

IN THE COUNTY COURT AT BOURNEMOUTH

Courts of Justice
Deansleigh Road
Bournemouth
BH7 7DS

Date: Friday 31st May 2024

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Before:

HIS HONOUR JUDGE GLEN

Between:

DEPARTMENT OF TRANSPORT & ORS

Claimants

- and -

ROBERT HOOD

Defendant

MR FRY for the **Claimants**

The Defendant was not present or represented

APPROVED JUDGMENT
AND SENTENCING REMARKS

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HIS HONOUR JUDGE GLEN:

1. I now deal with the question of sentence for the various contempts that have been found proved, and I do this in the absence of the defendant with a heavy heart. I have given him every opportunity today to come into court on the terms that I have already outlined in my previous short judgments; namely that he turn off and surrender his mobile phone to a member of the security staff for the duration of the hearing. I imposed this requirement as a result of an incident at a previous hearing of this matter when he filmed himself attempting to arrest a District Judge and then posted the footage on social media sites. The need for it has not diminished given his statement that he has brought handcuffs to court today for the purposes of arresting me.
2. He has declined to comply with this requirement, and that is so notwithstanding that both Mr Fry, who appears on behalf of the claimant, and the court staff have carefully explained to him what the consequences may be if he does not take the opportunity to address me and put before me the circumstances which he relies upon in mitigation of the breaches that I have found to be proved. I have explored the possibility of having him arrested on a bench warrant to bring him before the Court but this has proved to be impractical. As a result, as I have already indicated, I see no choice in this matter but to proceed in his absence, recognising that this is an exceptional course to take.
3. This matter began life innocuously enough. In January 2020 the defendant was a driving instructor working for a franchise known as Red. On 25th January 2020 he presented a candidate for a driving test at the Lee on The Solent Driving Test Centre. That candidate unfortunately failed her test. The defendant was convinced that that failure was unfair, and in a progressively aggressive manner he complained and took other action against the manager of the driving centre, the second claimant Matthew Smith. This expanded into a general allegation of fraud and corruption on the part of the first claimant, based on wide-scale practices that he asserts are unfair to candidates for driving tests.
4. At around the same time he entered into a dispute with the owner of the franchise who had terminated his retainer. As a result of some intemperate correspondence with him, the Defendant was removed from the register of authorised driving instructors on the grounds that he was not a fit and proper person. He appealed that removal but that appeal was dismissed by the First Tier Tribunal. Thereafter, his campaign, particularly directed against the second claimant but also other employees of the first claimant including the third and fourth claimants (and the first claimant generally), continued. It was both physical in the sense of attending various establishments, in writing and then ultimately, online.
5. The Defendant posted on pretty much all forms of social media (Facebook, Instagram and Twitter/X) his views about the DVSA. There was nothing wrong with that. What was wrong was posting abuse and allegations against the second, third and fourth defendants. Those allegations were of racism, bullying, fraud, theft, perjury and matters of that kind. As well as the allegations, the Defendant posted photographs of the second, third and fourth defendants (some

taken from official sources, others, in the case of the second claimant taken from their own personal Facebook pages). In the case of the second claimant, he has posted the second claimant's address on social media.

6. The impact of this kind of activity is illustrated by the witness statements prepared in support of the application for an injunction. The second claimant, says this:

“The trepidation of what Mr Hood would do next never left me. I have lived in dread of the day when he would restart his hate campaign. As yet, I have not been able to talk to my wife about these recent posts. Previously she had become so upset and scared that Mr Hood would escalate towards physical violence I am unable to talk to her this time. I feel numb inside, my stomach aches and I feel helpless, unable to sleep through the night as I wake worried what Mr Hood may do next, and how, through his abhorrent posts, I am perceived by others. If he is not stopped I fear he will escalate, and having published my address several times I fear he may come to my home. Mr Hood clearly has no regard for others. He has caused me so much pain. His actions have caused me physical and mental anguish and anxiety I now take daily medication for high blood pressure. I attribute this to the immense pressure he has put me under at both home and work. I no longer want to attend work. However, I must.”

7. The third claimant said this:

“At times it has been very difficult for me to deal with the abuse that I have been receiving from Mr Hood. It is a massive negative impact on my mental wellbeing. I experience mood swings with a range of emotional ups and downs and find it difficult to sleep, which has a massive impact on my family. I dread Mr Hood visiting my centre, or even worse bumping into him in the street. I have received emails and calls from local instructors and staff from other areas highlighting that they have seen these allegations, and people who do not know me may think they are true. I had a passion for what I do but Mr Hood has taken that enjoyment and fulfilment away from me and made me dread coming into work to the point that I applied for alternative employment with another agency. However, even this has made me feel anxious because I feared the recruiting panel may have seen these untrue allegations about me as they have been posted in the public domain.”

She goes on to talk about receiving help to manage her anxiety and depression.

