

2
3 Date 24.8.2022.

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5
6 **IN THE COUNTY COURT SITTING AT MILTON KEYNES.**

7
8 **Before:**

9
10 **HER HONOUR JUDGE BROWN**

11
12 **COMMITTAL.**

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16 **Mr. Garnett for the Chief Constable of Thames Valley Police.**

17 **Mr. Killen for Ms. Gillian Marriott.**

18 Hearing date 23.8.2022.

19 Draft judgment distributed on 24.8.2022.

20 Approved judgment handed down 24.8.2022.

21
22 **APPROVED JUDGMENT.**

1 **Her Honour Judge Brown.**

2 I have before me a committal in respect of Ms. Gillian Marriott.

3 An injunction was made by DDJ Abrahams on 23rd of March 2021 against Gillian Marriott
4 which was then extended for a further year by DJ Lynch on the 22nd of March 2022. The
5 terms of the injunction are as follows ;

6 The Respondent Gillian Marriott must not ;

- 7 1. remain on any land or premises having been asked to leave by the owner or occupier .
- 8 2. use any threatening or abusive language towards any person including police officers
9 and employees of the emergency services .
- 10 3. display any aggressive violent or disorderly behaviour to any person or property .
- 11 4. fail to obey reasonable directions given by a police officer , PCSO NHS .employee
- 12 5. carry any blade or pointed article in a public place .
- 13 6. call 999, 101 or 111 unless a genuine emergency
- 14 7. make unnecessary contact with the emergency services , including mental health
15 services , either by phone , electronic communication or in person unless a genuine
16 emergency (does not include GP.)
- 17 8. attend Stoke Mandeville Hospital unless for a genuine emergency .

18 Thames Valley Police allege that the Defendant has breached the civil injunction as follows ;

- 19 1. By making unnecessary contact with the emergency services either by phone ,
20 electronic communication or in person unless a genuine emergency . The Defendant
21 has made 114, 999 calls and 217, 111 calls reporting various medical episodes. These
22 have all been triaged and checked causing demand on the service unnecessarily .
- 23 2. Further it is alleged that the defendant has breached the injunction by attending Stoke
24 Mandeville Hospital on occasions which were not for genuine medical need. It is
25 alleged that the defendant attended Stoke Mandeville Hospital on the 23rd of March
26 2022 claiming an overdose but all her vitals we checked and found to be normal .

27 The defendant made the same reports on the following dates ;

28 7th of April 2022 , 11th of April 2022 , 13th of April 2022 , 15th of April 2022 , 21st of April
29 2022 , 26th of April 2022 , 22nd of May 2022 , 3rd of June 2022 .

30 On each of these occasions the defendant's vitals were checked and found to be normal so
31 she was discharged .

32 The defendant also attended accident and emergency at Stoke Mandeville Hospital on the
33 following dates ;

34 the 15th , 19th , 21st 27th , 28th and 29th of June 2022 and the 18th of July 2022 .

35 On no occasion were her checks abnormal and she was discharged on every occasion.

36

37 The defendant accepts the breaches as alleged, in the sense that she accepts that she made that
38 number of calls and attended Stoke Mandeville Hospital on the stated occasions. Ms.
39 Marriott does not argue that any medical attention was needed. However, the defendant

1 argues that she genuinely believed that she needed medical attention and therefore she is not
2 in contempt of court.

3 Ms. Marriott has not filed a statement and has chosen not to give evidence. There is therefore
4 no evidence before the court from the defendant.

5 I have read the court bundle which included statements from Deborah Lawson NHS High
6 Intensity User Lead, Leanne Manning, Community Psychiatric Nurse, and Donna Phippard,
7 Complex Care Practitioner South Central Ambulance.

