

IN THE COUNTY COURT AT WALSALL

Bridge House
Bridge Street
Walsall WS1 1JQ

Friday, 11 December

2020 BEFORE:

MR RECORDER THOMAS QC

BETWEEN:

SANCTUARY HOUSING ASSOCIATION

Claimant

t - and -

**(1) COURTNEY MARTIN
(2) LAMONT GEDDES**

Defendants

MS ANBAHAN appeared on behalf of the Claimant
The Defendants did not attend and were not represented

JUDGMENT
(Approved)

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1. MR RECORDER THOMAS: This is an application by Sanctuary Housing Association, the claimant, against the Second Defendant, Mr Lamont Geddes, for committal for contempt of court for breach of an antisocial behaviour injunction in the following respects. In the application notice dated 28 July 2020, the following alleged breaches were pursued before me today, paragraph 15, paragraph 16 and paragraph 17.

2. Paragraph 15 says:

"On 10 March 2020 the Second Defendant was seen leaving block 5-8 Avon House, Peak Drive, Dudley, by the front entrance at 11.55. He was seen crossing the road looking over his shoulder and getting into the passenger side of a vehicle, a white Renault. The car was parked on Peak Drive in front of 1-4 Thames House, which is directly opposite the First Defendant's property".

That is said to be a breach of clause 2 of the order not now of clause 1.

3. Paragraph 16 relates to a violent incident on Thursday 23 April described as a serious violent incident on the streets in view of many, involving the Second Defendant threatening two white males with a knife in breach of clauses 2 and 3 of the order. Paragraph 17 alleges a breach on 2 June 2020 at roughly 11 am, where the Second Defendant was seen running from the direction of Avon House at the side of Thames Wye Car Park and that is said to be a breach of clause 2 of the injunction order.

4. The following paragraphs of the application have not been proceeded with. Paragraphs 12, 13, 14 and 18 in relation to the second defendant.

5. I pause here to record that I have already adjourned the application in respect of the First Defendant and there are live allegations set out at paragraphs 10 and 11 of the application in relation to her which are to be heard on the first available date after 21 December.

6. The Second Defendant was subject to an injunction set out at page 2 of the bundle preventing him by clause 1 from entering Flat 5, Avon House, Peak Drive. There are no breaches alleged of that. By clause 2 he was forbidden from entering Peak Drive and Pennine Drive. There are three breaches alleged of that. Paragraph 3 is a provision whereby the Second Defendant is forbidden from engaging in violence or threat of violence to anyone lawfully in the area highlighted on the map, and that area includes Peak Drive and, for these purposes, Avon House. There is one alleged breach of that paragraph. That order was made on 31 October 2019 and remained in force until 31 October 2020.

7. The Second Defendant was served personally with that injunction on 31 October 2019 and the matter came before the court most recently on 9 November 2020 where HHJ Boora made an order listing today's hearing for the disposition of the committal application, making it clear that if the Second Defendant did not attend, then the matter could proceed in his absence and confirmed that the Second Defendant was at risk of imprisonment if he failed to attend and if the matters alleged were found proved against him. He made a series of orders for the provision of witness evidence, if either Defendant chose to provide any. No evidence has been provided and, as I indicated in my ruling earlier, I am fully satisfied that the Second Defendant has had proper notice of this hearing, proper notice of the injunction and subsequent directions of the court and has, for whatever reason, chosen not to attend.
The hearing has therefore proceeded in his absence.

8. I have received evidence in the following form. I received two witness statements from Ms Hill, a housing officer with the Claimant. She exhibits a number of documents which are not relevant for the purposes of the alleged breaches today, but she also exhibits a witness summary from witness A, which has been put before me on the basis that I attach such weight to it as I consider appropriate. I have also heard evidence from Mr Hicklin who provided a witness statement. There is a further witness statement in the bundle from Abbey Smith who, at the last minute, was unable to attend court but was otherwise willing to do so and was only unable as a result of

some last minute family circumstances. That evidence is therefore tendered on a similar basis, namely that I attach such weight to it as I choose. I bear in mind, however, that the Second Defendant is not here to challenge the evidence in any event.

