

IN THE COUNTY COURT AT WOLVERHAMPTON

Case No. J00WV764

Courtroom No. 8

Pipers Row
Wolverhampton
WV1 3LQ

Thursday, 28th September 2023

Before:
District Judge O'hagan

B E T W E E N:

Wolverhampton City Council

and

ROTHAN

UNKNOWN Counsel appeared on behalf of the Claimant
The Defendant appeared In Person

APPROVED JUDGMENT

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DJ O'HAGAN:

1. I am dealing this afternoon with proceedings brought by Wolverhampton City Council, who are the claimant in the matter, against Louise Sharon Rothan, who is the defendant in the matter.
2. The application is an application for committal for breach of injunction of orders made by this Court in the course of proceedings. The orders were first made in December 2022 and the matter came before me on 12 April 2023, and it came before me because there had been alleged breaches of the injunction.
3. Ms Rothan, on that occasion, accepted that she had breached the injunction, and she accepted multiple breaches of it. I did not need to hear evidence because the breaches were not in dispute on that occasion.
4. I explained to Ms Rothan with great care on that occasion the importance of complying with the injunction and I warned her of the possible consequences that would flow if she failed to do so, and I did so in the clearest terms that I could. I did so free from legal terminology, and jargon, to assure that Ms Rothan understood firstly, what was required of her, and secondly, what the potential consequences were if she did not do what was required of her.
5. She assured me on that occasion that she, firstly, understood what was required, and secondly, understood what could happen then if she did not do what she was required to do. I made it very clear to Ms Rothan that the last thing I wanted to do was to punish her. I was much more concerned with securing compliance with the order and I said to her on that occasion that I very much hope that I would not see her in Court again because there would be no further breaches that would require her to come to Court, so she was given the clearest possible warning at the April hearing.
6. Sadly, the Local Authority was compelled to apply for the matter to come back before the Court. That application was made on 20 July 2023, and it was made because there had been further breaches of the injunction. I heard the evidence in relation to that at a hearing on 30 August 2023.
7. At that hearing, Ms Rothan denied the further breaches which was why I had to hear evidence on the matter in order to be able to make a decision about whether or not those breaches were made out, and I was careful to apply the highest standard of proof applicable to criminal proceedings as one must when considering breaches of an order that could result in someone's committal to prison.
8. I do not need to go through all of the findings that I made on that day in this judgment. They are a matter of record, but I found multiple breaches on that occasion and they are set out to the schedule to the order made on the day. It is implicit in the findings that I made, but I need to make it explicit in giving this judgment, that I also concluded that Ms Rothan had lied to me, and lied to me repeatedly during the course of that hearing. I did not believe what she had to say about those matters. I did believe what her neighbours had to say about those matters, and also what the professionals employed by Wolverhampton City Council from whom I heard had to say about those matters.
9. I could have dealt with sentencing then, but, as a matter of fairness to Ms Rothan, I adjourned it in order to give her the opportunity to seek legal representation. It is a matter of record and a sad matter that she appears before the Court unrepresented today. At the start of his hearing, I gave careful consideration to the issue of whether or not I should proceed today, given that Ms Rothan was unrepresented.
10. Ms Rothan told me in terms that she has tried to see multiple solicitors and that she has instructed Talbots Solicitors but that they could not attend today. I asked her why it was

then that there was no letter or other documents such as the notice of acting from Talbots, and she told me that they told her that they did not do that. I do not believe her. I do not believe her, firstly, because it flies in the face of what is expected of any reputable firm of solicitors, and secondly, because Talbots are a well-known local firm and they are highly reputable. It simply lacks credibility that they would act in the way that she describes.

11. I am satisfied that she has had every reasonable opportunity to take legal advice and that she has not availed herself off that, and so it is right that I proceed in the absence of her being unrepresented today.
12. I am mindful of the guidance which has being set out by the senior Courts and which is very helpfully summarised by Ms Larder in her position statement, and the starting point has to be the words of Lord Burnett of Maldon in the case of *Attorney General v Richard Mckeag and Natalie Barker* [2019] EWHC 241 (QB Divisional Court) in which he says “Compliance”, that is compliance with court orders, “is not optional”. Optional means it is not something you can choose to do or not choose to do as you see fit.

