

IN THE COUNTY COURT AT CLERKENWELL AND SHOREDITCH

Case No. K01EC070

Courtroom No. 11

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

Tuesday, 29th April 2025

Before:
DISTRICT JUDGE BELL

B E T W E E N:

LONDON BOROUGH OF TOWER HAMLETS

and

SCOTT-HARRIS

MR D KILCOYNE appeared on behalf of the Claimant
NO APPEARANCE by or on behalf of the Defendant

JUDGMENT

This Transcript is Crown Copyright. It may not be reproduced in whole or in part, other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

DJ BELL:

1. The first issue I must consider today is whether to proceed in the absence of Mr Scott-Harris, the defendant. The Court has dealt with an application for contempt in respect of breaches of an injunction by the defendant. Mr Scott-Harris did not attend at the hearing in February 2025 where I made a number of findings, having determined to proceed in his absence. The matter was adjourned to allow Mr Scott-Harris to attend a further hearing to consider what penalty to impose, and that was listed on 1 April when he did attend. At that hearing, he raised his desire to obtain legal assistance. He indicated he had spoken to a firm of solicitors, HSR, and, in fact, from my recollection, the parties went out to try and speak to them on the day, and the matter was adjourned to allow Mr Scott-Harris to obtain legal representation.
2. I am informed by Mr Kilcoyne, acting for the Local Authority, that his solicitors have spoken to HSR, who are not representing Mr Scott-Harris, nor has the claimant had any direct contact with the defendant. He has not attended today, and no reason has been given. He was given the date and time of the hearing when he was before me on 1 April, and I am informed that he was served again by the Local Authority with the order following that hearing.
3. Cobb J set out in *Sanchez v Oboz & Oboz* [2015] EWHC 235 (Fam), the guidance on the matters that the Court should consider in proceeding in relation to committal when a defendant is not here, adapting the guidance from *R v Jones* [2003] 1 AC 1 and *R v Purvis* [2001] QB 862. The issues are:
 - a. whether the respondent has been served with the relevant documents, including the notice. I am satisfied that he is clearly aware of this hearing, not only because I told him on 1 April, but he subsequently has received the order as served by the claimant.
 - b. Whether he has had sufficient notice to enable him to prepare: we are now four weeks down the road. He has had sufficient time to prepare what he would like to say in respect of any penalty or to seek legal advice.
 - c. There is no reason advanced for his non-appearance.
 - d. There is no indication as to whether he has waived his right to be present, but, of course, he is well aware of this hearing, having been given details and warned that the Court would proceed in his absence.

- e. Whether an adjournment would be likely to secure his attendance, or, at least, to obtain representation: he has been given ample opportunity to attend.
 - f. I cannot say whether, if we adjourned, he would attend in the future, given his history of non-attendance.
 - g. The extent of any disadvantage to him: there is, of course, a disadvantage in that I will consider the penalty without him.
 - h. Whether any undue prejudice would be caused to the applicant by any delay: it is difficult to see that there would be any undue prejudice.
 - i. Would there be undue prejudice to the forensic process? No, because it is in relation to imposing a penalty.
 - j. Consideration of the overriding objective: there have been a large number of hearings in relation to this application so far, many of which the defendant has failed to participate in. The Court has adjourned on 1 April to give him an opportunity to participate and seek legal representation, warned him of the consequences if he did not attend, but he failed to do so.
4. Considering all those matters, I will be proceeding in his absence.

(Hearing then proceeded to hear submissions as to penalty)

5. I need now to consider what penalties to impose in relation to Mr Scott-Harris' contempts. I have found five contempts in relation to him. Those were dealt with at a hearing in February 2025, and reasons given in relation to each of those.
6. The Contempts that were found proved are as follows;

Contempt 1	On 13.7.24 the Defendant was found with Roy Dunphy within a stairwell of Caledonian House, being a residential block within the London Borough of Tower Hamlets and within the exclusion zone in breach of paragraphs 1 and 4 of the Injunction
Contempt 2	On 24.9.24 the Defendant was within the exclusion zone having been seen at approximately 1620, 1635 and 1650 at three different locations within the exclusion zone in breach of Paragraph 1 of the Injunction.
Contempt 3	On 10.10.24 the Defendant was found loitering on the second floor of Caledonian House, a residential block within the exclusion zone in breach of Paragraph 1 of the Injunction
Contempt 4	On 6.11.24 at approximately 1935 - 1940 the Defendant was within the exclusion zone and in the company of Roy Dunphy within the exclusion zone, being a public area of the London Borough of Tower Hamlets, in breach of paragraphs 1 and 4 of the Injunction
Contempt 5	On 3.12.24 the Defendant was found asleep in the stairwell of Coutts

