

IN THE COUNTY COURT AT LINCOLN

360 High Street
Lincoln LN5 7PS

Monday, 18 March 2024

BEFORE:

HIS HONOUR JUDGE SADIQ

BETWEEN:

SOUTH HOLLAND DISTRICT COUNCIL

Claimant

- and -

MIA ROCK

Defendant

MR GOLDSBOROUGH (Solicitor) appeared on behalf of the Claimant

MS BRENNAN (Solicitor) appeared on behalf of the Defendant

PROCEEDINGS

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(Official Shorthand Writers to the Court)

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(Please note that due to the poor standard of audio recording it has not been possible to produce a high quality transcript in this case)

Monday, 18 March 2024

JUDGE SADIQ: Yes.

MR GOLDSBOROUGH: Your Honour, good afternoon.

JUDGE SADIQ: Who do I have for the claimant?

MR GOLDSBOROUGH: Mr Goldsborough, your Honour.

JUDGE SADIQ: You are solicitor, are you?

MR GOLDSBOROUGH: Solicitor for the local authority.

JUDGE SADIQ: Yes, thank you. And Ms Brennan?

MS BRENNAN: It is, sir, yes. I am a solicitor as well.

JUDGE SADIQ: Yes.

MS BRENNAN: Thank you, judge; we have been here before.

JUDGE SADIQ: Yes, we have. I just want to do the obligatories for the defendant.

MS BRENNAN: Yes.

JUDGE SADIQ: You have the right to remain silent and not say anything, but adverse inferences may be drawn from your silence. If you choose to say anything you have the right to privilege against self-incrimination in giving evidence likely to lead to criminal prosecution. You have the right to legal advice and you may be entitled to legal aid. You have got the very competent services of Ms Brennan, solicitor, here.

Right. So why are we here? As I understand the position, on 6 December 2023, DJ Armitage's order, the defendant admitted 5 breaches of clause 2 of the injunction dated 6 June 2023, so that is 5 after a further 3 breaches were withdrawn and the judge was satisfied beyond reasonable doubt that the defendant was guilty of contempt and he committed the defendant to prison for 5 months to serve half the sentence. Has the defendant served that sentence?

MR GOLDSBOROUGH: Yes, your Honour. We understand she has been released.

JUDGE SADIQ: Okay. Thank you. When was she released from prison?

MR GOLDSBOROUGH: That I do not know, your Honour.

JUDGE SADIQ: Ms Brennan?

MS BRENNAN: No, I do not know. I think it was –

JUDGE SADIQ: You can ask. You can take instructions.

MS BRENNAN: Yes. About three and a half weeks ago, which would make it the end of February 2024.

JUDGE SADIQ: When would that be, then?

MS BRENNAN: So that would be -- we are now in March -- around about the end of February 2024.

JUDGE SADIQ: Okay. Thank you.

MS BRENNAN: Nearer the middle of February, I should think.

JUDGE SADIQ: 2024.

MS BRENNAN: Yes, that is right.

JUDGE SADIQ: On Sunday, yesterday, 17 March at 8.33 pm, the defendant was arrested for breaching clause 2 of the injunction and she has been brought to court within 24 hours. Okay. The defendant, looking at the evidence, has allegedly committed two further breaches on 13 March 2024 of clause 2 of the injunction dated 6 June. The first is 13 March 2024 at 14.15. She attended the home of Derek Wyatt on Thames Road, Spalding, Lincolnshire, and the claimant relies upon the witness statement of Mr Wyatt and also CCTV footage, correct?

MR GOLDSBOROUGH: Yes, your Honour. Have you seen that?

JUDGE SADIQ: I have seen that. Then there is the second breach. I do not know whether that is pursued. The second breach is later the same day, 19.58. This is, looking at Mr Wyatt's statement towards the end, where he saw activity on the Ring camera and found the claimant, on the basis of the camera evidence, in front of the bungalow at 1958 hours. Now, we do not have any CCTV footage of that, do we?

