

In the County Court sitting at Wandsworth

Case number G00WT907

Between

Shepherds Bush Housing Association

Claimant

and

Mr Daniel Stewart

Defendant

Before DJ Parker on 18<sup>th</sup> December 2020

### Judgment

1. On 25<sup>th</sup> September 2020 the court made an injunction order with power of arrest attached without notice to the Defendant. It was continued at an on notice hearing on 20<sup>th</sup> October 2020. The Defendant did not attend that hearing, having been served on 1<sup>st</sup> October 2020.
2. The order provides that the Defendant was prohibited from
  1. Entering, remaining in or using any communal area in the building within which 10c Wilfred Wood Court, Samuels Close, London W6 7BX (hereinafter referred to as “the property”) is located save as is necessary for the purposes of the Respondent entering and leaving the property.
  2. Using threatening or abusive words towards any person who resides visits or engages in lawful activity in the locality of the Property or towards the Applicant’s staff, agents and contractors
  3. Engaging in behaviour causing or likely to cause harassment, alarm or distress to any person who resides visits or engages in lawful activity in the locality of the Property
  4. Engaging in any illegal activity in or in the locality of the Property including the use of illegal substances
  5. Damaging or destroying the Property or the surrounding land and buildings or the fixtures and fittings contained within the Property and communal areas
  6. Creating, making or playing noise to an excessive volume so that it can be heard outside the property. Noise includes playing music, singing, shouting, banging, playing loud music and general noise
  7. Engaging in conduct capable of causing nuisance or annoyance to any person who resides, visits or engages in a lawful activity in the property
  8. Allowing the property to become dirty and untidy condition so as to attract insects and vermin.

3. The Defendant was arrested on 3<sup>rd</sup> December 2020 and brought before the court. He appeared in person. Solicitor for the Claimant attended remotely.
4. The Defendant was advised of his right to silence, and the availability of Public Funding to assist him. He was advised that an adjournment could be sought to enable him to obtain free legal advice. The Defendant gave evidence under affirmation and admitted using some words as alleged in the Claimant's witness statement but denied that the use of these words amounted to a breach of the Order. The matter was therefore adjourned, and the Defendant remanded on bail to attend the hearing on 18<sup>th</sup> December 2020 in order for him to obtain legal advice.
5. The Defendant did not attend the hearing on 18<sup>th</sup> December 2020. The court read the witness evidence of the Claimant and listened to an audio recording exhibited to the witness statement. The court was satisfied such that it was sure that the Defendant breached the order in the following manner:-
  - i. Remaining in the communal area outside the witness's flat in breach of paragraph 1.
  - ii. Using threatening or abusive words to a neighbour on 3.12.20 in breach of paragraph 2
  - iii. Engaging in behaviour likely to cause harassment and alarm to a neighbour on 3.12.20 by shouting in an aggressive manner in breach of paragraph 3
  - iv. Engaging in conduct capable of causing nuisance or annoyance to a neighbour on 3.12.20 in breach of paragraph 7
6. The court read the witness evidence including the victim impact statements.
7. In considering penalty I have had regard had to the Sentencing Guidelines.
8. In assessing culpability, I put these breaches in Bracket B which is a deliberate breach. The Defendant knew what he was doing was wrong and in breach of the order. No good reason was offered. The harm was Category 2, as some harm was caused to the witness which fell short of very serious harm or distress.
9. I also must go on to assess harm and weigh up all the factors of the case. Consideration should be given to the original offences. The original witness statements show a sustained pattern of behaviour including intimidating and frightening behaviour against others including neighbours. The original witness evidence describes the fear and the negative impact of the Defendant's behaviour on their lives. The breach on 3.12.20 was against one of the neighbours, and he describes his fear and anxiety as a result.
10. I am satisfied that the custody threshold has passed, given that this was a deliberate breach which caused some harm. I then must consider any aggravating or mitigating factors.

11. Aggravating factors are that this breach was in addition to a prior breach which occurred on 24<sup>th</sup> October 2020 which was found proven. In addition, the Defendant's behaviour targeted a witness.
  
12. Mitigating factors are that this defendant suffers from mental health problems.
  
13. I must also consider whether the sentence can be suspended. This is the second breach. I am satisfied that I can suspend the sentence, given that the breach on 3<sup>rd</sup> December 2020 was an isolated incident, rather than a series of incidents over several days or weeks.
  
14. I am satisfied that I can reduce the sentence from the starting point to 14 days in total for all breaches which occurred on 3.12.20. The sentence I impose is 14 days custody – suspended until 4pm 25<sup>th</sup> September 2021 on terms that the Defendant complies with the order.

DJ Parker 18<sup>th</sup> December 2020