

IN THE COUNTY COURT AT LUTON

Case No. H00LU186

Courtroom No. 5

Floors 4 & 5
Arndale House
The Mall
Luton
LU1 2EN

Thursday, 3rd March 2022

Before:
HER HONOUR JUDGE BLOOM

B E T W E E N:

SETTLE GROUP

and

HELEN HODGSON

MR SAVILL appeared on behalf of the Claimant
NO APPEARANCE by or on behalf of the Defendant

JUDGMENT
(For Approval)

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HHJ BLOOM:

1. This is an application to commit Miss Hodgson to prison for breach of an order that was made on 9 March. It was made without notice to Miss Hodgson. It was an application for an injunction, and the order included the following clauses:
 1. She was forbidden from allowing any visitor into any part of 16 Grange Court, Letchworth Parks, SG6 4NH, which is the property; including the garden, communal area or the immediate vicinity of the property, save for personnel of the emergency services; medical professionals; employees or contractors of the claimant unless given express written permission by the claimant. In addition she had to comply with current government guidance and restrictions due to Coronavirus.
 2. She was also prevented from using or threatening violence to any residents at Grange Court, or their lawful visitors, or staff.
 3. She was forbidden to verbally abuse or behave in an intimidating manner towards anybody listed above, that is residents, lawful visitors, or staff.
 4. She was forbidden from shouting, screaming, or using foul, abusive, or threatening language towards any person listed in paragraph two, so that it can be heard outside of the property.
 5. She was forbidden from possessing, using, storing or selling any kind of illegal substance in the property.
 6. She was not to cause a noise nuisance which was not limited to dog barking, loud music or shouting.
 7. Not to allow noxious smells to come from the property.
 8. She was not to cause a nuisance or annoyance; or engage in conduct capable of causing nuisance or annoyance to the people who have been listed above.
2. The matter came back before the Court on 6 April and it was adjourned because she had not had an opportunity to get legal representation. It was listed for 27 August. My review of the papers shows that that was stood out because of judicial unavailability, although regrettably it does not actually appear a Court order was made, but in the interim the injunction was to continue until further order.

3. She was then arrested under the power of arrest that had been granted with the injunction following an allegation on 20 September 2021. In addition, as a result of that, the application to commit was issued which contained 12 allegations initially.
4. The contempt application is dated 4 October 2021 and it had 12 allegations, but Mr Savill very properly this morning only relied on three because those are the three of which he has direct evidence. Those are (i) number 4 which was in May of 2021; (ii) number 7 which was 10 July 2021 and (iii) and number 12 which is 13 September 2021; which is the one that led to the arrest of the defendant and her being brought before the Court on 21 September of last year.
5. As I have already said, first of all I am quite satisfied that both the injunction and the extended injunction, and the committal application were served. I have seen evidence of service from a Mr De Costa, and I think it may have been Miss Hughes who served the original March order. The April order was served by Mr De Costa, as was the application to commit, but I have definitely seen evidence of service of the March order as well. In fact it was PC [inaudible] who served the original order. Therefore, both the injunction, the extended order and the application to commit have been served.
6. Before me today as I have already addressed, Miss Hodgson has not attended. It is now five past 11 so she is an hour late. There is no explanation given so I have proceeded in her absence.
7. As I indicated to counsel, if I find a breach is proved to the criminal standard, I am minded to adjourn to enable her to have a final opportunity to come to Court before sentencing, so that she can provide any mitigation, apology, or other information that may assist the Court when sentencing.
8. I have heard from two witnesses today. I remind myself at the outset I have to be satisfied to the criminal standard that the claimant has proved each breach beyond reasonable doubt, i.e. I have to be sure that the breaches occurred, and it is not a case where I have to be satisfied on the balance of probability.
9. Dealing with each breach. The first breach that is relied on relates to 5 May when what is asserted is that contrary to paragraph one of the injunction the defendant had allowed a visitor in the property, in this case a Mr Gilroy. That of course would have been in breach of paragraph one.
10. PC Wing gave direct evidence of that. I have read his statement and I have heard him give evidence before me today where he says that on that date he arrived at the property; he buzzed

number 16 which is the defendant's property and when he went in a Mr Gilroy was sitting there and plainly was present.

11. I have also seen, although I am not directly referred to, but in the documents I have seen an email from Miss Hodgson dated 16 February 2021 where she says, 'Well, I have to admit I've gone off the rails again'. This was before the allegation. She talks about having a 'lodger' there. Mr Gilroy I assume was that person. However, after that, as I say, she had got the injunction so she was not allowed to have anyone living there. She was plainly aware of it, and notwithstanding that, I am quite satisfied that PC Wing saw Mr Gilroy in the premises as he says.

'From the front door of the property, 'I could see inside to the left which is the front living room. A male was sat on the sofa. I asked for the female's details for my pocket notebook. She gave her details as Helen Hodgson and the male gave his details as James Gilroy'.

