

IN THE COUNTY COURT AT NOTTINGHAM

Case. No. M00NG280

Courtroom No. 8

60 Canal Street
Nottingham
NG1 7EJ

Tuesday, 24th March 2026

before

DISTRICT JUDGE ANTHONY

NOTTINGHAM CITY COUNCIL

- v -

AUSTIN

MS MISTRIE[?] appeared on behalf of the CLAIMANT
NO APPEARANCE by or on behalf of THE DEFENDANT

WHOLE HEARING

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1 **Case called.**

2 JUDGE ANTHONY: Good afternoon to you, take a seat. Ms Mistris[?].

3 MS MISTRIS: Hi, good afternoon, ma'am. This is the claimant's contempt application for
4 noise nuisance. Ma'am, there's a few matters which I'd like to bring before you, bring
5 to your attention before you today. There was - I have noted there's an error in the
6 contempt bundle. There are some pages missing from the affidavit of Sarah Bearder,
7 dated 18 November. I noted that after the bundle was served upon the defendant.
8 The pages which are missing are pages two and four of the affidavit of Sarah Bearder,
9 18 November. Those pages, there was an earlier affidavit which was sworn in
10 September. The reason why we've got an updated one is because it was an issue with
11 the affidavit of James Winsell. So, my client has got them all sworn at the same time.
12 The affidavit of Sarah Bearder was filed at Court on Friday and also duly served upon
13 the defendant. But in terms of bringing to your attention what was actually contained
14 in those missing pages, the content of the affidavit, 8 September and 18 November
15 is exactly the same. It's just the dates, 18 November one is just an updated sworn
16 one. Page two of the affidavit, I've got a copy here if you'd like to see.

17 JUDGE ANTHONY: Yes.

18 MS MISTRIS: Yes.

19 JUDGE ANTHONY: Please.

20 MS MISTRIS: Yes, of course.

21 JUDGE ANTHONY: I think - the one I have got is not numbered, the pages. So, I am not
22 completely sure of which page you are referring to.

23 MS MISTRIS: Yes, I will talk-

24 JUDGE ANTHONY: I can see, I think there was a statement before which has exactly the
25 same thing.

26 MS MISTRIS: It is, yes, and there's a table at the back of that one.

27 JUDGE ANTHONY: Yes.

28 MS MISTRIS: Yes, so that is, I know the paragraphs are not numbered, apologies for that,
29 ma'am. Page two of the affidavit of 8 September, which is missing from 18
30 November, merely contains what the injunction that was granted on 31 October says
31 and also the power of arrest.

32 JUDGE ANTHONY: Yes.

33 MS MISTRIS: Obviously, it goes on to say that the nuisance is ongoing, which obviously
34 the defendant is aware of. Page three is in the affidavit of 18 November, and it dates

1 incidences of noise from 25 April to 24 May. And then page four of the affidavit,
2 which is missing, contains the ongoing nuisance from 25 May to 2 July.
3 However, I have noted that in the contempt bundle that was filed and issued at court,
4 there is a continuation sheet to accompany the M600, which contains all the
5 incidences of noise from 24 April right through to 2 July. So, the defendant is aware
6 of those because it has been duly served on him. So, all the incidences of noise are
7 in that continuation sheet, which has been duly served with. It's just the pages on
8 18 November affidavit, the pages were missing. However, we have corrected that in
9 the early affidavit of 8 September, which was served upon the defendant on Friday.
10 So that's where we are in terms of the admin side of the matter.

11 JUDGE ANTHONY: So, you say on Friday, I think, yes, I have got the certificate of service.

12 MS MISTRIE: Yes, 15th-

13 JUDGE ANTHONY: 19th of-

14 MS MISTRIE: The certificate of service, I've got one here. Sorry, I'll get a copy of that for
15 you.

16 JUDGE ANTHONY: I did think it said 19 March?

17 MS MISTRIE: That was for the notice of hearing because we've got the notice of hearing
18 for today, 18th and then I've got a further certificate of service to confirm that 15:44,
19 that we've served him with a sworn affidavit of Sarah Bader. Can I give that to you-

20 THE CLERK OF THE COURT: Yes, sure.

21 MS MISTRIE: Yes.

22 JUDGE ANTHONY: That's great, thank you.

23 MS MISTRIE: Yes. I mean, ma'am my submission today would be for you to hear my
24 submissions on the contempt, but obviously I would leave that to you if you think it's
25 fair for us to continue or you want to.

26 JUDGE ANTHONY: Well, the defendant has had notice of this hearing?

27 MS MISTRIE: Yes, he has.

28 JUDGE ANTHONY: Of this hearing-

29 MS MISTRIE: Yes, he has had notice.

30 JUDGE ANTHONY: It is [inaudible].

31 MS MISTRIE: It is, yes.

32 JUDGE ANTHONY: And he has chosen not to participate, and I mean, I can see, I think
33 this is the fourth hearing-

34 MS MISTRIE: It is, yes.

35 JUDGE ANTHONY: That you are having in this matter.

1 MS MISTRIE: Yes, it is.

2 JUDGE ANTHONY: One, it is not clear to me whether he was aware of the hearing of
3 6 March. But it seems to me that the two hearings, well, there was at least one hearing
4 in February he was aware of.

5 MS MISTRIE: Yes, he was, yes.

6 JUDGE ANTHONY: There was another hearing in February, [inaudible] he did not attend
7 that, the warrant was issued for his arrest on that occasion, and then 6 March hearing,
8 he did not attend, but I think the police said he received the warrant.

