

Case No: H70MK011.

Date 3.3.2023.

In The County Court Sitting At Milton Keynes.

Before:

Her Honour Judge Brown

Committal.

**Mr. Barham for the Chief Constable of Thames Valley
Police.**

Mr. Killen for Ms. Gillian Marriott.

Hearing date 3.3.2023.

Approved judgment handed down 3.3.2023

APPROVED JUDGMENT.

1 **Her Honour Judge Brown.**

2 This judgment should be read together with the judgments of this court dated 24.8.2022 and
3 2.9.2022.

4 An injunction was made by DDJ Abrahams on 23rd of March 2021 against Ms. Gillian
5 Marriott which was then extended for a further year by DJ Lynch on the 22nd of March 2022.
6 This court further extended that order until 23.8.2024.

7 The terms of the injunction are as follows ;

8 The Respondent Gillian Marriott must not ;

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

20 This is an application for committal on behalf of the Chief Constable of Thames Valley
21 Police against Ms Marriott, following her admission to further and repeated breaches of her
22 Anti-Social Behaviour Order (the ‘Order’).

23 Ms. Marriott appeared before HHJ Hughes on 15th. February 2023 and accepted 100 further
24 breaches namely making 71 unnecessary 111 calls, 19 unnecessary 999 calls and 10
25 unnecessary attendances at Stoke Mandeville Hospital in breach of paragraphs 6 and 7 of the
26 injunction between beginning of December 2022 – end January 2023.

27 Ms Marriott appeared before this court on 23rd August 2022, as a result of her conduct
28 between 24th March 2022 and 19th July 2022. During those months, Ms Marriott made 114
29 calls to 999, 217 calls to 111, as well as several attendances at Stoke Mandeville Hospital
30 (SMH). Ms Marriott was subject to concurrent orders of suspended committal for a period of
31 6 months to last until 22nd August 2024. On 1st September 2022, Ms Marriott was before the
32 court for further breaches of the Order (by further attending SMH) and of the suspended
33 orders of committal; Ms Marriot was sentenced to 6 months committal.

34 Ms Marriott was released from custody on 30th November 2022, since when she breached the
35 Order by making 19 calls to 999, 71 calls to 111, (in breach of paragraphs 6 and 7 of the
36 Order) and attended SMH on 10 occasions (in breach of paragraph 8 of the Order). Evidence
37 of Ms Marriott’s conduct comes from Ms Deborah Lawson, the NHS High Intensity User
38 Lead, who has provided a statement that lists Ms Marriott’s 10 attendances at SMH between
39 25th December 2022 and 31st January 2023. Other evidence is from Ms Donna Phippard, the
40 Complex Care Practitioner for South Central Ambulance Services, who has provided a
41 statement that details the calls to 999 and 111 between 10th December 2022 and 30th January
42 2023; PC Gent has also provided evidence in his committal notice [11-15].

43 I am grateful to Mr. Barham for assisting the court with the relevant law in this matter;

44

1 **THE LAW**

2 *Purpose of sentencing and use of the civil Justice Council Guidelines*

- 3 1. In *Lovett v Wign Borough Council (re Breaches of ASBIs)* [2022] EWCA Civ 1631 at
4 [33], the Court identified that the purposes of sentencing in contempt proceedings are,
5 in the following order:
6 a. Ensuring future compliance with the order;
7 b. Punishment; and
8 c. Rehabilitation.
9
- 10 2. In the same judgment, the Court identified at [46], that “*The Civil Justice Council’s*
11 *proposed scheme is a valuable tool for judges to use, always bearing in mind that*
12 *sentencing is a highly fact sensitive and the facts will vary widely*” .