MR GOLDSBOROUGH: (**Overspeaking**), your Honour.

JUDGE SADIQ: The only footage we have is in respect of the first breach.

MR GOLDSBOROUGH: That is correct.

JUDGE SADIQ: And that is the only breach you rely on. Is that right?

MR GOLDSBOROUGH: That is the only breach we rely upon yes.

JUDGE SADIQ: I thought that might be the case. Okay. I will turn to Ms Brennan. Is that breach admitted, given it is --

MS BRENNAN: That breach is admitted.

JUDGE SADIQ: I thought you might say that.

MS BRENNAN: That breach is admitted, that she was there in the street at a place she was not supposed to be, in accordance with the injunction.

JUDGE SADIQ: Okay. So you both want me to deal with the contempt today?

MS BRENNAN: Yes, please.

MR GOLDSBOROUGH: Yes, your Honour.

JUDGE SADIQ: Yes, please, your Honour.

JUDGE SADIQ: So, one breach admitted and there is no need to hear oral evidence, then, is there, from Mr Wyatt? Then it is really about the approach to sentence, is it not?

MS BRENNAN: It is.

JUDGE SADIQ: Yes.

MR GOLDSBOROUGH: Your Honour, have you had the opportunity (**Several inaudible words**) provided?

JUDGE SADIQ: I have, yes.

MR GOLDSBOROUGH: In relation to this, you will note that on page 2 at paragraph 10, which is the summary (**Several inaudible words**) they have been for multiple breaches in relation to this at a number of addresses. This is a single visit to Mr Wyatt on 13 March. In his statement he mentions that he was shocked yet surprised, she knows she should not be here, and whilst he towards the end talks about feelings of being intimidated, at the time he makes no reference to any form of threats or any intimidation being made, it was a return of some, I think, cuddly toys which she had left.

When looking at the case of *Lovett v Wigan Borough Council* [2022] EWCA Civ 1631 and the various categories, I would say it is somewhere possibly in category 3: breach causes little harm. It is one instance. Unlike the previous breaches, your Honour, where it has been a matter of days after she has been released from custody, this is a number of weeks on this occasion.

JUDGE SADIQ: Okay. What about culpability?

MR GOLDSBOROUGH: Culpability?

JUDGE SADIQ: Yes. Culpability band A, B or C. It is not A, but is it B or C?

MR GOLDSBOROUGH: Paragraph 49 of the judgment states an early admission of contempt will usually serve as a significant mitigating factor.

JUDGE SADIQ: Yes. It is a process, is it not?

MS BRENNAN: Yes.

JUDGE SADIQ: I have to deal with it sequentially, do I not? I have to decide by reference to the guidance of *Lovett*. Step one is determining the seriousness of the breach which depends on my assessment of culpability and harm. I have to look at the relevant guidance. I have to look at culpability first and then harm second. So, with culpability, there are three levels, A, B and C, and so --

MR GOLDSBOROUGH: Sorry, your Honour, I was looking at entirely the wrong paragraph. I was looking at it the opposite way round, harm --

JUDGE SADIQ: That is okay. Yes. It all stems from the documents.

MR GOLDSBOROUGH: Yes. So with culpability --

JUDGE SADIQ: And the annex 1 guidance on penalties for contempt.

MS BRENNAN: Yes.

JUDGE SADIQ: Yes. For culpability there are three levels, so what are you saying?

MR GOLDSBOROUGH: I would say lower culpability, minor breach.

JUDGE SADIQ: Okay. All right. That is what the claimant says. What do you say about harm?

MR GOLDSBOROUGH: Harm falls between category 2 and 3.

JUDGE SADIQ: It is category 2, then?

MR GOLDSBOROUGH: Category 2 --

JUDGE SADIQ: Cases falling between categories 1 and 3. Okay.

MR GOLDSBOROUGH: That would give you a starting point, then -- it depends where you put it -- of consideration of adjournment, no order or fine.

