



Neutral Citation Number:

Case No: QB-2021-003576, QB-2021-3626 and QB-2021-3737

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 2 February 2022

Before :

LORD JUSTICE WILLIAM DAVIS
MR JUSTICE JOHNSON

Between :

NATIONAL HIGHWAYS LIMITED

Claimant

- and -

- (1) ARNE SPRINGORUM**
- (2) BEN TAYLOR**
- (3) BENJAMIN BUSE**
- (4) BIFF WHIPSTER**
- (5) CHRISTIAN ROWE**
- (6) DAVID NIXON**
- (7) DIANA WARNER**
- (8) ELLIE LITTEN**
- (9) GABRIELLA DITTON**
- (10) INDIGO RUMBELOW**
- (11) JESSICA CAUSBY**
- (12) LIAM NORTON**
- (13) PAUL SHEEKY**
- (14) RUTH JARMAN**
- (15) STEPHANIE AYLETT**
- (16) STEPHEN GOWER**
- (17) STEPHEN PRITCHARD**
- (18) SUE PARFITT**
- (19) THERESA NORTON**

Defendants

David Elvin QC, Michael Fry and Jonathan Welch (instructed by DLA Piper UK LLP) for the
Claimant

Owen Greenhall (instructed by Hodge Jones & Allen) for the Third, Seventh and Eleventh
Defendants;

The other defendants appeared in person

Hearing dates: 1-2 February 2022

SUMMARY

This summary is provided to assist in understanding the court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are publicly available. A copy of the judgment in final form as handed down is available on www.judiciary.uk and on www.bailli.org.

1. For the third time the court has considered applications made by National Highways Limited, the corporate body responsible for the strategic road network in England, for the committal for contempt of court of persons said to have breached an order made on 21 September 2021 by Mr Justice Lavender. That order prohibited protests which blocked the M25 motorway or obstructed the free flow of traffic onto, along and off the motorway. It was made because Insulate Britain, a campaigning organisation concerned with the threat of climate change, had issued statements about proposed protests on the M25.
2. Notwithstanding the making of the order, members of Insulate Britain carried out a series of protests on the M25 in October and November 2021. The protestors would go onto the M25 and prevent or disrupt the flow of traffic. On 8 October 2021 the M25 at Junction 25 was blocked by protestors. Nine of those involved were the subject of committal proceedings. Those proceedings on 17 November 2021 resulted in those nine protestors being committed immediately to prison for periods between 3 and 6 months. On 27 October 2021 there was a protest near to the A206 junction with the M25. Nine of those involved in that incident were the subject of committal proceedings heard in December 2021. On 15 December 2021 two of the protestors were committed immediately to prison. The other seven protestors were made the subject of suspended orders of committal.
3. The court now has considered applications to commit 19 protestors in relation to incidents occurring on 29 October 2021 and 2 November 2021.
4. The protest on 2 November 2021, involving Arne Springorum, Jessica Causby and Liam Norton, occurred by the side of the carriageway of the South Mimms roundabout. The roundabout provides a link between the M25 and the A1(M) and gives access to the South Mimms service area. This roundabout is not part of the M25. It is not covered by the order made by Mr Justice Lavender. A protest on the roundabout could lead to a breach of the order if its effect was to obstruct the free flow of traffic off the M25. However, on the facts as found by the court, nothing done by the three named protestors had that effect. They were on the pavement of the roundabout. Any congestion which resulted on the roundabout was due to the presence of police vehicles.
5. In those circumstances the court decided that no breach of the order had been proved in relation to the events of 2 November 2021. The application for the committal of Mr Springorum, Ms Causby and Mr Norton was dismissed. Whatever their intentions were on that day, they did not do anything which amounted to a breach of the order.