8 I have read two reports from Dr. Nimmagadda, a Consultant Forensic Psychiatrist.

9 In his report dated 31.1.2022 Dr. Nimmagadda writes in his opinion,

10 **“OPINION**

11 12.1 Based on the available information, there is evidence to suggest that Ms Gillian
12 Marriott suffered from serious childhood adversity. She gives a history of being
13 brought up in an overprotective environment in the context of the death of her
14 brother. She also feels that she suffered from emotional abuse, as her parents
15 regularly adversely compared her with her deceased brother. She gives a
16 history of problems at school and being sent to a special school. She gives a
17 history of being severely bullied and discriminated at school, as she went to a
18 special school. She gives a history that at the age of 11, she was raped by a
19 person, who later blackmailed to harm her father. She had to withdraw the case
20 and that resulted in being accused by the police of wasting their time. All this
21 seems to have been extremely traumatic for her given her young age. She did some farm jobs
22 until the age of 25, when she was married. One of her daughters
23 was taken into care.

24 12.2 She gives a history of serious domestic violence, which affected her ability to
25 trust others. She gives an extensive psychiatric history of being in contact with
26 the psychiatric services from an early age and had numerous psychiatric
27 admissions. She stated that she has been diagnosed with various conditions
28 including schizophrenia, bipolar disorder and now with a personality disorder.
29 While I do not have sufficient evidence to diagnose schizophrenia or bipolar
30 disorder, I believe there is clear evidence to suggest that she has a personality
31 disorder – an emotionally unstable personality disorder of borderline type. The
32 features of her personality disorder include impulsivity, including acting
33 impulsively without considering the consequences; severe mood swings;
34 chronic feelings of emptiness; uncertainty about her aims, objectives and goals
35 in life; chronic low self-esteem; difficulties in sustaining relationships with a
36 constant fear of rejection and abandonment; maladaptive coping mechanisms
37 in the form of numerous acts of deliberate self-harm and of substance abuse.

38 12.3 I have been asked to express an opinion as to whether Ms Marriott has the
39 capacity to comply with the conditions of the injunction made against her. The
40 charges result for non-compliance with the following conditions: –

41 *7) Make unnecessary contact with emergency services, including mental*
42 *health services, either by phone, electronic communication or in person*
43 *unless a genuine emergency (does not include GP).*

44 *8) Attend Stoke Mandeville Hospital unless for a genuine emergency.*

45 In my opinion she clearly understands the terms of these two conditions and the
46 other conditions too. She gives an elaborate history about her situation at that

1 time and about the various stressors she was experiencing at that time - that
2 being the Christmas period and missing her parents and coinciding with her
3 mother's death anniversary, besides her mixed feelings of her recurrent
4 intrusions from the trauma of her childhood. She maintains that she took
5 overdoses and she had genuine physical health problems and she interpreted
6 them as emergencies. She gave a clear explanation that emergencies do not
7 only mean somebody bursting out blood or having a heart attack. I believe at
8 the material times she had the capacity to know what she was doing and
9 whether it was wrong. She maintains that the instances she had either rang the
10 emergency services or attend the A and E at Stoke Mandeville hospital
11 (amounting to the breeches) were genuine emergencies, but the evidence in
12 her medical records do not substantiate it There is evidence to suggest that
13 she was having various stressors at that time as detailed above, which are likely
14 to have affected her coping strategies, which are already compromised by her
15 personality disorder. Hence, she is likely to have responded in a maladaptive
16 way by approaching the emergency services.

17 12.5 Based on the available evidence, I believe Ms Marriott is fit to plead and fit to
18 stand trial. She understands the nature of the charges against her. She
19 understands the difference between pleading guilty and not guilty. She has the
20 capacity to instruct her counsel and to challenge a juror. She also has the
21 capacity to follow the details of evidence and the proceedings of the trial so as
22 to make a proper defence. Hence, I believe she currently fulfils the '*Pritchard's*
23 *Criteria*'.

24 I am approved by the Secretary of State for the purposes of Section 12(2) of the Mental
25 Health Act 1983.

26 **Dr S R Nimmagadda**
27 **MBBS FRCPsych DPM MMedSc MEWI LL.M**
28 **Consultant Forensic Psychiatrist**
29 **Approved under Section 12(2) of the MHA 1983"**

30

31 In the addendum report, Dr. Nimmagadda sets out a care plan which it may assist Ms.
32 Marriott to follow;

33 **TREATMENT PLAN**

34 The implementation of this treatment plan is subject to Ms Marriott's cooperation
35 and willingness to engage with the local mental health team.