JUDGE SADIQ: That is C2, yes. The starting point is adjourn consideration. For culpability, C is what you are saying, and harm category (ii), the starting point is adjourn consideration with a category range of adjourn consideration to one month, yes? Okay. So you want me to adjourn consideration?

MR GOLDSBOROUGH: On this occasion I would say not, your Honour; I would wish for it to be dealt with today.

JUDGE SADIQ:

No, but if, as you say, and you are submitting, the culpability is band C and category 2 harm then the guidance is that the starting point is adjourn consideration to one month, which essentially means reviewing it after one month. If the defendant has not committed any further breaches then that's good for the defendant. If she has then consider it afresh. That is what the starting point is. My concern is I am entitled to take a different view to what the claimant says.

MR GOLDSBOROUGH: (**Overspeaking**).

JUDGE SADIQ: My concern here is that, yes -- let us just be full and frank about it -- it might be one breach but it arguably is culpability band B because it is a deliberate breach falling within band A and C, and on the harm arguably it falls within category 2 because Mr Wyatt was distressed. All right, there was no physical contact, but then the starting point for that category 2 offence, culpability band B, would be one month imprisonment. The problem about adjourning consideration for a suspended sentence is that the defendant has breached DJ Armitage's order. This breach happened shortly after -- you say it is a couple of days or weeks after -- she was released from custody at the end of February, after she had been sentenced for five months for 5 proven breaches, and this is a third set of committal proceedings brought against the defendant, arising from the same breach of the injunction order. The concern, the big one -- and I will ask Ms Brennan, though you may have done her job for her, I do not know -- is that she is likely to do it again. She just does not abide by a fairly straightforward injunction: do not go to these properties. Anyway, that is what you are saying, adjourn consideration. That is the starting point if it is culpability C and category 2. Yes. Anyway, it is probably best if I hear from Ms Brennan then.

MS BRENNAN: Sir, yes. As far as the sentencing category is concerned, I think it could either fall between C and B, to be fair, because it is a deliberate --

JUDGE SADIQ: Which one, hold on --

MS BRENNAN: It is a deliberate breach, between ... It is only a minor breach but it is not a deliberate breach.

JUDGE SADIQ: We are talking about the culpability band first, yes?

MS BRENNAN: Yes. As far as culpability is concerned, that is --

JUDGE SADIQ: So it is B, a deliberate breach falling between A and C.

MS BRENNAN: I would say it could be, as far as that is concerned.

JUDGE SADIQ: Okay.

MS BRENNAN: But also that it would be category 3, a breach causing little or no harm or distress.

JUDGE SADIQ: Okay. Category --

MS BRENNAN: However, with the starting points you clearly have, as far as that is concerned, they are just that, I would say -- starting points. We would then need to look at mitigation as well as the aggravating features.

JUDGE SADIQ: Yes.

MS BRENNAN: Now, quite clearly the aggravating feature --

JUDGE SADIQ: So what would be the starting point for culpability B and category 3?

MS BRENNAN: It is a --

JUDGE SADIQ: That would be adjourn consideration, would it not?

MS BRENNAN: Yes.

JUDGE SADIQ: Okay.

MS BRENNAN: Up to custody as well. But then --

JUDGE SADIQ: Starting point, adjourn consideration, category range, adjourn consideration to one month.

MS BRENNAN: Yes. That may well be a starting point, but the way you should look at it is you then look at the aggravating features and the mitigating features as well to decide whether you depart from that starting point in that regard in order to deal with it today.

JUDGE SADIQ: Yes.

MS BRENNAN: I do not today --

JUDGE SADIQ: The aggravating features are ...?

MS BRENNAN: The aggravating features, of course, are that it is the third time -- well, the third set of proceedings and the fourth time it has been brought, and that there have been, as I say, on previous occasions multiple breaches, but this is the first set of proceedings. That is clearly an aggravating feature. It is an aggravating feature (**Inaudible**) the sentence to a considerable term of imprisonment last time, as far as that is concerned.

