

IN THE CLERKENWELL & SHOREDITCH COUNTY COURT

Case No: K00EC505

Courtroom No. 7

The Gee Street Courthouse
29-41 Gee Street
London
EC1V 3RE

Friday, 24th March 2023

Before:
DISTRICT JUDGE HAYES

B E T W E E N:

LONDON BOROUGH OF TOWER HAMLETS

and

MARK BISHOP

MR PETTIT appeared on behalf of the Claimant
THE DEFENDANT appeared In Person

JUDGMENT
(Approved)

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DISTRICT JUDGE HAYES:

1. This is judgment in relation to two matters that are before the Court concerning breaches of an injunction made by me on 20 February 2023 (“the Injunction”). That Injunction provided that Mr Bishop, the defendant, is forbidden from entering the London Borough of Islington, save that he may pass through the borough on public transport providing he does not alight, in other words exit, such public transport within the area from which he is excluded. That is a summary of paragraph 1 (a) of the Injunction but I have considered its full wording. The second paragraph of the Injunction forbid Mr Bishop from using or threatening to use violence towards any person in the locality of or residing in or engaging in lawful activity in the borough. There is no suggestion of breach of that paragraph of the Injunction.
2. There are two breaches in relation to which Mr Bishop is brought before the Court on arrest. The first breach in point of time was on the 27th February 2023. Mr Bishop was brought before me on the 28th February in relation to that matter. On that occasion, declining the opportunity to obtain legal advice before so doing, Mr Bishop admitted the breach. He gave an explanation for it. That explanation was that, whilst admitting that he was on Hornsey Road which was where he had been arrested and which is within the London Borough of Islington, Mr Bishop said that he had been walking to Seven Sisters Road. He said he had thought the injunction enabled him to get off public transport for the purpose of changing routes. He accepted that he had been in Islington, hence accepting he was in breach. He also told me, as I recall, that he had come into Islington to give some money to Leanne who he tells me is his girlfriend. That was the purpose of his trip.
3. The second matter in relation to which Mr Bishop was arrested concerns sometime after, or around, 10 o’clock on the 6th March and shortly before one in the morning on the 7th March. The allegation is, again, that Mr Bishop was in breach of paragraph 1 (a) of the Injunction by being in the London Borough of Islington. It is said he was, first, at 1 Stacey Street and then, secondly, at Val McKenzie Avenue and then, thirdly, at Isledon Road.. Those roads, I should say, are relatively close together. In relation to this second matter, Mr Bishop was brought before me on the 7th March. On that occasion Mr Bishop told me, albeit not on an oath, that he had been to hospital because of his leg and that he had come out of hospital, and was making his way home, walking towards Finsbury Park when he was arrested. Mr Bishop was remanded in custody at that hearing.
4. At the start of today’s hearing, which was adjourned over from Monday, Mr Bishop stated that he was content to proceed without a solicitor. He also stated that he wished, effectively, to plead guilty. I took that to refer to both of the matters, although he had effectively already admitted breach concerning the first matter back on 28 February.
5. In terms of the evidence, I have a witness statement of Nick Oliver concerning service of the Injunction. I do not have that on affidavit but insofar as that were necessary, I waive requirement for affidavit evidence concerning his evidence. I find as a fact to the criminal standard so that I am sure that Mr Bishop was served with the Injunction power of arrest and its map at or about 1:30 in the afternoon on 24 February 2023. Without losing sight of the fact that matters need to be proved against him unless they are admitted, there does not appear to be any contest from Mr Bishop him that he was served (albeit that Mr Bishop told me on that first occasion that he was brought before the Court on arrest, that he thought that he was able to exit the public transport for the purpose of taking a different route and connecting with alternative forms of transport).
6. As regards the first breach, I have witness statements in section 9 form from PC Wallace of the 28th February 2023 and PC Arthurs of the same date. That evidence is essentially to the effect that they received a call to go to “The Gunners” public house on Blackstock Road as a

result of a report that Mr Bishop being there; that he was not there when they attended, and that they subsequently received a call that he was around the Emirates Stadium at Hornsey Road where they arrested him.