36 1) There should be a professionals meeting to re-engage Ms Marriott, with the
37 lead coming from her local care coordinator from the mental health team,
38 with the involvement of her GP and the Probation Service if appropriate.

39 2) She should give an undertaking not to call the emergency services or to
40 attend the A&E department, but to call the Mental Health Crisis team for help,
41 unless there is a real medical emergency. The Probation Service and the
42 Mental Health Team should jointly supervise her to enable her to abide by
43 the undertaking.

44 3) Her team psychiatrist can explore the option of a low dose antipsychotic,
45 which helps to contribute to emotional stability in people with her type of
46 personality disorder. They should explore the scope for an antidepressant
47 if deemed appropriate. The current level of support from her mental health
48 team and her care coordinator should continue. The triggers for her stress

1 should be identified and she should be given extra support during such
2 periods.
3 4) Once her mental state is stabilised, she should be considered for Talking
4 Therapies. DBT (Dialectical Behavioural Therapy) is a well-established
5 treatment for the treatment of borderline personality disorder. It is delivered
6 in various forms. The local team can explore, with her cooperation, what is
7 the best way of offering this therapy within her locality. If there is any scope
8 for a residential placement that offers DBT in the locality or out of area, that
9 should be explored. 5) Her current presentation (based on my last interview) does not warrant
10 a
11 hospital admission.

12 I am approved by the Secretary of State for the purposes of Section 12(2) of the
13 Mental Health Act 1983.

14 **Dr S R Nimmagadda**
15 **MBBS FRCPsych DPM MMedSc MEWI LL.M**
16 **Consultant Forensic Psychiatrist**
17 **Approved under Section 12(2) of the MHA 1983”**

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19

20 **I heard from Ms. Manning in evidence.**

21 **Ms. Manning told the court that some of the suggested aspects of the care plan are not**
22 **available in terms of resources such as a residential placement. Ms. Manning thought**
23 **supported accommodation would assist Ms. Marriott because it she may feel more**
24 **supported and less isolated.**

25 **Ms. Manning informed the court that Ms. Marriott could attend a number of courses at**
26 **the Whiteleaf centre such as mindfulness classes, managing mood classes and managing**
27 **and understanding your diagnosis classes. Ms. Manning also told the court that instead**
28 **of telephoning 999 or 111, Ms. Marriott should first try to consider whether she really**
29 **needs medical assistance by going through a checklist that she has. She can then**
30 **telephone the Whiteleaf centre to speak to Ms. Manning or another worker or telephone**
31 **a “social prescriber” who is based at the GP.**

32 **She could also call a MIND worker. In that way Ms. Marriott can gain support if**
33 **anxious rather than go straight to calling emergency services or attending at Stoke**
34 **Mandeville.**

35

36 **As noted, there was no evidence before the court from Ms. Marriott.**

37

38 **I am grateful to Mr. Garnett for his written submissions as follows;**

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40 **Breach**

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1. Breach of an anti-social behaviour injunction made under the 2014 Act constitutes civil contempt of court.
2. For such contempt to be successfully prosecuted, it must be demonstrated that the defendant knew of the terms of the order, acted in a manner which involved breach and knew of the facts that made such conduct a breach (*Masri v Consolidated Contractors International Company* [2008] EWCA Civ 303).
3. Given the quasi-criminal powers of punishment for contempt, the correct standard of proof is the criminal standard (*Churchman v Joint Stewards' Committee of the Workers of the Port of London* [1972] 1 WLR 1094 at 1098).

Penalty

4. While the form and duration of sentence is a matter for the court, a claimant is entitled to put forward his views as to the relevant factors (*Law Society of England and Wales v Pawlak* [2021] EWHC 3537 (Ch) at [27]).
5. CPR r. 81(9)(1) confirms that “*if the court finds the defendant in contempt of court, the court may impose a period of imprisonment (an order of committal), a fine, confiscation of assets or other punishment permitted under the law.*”
6. Section 14 of the Contempt of Court Act 1981 sets out the maximum penalties for contempt of court. These are two years’ imprisonment or a fine of £2,500.
7. Nicklin J recently gave guidance on the factors to take into account in *Oliver v Shaikh* [2020] EWHC 2658 (QB) (at [17], emphasis added):
 - i) *The object of sanction imposed by the court is two-fold: (1) to punish the historic breach of the court's order by the contemnor; and, (2) to secure future*