8. I obviously acknowledge that some of what is said relates to Mr Hood's physical activity in attending at various Driving Test Centres but some of it clearly relates to his online activity. That, of course, is evidence that has not yet been tested, but exhibited to the affidavit of Ms Davis in support of the second and third allegations is an updated impact statement from the second claimant. He again describes himself as feeling intimidated and threatened, as being unwell, with low mood, as being anxious and stressed and knowing he should not look at these posts but being unable to avoid checking them. His wife has now been prescribed antidepressants and he is on three months' unpaid leave.

9. An injunction was granted by District Judge Samuel on 27th January 2023 and I have already outlined the prohibitions that that injunction contained. Essentially, it prohibited the defendant from posting the names, pictures or videos or addresses or other identifying personal data relating to the individual claimants and other employees and required him to remove those posts that he had already made.
10. The first application to commit dated 12th May 2023 alleges first that Mr Hood failed to remove the posts naming the second and third claimants on TikTok. The evidence appears to suggest those posts are no longer up. The second allegation is that Mr Hood failed to remove posts containing the names and photographs and other personal data of each of the individual claimants on Facebook. I understand that again those posts are now no longer visible. The third allegation was that on 22nd February 2023 he posted information relating to an employee on Facebook and Instagram. That post is still up. Fourthly, that on 17th March 2023, and again on 19th March 2023, he posted pictures of employees of the first claimant on Twitter/X. That post has apparently now been removed or is no longer visible. Fifthly, on 19th March he posted a video showing an employee of the first claimant on Facebook. That, as I understand it, is still visible, albeit on Twitter.
11. In respect of the second and third applications, all of the material remains visible on the internet. The second application is dated 15th February 2024. The first allegation is the Defendant failed to remove a post on Twitter relating to an employee, identifying an employee. Secondly, that on 9th February he posted the names and photographs of a DVSA employee on Facebook and TikTok. Thirdly, on 10th February 2024 he posted the name and photographs of the second claimant on Facebook and TikTok, and fourthly, on 10th February 2024 he posted the names and photographs of other DVSA employees on TikTok.
12. The third application is dated 27th February 2024. It is alleged and I have found) that first, he failed to remove some posts on TikTok relating to the second and third claimants, posts that had only recently been identified and dating back to 2022. Secondly, that he posted on 21st February 2024 the name and photographs of the second Claimant on TikTok. Finally, on 24th and 25th February 2024 he named and placed photographs of the second and third claimant and other employees of the first claimant on TikTok.
13. It is important to have in mind the procedural chronology. The matter originally came before me on 21st November 2023. At that stage it seemed that some progress had been made in removing some of this material. The Defendant expressed a willingness to remove the remainder; indeed, he claimed he had removed the remainder but Counsel then appearing was instructed that he had not. Accordingly I gave him a clear warning about what would happen if he did not remove those posts and adjourned the matter to a further hearing to allow him to do so.
14. The matter came back before me on 5th January 2024 when I found each of the first five breaches comprised within the first committal application to be proved. I decided to give Mr Hood a yet further opportunity to remove all the remaining

posts which were on social media at that time and I therefore deferred sentence. In deferring sentence I indicated that had I passed sentence on that day I would have imposed a suspended sentence of imprisonment. I recorded in the order that it was my expectation that by the time the matter came back before me then he would have removed the remaining posts. The matter should have been before me on 29th February of this year, but unfortunately the Defendant was, as I understood it or had been reported to me, in custody at the Magistrates' Court in Portsmouth in relation to another matter. I therefore was obliged to adjourn sentence further.

15. The Defendant next came before his Honour Judge Mitchell as a result of an error of listing on 10th April 2024. His Honour Judge Mitchell again adjourned the matter to today and he gave the defendant an opportunity to file and serve, although of course not compelling him to do so, a further statement. In the meantime, the further applications to commit had been made. The defendant did file a statement which I have read. The effect of it is that he does not consider that the orders made against him are valid for the reasons that I have already identified. Having heard the evidence in support of the second and third applications, I have found all of those further allegations to be proved.
16. The principles that I have to apply in deciding upon sentence are these. The primary objective of sentencing a contemnor is to secure compliance with court orders. There are however other objectives; to punish the contemnor for his contempt and, if at all possible, to rehabilitate him. There is in addition a public interest in seeing that orders of the court are complied with. In deciding how to address those objectives I am required to consider all the circumstances of the matter. In particular I need to think about the degree of culpability. I need to think about the harm which may have been caused by the breaches. I need to consider any explanation that is offered for the conduct and whether it is properly to be regarded as deliberate, or alternatively, as unintentional. I must take into account and where appropriate give credit for any co-operation or admission. I need to reflect the contemnor's personal circumstances, the impact that a sentence of imprisonment or any other punishment may have on him, and his antecedents.
17. The custody threshold is a high one and it is only appropriate to cross it where no other sanction will achieve the sentencing objectives that I have outlined. My powers are limited to imposing a maximum sentence of two years' imprisonment, but that is not the starting point. The starting point is that I should impose the minimum sentence which would meet the objectives. Even if I do that I must go on to consider whether there are reasons why I should not suspend that sentence of imprisonment.
18. In this case the issue of culpability might be regarded as being different as between the breaches of the mandatory and the prohibitory orders. It might be said that, particularly given the defendant's expressed willingness to co-operate and the partial attempts to remove postings at the beginning of this matter, the breaches of the mandatory order can be put in a lower category than the further posts that have been put on social media since. The defendant has offered no explanation or excuse for these further posts, and all that he has espoused is his

entrenched belief in his cause and his belief in the nature of the first claimant's conduct.

