

IN THE COUNTY COURT AT BRADFORD

Case No: H00SP111

Courtroom No. 5

Exchange Square
Drake Street
Bradford
BD1 1JA

10.26am – 10.45am
Wednesday, 13th July 2022

Before:
DEPUTY DISTRICT JUDGE LINGARD

B E T W E E N:

INCOMMUNITIES LIMITED

and

MR VINCENT MARSHALL

MISS C ALLAN appeared on behalf of the Claimant
THE DEFENDANT appeared In Person

JUDGMENT
(Approved)

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DDJ LINGARD:

1. This is an application by Incommunities Limited who are the freeholders of 19 Gloucester Avenue, Silsden in the city of Bradford Metropolitan District Council. The defendant, Vincent Marshall, is a tenant of Incommunities Limited.
2. The claimant was concerned about allegations of anti-social behaviour as a result of which on 12 July 2021, an application came before the district judge in Skipton for an injunction. On that occasion, Miss Allen, who appears for the claimant today, appeared on behalf of the claimant, and Mr Marshall attended in person. He admitted nuisance and confirmed he had taken steps to improve his behaviour.
3. An order was therefore made that he was forbidden to cause a nuisance or annoyance towards any other person residing, visiting or otherwise lawfully in the neighbourhood of 19 Gloucester Avenue, Silsden, BD20 OBX by shouting, screaming, using foul language, having loud arguments, slamming doors, banging doors, throwing objects, banging walls or exhibiting drunken behaviour.
4. He was also forbidden from shouting and using foul and racist language towards any other person in the vicinity of 19 Gloucester Avenue, forbidden from playing music from a stereo, radio or any other audio equipment at the said property at excessive volumes at any time so as to cause a nuisance or annoyance towards any person residing, visiting or otherwise lawfully in the neighbourhood of 19 Gloucester Avenue, Silsden, and from behaving in any other way which caused nuisance or annoyance to any person residing, visiting or otherwise lawfully in the neighbourhood of 19 Gloucester Avenue, Silsden. That order was to remain in force until 12 noon on 12 July 2022, which was yesterday.
5. On 28 March 2022, when I was sitting in Skipton, the application for committal came before me. I was satisfied on that occasion that the injunction and the application dated 6 December 2021, (which was amended on 4 March 2022) and notice of the adjourned hearing identifying that the hearing on 28 March, had all been personally served upon the defendant. There were certain breaches alleged that had occurred before 27 August 2021, which pre-dated personal service of the injunction and they were, therefore, not pursued.
6. Therefore, the allegations that were pursued were incidents on 8 September, 16 September and 10 October, 20 and 28 October. On that occasion, I read the affidavits of Paul Holmes, Sean Dobson and Katherine Evans and all three of those persons being present in Court each affirmed and confirmed the content of their affidavits.

7. I found on the criminal standard, that is to say beyond reasonable doubt, the following proved, which were recited in my order drawn on 1 April.

7.1 that on 8 September 2021, there was an argument between the defendant and his partner which included foul language in breach of paragraph 1. I heard a recording in which he was heard to say and could be heard from the location outside his flat, “Shut up you stupid...” and “shut up” again loudly. I found that amounted to behaviour by the defendant in breach of the injunction.

7.2 that on 16 September 2021, there was an argument between the defendant and his partner in breach of paragraph 1 of the injunction. He was heard engaging in the argument; despite the noise being made by his partner, he was so loud as to be heard by others and therefore that amounted to behaviour by the defendant in breach of the injunction.

7.3 that on 10 October 2021, he was having an argument with his partner in breach of paragraph 1 of the injunction. He was distinctly heard to call his partner “a fucking useless little prick”, which was clearly audible outside the flat and that amounted to behaviour in breach of the injunction.

8 There were two other breaches alleged on 20 October and 28 October 2021, which were found not to be proved. On that occasion, I made those findings in the absence of Mr Marshall. However, after I had made those findings, at 12.55pm the defendant contacted the Court to say he could not attend because of his partner’s illness.