13 *Available sanctions*

- 14 3. Civil Procedure Rules 81.9(1) states that if the court is satisfied that the defendant has
15 committed a contempt, it may “*impose a period of imprisonment [...], a fine,*
16 *confiscation of assets or other punishment permitted under the law.*” By section 14 of
17 the Contempt of Court Act 1981, the maximum penalties for contempt of court are 2
18 years imprisonment or a fine of £2,500.
19
- 20 4. In *Lovett* at [43] it was repeated that, “*custody should be reserved for the most serious*
21 *breaches, and for less serious cases where other methods of securing compliance with*
22 *the order have failed [...] A custodial sentence should never be imposed if an*
23 *alternative course is sufficient and appropriate. If the court decides to impose a term*
24 *of imprisonment, that term should always be the shortest term which will achieve the*
25 *purpose for which it is being imposed.*”
26
- 27 5. The Court of Appeal observed in *McKendrick v Financial Conduct Authority* [2019] 4
28 WLR 65 (at [40], emphasis added):
29 “Breach of a court order is always serious, because it undermines the administration
30 of justice. We therefore agree with the observations of Jackson LJ in *Solodchenko*
31 [...] as to the inherent seriousness of a breach of a court order, and as to the likelihood
32 that **nothing other than a prison sentence will suffice to punish such a serious**
33 **contempt of court.** The length of that sentence will, of course, depend on all the
34 circumstances of the case, but again we agree with the observations of Jackson LJ as
35 to the length of sentence which may often be appropriate.[..] However, because the
36 maximum term is comparatively short, we do not think that the maximum can be
37 reserved for the very worst sort of contempt which can be imagined. Rather, **there**
38 **will be a comparatively broad range of conduct which can fairly be regarded as**
39 **falling within the most serious category and as therefore justifying a sentence at**
40 **or near the maximum.**”

41 *Culpability*

42 Ms Marriott has committed a further 90 breaches of paragraphs 6 and 7 of the Order (the
43 phone calls), and 10 breaches of paragraph 8 of the Order (hospital attendance). The calls
44 were over a period of 51 days, and the attendance at SMH over a period of 38 days. It was
45 therefore submitted on behalf of TVP that these breaches represent “persistent serious
46 breaches” of the order (CJC Guidance p.145).

1 The varied order provided Ms Marriott with the option to call the Mental Health Crisis team.
2 However, Ms Marriott elected to ignore this facility when she made her calls to 111 and 999,
3 or attended SMH.

4 The evidence before the court is that Ms Marriott presented herself to SMH on occasions
5 where it was demonstrably the case that there was no “real and genuine emergency”. The
6 case is put on the basis that there was a ‘grey area’ where Ms. Marriott *may* have needed
7 treatment. For example, her presentations on 31st December 2022, 4th January 2023, 21st
8 January 2023, 29th January 2023 were said to be a result of either overdosing, ingesting
9 harmful garden products, or attempting to take her life by hanging. However, on each of
10 those occasions, her observations were stable and there were no signs of attempted
11 strangulation. On other occasions (9th January 2023, 17th January 2023, 30th January 2023,
12 31st January 2023), Ms Marriott arrived at hospital by ambulance, but left without being seen,
13 indicating that she had no real and genuine need to be at the hospital in the first place. In
14 particular, on 29th January 2023, Ms Marriott is said to have “admitted to a doctor she had
15 made it up to gain attention, stating she had no food in the house”. On the only occasion
16 where Ms Marriott was provided medication (14th January 2023), the cause was “a minor
17 chest infection” that would not require hospital attendance in the first instance.

18 On 2nd January 2023, Ms Marriot called 999 on three occasions, and when the ambulance
19 arrived she was not at home, but was observed walking to the shops, smoking. On 30th
20 January 2023, Ms Marriott wanted to have a different ambulance crew convey her to hospital,
21 which demonstrates an indifference to the burden on SCAS.

22 For the above reasons, it is submitted that this is a case of category A culpability.

23 Mr. Killen submitted that Ms. Marriott should be placed in category B of the sentencing
24 guidelines. He relies on the report of Dr. Hasanen Al-Taiar, in particular para 13.4 which
25 reads as follows;

26
27 *“13.4 It is likely that Ms Marriott was experiencing manifestations of her psychotic state*
28 *when he allegedly committed the offence earlier last year and this has impacted on her ability*
29 *to form a criminal intent. Criminal acts are typically associated with these states of psychosis*
30 *which are marked by agitation, thought disorder, and distorted perception of reality. These*
31 *phases could lead to public order offences or confrontations with the police. I do not think*
32 *that her behaviour was calculated to cause annoyance and inconvenience, but rather a*
33 *symptomatic feature of her illness.”*

34 Parts of Dr. Al-Taiar’s report concern this court. Firstly, the report often refers to Ms.
35 Marriott as “he”. Secondly, Dr. Al-Taiar refers to “he allegedly committed the offence
36 earlier last year.” In this case, the court is dealing with a pattern of behaviour/course of
37 conduct committed between Beginning of December 2022 - end January 2023 which
38 repeatedly breached a civil injunction. The court is not dealing with one criminal offence and
39 is not dealing with criminal intent. The presumption of capacity has not been displaced. Ms.
40 Marriott understands the nature of the injunction and is able to accept the breaches.