6. There were two protests on 29 October 2021. The first occurred between junctions 28 and 29 of the M25 between 8.00 and 8.40 a.m. Five protestors sat down on the eastbound carriageway so as to block all lanes of the motorway. Five other protestors went onto the hard shoulder on the westbound carriageway. They refused to move off the motorway when requested to do so by police officers. The westbound carriageway was closed for a short time to allow the police to remove the protestors. The second protest occurred at about 10.30 a.m. near to junction 21A. Three protestors were on the hard shoulder on the westbound carriageway with a further three protestors on the eastbound side of the motorway. All of these protestors were arrested. The main carriageway of the M25 was not obstructed in either direction. The impact on traffic flow was minimal. All of those involved in the protests on 29 October 2021 admitted breaching the order.
7. In those circumstances we concluded that each of those defendants was in contempt of court for breaching the order. Some of the defendants complained that the use of committal proceedings rather than prosecution for a criminal offence such as obstruction of the highway deprived them of the protection afforded to them by the European Convention on Human Rights. Proceedings for contempt did not permit them to argue undue interference with their rights of free speech and of freedom of assembly. The court made it clear that Convention rights were considered by the court making the original order. The committal proceedings were designed to enforce that order. Respect for orders of the court properly made is an essential part of the rule of law. The Convention rights of the protestors were relevant in relation to the appropriate sanction. The court took them into account at that stage of the proceedings. Proper regard was given to the conscientious motives of the protestors.
8. Nine of those with whom the court dealt on this occasion had been committed for contempt in one or both of the earlier applications in relation to the M25 order, namely Ben Taylor, Benjamin Buse, Biff Whipster, Diana Warner, Paul Sheeky, Ruth Jarman, Stephen Gower, Stephen Pritchard and Sue Parfitt. Ben Taylor and Benjamin Buse had already been served with the application with which the court dealt on 17 November 2021 when they participated in the protests on 29 October 2021. The other ten defendants had not been the subject of any earlier application.
9. In each case the court considered culpability for and harm resulting from the contempt. All of the defendants made a free and deliberate decision to breach the order. Their conduct was designed to cause significant disruption and inconvenience. The first protest on 29 October 2021 did have a significant impact on the M25 for a period of about 40 minutes at the height of a morning weekday rush-hour. The second protest did not cause the same degree of harm but there was no apparent distinction in the degree of harm that was intended.
10. Each defendant with whom the court had to deal admitted contempt sufficiently in advance of the hearing of the application to justify a full reduction of one third of the sanction to be imposed. The court had full regard to the personal circumstances of each defendant. The court in assessing the proper sanction acknowledged that all of the defendants were motivated by a genuine and deep-seated concern about the effects of the climate crisis and by a belief that direct action was necessary to meet the emergency facing humanity. Equally, the court was required to take the steps necessary to ensure compliance with a court order.
11. The court concluded that in each case the contempt was so serious that only a custodial penalty would suffice. The terms varied to take account of the following factors: the extent of the harm caused by the defendant's acts; the overall sentence taking into account sentences imposed in relation to earlier breaches of the M25 order; whether the breach

occurred after the defendant had been served with an application to commit in relation to an earlier breach; relevant personal mitigation.

12. The court went on to consider whether the orders for committal to prison could be suspended. It adopted the same approach as was taken by the court hearing the second application in December 2021. There have been no further protests organised by Insulate Britain on any part of the strategic road network in breach of orders made by the court. Where a defendant did not indicate an intention to commit further breaches, the court concluded that a suspension of the committal on terms would be sufficient to enforce the order.
13. Ben Taylor appeared in custody. He was still serving the sentence imposed for earlier breaches. It was not appropriate for any sentence in his case to be suspended. Diana Warner, Ellie Litten, Stephen Pritchard and Theresa Norton failed to attend the hearing after lunch on 1 February 2022. Rather, they conducted a protest by the front steps of the Royal Courts of Justice in the course of which they glued themselves to the pavement. The sentences in the case of those defendants were ordered to be served immediately. Their actions on the first afternoon of the hearing demonstrated that they were not prepared to engage with the court.
14. The terms imposed were as follows:

Immediate terms

Ben Taylor	32 days
Diana Warner	30 days
Ellie Litten	42 days
Stephen Pritchard	24 days
Theresa Norton	24 days

Suspended terms - suspended for 2 years with committal not to take effect so long as during that period the defendant does not take any of the steps set out at clauses 2.1 to 2.10 of the order of Mr Justice Lavender whether or not that order remains in force

Benjamin Buse	40 days
Biff Whipster	24 days
Christian Rowe	60 days
David Nixon	42 days
Gabriella Ditton	42 days
Indigo Rumbelow	42 days
Paul Sheeky	24 days
Ruth Jarman	30 days
Stephanie Aylett	42 days
Stephen Gower	24 days
Sue Parfitt	30 days