

IN THE COUNTY COURT
AT BIRMINGHAM

Case No: F00DD664

Priory Courts, 33 Bull Street,
Birmingham, B4 6DS

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Before:

HIS HONOUR JUDGE MURCH

Between:

**DUDLEY METROPOLITAN BOROUGH
COUNCIL**

Claimant

- and -

PETER STEAD

Defendant

MR SINGLETON for the Claimant
MR RICKETTS for the Defendant

SENTENCING REMARKS

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2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP.
Telephone No: 020 7067 2900. DX 410 LDE
Email: info@martenwalshcherer.com
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HIS HONOUR JUDGE MURCH:

1. The matter comes before me this morning for the question of the sentence I should impose, having found a series of breaches proved against the defendant, at a hearing earlier in the course of this year. To give this matter some context I shall read out first the terms of the injunction which, following a contempt application made by the claimant, I have found the defendant to have breached. I shall then refer to the procedural history and why the matter comes before me today.

2. The injunction was made by His Honour Judge Boora sitting in the Dudley County Court on 9 February 2021. The order read in the following terms:

“Mr Peter Stead is not, whether by himself, or by instructing or encouraging any other person to:

1. Threaten to use and/or use violence anywhere against:

(a) any person (who need not be a particular identified person) who resides, visits or is otherwise engaged in a lawful activity in Forest Road, Dudley, West Midlands;

(b) any servant, agent, employee or contractor of the claimant.

2. Approach, contact or in any way or anywhere communicate, either directly or indirectly with Ms Lauren Homer, Mr Jason Boswell and Ms Kay Ward and their families and visitors.

3. Engage in any conduct which is capable of causing nuisance or annoyance to any person (who need not be a particular identified person) who resides, visits or is otherwise engaged in lawful activity in Forest Road, Dudley, West Midlands. Such conduct is to include but not be limited to:

(a) being intimidating towards, swearing at or abusing others, including making abusive or insulting comments;

(b) engaging in any kind of noise nuisance, particularly shouting, banging or playing loud music.

4. Engage in conduct which is capable of causing nuisance and annoyance to any person employed in connection with the exercise of the claimant’s housing management functions.”

The order was to remain in force until 9 February 2023 and a power of arrest was attached to it.

3. At a contempt application hearing on 3 February of this year I proceeded in the defendant’s absence. Having heard submissions on behalf of the claimant and relying upon affidavits of service I was satisfied that Mr Stead had been served both with the injunction, which I have just read out, and the committal application with the affidavits in support attached to it and also with a notice of the hearing. Satisfied so that I was sure of those states of affairs, I proceeded in the defendant’s absence.

4. I found a number of the breaches proved. There are twelve in total. There were other allegations of breach which I did not find proved to the relevant standard. No further comment falls to be made on them.
5. I was concerned that the custody threshold had been exceeded in relation to some of the breaches and I wanted the defendant to have the benefit of legal advice and have the opportunity to be heard before sentence was passed. A warrant was issued for his arrest. He was brought to court the following morning. I accept what is said on his behalf this morning, that it was a shocking experience to have been arrested and brought to court. Nonetheless, that is what I had ordered because, as I say, I was concerned that I should not proceed to sentence in the defendant's absence, concerned as I was that the custody threshold was passed.
6. At that hearing, which was on 4 February 2022, the day after the contempt application was heard, it was suggested on Mr Stead's behalf that an application was going to be made to set the previous day's order aside, the point being that Mr Stead took the position that he had been served with neither the injunction nor the committal application. I decided, therefore, having heard submissions by both parties, that there was no point in me considering the question of sentence that morning because if Mr Stead was successful in the application to set aside the exercise would serve no purpose. An application to set aside was made. It was referred to me, as I directed, but I ordered it go before a different judge so that a different judge could consider the matter unimpeded by knowledge of the findings I had made and the evidence I had heard which had persuaded me to the relevant standard of the breaches having been proved.
7. The application to set aside came before HH Judge Truman, sitting in this court on 22 April 2022. The application to set aside was dismissed. Her Honour ordered the matter come before me for sentencing today. Her Honour also directed that a further committal application be filed by the claimant by 11 May 2022. This was because the claimant alleged that there had been further breaches of the injunction which HH Judge Boora had made. I emphasise that although I am aware of allegations of further breaches being made against Mr Stead they play no part in the exercise I am performing today. None of those breaches has been proved to the necessary criminal standard, they are not context for today's hearing, they are completely irrelevant, but I refer to them for the question of completeness and also to set out in this judgment that it was common ground that I should proceed to sentence today for the breaches I found proved rather than adjourning until after consideration of the fresh application listed before me at the end of July this year. I think Mr Ricketts, who has represented Mr Stead today, sensibly, if I may say so, accepted the breaches found proved by me go back to April of last year. They are now already quite stale and no purpose is served, it is neither fair to the claimant's witnesses nor to the defendant, by prolonging the sentencing matter any further.
8. Against that background I shall now turn to each of the allegations which I found proved at the hearing before me on 3 February this year. It is common ground that I can draw assistance from the Sentencing Council Guidelines on Breach Offences, but they are just assistance. I say that because they are concerned with the powers of the criminal courts which are more extensive than the powers I have. To explain that further, the criminal courts have the power to impose community orders, which is not an option open to me. Sitting in the civil court the only option I have is a term of

