

IN THE COUNTY COURT AT CHELMSFORD

Chelmsford County and Family Court Hearing Centre
Priory Place
New London Road
Chelmsford
CM2 0PP

BEFORE:

HIS HONOUR JUDGE LOCHRANE

BETWEEN:

CHIEF CONSTABLE OF ESSEX POLICE

CLAIMANT

- and -

SAHIN KORTA-HAUPT

DEFENDANT

Legal Representation

Miss Hughes (Counsel) on behalf of the Claimant
Mr Sahin Korta-Haupt (Defendant), Litigant in Person

Other Parties Present and their status

None known

Judgment

Judgment date: 28 October 2019
Transcribed from 16:47:01 until 17:00:46

Reporting Restrictions Applied: **No**

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His Honour Judge Lochrane:

1. This is an application for committal in respect of Sahin Korta-Haupt, who has been the subject of a gang injunction imposed on 10 January 2019. Mr Korta-Haupt appears today for the second appearance on this committal application, the first appearance being some weeks ago at which Mr Korta-Haupt was encouraged to go and seek legal representation. Mr Korta-Haupt has made some efforts but they have been unsuccessful and, despite the possibility of making further efforts, he indicates today that he does not wish to have the matter yet further adjourned to seek further legal representation and he wishes for the matter to be dealt with today.
2. The schedule of breaches contains four counts, the first count having been expunged. Mr Korta-Haupt accepts the allegations made by the police of breaches are accurate and he admits those breaches, for which, of course, in due course he will be given credit.
3. It is worth recording that Mr Korta-Haupt, on the previous occasion, was indicating he would have preferred the matter to have been dealt with finally then, albeit that he did not have representation; it was at the Court's insistence the matter was adjourned for some time to give him the opportunity to get some representation, Accordingly, Mr Korta-Haupt will be given credit for having offered his plea on the very first appearance some two or three weeks ago.
4. The injunctions relate to gang activity and prohibit a number of activities, including associating with other identified members of the gang and appearing on drill videos in which violence is encouraged, and also the wearing of certain articles of clothing, in particular hoodies. Mr Korta-Haupt accepts he appeared in a video which was published on YouTube on 30 June, in which threatening, abusive, insulting lyrics and incitements to violence are contained and weapons were shown. I have seen the description of it, although I have not seen the video.
5. He also accepts in the same video, in the second count, that he was in a group in public, behaving in a manner likely to cause people to feel intimidated and this, again, is demonstrated from the video itself. Yet further, in the same video, he accepts he was seen wearing an article of clothing which is prohibited by the injunction, that is a hoodie when the weather did not justify it.
6. The further count is on a different occasion. On 17 August, he was discovered in a public place associating with Talliq Mwalim, who is one of the list of people with whom he is prohibited from associating in public.
7. Mr Korta-Haupt accepts all those allegations are made out.
8. In addition, Mr Korta-Haupt is the subject of three suspended sentences. On 10 April he was sentenced to 42 days in detention for having, on 20 March 2019, been guilty of two breaches of the order, one again associating with Talliq Mwalim and the other being in possession of cannabis.
9. On 24 July 2019 he was sentenced to a further 42 days suspended but concurrent to the matters sentenced on 10 April. The allegation is that, on 28 March (so prior to the sentencing on 10 April), he was again associating with Talliq Mwalim in public and he was wearing an article of clothing, being a hoodie.

10. Subsequently, on 24 July, he was sentenced to 50 days consecutive, again suspended. The allegation is that on 19 April (following the first of the sentencing hearings) he was associating with Roland Doherty in public and also he was, again, wearing a hoodie. Accordingly, Mr Korta-Haupt is the subject of a total of a 92 days suspended sentences which falls to be activated today in addition to whatever I determine is appropriate for these offences.
11. Miss Hughes, counsel on behalf of the Chief Constable, urges me to consider, in particular, the association with individuals prohibited is a serious breach and it has to be accepted it is one which Mr Korta-Haupt has committed on a number of occasions, in particular associating with Talliq Mwalim in public.
12. Mr Korta-Haupt tells me he and Mr Talliq Mwalim actually live together and so it is somewhat complicated for them not to associate in public but, having said that, he has been the subject of a penalty for associating with Talliq Mwalim, there is no question he is anything other than aware he is not supposed to associate with Talliq Mwalim in public and, as far as I am aware, no successful application has been made to vary the injunction to allow that. He tells me associating with Talliq Mwalim is not gang activity, but the reality is it is prohibited as gang activity in an injunction, and I have nothing more to go on than that.
13. He tells me his mother relies, to a certain extent, on his support in affording her housing and she will struggle when he is not working but, at the moment, he is not working in any event because his employer has suspended his employment, at least pending the resolution of this process. He has no dependents other than his mother for the purposes of his housing.
14. He informs me he fully intends to comply with the terms of the order in due course, when he is released, and he describes what has occurred hitherto as slip ups, albeit that there have been a number of them, and I understand he has spent no time in custody so far.
15. Looking at the Sentencing Guidelines, this clearly falls into level B on the culpability range, whilst not that serious or persistent a breach but, nonetheless, not a minor breach, and it seems to me that it also falls into category 2, levels falling between breaches causing serious harm or distress and breaches causing little or no harm or distress, and so applying the Sentencing Guidelines, it would fall into the middle to lower range of the sentencing, a maximum, of course, for which is 2 years.
16. The aggravating features are clearly that Mr Korta-Haupt has been in breach of this injunction on several occasions before, all of which, I think, to be fair to him, he has admitted, and this offending has all taken place between March and August this year, so over a comparatively short period of time.
17. There is, frankly, little or no mitigation from that point of view and Mr Korta-Haupt certainly cannot have been under any illusions as to what his obligations were in relation to the breaches.
18. I take the view that Counts 2, 3 and 4, all relating to the same video, can be dealt with compendiously but Count 5, clearly, will need to be dealt with separately. In the circumstances, accepting that Mr Korta-Haupt appears to be finally, I hope, alive to

the fact that this is a process which can only end in further problems for him and he is, at least at the moment, indicating he will abide by the terms of the injunction when he is released from prison. It seems to me here, taking into account the sentences which have been passed previously, a sentence of 6 weeks' imprisonment in relation to each of those three counts is appropriate. In relation to the further count, on Count 5, associating with Talliq Mwalim, I accept there are difficulties which arise from the fact that the two of them live together but, nonetheless, he understands it is a breach and, in those circumstances, it seems to me that a further sentence of 14 days is appropriate in relation to Count 5, which would be consecutive to the 6 weeks in relation to Counts 2, 3 and 4.

19. I accept, of course, that Mr Korta-Haupt has pleaded guilty, as I say, at the earliest opportunity and, in that respect, he is entitled to a reduction of one third, so that, with the discount for plea, gives us a further 37 days. I am afraid, in the circumstances, I see little reason not to activate in full the suspended sentences, which will make a total of 129 days.
20. I have taken into account the reduction for guilty pleas and the totality guidelines in making this order. It seems to me, that again, the total of 37 days in relation to these offences does not offend against the concept of the totality of this sentence reflecting the offending behaviour, particularly given the background and in the total of 129 days, reflecting as it does, the serial previous breaches, does not again offend against any totality principle.
21. So, the sentence of the Court is that Mr Korta-Haupt will be sentenced to a total of 129 days' imprisonment.

This Transcript has been approved by the Judge.

The Transcription Agency hereby certifies that the above is an accurate and complete recording of the proceedings or part thereof.

The Transcription Agency, 24-28 High Street, Hythe, Kent, CT21 5AT
Tel: 01303 230038
Email: court@thetranscriptionagency.com