JUDGE SADIQ: Yes.

MS BRENNAN: However, I would then ask you to go on and look at the --

JUDGE SADIQ:

What about the vulnerability of Mr Wyatt? He is an elderly resident. Is that right?

MR GOLDSBOROUGH: Yes, your Honour.

JUDGE SADIQ: Has he got any disabilities?

MR GOLDSBOROUGH: He has a number of --

JUDGE SADIQ: Last time this was before me and the defendant failed to attend and I sentenced her to 4 months and 18 days, for 6 out of 8 proven breaches, Mr Wyatt did not give evidence but the other two gentlemen did and I made a record of their disabilities. As far as you are aware, is he disabled?

MR GOLDSBOROUGH: He does not have disabilities. I know he is on medication for his anxiety and diabetes and he is a lone elderly gentleman --

JUDGE SADIQ: Yes. That may amount to a disability, of course, within the definition of the Equality Act. He has diabetes and anxiety and is also elderly.

MR GOLDSBOROUGH: Yes.

JUDGE SADIQ: Yes? Okay. Right, okay. Mitigating factors, then.

MS BRENNAN: First and foremost, it is --

JUDGE SADIQ: One breach.

MS BRENNAN: One breach. She was returning some items and then left, as far as that is concerned. It is --

JUDGE SADIQ: What did she return?

MS BRENNAN: Some soft toys, I understand. I would say that she is currently street homeless and she accepts she was not supposed to go down there and is well aware of restrictions, and she has shown remorse. More importantly, she has accepted the breach at the first available opportunity, as far as that is concerned.

JUDGE SADIQ: Yes, but I am not going to give her credit for that because it is inevitable, is it not? She is on CCTV.

MS BRENNAN: With the greatest respect, whether it is inevitable or not, credit should be given to somebody who makes admissions rather than have the witnesses actually come to court and give evidence, even when the evidence is overwhelming, as far as that is concerned, and that really is part of the sentencing part of the mitigation in that regard, as far as that is concerned.

JUDGE SADIQ:

Okay.

MS BRENNAN: So whilst you may not wish to give her full credit, certainly credit should be given at this stage for her making admissions in relation to that, as far as that is concerned, this being the first available opportunity. That, I might add, has not been the case on previous matters, so I would say that on her behalf.

JUDGE SADIQ: Okay.

MS BRENNAN: And certainly on her behalf on this occasion, there were breaches within a matter of days of being released previously, whereas this time it is a matter of weeks.

You could consider adjourning it to see whether she is going to learn her lesson, but I suspect in the circumstances of this, that you would not wish to do so, as far as that is concerned, particularly with your knowledge of the case itself.

So it is my view that this does pass the custody threshold, as far as that is concerned. She has been in custody since yesterday and I would urge you to give her the minimum amount that you feel you could do. As I say, within this category you have a range of an adjournment up to a month, and I will ask you to consider giving as little amount of custody as you possibly can in the circumstances.

JUDGE SADIQ: Okay. All right. That is really helpful, thank you very much. I am going to think about this and deliberate but I will not be long.

(A short adjournment)

(Judgment given)

JUDGE SADIQ: In terms of costs, there is no costs schedule that has been served and so you are not seeking any costs?

MR GOLDSBOROUGH: No order for costs, your Honour.

JUDGE SADIQ: Okay. Can the custody officer take the defendant into custody, please.

MR GOLDSBOROUGH: Sorry, your Honour.

MS BRENNAN: There is an application (**Inaudible**).

MR GOLDSBOROUGH: Within the N244 served this morning, there is mention at the final paragraph of variation to the injunction (**Several inaudible words**).

JUDGE SADIQ: Do you have an amended injunction?

MR GOLDSBOROUGH: One was forwarded. I do not have a hard copy with me, your Honour.
I can hand forwards --

JUDGE SADIQ:

Do you want to send it to Mark? (**Several inaudible words**).