imprisonment, be it immediate or suspended, or the imposition of a fine or no order. There is less flexibility in the approach that I have, but nonetheless, the Sentencing Council Guidelines present a helpful starting point for the exercise I have to perform, keeping in mind that the maximum term of imprisonment I can impose is two years rather than the five years limit in the criminal courts.

9. I have listened very carefully to the mitigation which has been put forward on Mr Stead's behalf very eloquently by Mr Ricketts. Mr Ricketts has taken me through the defendant's background. He was a gentleman engaged with his late wife in a business which provided employment in the locality. It has more recently provided employment overseas by the machinery which was used prior to his retirement being taken across to Nigeria. It is, I am told, used there to provide employment for people in that jurisdiction. I have also been shown a series of letters from other jurisdictions around Africa: Accra in Ghana, Sierra Leone and the Cote d'Ivoire were mentioned as jurisdictions within which the defendant has been involved since his retirement. The letters in support are now up to ten years old, but nonetheless are evidence of what he has done.
10. That of course is background. The defendant is previously of good character. No criminal convictions have been brought to my attention; no previous breaches of the injunction have been brought to my attention and, as I say, I ignore the further allegations which have been made due to be heard later in the year. Nonetheless, the breach of an injunction is a serious matter. I have to have regard, as I have already said, to the Sentencing Council Guidelines, but also to the warnings of the Senior Courts that the breach of an injunction is a serious matter. The court has to ensure that its orders are complied with. Orders are made to be complied with; they are not an optional matter. The court has to sentence with that reality in mind.
11. I turn now to each of the allegations, it being common ground that I should proceed on the basis of the schedule to the order which was drawn following the hearing on 3 February, in circumstances where the application to set it aside was unsuccessful. I shall deal with each breach in turn. I do so having had the benefit of the claimant's witnesses' evidence as to the extent of harm caused by them.
12. The first breach on 3 April 2021 is that at 15:30 the defendant shouted disablist abuse at the disabled son of Jane Arris in Forest Road, Dudley. That was found to be a breach of paragraph 3 of the injunction. I am satisfied that this crosses the Culpability B factor, being a deliberate breach falling between Culpability A and Culpability C. I find though that it was a breach causing very serious harm or distress and falls within Category 1. The words which were used caused distress, having heard the evidence of Ms Arris at the hearing. I am satisfied against that background a term of 14 days' imprisonment is merited, the custody threshold being met.
13. The second breach on 13 April 2021 is that at 18:50 the defendant shouted disablist abuse about the son of Jane Arris, calling him a "moron" and threatening the claimant's officer, saying: "I will bash his bloody head in". Again, I am satisfied meets Culpability B, being a deliberate breach falling between A and C and again it is Category 1 of harm. The custody threshold being crossed, a term of 14 days' imprisonment is imposed.

