want to say this; I understand that this is someone's home. It is their refuge; is the place that they are entitled to go to have quiet, solace, and family time. There can be nothing worse than living in a degree of fear and apprehension in a place that ought to be a sanctuary. She is entitled to the protection of this court and it may seem a long way from a corridor and a passageway in Wapping, to a court in the Royal Courts of Justice. However, the video I saw brought home to me how close proximity is between the flats, how narrow that corridor is, and how frightening that must be. I have already indicated that Ms Khanom is entitled to the protection of the law. She is also entitled to hear that a judge does understand what it is like. Against that background, I turn to sentence the respondent.
25. In relation to count one, that came against a background of longstanding problems. The respondent knew the order that had been made, and had produced a foul and abusive response to that to the applicants. Her conduct on 10 April was part of a course of conduct targeted and aimed towards her neighbours. It included on that occasion; shouting, swearing and using insulting language. It was not an isolated incident; it took place over a period of many hours.
26. In relation to the second count, the behaviour was again repeated to the police, again with bad language, insulting and intimidating language being directed to both the police and to Ms Khanom. I observed repeated attempts by the police to calm Ms Parker down. I take into account the fact that the whole incident occurred at the time of the very maximum lockdown following the COVID pandemic, and that there were repeated occasions when Ms Parker was spitting, perhaps inadvertently, but without doubt, spitting towards the police, putting those police officers in peril. I have taken into account that the incident took place over several minutes. I have taken into account also that Ms Parker sought to resist arrest.
27. In relation to the third incident, I regard this as the most serious incident. On this occasion, Ms Parker went to her neighbour's home, to what I have described as her sanctuary, and she had invaded that sanctuary; she smashed a window. She put the occupants of that property in fear; they were not to know what would follow, and sometimes it is the apprehension of worst incidents, whether or not they materialise that can be the most corrosive aspects of such contact. Again, this was a deliberate and targeted attempt at a neighbour.
28. Finally, in relation to count four, I have noted that the respondent had cannabis and has appeared before the Magistrates Court in that respect.
29. Therefore, in terms of sentence, I have considered the Sentencing Council Guidelines, and I find that these are Category 2 offences. I have considered the degree of culpability and, in my judgment, this falls within culpability bracket (b), i.e. a deliberate breach falling between (a) and (c), not amounting to a very serious or persistent breach, but certainly not being a minor breach in that respect. Reference therefore to the Sentencing Council Guidelines suggests a starting point of 12 weeks' custodial sentence in that respect. In terms of aggravating factors, I have taken into account that there has been a long history of concern about the applicant and her behaviour and that that had dated back to 2012. She has shown that she can control her conduct, and I must assume therefore that her behaviour on these occasions was deliberate and targeted towards the victim Ms Khanom.
30. I take into account also the first that these incidents took place within days of the making of the order, and it seems that the order had no salutary effect upon the respondent. I take into account also as an aggravating factor, that the second incident followed not long after, it was of a greater magnitude. It involved an actual physical aggression, in terms of smashing the property of Ms Khanom. I have already described, and consider it to be an aggravating factor, that the consequences of Ms Parker's conduct was to evade the privacy and the sanctity of Ms Khanom's home, and that it is not just her home, but it is the home of family and her daughter.
31. I have considered whether to permit any discount for plea. At one level, the answer is very

simple. Ms Parker has not come to court, she has not admitted matters and, as a consequence, Ms Khanom has had to come to court to give evidence as has Ms Vince. Against that, it seems to me that I should take into account that Ms Parker did admit the cannabis and the criminal damage matters at the first available opportunity to the Magistrates' Court. That, to a certain extent, has alleviated the burden on the witnesses in this case. Accordingly, while I cannot allow a full 30% discount for plea, I do take into account a reduced percentage discount, which I have set at 15%.

32. I take into account also that Ms Parker has been punished for the actions that she took in relation to Ms Khanom's and his property. I remind myself of the danger of double jeopardy in such a situation, and that I am essentially sentencing for a breach of court order, as opposed to the underlying actions themselves. I take into account also that it seems that the order has been complied with since May, and though for some of that time the respondent was plainly in prison.
33. As a result of those considerations, and weighing the aggravating and mitigating factors, I have decided that on count one, the respondent will go to prison for four weeks. In relation to count two, I take the view that that was part and parcel of the same incident, albeit that it involved the police. I will impose a sentence of four weeks to run concurrent with the sentence on count one.
34. I consider that the third count, that of the smashing of the front window, was by far the most serious of the matters. In that respect, I will sentence the respondent to a term of imprisonment of eight weeks, to run consecutive with the sentences imposed under counts one and two. In relation to count four, I will impose no separate penalty. As far as I am aware, there has been no period of time spent on remand in respect of these matters as opposed to the criminal matters for which the respondent appeared before the Magistrates Court.
35. It therefore follows that the respondent has received a total sentence of 12 weeks, for which she would serve six weeks. It follows therefore, that I have determined that this case has crossed the custody threshold, and that there is no other sentence that I can impose than that which I have just indicated. The issue for me of course is whether I can suspend that sentence. In that respect I take into account that it this was a first breach of the injunction and also take into account that in 2012 there were no breaches of the injunction granted at that time.
36. My primary concern sitting in this court; is Ms Khanom and the other residents. I want her and her family to have acquired a peaceful life free from fear, free from the intrusions into her life that I have already described. In those circumstances it seems to me that it is more efficacious if this sentence is left hanging over the head of the respondent as a further inducement to her to ensure compliance with the order, which is shown by her past conduct she is capable of. In those circumstances, I consider that I am able to suspend the sentence. Accordingly, the sentence of the court is that there is 12 weeks' imprisonment suspended on condition that the defendant obeys the terms of the interim injunction granted on 2 April 2020, including any variations of that injunction made by the court, and that the terms of any final injunction that may be granted at trial, including any variations that that injunction made by the court. The sentence is suspended until 29 June 2021, or further order of the court, whichever is the earlier.

**End of Judgment**

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