9 I, therefore, although having provisionally pronounced sentence, considered it was appropriate to adjourn the matter to enable Mr Marshall to attend because it was clear that he was not totally avoiding the Court process. The matter was then listed here in Bradford on 18 May 2022 because of the unfortunate situation that for some reason Her Majesty’s Courts and Tribunal service and others had decided to restrict the sittings of the Magistrates in the law Courts at Skipton, the joint building between the Magistrates and the County and Family Courts, as a result of which there are rarely appropriate security facilities in the event of somebody being committed to prison.

10 Mr Marshall attended. Unfortunately, he was late because, and I make no great criticism of him apart from the fact that he had actually read the address, he went to the Magistrates Court in the centre of the city, which despite the fact that this building has now been opened for just over 30 years, having been opened by the Lord Chief Justice in June 1992, and despite its size, it is tucked away. A lot of people, especially those who live on the borders of the city of Bradford as Silsden is, because from Mr Marshall’s home it is less than a mile to the county of North Yorkshire,

people from out of town do not necessarily know where it is. Therefore, I make no criticism of him. He came.

11 On that occasion I asked him if he wanted representation. He indicated that he did, and he made enquiries of a solicitor in Keighley practising in the Criminal Courts who was going to come and speak for him but for some reason was not able to come today. Notwithstanding that, Mr Marshall has agreed that I should proceed today.

12 He mentioned last time and repeated today that both he and his partner are recovering drug addicts. He tells me today that he has a daily prescription for methadone, which he takes at the pharmacy attached to the health centre in Silsden which is a matter of a very short walk from his home. He tells me that he is now teetotal, although his partner does consume a few cans of alcohol a day.

13 He told me that the arguments primarily were about access to drugs. He says:

“I got clean. There was a lot of stress. There are a number of other drug addicts in the same street”.

14 He says there has been no anti-social behaviour ; I have no evidence of that either way. I have to note that the last proven breach took place on 10 October 2021, which is some nine months ago, and he says there are no parties and no loud music. He also said because of what has happened in the area and that the stress from the neighbours who are on drugs, he and his partner Sarah not only want to move out but that they will be moving out having obtained accommodation in Skipton and will be leaving within a month. The injunction itself was continued by me on 18 May 2022 until 12 noon on 12 July 2023.

15 The claimant seeks a period of immediate imprisonment. This sort of breach warrants a sentence of imprisonment. However, of course, I have the power to suspend it.

16 Would you please stand up, Mr Marshall? In respect of the first breach on 8 September 2021, when you used foul language audible outside the flat, you will be sentenced to a term of one month’s imprisonment. That, however, will be suspended and I will deal with the terms of the suspension in a moment.

17 In respect of the breach on 16 September 2021, you will also be sentenced to a period of imprisonment for one month which will run consecutively. In respect of the breach of 10 October 2021, you will be sentenced to a period of imprisonment of one month, which will run concurrently. Those sentences will be suspended on condition that you continue to comply with the terms of the injunction dated 13 July 2021 as extended until 12 July 2023 by order of the Court dated 18 May 2022.

- 18 Therefore, to make it clear to you Mr Marshall because I have to use these technical legal terms, to make it clear to you, you have got a total of two month's imprisonment. However, if you keep your nose clean and do not, from this day forward, certainly until 12 noon on 12 July 2023, and I would hope thereafter in any event, so until 12 July 2023, if you keep your nose clean, nothing will happen.
- 19 If, however, particularly between now and the date you leave the property, you do anything which could be construed as a breach of that original order, that is nuisance or annoyance, foul or racist language, playing music loudly, behaving in any other way which causes a nuisance or annoyance to any person residing, visiting or otherwise lawfully in the neighbourhood of 19 Gloucester Avenue in Silsden, you will be brought back before this Court and doubtless sentenced for that as well, bearing in mind that you have already got two months prison in the bank, if you understand what I mean?.
- 20 Right, keep out of trouble. I trust that you, having told me that you are leaving, that you will very shortly give your notice to Incommunities and leave. I hope that you are able to make a new start in Skipton.

End of Judgment

Transcript from a recording by Ubiquis
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