

IN THE COUNTY COURT AT CLERKENWELL & SHOREDITCH

Case No. K00EC818

Courtroom No. 12

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

Thursday, 19th June 2025

Before:
DISTRICT JUDGE KATHRYN SHAKESPEARE

B E T W E E N:

LONDON BOROUGH OF WALTHAM FOREST

- v -

MAREK CISLIK

MS CHAMBERS appeared on behalf of The Claimant
THE DEFENDANT appeared In Person

JUDGMENT
(Approved)

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DJ KATHRYN SHAKESPEARE:

1. For the purposes of the recording, this is claim number K00EC818, *The London Borough of Waltham Forest v Marek Cislik*. It is the adjourned sentencing hearing of the claimant's committal application dated 21 January 2025.
2. At the hearing today the claimant has been represented by Ms Chambers of counsel. The defendant was not legally represented and has addressed me in person with the aid of Ms Harris, a Polish interpreter, although he speaks English to a relatively high level.
3. I have before me a consolidated bundle which runs to 382 pages, although this also relates to other distinct committal applications which I shall come back to. The defendant had before him the relevant pages of the bundle to refer to during the hearing.

Background

4. The background to the application is as follows. The defendant is a Polish national. On 21 March 2023 at an on-notice hearing this Court made a final injunction order against him under section 1 of the Antisocial Behaviour Crime and Policing Act 2014. In essence, the injunction excludes the defendant from a specific area within Waltham Forest and prohibits him from consuming alcohol in public places.
5. The terms of the order made are as follows.

"The defendant is forbidden whether by himself or by instructing, encouraging or permitting any other person from

(1) entering the exclusion zone highlighted on the map attached to the order,

(2) loitering or gathering in the company of two or more people within the exclusion zone. This will not apply when going to or from a parked vehicle or waiting for a scheduled bus at a designated bus stop unless engaging in nuisance or criminal behaviour.

(3) Consuming alcohol or being in possession of any open can or bottle of alcohol in a public place.

(4) Drinking or handing over any containers which are believed to contain alcohol to any other person unless requested to do so by Waltham Forest officers and/or representatives of the Metropolitan Police Service.

(5) Verbally or physically abusing, threatening, harassing or intimidating any person or behaving in a way which causes or is likely to cause harassment, alarm or distress to another person.

(6) Urinating, defecating, spitting or leaving litter in any public place. This includes the doorway or alcove of any premises to which the public has access."

6. A power of arrest was attached to clauses (1) to (6) of the injunction.
7. The injunction is in force until 21 March 2026. The defendant was personally served with the injunction on 17 February 2024 by Ms Els, a patrol supervisor who works for Parkguard Limited, a company contracted by the claimant. The claimant believes the defendant was out of the country in the intervening period hence the reason for the delay in service.

Committal Application

8. He was personally served with the contempt application on 10 February 2025.
9. The application listed eight alleged breaches of the injunction in the period 17 February 2024 to 16 October 2024.
10. The matter came before me for trial on 22 April 2025. This was the first occasion on which the defendant had attended court. There had been previous case management hearings which he had not attended but I am satisfied that those court orders clearly informed him of his rights and in particular his right to legal representation and the availability of legal aid.
11. The trial on 22 April was listed with four other applications, all brought by the London Borough of Waltham Forest against known associates of the defendant, with injunctions in very similar terms and involving a number of overlapping allegations.
12. The defendant was not represented at the hearing on 22 April. He was assisted by a Polish interpreter, although as I said, he speaks English relatively well. At the start of the hearing on 22 April I reminded the defendant of his right to legal representation. I considered he had had sufficient opportunity to seek legal advice and therefore, proceeded with the hearing. I explained the purpose of the hearing and reiterated his right to remain silent but that I could draw adverse inferences if he chose to do so.
13. At the start of that hearing the defendant indicated that he contested the allegations, as he was entitled to do. I therefore heard a trial of the alleged breaches the next day, 23 April, after I had dealt with some of the other applications. Again, I reminded the defendant of his right to remain silent and that I am entitled to draw adverse inferences if he chooses to exercise this right. I explained the process of giving evidence. The defendant decided not to give evidence, as he was entitled to do.
14. After considering the evidence I gave judgment that day and found, on the criminal standard, that the defendant had breached the injunction on seven occasions. The proven breaches are therefore, as follows:

(1) On 17 February 2024 Marek Cislik was seen intoxicated and was served with the injunction order. Marek later breached terms (1), (2) and (5) of the injunction order by being in the exclusion zone and being in the company of two or more people and behaving in a way which causes or is likely to cause alarm or distress to another person.

(2) On 6 March 2024 Marek Cislik breached term (1) of the injunction order by being in the exclusion zone.

(3) 11 March 2024 Marek Cislik breached term (1) of the injunction order by being in the exclusion zone.

(4) On 20 May 2024 Marek Cislik breached terms (1) and (5) of the injunction order by being in the exclusion zone and behaving in a way which causes or is likely to cause alarm or distress to another person.