7. It is right to record that PC Wallace says that Mr Bishop told him or her on arrest that he was "...called by Leanne to come to meet her because she had missed her methadone collection, so I came to her to give her some money and we have been hanging out together and then the other woman has not liked me, so she has called the police". That officer records that Mr Bishop told them that he believed he was permitted to travel through Islington and believed the action of meeting Leanne walking along Hornsey Road towards Finsbury Park fell within the permitted restrictions.
8. That is the material as regards the first breach. As regards the second arrest, which spans events on the 6th and 7 March and three different locations over some hours, I regard it effectively as one continuous breach in terms of allegation. I have three witness statements from PC Matthews, one of the 7th March, one of the 8th March and then a final statement of the 10th March. The second statement effectively corrects errors in terms of date in the first; the third provides some further evidence regarding to location, what PC Matthews says he was told by Mr Bishop when he was arrested. Additionally, I have a witness statement from PC Santos, who says she was on duty with PC Matthews, and a witness statement from PC Hussain.
9. PC Hussain gave evidence to me on oath, confirming the contents of his witness statement. PC Hussain is a police constable at Stoke Newington Police Station, part of the Integrated Offender Management team. He explained, in his statement, that since Mr Bishop was released from prison in January 2023, he has weekly meetings with him. PC Hussain said that on the 6th March 2023, at about 22.03, the police were called to 1 Stacey Street, being a hostel providing accommodation for vulnerable young people. I understand, and I do not believe this to be contested, that Leanne resides there.
10. PC Hussein said in his statement that staff at the hostel witnessed a male by the name of Mark Bishop loitering outside the hostel. PC Hussain said that he had looked at some CCTV footage from the hostel and clearly identified Mr Bishop as being the man who was outside 1 Stacey Street. PC Hussein also says that he has checked with the University College Hospital as to whether Mr Bishop had been admitted there between 5th March and 6th March and he says that his enquiries showed that he was not. I had, additionally, a witness statement from Darius Greed, who works at the 1 Stacey Street hostel accommodation. He says that he heard a male's voice shouting the name of a resident. He looked through the window and identified that person as Mr Bishop. He called the police.
11. I pointed out at the start of today's hearing that Mr Bishop could give evidence to me on oath without a witness statement. I told him that could tell me his side of events. If he wanted to do that in terms of evidence, it would have to be on oath. In fact, although Mr Bishop has made submissions to me by way of mitigation, he has not given evidence to me on oath.
12. Mr Bishop was given the opportunity to cross-examine PC Hussain. In fact, during the course of that, Mr Bishop effectively admitted and accepted that if PC Hussain was identifying him as the gentleman on the CCTV as being at 1, Stacey Street on the 6th March, then he, Mr Bishop, would accept it.
13. On the evidence that I have, I am satisfied so that I am sure to the criminal standard of the following. First, as I have already recorded, I am satisfied that Mr Bishop has been served with the Injunction. Secondly, notwithstanding the submissions that Mr Bishop has made regarding not understanding (or fully understanding the Injunction order), I am satisfied that it is well and substantially clear, including in relation to the public transport provisions. As regards the first matter, I am satisfied that Mr Bishop was on Hornsey Road in Islington on

- the 27th February (indeed, he admits that) and that is a breach of paragraph 1 (a) of the Order. I am satisfied, again to the criminal standard, that the reason for him being there in Islington appears to have been to meet up with Leanne, being a person in relation to whom Mr Bishop's conduct was relevant in the order precluding him from entering Islington was made.
14. As regards the second matter, on the 6th March and the early hours of 7th March, given the effective admission by Mr Bishop, albeit today, concerning being outside 1, Stacey Street, I find to the criminal standard, so I am sure, that that he was in the London Borough of Islington around 10 o'clock on 6 March.
 15. I recall that Mr Bishop's account to me on the 7th March, following his arrest, was that he had been in hospital and that it was as a result of that, following discharge, he was walking back towards Finsbury Park when he was arrested.
 16. That narrative is not in evidence before me, but I record that I reject it. I am satisfied so that I am sure that the reason that Mr Bishop was there in Islington was to effectively meet up, or seek to meet up with, Leanne, and that Mr Bishop was on each of these roads on the dates and times that are put against him as recited into the order I made on the 7th March.
 17. The points in mitigation are as follows. First, that Mr Bishop has effectively admitted breach (or "pleaded guilty") at the first opportunity as regards each breach, certainly the first. Secondly, that there is no violence towards anybody alleged. Thirdly, he tells me, albeit this is not in evidence, that, effectively, Leanne will not leave him alone. Mr Bishop says he is still in a relationship with Leanne; that she is two months pregnant with his child. He says that he has relatively recently been meeting up with her outside Islington and that that is known to the claimant's officers, I think is what he suggested, or one of the colleagues of PC Hussain.
 18. I am taken helpfully by Mr Pettit to the recent Court of Appeal case of *Lovett v Wigan Borough Council (Re Breaches of ASBIs)* [2022] EWCA Civ 1631. I remind myself that the objectives in sentencing for breach of this type of order are, in order: (1) to ensure future compliance with the order; (2) punishment; and (3) rehabilitation. I also remind myself of the harm and culpability matters that are set out at 47 and 48 of that Court of Appeal judgment:
 - "The three levels of culpability are:
 - A) High culpability; very serious breach or persistent serious breaches
 - B) Deliberate breach falling between A and C
 - C) Lower culpability; Minor breach or breaches".
 19. As regards to harm, this is considered on a category basis:
 - "Category 1 Breach causes very serious harm or distress
 - Category 2 Cases falling between Categories 1 and 3
 - Category 3 Breach causes little or no harm or distress".
- There is then a table at paragraph 54 of the Court of Appeal judgment leading to a starting point as regards potential sentence. Any sentence must be just and proportionate.
20. As regards breach one, that is to say the 27 February matter, I bear in mind it was very shortly after the Injunction order was made. I bear in mind that there was, effectively, a plea of guilty. I do not, however, accept the explanation put forward by Mr Bishop; that is to say, his contention that he did not understand the terms of the order which, in my judgment, somewhat negates the context of that plea. I have borne in mind fully the further points in mitigation that he has made both in relation to that breach and the second matter. They seem to go to both matters.
 21. Starting consideration, as regards the first breach, it seems to me that this is deliberate breach, that is to say "B" (between A and C), and in circumstances where there is no actual harm alleged, it seems to me that it is Category 3 in terms of harm. Therefore, B3 and the starting