	Court, Wallwood Street, being a residential property in the London Borough of Tower Hamlets, which caused distress to a resident. When subsequently searched at Coutts Court, drug paraphernalia (namely a crack pipe and metal wool) was found in the Defendant's pocket. These are breaches of paragraphs 2 and 3 of the Injunction.
--	--

7. Mr Kilcoyne has very helpfully taken me through the Court of Appeal case of *Lovett v Wigan Borough Council* [2022] EWCA Civ 1631, and the guidance court case provided, not only in relation to general considerations as to the penalties to impose in relation to breaches of antisocial behaviour injunctions but also, endorsed the use of the Civil Justice Council's guidance on penalties for contempt.
8. Clearly, the imposition of penalties is to ensure future compliance, punishment and rehabilitation. This injunction, itself, has now expired, but clearly, these issues relate to breaches during its life. Of course, custody is reserved for the most serious breaches, but that also must take into account whether there have been a persistent history of breaches. This is a case where, over the course of this injunction, Mr Scott-Harris has been found to be in breach of the injunction on a number of occasions, going back to 2023, and previous penalties have imposed a four-month sentence. That will be a factor that I will need to take into account as I consider the matters set out in *Lovett* and the CJC approach.
9. I must consider the culpability and harm of each of the incidents that I have found proved, and then consider where they fall within the starting points proposed by the CJC. Of the contempts, Mr Kilcoyne has rightly addressed the events of 3 December 2024 as the most serious of the occasions. I was satisfied the defendant, on that day, had been found asleep in the stairwell of Coutts Court, a residential property, and that there was direct evidence which I accepted that this had caused distress to a resident, and Mr Scott-Harris was subsequently, when he was searched, found to be in possession of drug paraphernalia.
10. The other issues, contempt one on 13 July when he was found with a named individual in a stairwell being within the exclusion zone, contempt two, on 24 September 2024, again, being within the exclusion zone, on 10 October 2024, again, being found in the exclusion zone and, on 6 November 2024, being in the exclusion zone in the company of a named person, are, I accept, of a lesser nature.
11. All of the contempts, though, I am satisfied, are ones that fall within culpability level B. In all of those, Mr Scott-Harris took the decision to be either with the individual in the exclusion zone or in a property, i.e. a property to which he was not allowed to be.

12. However, in terms of the harm that they have caused, the only contempt being five, is where there is any evidence of it causing direct distress to any individual, that being to the resident who contacted the police. I accept that the aim of the injunction was to keep Mr Scott-Harris away from the property, but as the CJC documents say, mere presence in an unauthorised location other than in circumstances comprising greater harm are likely to fall within a harm Category 3.
13. As such, for contempt five, I would place it in Culpability B, Category 2, and for the other four contempts, I put in Culpability B but Category 3.
14. Dealing, first, then, with contempt five as a Culpability B, Harm 2. The starting point is one month, with a category range, adjourned consideration to three months. I consider, in light of the breaches by Mr Scott-Harris, in blatant disregard for the injunction, causing distress to resident and being in the presence of drug paraphernalia, a matter that meets the custody threshold. It is a matter, in light of being repeated breaches, not only those that I have found but also those that are found before, something that is an aggravating feature. This is a gentleman who, over the last two years, has been found to be in breach on a large number of occasions, and it has caused direct harm. Taking those matters into account, I propose a six-week custodial sentence for that breach.
15. The others fall into B(3). The starting point is adjourned consideration, the Category range, adjourned consideration to one month. The same aggravating features apply to those breaches as I have already addressed in relation to the fifth contempt. Mr Kilcoyne suggests one week for each, and I think that is right, but unlike him, in considering the totality principle, I do not think that they should run one after the other, and there should be a concurrent sentence. Six weeks in total is right as a matter of totality.
16. As to any suspension, given the numerous breaches by Mr Scott-Harris and continued failure to comply with the orders despite previous findings of contempt and no indication of future compliance, I do not propose that it be suspended, those six weeks.
17. The defendant has a right to appeal without any permission.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com

Acolad UK Ltd hereby certify that the above is an accurate and complete record of the
proceedings or part thereof