9. All the evidence is in the form of witness statements, dispensation having been granted by HHJ Boora. I bear in mind that committal proceedings are not ordinary civil matters and have a quasi-criminal character. The standard of proof is the criminal standard. Basic principles of common law fairness arise. It is important that the defendant knows the details of the allegations against him, that he is warned of the possible consequences of breach and that he is aware that he does not have to participate and provide evidence if he chooses not to and are reminded that he does not have to incriminate himself and has an opportunity to obtain legal advice.
10. The position in this case is that I find that the Second Defendant knows exactly the details of the allegations presented against him. There is a certificate of service in relation to the application itself and the Second Defendant has exhibited a distinct lack of engagement with the court process. The order of HHJ Boora and the application itself make it plain the possible consequences of breach and I therefore have decided that it is fair in the circumstances to proceed despite the Second Defendant not being present.
11. The Second Defendant has had every opportunity to seek and obtain legal representation and has decided, for whatever reason, not to attend today either in person or by representatives.
12. I also remind myself that the court should concern itself only with the specific acts of contempt alleged in the application and for those reasons I set out the specific allegations of breach separately.
13. Turning to those grounds which I find to be proved to the criminal standard. First of all, I deal with paragraph 15. Paragraph 15, as I have already indicated,

alleges a breach in that the Second Defendant was seen leaving block 5-8 Avon House, Peak Drive on 10 March 2020. The evidence for that comes from Mr Hicklin. Mr Hicklin knows and recognises the Second Defendant and in his witness statement at paragraph 4 he says that on 10 March he saw him leaving the block. He saw him entering a car on the drive and therefore I am sure that clause 2 of the order was breached by the Second Defendant on 10 March.

14. I next turn to paragraph 17. In relation to paragraph 17, the Claimant relies on the evidence of Ms Hill and Mr Hicklin. Mr Hicklin says that on Tuesday, 2 June 2020 at roughly 11 am, he saw the defendant running from Avon House to the area of between Severn House and the drying area which is on Pennine Drive. Pennine Drive is part of the exclusion area marked on the map attached to the injunction against the Second Defendant. He saw him clearly and recognises him and he is on site, he tells me, at least five days a week and therefore I am sure that the Second Defendant breached clause 2 of the order on Tuesday, 2 June.
15. I note for completeness the evidence of Ms Hill who was actually present in Avon House at the time. She was unable to say that he directly left the property of the First Defendant, which would, if established, have amounted to a breach of clause 1, but her evidence insofar as it is relevant to paragraph 17 goes to corroborate that of Mr Hicklin at paragraph 5 of his statement and provides further reason, if any are needed, to find that that was proved.
16. Paragraph 16 relates to an incident on 23 April whereby the Second Defendant was seen outside Avon House with a knife involved in an altercation with two other males and also the First Defendant was, it appears, involved in a fight with another woman. I leave all consideration of the First Defendant to whoever deals with the application against her. I simply record my impression of the CCTV footage that I have seen and the witness statements that I have read.
17. It is plain from witness A's account and from Ali Smith's account and from the CCTV itself, that there was a violent incident outside Avon House on 23 April whereby the

Second Defendant, who has been identified on the CCTV footage by Ms Hill in evidence, was involved. He was carrying a knife. Whether it is a machete or not I am certain that he was carrying a knife, and that there was a violent incident. Looking at the terms of the injunction, they prevent the Second Defendant from engaging in violence or threat of violence to anyone lawfully in the area highlighted on the map. I will leave the circumstances in which the threats and/or the incident came about to my consideration of any sentence for breach of the order, but for present purposes

I find it established to the criminal standard that that clause was breached by the Second Defendant being involved in a fight and by carrying a weapon in public.

18. So for those reasons I find that the Second Defendant is in breach of the injunction in all respects alleged by the claimant. Now it falls to me to consider sentence.

(After further submissions)

SENTENCE

19. I now have to consider the appropriate sentence in relation to the breaches of the antisocial behaviour injunction that I have found to be proved against the Second Defendant. There are three breaches of being at a place within the exclusion zone and one breach which amounts to engagement in a violent incident on 23 April 2020. Because that incident is put forward as the most serious of the breaches, I am going to deal with that first.
20. I have to consider this in accordance with the sentencing guideline for breach of a criminal behaviour order which is also applicable to the breach of an antisocial behaviour order, albeit that I must bear in mind that the sentencing powers of the County Court are different from that of the Crown Court and that has an effect on the identification of the appropriate range and starting point for the offences.
21. I have been taken to each of the guidelines by Ms Anbahan on behalf of the Claimant and I have tried to raise those points which appear to me anyway to be open to the

Second Defendant to raise in relation to the placement of these breaches within the scheme of the guidelines.