19. I have to recognise that although the defendant expressed an initial willingness to co-operate, his further postings do rather put that in some doubt and context. I have to bear in mind that the further posts, the subject of the second and third applications, were made after he had been before the court when he knew the possible outcomes and when he had been given the clearest possible warning by me. Those are obviously aggravating features, as of course is the fact that the further posts represent a continued targeting, in particular in the case of the second claimant, of the persons that were intended to be protected by the injunction.
20. I have considered, as I have felt obliged to do, whether there is any other explanation for the defendant's behaviour, including whether there may be any issues of mental health. However, although the defendant's behaviour and some of the material which he sent to the court might be regarded as unusual, or even bizarre (the defendant appears to have fallen in with a philosophy which sometimes refers to itself as the 'Freemen of the Land') there is nothing here to suggest that he has any diagnosable mental health condition, still less that there is any evidence to displace any presumption of capacity.
21. I have, of course, to reflect in my sentence the impact of the defendant's conduct as particularly set out in the impact statement exhibited to Ms Davis's most recent affidavit. It amounts in my judgment to this; that things that take place in the virtual world, online, on social media, have real world impacts.
22. I balance all of that, as I say, against some professed willingness to do something about these posts at an earlier stage. I take into account the fact that the defendant did claim to have written to TikTok and Facebook asking them to take down his accounts, albeit that the genuineness of that request is rather called into question by his continuing use of those platforms to post yet further abuse directed at the second claimant. I am satisfied that the defendant had the opportunity to comply fully with the injunction had he chosen to do so. He has chosen not to do so. I take into account that his conduct is born out of his fixation on issues relating to the first defendant, but that does not really provide an excuse for the failure to comply with a court order.
23. Mr Fry has very properly spoken to the defendant outside court and obtained from him some information regarding the defendant's personal circumstances, some of which I am aware of. The defendant is married and has a daughter aged 12, who did have cancer but I am pleased to learn is now in remission. His wife works nights and he works daytimes, so there are likely to be issues of childcare. He says that he has no previous convictions (although I am aware that he may in the light of the history I have set out have had other entanglements with the law) and the consequence of a sentence of imprisonment would be that he would lose everything. He says that he is well supported and loved in the community, as evidenced by the 20 or so supporters who have come along today to assist him. All of that material, some of it obviously very sad, I bear in mind. But I

have to put that in the pot, together with his attitude to these proceedings, to the court, and the impact on the claimants.

24. I propose first to deal with the second and third applications to commit. The first of the allegations in each of those applications might I think properly be regarded as simply a continuation or a supplement to the original application to commit. They are not, as it were, new conduct (other than the fact that it is continuing). They are newly discovered breaches of the original order.
25. However, the same cannot be said of the remaining allegations, allegations 2 to 4 and 2 to 3 of the second and third applications respectively. These were, in my judgment, positive choices on the part of the defendant to defy the injunction in the face of the clearest possible warnings of the consequences and the opportunities that he had been given to comply. It is impossible in my judgment, given the history of this matter, not to conclude that the custody threshold has been crossed.
26. I have thought very hard about the minimum sentence that I can impose to reflect the conduct and the other factors that I have considered. There is, in my judgment, a high degree of both culpability and harm in this case. In these circumstances, the right sentence of imprisonment on each of allegations 2, 3 and 4 of the second application to commit, and 2 and 3 of the third application to commit is one of three months' imprisonment. Having regard to the principle of totality, these sentences should run concurrently. There is no basis in this case to suspend that sentence. I acknowledge the inevitable impact that a custodial sentence has on anyone, particularly anyone who has a child, who has a job and who has friends in the community. It would however be quite impossible, given the defendant's attitude to this matter, to take any different course. Accordingly those sentences will take place as immediate sentences of imprisonment.
27. In relation to the first application to commit, I gave an indication that I would have been minded originally to impose a suspended sentence. It seems to me that that has now rather been overtaken by events. In all the circumstances, and given the sentences I have already imposed, I propose to impose no separate penalty in relation to the allegations in the first application to commit or in respect of the allegations numbered 1 in each of the second and third applications.
28. I will invite the defendant to submit to being taken to custody. I am not anticipating he is likely to do that and if he does not then I will be issuing a bench warrant for his arrest. I direct in the usual way, as required by the rules, that a transcript of my sentencing remarks be prepared at public expense and once approved by me be sent to the relevant agencies for publication.

(This Judgment has been approved by the Judge.)

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