“Anybody who has been served with or knows of the injunctions and, with that knowledge, acts contrary to their prohibitions is guilty of contempt of court and liable to be punished for the breaches. It is essential in the public interest that these principles should be upheld. It is fundamental to the rule of law that orders of the court are obeyed”.
13. In other words, the starting point is that the Court has to enforce its order, and has to punish people who breach court orders, because if the Court did not do that, it would undermine whole rule of law because people would come to understand that court orders are not something that you have to obey, they are something that you can choose to obey if you fancy it, and that clearly would not be in accordance with any system of justice or any rule of law. Putting it more simply still, the Court might as well give up and go home today if it does not take steps to enforce its orders.
14. There is very careful guidance given by the senior Courts about how one should assess the correct level of sanction in a case of this kind and the first thing that the Court has to consider is how culpable somebody is, and in the case I am dealing with, I think it is right to say that there have been persistent breaches.
15. Individually none of the breaches are at the highest end of the spectrum of seriousness and I accept that. What makes them serious is, of course that they have been persistent, their repeated nature, and I have to find very high level of culpability because this is not a one-off breach, it is multiple breaches compounded by the fact that in Court on 30 August Ms Rothan was dishonest with me about the breaches. Therefore, I do find that it falls in Category A culpability; that is the highest level of culpability, because of the repeated nature and also the dishonesty.
16. I then have to consider the level of harm that has been caused. I agree with Ms Lardar’s concession that this does not fall at the top end of the spectrum; Category 1, and I further agree with her that it does not fall at the bottom end of the spectrum, Category 3. It seems to me, as it does to her that it falls at Category 2.
17. The harm that has been caused to the neighbours is very real, and very significant, and I have heard about the impact on various neighbours, but also of employees of Wolverhampton City Council who, at the end of the day of public servants doing their job to the best of their ability and have a right to do so without being made to feel frightened for their safety and welfare when doing their job, so, I do think it falls into Category 2.
18. I considered whether there are any mitigating circumstances and I readily acknowledge that there are sad difficulties in Ms Rothan’s home life and I do take that into account particularly the position of her daughter who has autistic spectrum disorder, and it is right

that I have regard to that. Set against that, there are sadly no other mitigating circumstances. Ms Rothan has expressed remorse today. There are two difficulties with her expressions of remorse today that undermine the weight that I can give to that.

19. The first difficulty is that I am aware, because I was the Judge who presided over the hearing, that she also expressed remorse in April when the matter came before, and then sadly continued to behave in exactly the same way, still failed to comply with the order. It is very difficult to attach great weight somebody's expression of remorse if actually there is no change of behaviour as a result of it.
20. Additionally, the second factor which undermines her expressions of remorse is the fact that she did not tell the truth at the hearing in August; she was dishonest, and she did not express remorse at that hearing, either.
21. Therefore, somebody who expresses remorse at the last possible moment at a sentencing hearing cannot expect the same way to be given to those expressions of remorse that would have been given had they be made promptly, and had they been acted upon. Ms Rothan will not doubt say that I should give her a chance but the sad reality of the case is I did give her a chance. I gave her that chance back in April.
22. I say this colloquially, but I say it very sincerely, the last thing actually as a Judge I ever want to do is to send somebody to prison. That is absolutely is not the reason why I applied for Judicial Office. It is not something that fills my heart with joy. It fills my heart with immense sadness, but sadly Ms Rothan's behaviour has left me with no other alternative but to impose a custodial sentence because of the level of culpability and because of the level of seriousness and because of the lack of mitigating factors.
23. The only question my mind is what the level of imprisonment should be. The top end of the spectrum is six months. I think that would be excessive in this case. I am not going to impose a six-month sentence. I think the level of harm and the seriousness viewed in the round falls short of that. However, it cannot simply be a trivial punishment because otherwise it would not have required impact, both in terms of punishing Ms Rothan for what she has done and upholding the importance of compliance with court orders, and also in providing justice to the neighbours who have been injured by her actions.
24. It seems to me that three months is the appropriate level of sanction in this case. Therefore, Ms Rothan, I am very sorry but I am sentencing to you to three months in prison for contempt of Court by breaching the injunction. That sentence will begin immediately and will be completed in three months time.

End of Judgment.

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