

IN THE BRISTOL MAGISTRATES COURT

Case No: BS14D00702/E01BS442

Courtroom No. 1

Malborough Street
Bristol
BS1 3NU

Wednesday, 19 June 2019

Before:
HIS HONOUR JUDGE BROMILOW

B E T W E E N:

ALAN GROSE

and

EMMA JANE GROSE

MR PRATLEY (Solicitor) appeared on behalf of the Applicant
MR CALWAY appeared on behalf of the Respondent

JUDGMENT
(Approved)

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HHJ BROMILOW:

1. Today I am dealing with an application made by Mr Alan Grose to commit his former wife, Mrs Emma Grose to prison. The reason for that application is because of Mrs Grose's failure to comply with court orders made within long-standing financial remedy proceedings. Today, the day on which this committal application was listed for final hearing, Mrs Grose has admitted three breaches of court orders and I must bear in mind the fact that she has made those admissions.
2. I am told and I accept that Mr Grose does not want his former wife sent to prison. What he wants, and indeed, has wanted for some time now, is for the former matrimonial home at 118 Inglestone Road to be sold which he understandably contends was agreed, more than three years ago.
3. I, of course, respect the views that he has today and the views that he has held throughout that have led him ultimately to bring this application and as I have said, he does not want Mrs Grose sent to prison and he acknowledges the admissions that she has made today.
4. I too, bear in mind, all that has been said on behalf of Mrs Grose today by Mr Calway. However, I want to emphasise to anyone in court and to all who are listening that it is for the court to decide the outcome when there is an application for committal. It is for the court to decide what action is appropriate in accordance with principles, guidance and the particular circumstances of each case.
5. In this instance, it is especially significant that I am dealing with court orders that have been breached. I observe, I hope fairly, that when members of the public choose the court process as a means of resolving their differences, litigants are entitled to have confidence in the orders and their enforcement. Therefore, when applications are made to the court to enforce them, it is the court's function to do so. As I say, in accordance with principle, guidance and the particular facts.
6. I need to set out a little of the history. 118 Inglestone Road has been the family home for a long time. It was bought in 1994, 25 years ago, and I observe that Mr and Mrs Grose have raised two children during the course of their marriage in that property.
7. In 2015, following the breakdown of the marriage, Mr Grose began financial remedy proceedings and at the end of 2016, after protracted litigation, District Judge Watkins made an Order. It is B1 in the bundle and in particular I note that the District Judge ordered, by consent, that the property should be sold. A number of trigger dates, events, were then included and upon sale and payment of usual charges and mortgage, a distribution of 30.54% was to be paid to Mr Grose with the balance being paid to Mrs Grose.
8. On 6 October 2017, Deputy District Judge Field, ordered Mrs Grose to vacate the property upon 14 days' notice. On 13 February 2018, Deputy District Judge Paddison ordered her to vacate the property by 4pm on 13 March 2018. Pausing there, I observe that was more than 15 months' ago.
9. Mr Grose was then required to up the ante so to speak because he gave instructions for a warrant of possession to be sought. There was then a challenge to that process by Mrs Grose and finally, on 21 March this year, the bailiffs attended the property and in circumstances about which I have read, Mrs Grose left. 53 weeks after the order of Deputy District Judge Paddison.
10. On 16 April 2019, Mrs Grose returned to the property, the circumstances about which I have read and it is clear that there was an element of deception in the way that occurred. Therefore, against that history, Mr Grose was forced no doubt as a last resort to seek the committal to prison of his former wife.
11. I turn to the three admissions that she has made today. They are in these terms: She failed

to give possession of the property by 4pm on 13 March 2018 or at all until compelled to do so by a bailiff of this court on 21 March 2019 pursuant to a warrant possession. Having vacated the property personally on 21 March 2019, she left the property substantially occupied by her furniture and personal possessions and on 16 April 2019 she re-entered the property and remains there.