12. I am quite satisfied that that is a breach of the order. It was very clear to her by then she was not allowed to have anybody at the property, and of course that was a breach of the injunction at paragraph one.
13. I find that proved to the criminal standard. I am quite sure that Mr Gilroy was there in breach of the order. There is no evidence, I should say, that Miss Hughes or anyone else from the claimant had given express permission for Mr Gilroy to be present.
14. Turning on now to the evidence that I have heard from Miss Phillips. There are two further allegations that are relied on, both of which rely on the direct evidence of Miss Phillips.
15. The first allegation is that on 10 July 2021 the defendant used drugs at the property and there was a strange smell coming from the property which caused nuisance to a neighbouring resident; and that this is a breach of the injunction at paragraphs five, seven and eight. That is possessing using, storing, selling any kind of illegal substance; allowing noxious smells to come from the property; or causing annoyance or engaging in conduct capable of causing annoyance.
16. I should say that the background that I have seen is of a defendant who is accused certainly of having a long history of drug use and abuse, so this is not out of nothing that the order was made in the terms sought.
17. What is Miss Phillips's direct evidence which is of course unchallenged in these proceedings? First of all she explains that her flat is on the first floor and that the defendant lives in a ground floor flat in the next door block, and they are joined but have separate entrances. She says:

“On 10 July, I was in my flat and I had my windows open. It was summer. The weather was nice. I started to feel a bit woozy and could smell a strange smell. I looked out of my window and I could see Helen taking drugs in her property. It looked like she was smoking something off a piece of foil. I believed this to be some type of drug. I don’t believe this was cannabis as I would recognise the smell”.

She was concerned because she was pregnant and worried that the fumes could harm the baby and herself. She called the police to log it with them.

18. I should say at this point that there is a history between Miss Phillips and the defendant that is apparent from the papers. They were friends at one point and they have fallen out. The defendant asserts in a document that she filed in relation to the original injunction application that Miss Phillips owes her money and that she is making false allegations.
19. However, Miss Phillips has given her evidence and not been challenged. Therefore on the face of it I have a straightforward allegation of drug taking at the property that she could see. If she looks out of her window and sees somebody smoking something off a piece of foil it seems to me that is very clear evidence of drug taking.
20. Therefore I am satisfied that on 10 July the defendant was using drugs at the property. It did cause a strange smell, and it did cause her a nuisance, not least because there would be concern from her that her neighbour is taking drugs, but also that there is the smell of drugs and she was pregnant.
21. However, the main thing which I am satisfied about is that this was a clear case of the defendant taking drugs and being in breach of the paragraph 5 of the injunction and also paragraph eight, which is that that is causing a nuisance, or it is capable of causing a nuisance to people who are visitors, especially if you are pregnant. Therefore I am satisfied on the criminal standard of proof that that breach has been established.
22. The third and probably the most serious allegation that is made against the defendant relates to the incident on 13 September. The allegation is that at about 10.07pm the defendant was ringing the neighbour’s buzzer and was heard shouting at Grange Court.
23. The defendant then verbally abused and threatened Miss Phillips, at Grange Court by saying, “I’m going to break your car. I’m going to break you face. Then your dog. Then your dad”. This is a breach of , clauses two, three, four, six and eight of the injunction.
24. Again, Miss Phillips has given evidence in a witness statement. She refers to it initially in her statement that she made on 1 October where she sets it out at paragraph six, and she says that she was at home in her flat. This is Miss Phillips, who has given direct evidence before me today. She had a couple of friends over. She heard shouting from the balcony and the buzzer

being buzzed. She looked out and she could see Helen outside the main entrance shouting up. She did not answer or go down because she was worried for herself and her baby for at that stage she had had the baby. It was a few weeks old. She was shouting, "I'm going to break your car. I'm going to break your face, then your dog, then your dad".

25. She said she was scared as Miss Hodgson sounded intoxicated with drink or drugs. She called the police and decided not to stay in the flat because she was scared. In addition, she said she had CCTV.
26. She also then went on to make a statement to the police on 14 September, so the next day, which she has adopted for me today. She explained about the background between her and Miss Hodgson and that Miss Hodgson had damaged her car before. She explained that she was in the flat with a friends called Levi[?] and his girlfriend Maria, and that she then repeated really what she had said. She said that the threats made her feel scared for her safety and anxious about what she might do.
27. She had also produced the CCTV footage which I have had the opportunity to view prior to coming into Court. I accept her evidence; she has told me that it was Miss Hodgson who was shouting on that occasion. The person who is shouting plainly sounds intoxicated, and I can certainly hear expletives. It is difficult to hear the exact words that are being said on the CCTV but I am prepared to accept the evidence of Miss Phillips who was at the property at the time and who has recorded what was said.
28. In one sense, it does not matter what she said. It is absolutely clear Ms Hodgson was being vile and abusive, and threatening to this lady at 10 o'clock at night, who was, as far as she knew, was on her own in the flat with a small child.
29. I am quite satisfied to the criminal standard that that was a breach of clauses two, three, four, six, and eight of the injunction, and therefore the claimant has proved those three breaches to the criminal standard. Therefore, I find that the breaches have been established.
30. These are serious breaches, particularly, in my view, the last matter, and the Court of course has to be considering whether to impose a custodial sentence, and if so whether to suspend it.
31. As I indicated before, given that the defendant is not present and her liberty is at stake, my view is that the correct procedure at this point would be to allow a short adjournment for Miss Hodgson to attend and be able to make representations as to why, or if she wishes to, to mitigate and/or apologise for her contempt and perjured. However, whether that would be sufficient to prevent the Court feeling that the custody threshold is met is another matter.

32. The Court has not heard evidence from Miss Hughes as to any updating because my view is that that would be better dealt with at the adjourned hearing on sentencing where Miss Hodgson will have another opportunity to address such matters.
33. I will adjourn for sentencing.

End of Judgment.

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