41 I therefore have significant concerns as to whether Dr. Al Taiar had the precise facts of this
42 case in mind when writing the report and the extent to which this court can rely upon his
43 opinion.

1 Mr. Killen submitted that given Dr. Al-Taiar’s opinion that Ms. Marriott was experiencing
2 “manifestations of her psychotic state when he allegedly committed the offence earlier last
3 year and this has impacted on her ability to form criminal intent.”

4 Mr. Killen submitted that if the mental disorder is linked to the commission of the
5 offences/breaches the culpability is reduced. I listened to the mitigation and that submission
6 with care.

7 In my judgment, these breaches fall into category A in respect of culpability. I am satisfied
8 that Ms. Marriott understands the nature of the injunction and chooses repeatedly to breach it.

9 ***Harm***

10 Ms Lawson states that Ms Marriott’s conduct takes up the “time of doctors and nursed within
11 SMH who are required to check that she is not in genuine need of help as she claims. [...] The
12 average wait for an ambulance is 10 hours at the moment, and this includes people in
13 genuine need who are very unwell and at risk” [35]. From the evidence of Ms Phippard, on
14 4th January 2023, when Ms Marriott called for an ambulance, “the waiting times were
15 roughly 20 hours to be seen by a Doctor. Gillian then called a taxi to take her home” [37].

16 The Court takes judicial notice of the fact that there is currently a significant demand on the
17 health service, and that Ms Marriot’s conduct diverts practitioners’ time away from dealing
18 with cases of genuine emergency in three respects. Firstly, the repeated calls to 999 and 111
19 require operators to devote time to these calls; secondly, the use of SCAS diverts ambulances
20 from attending other emergency incidents; thirdly, the attendance at SMH drains the time of
21 doctors, nurses and depletes the available resources for dealing with cases of genuine need.

22 For the above reasons, the court accepts that this is a case of category 1 harm.

23 ***Aggravating factors***

24 History of disobedience of court orders:

25 a. The breaches of the order have been carried out against a backdrop of non-
26 compliance; Ms Marriott received two concurrent 6 month suspended sentences
27 of committal on 23rd August 2022, which was breached on 1st September 2022.
28 Following a period of 3 months committal, Ms Marriot was released on 30th
29 November 2022 and began breaching the Order within 10 days (first phone call
30 on 10th December 2022).
31

32 Breach committed shortly after the order was made:

33 b. Whilst the Order itself was made in 2021, the Order was extended at the Court
34 hearing on 23rd August 2022, and Ms Marriott would have had the Order in mind
35 10 days after release from custody following her previous breach.
36

37 Targeting of a person the order was made to protect:

38 c. The Order was made, in part, to protect the efficient working of SMH, SCAS, and
39 999 and 111 services, Ms Marriott’s conduct has interfered with each of these
40 services.
41

1 ***Mitigating factors***

2 Ms Marriott's health is relevant to these proceedings, she has a diagnosis of personality
3 disorder, but she does not lack capacity. Whilst the treatment plan that was previously
4 presented was accepted to not be feasible, it does not appear that Ms Marriot has engaged
5 with any support that has been offered.

6 Ms Marriott has made admissions at an early stage, which merits a 'discount' to any
7 sentence.

8 Of note, Ms Marriott has spent 16 days on remand, which would equate to a reduction of 32
9 days from any sentence of committal.

10 I am grateful to Mr. Killen who has agreed with the consent of Ms. Marriott to send the
11 papers in this case and report of Dr. Al Taiar to Ms. Marriot's GP. It is important that Ms.
12 Marriott asks for assistance and if therapeutic intervention is offered and available, that she
13 engages. It may be that she needs to be put on a waiting list now so that services can be
14 accessed when she is released from prison in six months time.

15

16 **SENTENCE.**

17 I consider this to be a category 1 offence in terms of harm and culpability. The band is
18 between 8 weeks and 18 months. This is the third time Ms. Marriott has been sentenced for
19 breaches of this order.

20 In my judgment, these breaches fall at the upper end of the sentencing band. In my judgment
21 the least sentence that can be passed is 18 months. I give Ms. Marriott full credit for
22 accepting the breaches at the first available opportunity and therefore I give her the full third
23 credit. I sentence Ms. Marriott to 12 months ie 365 minus 32 days for time already served.

24 My sincere thanks once again to Mr. Killen for the care he has taken in representing Ms.
25 Marriott. My sincere thanks to Mr. Barham for his assistance.

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