1 *compliance with the order. In my judgment, if those objects in any way conflict*
2 *in terms of sanction, then the primary objective is to secure compliance.*

3
4 *ii) The sanctions available to the Court range from making no order,*
5 *imposing an unlimited fine or the imposition of a sentence of imprisonment of*
6 *up to two years. The Court has the power to suspend any warrant for*
7 *committal.*

8
9 *iii) As with any sentence of imprisonment, that sanction should only be*
10 *imposed where the Court is satisfied that the contemnor's conduct is so serious*
11 *that no other penalty is appropriate. It is a measure of last resort. A*
12 *suspended prison sentence, equally, is still a prison sentence. It is not to be*
13 *regarded as a lesser form of punishment. A sentence of imprisonment must not*
14 *be imposed because the circumstances of the contemnor mean that he will be*
15 *unable to pay a fine. A sentence of imprisonment may well be appropriate*
16 *where there has been a serious and deliberate flouting of the Court's order.*

17
18 *iv) The Court's task when determining the appropriate sanction to assess is*
19 *to assess culpability and harm. The Court will consider all the circumstances,*
20 *but typical considerations when assessing the seriousness of the contemnor's*
21 *breach are:*

22
23 *a) the harm caused to the person in respect of whose interests the*
24 *injunction order was designed to protect by the breach;*

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26 *b) whether the contemnor has acted under pressure from another;*

27
28 *c) whether the breach of the order was deliberate or unintentional;*
29 *and*

30
31 *d) the degree of culpability of the contemnor.*

32
33 *v) Mitigation may come from:*

1 a) *an admission of breach - for example, admitting the breach*
2 *immediately and not requiring the other party to go to the expense and*
3 *trouble of proving a breach;*

4
5 b) *an admission or appreciation of the seriousness of the breach;*

6
7 c) *any cooperation by the contemnor to mitigate the consequences*
8 *of the breach; and*

9
10 d) *genuine expression of remorse or a sincere apology to the court*
11 *for his behaviour.*

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14 8. At [23] in the same judgment, Nicklin J emphasized the harm caused to the rule of
15 law by the flouting of court orders.

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17 9. The Court of Appeal observed in *McKendrick v Financial Conduct Authority* [2019] 4
18 WLR 65 (at [40], emphasis added):

19
20 ***Breach of a court order is always serious, because it undermines the***
21 ***administration of justice. We therefore agree with the observations of Jackson***
22 ***LJ in Solodchenko (see [31] above) as to the inherent seriousness of a breach***
23 ***of a court order, and as to the likelihood that nothing other than a prison***
24 ***sentence will suffice to punish such a serious contempt of court. The length***
25 ***of that sentence will, of course, depend on all the circumstances of the case,***
26 ***but again we agree with the observations of Jackson LJ as to the length of***
27 ***sentence which may often be appropriate. Mr Underwood was correct to***
28 ***submit that the decision as to the length of sentence appropriate in a***
29 ***particular case must take into account that the maximum sentence is***
30 ***committal to prison for two years. However, because the maximum term is***
31 ***comparatively short, we do not think that the maximum can be reserved for***
32 ***the very worst sort of contempt which can be imagined. Rather, there will be***
33 ***a comparatively broad range of conduct which can fairly be regarded as***

1 *falling within the most serious category and as therefore justifying a*
2 *sentence at or near the maximum.*

3
4 Mr. Garnett argued that the purpose of sentencing in this case was particularly to secure
5 future compliance with the order. Mr. Garnett argued that there was no evidence before the
6 court to displace the presumption of capacity, in fact, quite the reverse, both Dr. Nimmagadda
7 and Ms. Manning believe that Ms. Marriott has capacity. The only evidence is an assertion in
8 the report of Dr. Nimmagadda from Ms. Marriott that she had a belief that she required
9 medical attention. Dr. Nimmagadda did not offer an opinion as to whether he believed this
10 assertion. That assertion has not been given in evidence under oath.