(5) On 31 May 2024 Marek Cislik breached terms (1) and (2) of the injunction order by being in the exclusion zone in the company of two or more males.

(6) On 11 June 2024 Marek Cislik breached terms (1), (2) and (5) of the injunction order by being in the exclusion zone in the company of three males and behaving in a way which causes or is likely to cause alarm or distress to another person.

(7) On 5 October 2024 Marek Cislik breached terms (1) and (2) of the injunction order by being in the exclusion zone with three other males.

15. I note that the final allegation in the committal application was withdrawn by the claimant following an admission in oral evidence that the road on which the defendant was seen - Grove Green Road - is not within the exclusion zone.

Sentencing

16. There are therefore, seven breaches for which I must sentence him today. At the last hearing I indicated to the defendant that I would adjourn sentencing to allow him to seek legal advice. He has not done that. He told me he was too busy working but I consider that he has had sufficient opportunity to do so and I therefore proceeded with the hearing.
17. I have heard from the defendant directly. He told me that he was currently working, installing flooring, and had to go back to work today. He said that he had now stopped going to Leytonstone, apart from occasional trips to travel through the area, and has cut down on drinking.
18. In making my decision, I have considered again the affidavits of Ms Els and Ms Wasinska, senior antisocial behaviour officer, on behalf of the claimant.
19. I follow the approach to sentencing set out by the Court of Appeal in *Lovett and Wigan Borough Council* [2022] EWCA Civ 1631 and in particular paragraphs 46 to 57 of the judgment of Birss LJ. I first consider the relevant levels of culpability and harm. I then determine the appropriate starting point and range, as set out in Civil Justice Council's table endorsed at paragraph 54 of Birss LJ's judgment, and I adjust that to take into account aggravating and mitigating factors. I consider the totality of the penalty and finally I consider admissions made.
20. I first consider breach (1), that on 17 February the defendant breached terms (1), (2) and (5) of the injunction. The important point here is that term (5) of the injunction involves verbal aggression or verbal abuse, harassment or intimidating and threatening conduct. I accept Ms Els' evidence that the defendant was confrontational and verbally aggressive towards her and that this caused her to feel intimidated and threatened.
21. I assess this incident as level B in terms of culpability. There was an intentional breach only a few hours after the terms of the injunction had been explained to the defendant. At that point he would have been well aware of the prohibitions he was subject to.
22. I also accept Ms Els' evidence that she felt threatened and intimidated in an environment where there were a number of males who had been drinking and who had become aggressive. Although she was acting in the course of her professional employment, she should not have to put up with that sort of behaviour in the course of that employment. I therefore assess the level of harm as level 2.
23. The starting point for breach 1 is therefore one month and the range is adjourned consideration to three months. I will come back to mitigating and aggravating factors shortly.
24. I then consider breach (4). I have taken them out of order to reflect the seriousness of the breaches. Breach (4) took place on 20 May 2024. This also involved a breach of clause (5) of the injunction. Ms Wasinska's evidence was that the defendant was intoxicated and argumentative towards her when she asked him to leave the area. She had spoken to him in Polish and he became argumentative. She had called the police at around 13.50 who then arrested the defendant. I accept Ms Wasinska's evidence that she felt threatened by the defendant directly and also within the context of the group of males who had been drinking. That is indicated by the fact that she felt the situation was sufficiently serious that she called the police.
25. I also assess this breach as level B in terms of culpability. The breach was intentional and threatening towards Ms Wasinska who again was just doing her job.
26. I assess it as level 2 in terms of harm because I accept that she felt threatened and intimidated. The starting point again is therefore one month, the range is adjourned consideration to three months.