MR GOLDSBOROUGH: I can send it to Mark.

JUDGE SADIQ: What is this? This is Charles Larkin-Jones and Trevor Shaw, they moved out of the area, and so you want the injunction amended to cover what? The defendant not approaching them?

MR GOLDSBOROUGH: Yes, your Honour.

JUDGE SADIQ: Okay. But the defendant has not approached them.

MR GOLDSBOROUGH: Not at the moment, but of course there is that (**Several inaudible words**).

JUDGE SADIQ: Yes, I know, but the original injunction was location specific, was it not?

There is no evidence that the defendant has approached these two individuals since I made my order sentencing the defendant to imprisonment on 4 September and since DJ Armitage made his order of 6 December. Is that right?

MR GOLDSBOROUGH: That is correct.

JUDGE SADIQ: Okay. So how can it be proportionate or reasonable?

MR GOLDSBOROUGH: Well, your Honour, they have moved address because of the previous history. They have moved out of the area and there was a concern that if she were to find them she would repeat what (**Several inaudible words**) attendance.

JUDGE SADIQ: Mmm-hmm.

MR GOLDSBOROUGH: And the order is sought (**Inaudible**) to vary it in order to --

JUDGE SADIQ: Okay. I want to see what the terms are. What are the terms? You can read them out to me.

MR GOLDSBOROUGH: Your Honour, paragraph 1 is the same save that after (**Several inaudible words**).

JUDGE SADIQ: Okay. If there are lots of paragraphs being amended I need to see a copy of it. Anyway, what do you want to say, Ms Brennan?

MS BRENNAN: It is difficult, as far as that is concerned, to necessarily oppose it when it is an injunction that is there to protect those two individuals who no longer live in that area. It is not the area that the injunction was put in for. It was because the people lived in that area and the injunction was to protect them, as far as that is concerned. That is my initial view as far as that is concerned. But, as you quite rightly point out, we have not seen any

evidence that she has approached either of them as far as that is concerned, and the breach does not relate to either of them, as far as that is concerned. That is really what my view is **(Overspeaking)**.

JUDGE SADIQ: Okay. I want to see a copy of the draft injunction. **(Pause)**. Can you print it off from there, Mark?

THE CLERK OF THE COURT: I do not think I have the ability to on here.

JUDGE SADIQ: Okay. Maybe you will have to forward it to my email address. Sorry, I am going to have to rise **(Several inaudible words)**.

(A short adjournment)

MR GOLDSBOROUGH: Your Honour, having reflected on the original order, I see term 1, acting in a manner that causes or is likely to cause harassment, alarm and distress to Trevor Shaw, Charles Larkin-Jones, Derek Wyatt or any other of the residents of Severn Road, et cetera, **(Several inaudible words)**. Condition 5 would also provide them protection in relation to any items that she seeks to take from them. It is clear that the evidence is based solely on the fact that **(Inaudible)** I accept that there is no evidence that she has interfered, and there has been a history **(Several inaudible words)** to court, but in the circumstances I apologise for wasting the court's time and I do not seek to pursue that matter. If new evidence comes to light then we will seek **(Several inaudible words)** formal application.

JUDGE SADIQ: Okay. Thank you very much. So you are not pursuing the amendment to the injunction?

MR GOLDSBOROUGH: No, your Honour.

JUDGE SADIQ: Okay. Thank you very much for being so reasonable and realistic. So I think that concludes everything **(Several inaudible words)** prepare and complete the relevant form **(Several inaudible words)** order. I can do that now. Anything else from you?

MR GOLDSBOROUGH: No, your Honour.

JUDGE SADIQ: Anything else from you, Ms Brennan?

MS BRENNAN: No, thank you, judge.

JUDGE SADIQ: Thank you very much. You will get a transcript of the proceedings by audio. Okay?

MR GOLDSBOROUGH: Grateful, your Honour.

JUDGE SADIQ: Thank you.

(Hearing concluded)

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