12. I remind myself that my task is to pass sentence in accordance with principles and guidance in respect of those three breaches alone, notwithstanding the fact that I have dealt in a little detail with the past history.
13. There is important guidance to be found in the case of *Hale v Tanner* [2000] EWCA Civ 5570 and the leading judgment of Hale LJ, as she then was. Mr Pratley, on behalf of Mr Grose has provided me with a copy and Mr Calway on behalf of Mrs Grose is aware of it and has addressed his submissions with the guidance very much in mind.
14. I have read and considered carefully the 10 points that Hale LJ set out so clearly for us all and if I may say so they remain as relevant today in 2019 as they were in the year 2000 and I bear in mind that dealing with a committal application in the context of this dispute, there are very limited options available to the court.
15. I can impose a fine, I can impose a sentence of imprisonment that can be immediate, it can be suspended and I can make no order at all. Sometimes that is an option albeit by way of an adjournment to see how matters play out and whether a contemptor does as he or she is expected to do.
16. I bear in mind what is said about the length of any sentence, something that must be considered quite separately and I must have regard to objectives when imposing a sentence of imprisonment. On the one hand, to express the court's disapproval of disobedience of a court order and on the other hand, a trying to bring about compliance with a court order.
17. The maximum sentence for contempt is one of two years and there are a number of reported cases where litigants have been engaged in what I will loosely describe as family matrimonial litigation where of course emotions run high and sometimes children can be involved. Sometimes there has been violence. Each case, however, at the end of the day depends upon its own particular facts.
18. I must consider, quite separately, whether or not a period of imprisonment should be suspended and again, the length of suspension needs to reflect continued compliance if that is appropriate in particular circumstances.
19. I turn now to what I will describe as the personal mitigation, the circumstances presented to me by Mrs Grose this afternoon who has admitted her contempt. She is now 51 years old. I have read a letter recently written by her GP which mentions the stress that she is currently experiencing. I bear in mind that she has never been in trouble, she has never faced the prospect of going to prison before and the points that Mr Calway made contrasting her circumstances with those who regularly appear in this court in its criminal context are well made. She is plainly someone who is struggling to move on and accept that circumstances must change including her departure from the home, 118 Inglestone Road.
20. Having regard to all that I have read, having regard to all that has been said to me, particularly by Mr Calway, I have reached these conclusions.
21. I must impose a prison sentence in respect of each of the three breaches. The first attracts a sentence of 28 days. The second, a sentence of seven days and the third, clearly the most serious and done in circumstances to frustrate further an already frustrating and rather depressing history, attracts 42 days. If those need to be expressed in weeks the answer is four, one and six.
22. Those three sentences will run concurrently so the total sentence is one of 42 days or six weeks. I am persuaded that such a sentence should be suspended. The period of suspension

- does in my judgment need to reflect the points made by Mr Pratley about firstly ensuring Mrs Grose leaves, secondly allowing time for Mr Grose to recover the property, clear it and get it ready for the market place and thirdly allowing the market to run its course.
23. Mr Pratley suggested that such a period should be 18 months. I have thought carefully about what is an appropriate level of suspension, having regard to those factors and the fact that this would hang over Mrs Grose. I have decided to suspend the prison sentence for a period of 15 months, that is to say, until 20 September 2020. The purpose, as I say, is to ensure that the earlier court orders take effect and a sale is achieved.
 24. The final matter that I must decide relates to the costs of this application. These costs have been incurred by Mr Grose and they have been incurred perfectly properly and reasonably, as he no doubt has reached the end of his tether.
 25. I have looked at the statement of costs provided by Mr Pratley and I have observed the statement of costs that have been put in on behalf of Mrs Grose. I am entitled to assess them summarily and I do so and I will order the costs claimed in the total sum of £8,198, those will be paid as I think has been ordered in respect of all other costs from the proceeds of sale due to be paid upon sale to Mrs Grose.

End of Judgment

Transcript from a recording by Ubiquis
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This transcript has been approved by the judge.