27. I then consider breach (6) which took place on 11 June 2024. On this occasion the defendant was in Leytonstone Library, drinking, causing a nuisance and being loud within a group of other men. When Ms Els approached the defendant he was asleep on a computer. When she woke him to escort him out of the library, he became argumentative and required some persuasion to leave. I also note that this incident involved complaints from two female members of the public, who worked for Violence Against Women who had heard him making comments in Polish and wolf-whistling at them. Again the police had been called.
28. I also assess this breach as level B in terms of culpability. There was an intentional threatening and verbal abuse of Ms Els and the drinking and antisocial behaviour took place in a library, a quiet designated community space.
29. There were also comments directed at members of the public. I have accepted Ms Els' evidence that she felt threatened and therefore, I assess this breach as level 2 in terms of harm. Again the starting point is therefore one month and the range is adjourned consideration to three months.
30. I consider breaches (2), (3), (5) and (7) together. The reason for that is that each breach involves only a breach of clause (1) of the injunction, i.e., being within the exclusion zone with no associated antisocial behaviour.
31. In my view these breaches fall within Category C in terms of culpability and level 3 in terms of harm. They involve being present in an area from which the defendant was excluded but they do not involve drinking or other associated antisocial behaviour. The Civil Justice Council report gives as an example of Category C culpability breaches where there is no intention to cause harm or distress, or no harm reasonably foreseeable from the breach. That applies here. The CJC report also indicates in terms of harm that an example of level 3 harm is where no-one is actually inconvenienced or where the breach comprises mere presence in an unauthorised location, other than in circumstances comprising greater harm. That is clearly the case here as the breach consists solely of being in a place he was not authorised to be.
32. For these four breaches, breaches (2), (3), (5) and (7), the starting point is therefore adjourned consideration and the range is no order or fine to two weeks.
33. I consider the aggravating and mitigating factors which apply in respect of all the breaches. First, the aggravating factors. I note that the first breach occurred extremely soon after service of the injunction - in the evening of the day the defendant had been served, when the terms of the order had been explained to him. The breaches also show a pattern of behaviour over a period of seven months. Indeed the only reason it appears the period is not longer is because the defendant was out of the country until February 2024. For the later breaches it is clear that the defendant had been warned about his behaviour on a number of occasions when Ms Wasinska and Ms Els had approached him. In my view, all of those factors increase the seriousness of the penalty.
34. The most serious and most significant aggravating factor is, however, the defendant's attitude to these proceedings and in particular his behaviour in court during the hearing in April. He has treated these proceedings with disdain, viewing them as an inconvenience which meant he was forced to miss work and therefore lose earnings. At one point he seemed to expect the Court to compensate him for those lost earnings. He interrupted proceedings frequently and swore often, despite my warnings to him that this was not appropriate. His cross-examination of Ms Wasinska consisted of one question of whether he could kiss her. That was entirely inappropriate. In short, he treated the application and the Court with disrespect and his attitude was indicative of the lack of seriousness in which he viewed the injunction, the Court and the committal process.

35. In my view there are no mitigating factors. Mr Cislik has expressed no remorse for his behaviour. When I gave him the opportunity this morning to address me, he apologised for being late but not for his behaviour itself. Again it seemed that these proceedings were an inconvenience which was causing him to miss work. When I asked if he regretted his behaviour, he did say “yes” but he said he was not going to Leytonstone anymore. The implication was that it did not really matter. Any regret therefore did not seem genuine and he appears to have no insight into the seriousness of his conduct or its impact on others.
36. Custody is of course reserved for the most serious cases and I must impose the shortest possible sentence to reflect the seriousness of the behaviour. I am satisfied in this case that the nature of breaches (1), (4) and (6), involving threatening behaviour and verbal abuse, coupled with the aggravating factors I have outlined above, mean a custodial sentence is just and proportionate. I am satisfied that for breaches (1), (4) and (6), the custody threshold has been passed.
37. For breach (1) I would therefore sentence the defendant to six weeks’ custody, the starting point of one month under Category B2 having been increased to reflect the aggravating factors, including his attitude to the process.
38. For breach (4) I would also sentence him to six weeks, again increasing the starting point in light of the aggravating factors, to run concurrently with the breach (1) sentence.
39. For breach (6) I would also sentence him to six weeks, again increasing the starting point for a B2 categorisation to reflect the aggravating factors, and also to run concurrently.
40. For breaches (2), (3), (5) and (7), I would sentence him to one week, an increase in the starting point for C3 to reflect the aggravating factors.
41. I then take a step back and consider the totality and the proportionality of the overall sentence. In my view the defendant’s behaviour here was cumulative. There are three proven breaches involving threatening behaviour as well as other breaches over a time period of seven months. There are also significant aggravating factors.
42. Overall therefore, I consider a sentence of two months’ custody is appropriate.
43. The defendant is not entitled to a reduction because he did not plead guilty and the matter went to trial.
44. Having concluded that the custody threshold is met, I then consider whether to suspend that sentence. I consider that decision is a finely balanced one. I am mindful that although the behaviour is serious and consistent, these are the first findings of contempt against the defendant. I am also mindful that the defendant is now working - he has made that very clear throughout the course of the proceedings - and his work is clearly important to him. He should, therefore, have less opportunity to engage in street drinking going forward. He has also told me that he is not drinking as much and is not going to Leytonstone, indicating that he has modified his behaviour to some extent even if he does not understand the serious consequences of it.
45. I will, therefore, suspend the sentence on condition that the defendant complies with the terms of the injunction dated 21 March 2023. That suspension will be co-terminus with the injunction, to run until 21 March 2026.
46. My order is that the defendant is sentenced to a custodial term of two months suspended on condition that he complies with the injunction. That means that if he breaches the terms of the order he will be liable to be committed to prison and if that happens, he would serve one month.
47. I remind the defendant he has an automatic right to appeal this decision. He does not need permission to do so. Any such appeal will lie to a circuit judge at this Court and must be made within 21 days.

48. A copy of this judgment will be published on the public website because I have sentenced the defendant to a period of imprisonment.

End of Judgment.

Transcript of a recording by Acolad UK Ltd
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This transcript has been approved by the judge.