14. The third allegation proved was that on 15 June 2021 at 9.38 the defendant shouted abuse at Kay Ward in Forest Road, calling her and her family “bastards, filthy cow, dopey morons”. Again, I am satisfied that this meets Culpability B and Category 1 and impose a term of 14 days’ imprisonment.
15. The fourth breach is that on 19 June 2021 at 17:23 the defendant abused Kay Ward in Forest Road by shouting: “You fucking cow” and that was found to be a breach of paragraphs 2 and 3 of the injunction. Again, it meets Culpability B, being a deliberate breach falling between A and C but again a breach causing very serious harm or distress and I impose a term of 14 days’ imprisonment for that.
16. The fifth breach is that on 30 June 2021 between 19:00 and 21:10 the defendant shouted abuse, including racist abuse, at Christopher Atkinson, the claimant’s process server in Forest Road such that police attendance was required. This is a different breach I think from the previous breaches, it is now conduct against an employee of the claimant and breaches paragraphs 3 and 4 of the injunction. Again, I find this to be a deliberate breach and one which fell within Culpability B. There is no suggestion that serious harm was caused but it goes beyond Category 3 of little or no serious harm, and finding it to be within B3 and reminding myself this is a fresh type of breach I impose a term of 14 days’ imprisonment.
17. The sixth allegation I found proved was that on 30 June 2021 after the above incident the defendant threatened Kay Ward and Jane Arris in Forest Road, saying: “I know how to deal with you, you mother fuckers”. This was a breach I found of paragraphs 1, 2 and 3 of the terms of the injunction. We are now in the territory, in my view, where this is a very serious breach, this being Culpability A. This is now persistent, in my view, given what had happened previously during the earlier stage of the year. Again, I find it to be a breach causing very serious harm or distress and impose a term of 21 days’ imprisonment.
18. The seventh allegation I found proved was on 2 July 2021 at 1.45 pm the defendant shouted disablist abuse at Jane Arris’s son and shouted abuse at Kay Ward and Jane Arris in Forest Road, Dudley. That was a breach of paragraphs 2 and 3 of the injunction. Again, I find this now to be a very serious or persistent breach, falling within culpability A. This is repetition of a breach I found to have been committed earlier in the year, again causing very serious harm or distress, and I impose a term of 21 days’ imprisonment.
19. The eighth allegation I found proved was on 4 August 2021. At 12.30 a.m. the defendant shouted abuse at Kay Ward in Forest Road, repeatedly calling her a “bloody dickhead”. That was a breach of paragraphs 2 and 3 of the terms of the injunction. Again, I now find this to be a very serious or persistent breach, falling within culpability A. This is repetition of previous behaviour which was restrained by the terms of the injunction and it meets Category 1, causing very serious harm or distress. Again I impose a term of 21 days’ imprisonment.
20. The ninth allegation I found proved was on 27 August 2021. At 11.04 a.m. the defendant made threatening comments, knowing they could be heard. In particular he said from his open window “I might see someone and might have to bash their face in. I’ll go if you want down the road, if it’s now I’ll go down the road”. That was a breach of paragraphs 1, 2 and 3 of the terms of the injunction. I did not find the

allegation proved exactly in the terms which were alleged, it being suggested that they were made with a particular person in mind, intending that they should hear it, but nonetheless I amended the finding to the terms I have just read out. The words were heard by Ms Ward. It strikes me again as a serious matter. This is a persistent breach because it is repetition of earlier behaviour, and again it meets Category 1 in terms of harm and I impose a term of 28 days' imprisonment for that breach.