- point is adjourned consideration. One would only adjourn consideration if there was potentially going to be a custodial sentence. I bear in mind that it is often the case that one imposes for a first breach a suspended custodial sentence, so it might be said if this matter had stood alone as regards breach one, that it would be a case that I would give an indication as to what the potential sentence might be and adjourn sentence for, say, three to six months.
22. That was not done in circumstances where Mr Bishop stated that he wished to obtain some legal advice in relation to sentence and it was adjourned over to 20 March. That hearing itself has been adjourned over and is now being dealt with today. I have reached the view that that breach, being deliberate and being so soon after the making of the Injunction and being in relation to the very matter that the injunction was aimed at, justifies a custodial sentence. In addition, given the known fact of the second matter, it would be wrong to suspend that first sentence or adjourn it over. I am going to impose a 28-day custodial sentence for the first breach but that will run concurrently with, i.e., not in addition to, the sentence for the second breach.
 23. The second breach, in my judgment, is a more serious matter. It must have been well known to Mr Bishop that he could not be within Islington, certainly because he had been brought before me on the first occasion regarding the first breach. The second matter occurred, again, relatively quickly after the Injunction and, certainly, relatively quickly after the first breach. That matter falls, in my judgment, within high culpability: very serious breach or persistent breach; that is to say “A”. There is harm and distress. There is evidence as to gentlemen from the hostel reacting to the fact that Mr Bishop was outside. That is not to say that the gentleman describes being particularly distressed or alarmed, but it seems to me that there must be some distress attendant to breach of this nature. It seems to me that this is in the middle ground as regards category; so, the second breach is A2 it seems to me. The starting position for A2 is three months effectively 12 weeks. Again, I do not lose sight of the fact that there is a plea of guilty and that it might be said that the words Mr Bishop was using on the 7th March was effective to being a plea. However, it seems to me that his narrative on 7th March was one of effectively coming out of the hospital and finding on his way home, and that is an explanation which I reject entirely.
 24. I take the view, therefore, that any plea on that occasion is effectively negated by the context of it and the fact that he has only today effectively really admitted the matter, this being a further adjournment of the case. It seems to me an aggravating factor, additionally, is that this is a second breach almost on the heels of having been in Court in relation to the first breach and this negates any plea. It seems to me, therefore, the effective sentence for breach two should indeed be 12 weeks.
 25. As Mr Pettit rightfully and properly tells me I need to give credit for time on remand. We will check the matter in a minute, but it seems to me it is 18 days that Mr Bishop has been on remand. That should count double in terms of me deducting it. Twelve weeks, again, we will check the matter in a minute, I think is 84 days. Eighty-four days less the 36 days is 48 days. Those 48 days, to which I sentence Mr Bishop, will run concurrently, i.e., at the same time as the 28 days for breach one, so the total to be served is 48 days.
 26. I outline as required by the rules, Mr Bishop you have the right to appeal that without any permission being required. The relevant route of appeal is to the circuit judge at Central London County Court and the time for appealing is within 21 days. I also point out you have the right to apply to discharge this sentence, i.e., to purge your contempt.

End of Judgment

Transcript from a recording by Ubiquis
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This transcript has been approved by the judge.