11 Mr. Garnett argued that the breaches were a deliberate flouting of the order and the breaches
12 were serious and egregious. He argued that there was a high degree of culpability. No real
13 mitigation has been put before the court because there is no evidence from Ms. Marriott.

14 The evidence is that Ms. Marriott has refused to engage with any treatment plan which would
15 assist her in her impulse control which would stop this conduct.

16
17 On behalf of Ms. Marriott, Mr. Killen argued that Ms. Marriott's conduct was the result of a
18 maladaptive coping strategy as set out in the reports of Dr. Nimmagadda and therefore
19 looking at her history, there is not a high degree of culpability. Mr. Killen told the court that
20 Ms. Marriott is very sorry for the number of calls and for the nuisance that she has caused.
21 Ms. Marriott is willing to engage in work in particular she is willing to engage in DBT on a
22 25 week course run by the "Three Counties."

23 Ms. Marriott is not prepared to go into supported accommodation as recommended by Ms.
24 Manning as she values her independence too much and has lived in her current
25 accommodation for a long time.

26 Mr. Killen stated that Ms. Marriott's conduct is governed by her personality disorder,
27 compounded by stress and at times she feels compelled to act in this way.

28
29 I have approached this case with a great deal of sympathy and compassion for Ms. Marriott.
30 I have read her psychiatric history and accept that she suffered some trauma in her childhood.
31 However, the level of the breaches is very high. Taking the number of telephone calls
32 (without adding in the visits to Stoke Mandeville Hospital) in the period 23.3.2022 –
33 19.7.2022 the calls averaged 2-3 per day. This court does not accept that on each and every
34 one of those occasions, Ms. Marriott had a genuine belief that she required urgent or
35 immediate medical attention. This court finds to the criminal standard that Ms. Marriott
36 knew that she was making unnecessary calls and as such continued to add unnecessary
37 burdens to the NHS whether it be A and E, ambulance workers or other medical
38 professionals.

39 However, I accept that the motivation for making such calls is more likely due to emotional
40 need and vulnerability rather than out of malice or a desire to be a nuisance. Ms. Marriott

1 must understand that this behaviour must stop. One aspect of this case that Ms. Marriott has
2 a choice in is whether to engage in therapeutic and support services to reduce her sense of
3 isolation and loneliness and thereby decrease her need for social interaction through these
4 services. If Ms. Marriott cannot improve her impulse control, if she cannot engage in work
5 which will assist her to refrain from this behaviour, she is likely to serve an immediate term
6 of imprisonment for a considerable period.

7
8 Ms. Marriott served one week on remand in February 2022 but on release continued with her
9 behaviour. That period in prison did not appear to deter her. Ms. Marriott has now served a
10 further three weeks on remand. Through Mr. Killen Ms Marriott has stated that she will
11 engage in work.

12
13 I consider these breaches to be extremely serious. There is immense pressure on the NHS
14 and emergency services and people may die because an ambulance is not available because it
15 has been diverted to Ms. Marriott. I am satisfied that Ms. Marriott understands the terms of
16 the injunction and knows that the number of callouts is unacceptable.

17 This court has considered Ms. Marriott's history and given every allowance for Ms.
18 Marriott's past.

19 These breaches are serious and, in my judgment, clearly pass the custody threshold.

20 However, this court considers it appropriate to give Ms. Marriott the opportunity to engage in
21 the suggested work to assist her to change her behaviour.

22 The court therefore orders that Ms. Marriott serves a term of six months for the 999 and 111
23 calls and a further sentence of 6 months for the visits to Stoke Mandeville, each sentence to
24 run concurrently and be suspended for two years until 22.8.2024. This court specifically
25 warned Ms. Marriott that if she appears back before this court, has made no sustained attempt
26 at engaging with work to address her behaviour and has carried on breaching the order, she is
27 likely to receive a significant custodial sentence as well as serve the activated suspended
28 sentence.

29 Further, I have extended the order of DDJ Abrahams as extended by DJ Lynch until
30 22.8.2024. That order and a hard copy of this judgment must be served upon Ms. Marriott
31 personally.