21. The tenth allegation proved was that on 12 October 2021 the defendant threatened Kay Ward by drawing his finger across his throat in a slitting gesture in Forest Road. That was found to be a breach of paragraphs 1, 2 and 3 of the terms of the injunction. Again I find that to be a persistent breach causing very serious harm and impose a term of 28 days' imprisonment for that breach.
22. The eleventh allegation proved was that on 28 October 2021 at 16:00 the defendant intimidated Jane Arris by using step ladders to watch her in her garden, then made an abusive gesture at her with his middle finger. That was a breach of paragraph 3 of the terms of the injunction. Yet again, this is a persistent breach falling within Culpability A, it is a repetition of earlier conduct and it meets Category 1 in terms of harm. I impose a 28 day term of imprisonment.
23. The twelfth allegation proved was that on 8 November 2021 the defendant shouted abuse at 9.30 at Kay Ward, her partner and her son in Forest Road and called them "a bunch of wankers". That was a breach of paragraphs 2 and 3 of the injunction. Again, this amounted to a persistent breach (falling within Culpability A) causing very serious harm (Category 1) and I impose a term of 28 days' imprisonment.
24. I need to stand back though and ask myself what totality meets the conduct of the defendant in this matter, reminding myself of the harm which has been caused to neighbours, reminding myself of the defendant's previous good character, but the need to ensure that injunctions are complied with. I need to ensure that the response is proportionate and meets the harm which has been caused and makes that clear message of the need for there to be compliance.
25. I also need to ask myself whether I should suspend the term of imprisonment. I shall deal with these two points separately, addressing that second point first. I am persuaded that it is appropriate to suspend the operation of the order I have made today. I am doing it for the following reasons: notwithstanding the fact that I am satisfied the custody threshold has been met because of the serious breaches which I have found proved and the effect which they have had on people living in the locality, I am persuaded that the defendant's previous good character, his acknowledgment that he is now aware of the terms of the injunction and knows that which he is not permitted to do, persuades me that I can suspend the operation of the order I have made until the expiration of the injunction on 9 February 2023 and it will be on terms that the defendant complies with the terms of the injunction.
26. I also propose that the charges which have been found proved can be dealt with in some cases concurrently and some cases consecutively. I find the periods of 14 days in relation to breaches 1, 2, 3 and 4 should be regarded as concurrently imposed. I do so because they are pretty much the same event, albeit over perhaps a course of time, but were connected to one another both in time and place. The fifth allegation for which I imposed a period of 14 days I regard as freestanding and should be regarded

as consecutive to charges 1, 2, 3 and 4. The sixth, seventh and eighth charges, again I regard as capable of standing together because they relate closely in time together and they should also be served concurrently and consecutively to charges 1 to 4 and charge 5, so those 21 days are consecutive. Similarly, charges 9, 10, 11 and 12 again stand in time very closely together and in my view should be dealt with concurrently. They are a period of 28 days, they to be served concurrently but consecutively to the earlier sets of breaches. I ask whether the term is therefore clear? Breaches 1 to 4 are 14 days to be served concurrently, the next consecutive breach is 5, which is 14 days. The next consecutive are breaches 6 to 8 for 21 days, and then the next consecutive set is breaches 9 to 12 which are 28 days, a total of eleven weeks consecutive.

27. I stand back again and ask myself whether that meets the totality principle. It is a considerable term of imprisonment, I accept, but these are breaches extending over a considerable period of time which have had a considerable effect on the people who live in the locality. The affidavits which have been served and the evidence I heard set out the fear they have had and the effect it has had on their daily lives, unsurprisingly, given the nature of the allegations I have found proved. The sentence therefore is a total of eleven weeks, but broken down into those consecutive components, as it were. I would invite counsel to agree a minute of order and to send it to me for my approval.
28. I remind Mr Stead, through Mr Ricketts, that he has the absolute right to appeal the making of the order I have made today. Any appeal is made to the Court of Appeal. Neither my permission nor the permission of the Court of Appeal is required, and I have no doubt that Mr Ricketts will advise Mr Stead as to what he should do if he wishes to take that course of action, but unless and until there is an appeal to the Court of Appeal and the Court of Appeal sets aside the order I have made today, that is the order I have made and those terms, as I say, are to be contingent upon the defendant complying with the terms of the order made by Judge Boora.
29. Again I make the point, in the event that I find further breaches proved at the hearing listed before me in July of this year, irrespective of when those allegations took place, they will not activate the operation of this order; both counsel were agreed on that point. But, should from today the defendant breach the terms of the injunction again (upon proof to the relevant standard, that is to say a court is satisfied so it is sure there has been a breach of the terms of the order), a court will have to consider whether to activate the sentences I have imposed today and, if so, by how much.