22. I first have to identify where the breach in relation to the violent incident is in terms of culpability. I have identified from the evidence a number of relevant features, the first of which is that the incident arose as a result of the Second Defendant's child playing with the child of another person who chose then to engage in racist insults against the First Defendant and Second Defendant's child. That escalated and that is what led ultimately to the incident outside Avon House that day.
23. The incident took place in the following way. Once the racist insults had been hurled, they continued and the mother of the child who was making the racist insults effectively went to get two men to come and threaten the First and Second Defendants. They came and they were both armed, one statement says both with knives, one says with a knife and a hammer. Looking at the CCTV footage it is plain that both were armed. Ms Smith's statement then says that the person engaging in the racist insults then hit the First Defendant and she saw the Second Defendant carrying a knife. Witness A also saw the Second Defendant come out of their house, also carrying a knife.
24. The incident was therefore instigated not by the First and Second Defendant but, it would appear to be common ground, by others. That being said, the fact that the Second Defendant was there in the first place is a breach of the order, but I have to of course bear in mind that this breach that I am currently dealing with is the breach concerned with engagement in violent conduct. He could, as is rightly pointed out, have chosen to remove himself from the area entirely and he could have chosen not to engage. So I am persuaded that this is a deliberate breach of the order, but I am not persuaded it is a very serious breach of the order given the overall circumstances of the offence.
25. I am going to proceed to consider which category of harm it belongs to and in relation to category of harm, I place this in category 2. I place it in category 2 because, while I

consider that there is a continuing risk of disorder and antisocial behaviour, I do have to bear in mind that this was brought about as a result of serious and significant provocation and therefore I place it in category 2. Category 3 would not be appropriate because it is plain from the evidence that those people who live around Avon House and the First and Second defendant were plainly alarmed, plainly distressed, children were present and the whole incident would have been a frightening one to witness.

26. So, the starting point I take to be from the guidelines and 12 weeks. That does not, in my judgment, jar with any restriction on the county court's sentencing powers, as would a starting point of 2 years' custody for a category 1 culpability offence.
27. In my judgment, the starting point of 12 weeks is a reasonable one, subject to consideration of mitigation and aggravation. I bear in mind that in identifying that starting point I have already borne in mind the fact that this was an incident which was largely borne of provocation and that that mitigating feature cannot be properly taken into account twice. I have already also borne in mind the fact that there is an ongoing risk and there was the presence of children and the evident degree of alarm and distress to those around.
28. I bear in mind that this was a first breach, but I do not in the circumstances consider the fact that this was a first breach to be of very significant weight and therefore I have to consider whether to impose a sentence of 12 weeks or whether, for other reasons, the custody threshold can be decided not to have been passed or whether a sentence of imprisonment can otherwise be avoided.
29. In my judgment, the custodial threshold has been passed because no other sentence can meet the seriousness of the breach other than a custodial sentence. The factors of the individual offence show that this is a person who does not take the court's order seriously and, in my judgment, a custodial sentence is unavoidable. In my judgment, 12 weeks is the shortest term commensurate with the seriousness of the offence, and I next consider whether the sentence can be suspended.

30. The county court has more latitude in terms of suspended sentences for breaches of an antisocial behaviour order than does the criminal court, and there is authority which encourages the county court to think very seriously about suspending the sentence. In my judgment, this sentence should be suspended for a period of 12 months on condition of compliance with the now extended injunction. The reasons for that are, first, to encourage continued compliance with that order because, in my judgment, there is a prospect that the additional risk of activation of the suspended sentence will provide a compelling basis for the Second Defendant to comply, but that he should be afforded the opportunity of doing that.

31. Then I have to look to see whether there is any merit in extending or adding to that for the other breaches. In my judgment the principle of totality means that I should

consider a sentence which overall reflects the seriousness of the offences. I have in my judgment taken into account that in being there on that day he was also in breach of the injunction which prevented him from being at Avon House on Peak Drive and that the other two breaches do not in and of themselves call for a separate consideration. So, in my judgment, a sentence of 12 weeks custody suspended for 12 months on condition of compliance with the injunction satisfies the seriousness of all the breaches found proved today.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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This transcript has been approved by the Judge.