9 MS MISTRIE: That's right, yes.

10 JUDGE ANTHONY: But I read that, I think he was aware of the hearing?

11 MS MISTRIE: He was aware of the hearing, yes.

12 JUDGE ANTHONY: Yes.

13 MS MISTRIE: We have got certificates, I haven't got that on me, but he was.

14 JUDGE ANTHONY: Yes, so in respect of both or whether the police brought him or not-

15 MS MISTRIE: Yes, he was aware, yes.

16 JUDGE ANTHONY: He was aware of the hearing.

17 MS MISTRIE: He was aware, yes, he was aware of the hearing.

18 JUDGE ANTHONY: He was aware of today's hearing, so there are four occasions-

19 MS MISTRIE: Yes, of course.

20 JUDGE ANTHONY: He has chosen not to participate.

21 MS MISTRIE: Yes, no, of course, ma'am, I just wanted to check with you before I continue.

22 JUDGE ANTHONY: Yes, no, so your previous submissions were on contempt.

23 MS MISTRIE: Yes, so the contempt application is solely focused on the injunction that was
24 made on 31 March 2025, mainly the noise nuisance, which is clauses 1(a) and 1(b),
25 causing nuisance to neighbours, whether shouting, screaming or banging, and
26 playing loud amplified sounds that are audible outside 18 Alder Gardens, which is
27 the defendant's address. Paragraphs (a) and (b) are due to expire on 31 March 2026.
28 Mr Austin, the defendant, has been served with the injunction order of power of
29 arrest, on 2 April. He has breached those, obviously you will see from the
30 continuation sheet and also the affidavit of Sarah Bearder dated 8 September. The
31 noise nuisance has been continuing from 25 April right through to 2 July. My client
32 is with me today, and also, obviously, sorry, ma'am, just before going on to that, we
33 have got updated statements from Sarah Bearder dated 10 January and also from my
34 client, Louise Betts, confirming that the noise is continuing to this present day. My
35 client is with me today, who sat behind me and said that the noise is still continuing,

1 despite, obviously, service of the relevant paperwork from today. So, it is causing
2 the complaint Sarah Bearder-

3 JUDGE ANTHONY: So, who have you got with you today?

4 MS MISTRIE: Okay, sorry, this is my client. She is the enforcement officer at Nottingham
5 City Council.

6 JUDGE ANTHONY: Is this Ms Morris?

7 MS MISTRIE: No, this is Louise Betts.

8 JUDGE ANTHONY: Okay, Louise Betts, sorry. Yes...

9 MS MISTRIE: So, you will see from the affidavit of Sarah Bearder that the noise has started
10 from 25 April. For the purposes of this injunction, it's 2 July that it cuts off, but
11 obviously the updated statements confirm that the noise is still continuing. And it is
12 causing quite a significant impact on Sarah Bearder's day-to-day life. Obviously, it's
13 caused disturbance on her sleep and significant impact on her mental health. Ma'am,
14 there is no specific guidance under the 2014 Act, but we do, I do, excuse me, refer to
15 the case of *Lovett v Wigan Borough Council*.

16 In terms of the guidance that the Court should have on sentencing in a contempt
17 application of this nature. You will see from my sentencing note, in terms of the
18 level of culpability, the defendant, Mr Austin, has had a complete disregard of the
19 antisocial behaviour order which was imposed on 31 March 2025 and duly served on
20 2 April 2025. He's continually breached the order, he's failed to engage throughout
21 these proceedings, but also obviously today's committal proceedings. So, for those
22 reasons, the claimant would submit that the breaches under terms of culpability fall
23 within categories A to C.

24 In terms of the harm, I have already highlighted that the impact it's having on
25 Sarah Bearder, the whole purpose of the injunction was that herself, Sarah Bearder,
26 and the neighbours could live in peace and obviously harmony at the property of
27 Alder Gardens. The noise nuisance is preventing Ms Bearder from enjoying her
28 property, sleeping at night, and also, it's not free from any abuse from the defendant
29 either. Obviously, it's affecting her ability to enjoy her property and reside in it
30 peacefully. So, for those reasons, the persistent breach, and the level of harm it's
31 causing, the claimant would submit that that would also fall under Category 2 in
32 causing harm to the complainant in question.

33 In terms of the final clause, the aggravating and mitigating factors, the ongoing level
34 of noise nuisance, the defendant has clearly showed a persistent breach of the anti-
35 social behaviour injunction that was imposed on 31 March 2025. A history of

1 disobedience, of complying with that order, and is not really showing any genuine
2 remorse or accountability for the persistent noise which he has been demonstrating.
3 We can't comment on the defendant's health, but from the service bundle, when the
4 claim was first issued, an Equality assessment was carried out and there was nothing
5 which my client could find in terms of whether he was known to Social Services or
6 under any care. He's obviously been given the opportunity to engage and cooperate
7 with the anti-social behaviour injunction that he hasn't.

8 So, for those reasons, those are the aggravating factors and mitigating factors for the
9 defendant. Ma'am, I would submit that in terms of the sentencing from the
10 submissions that I've just made, a starting point would be a one-month custodial
11 sentence but adjourned for consideration up to three months. The reason for that is
12 obviously he's in a Category 2, as I've submitted, the Category 2 harm and culpability
13 bracket B, which obviously attracts a starting point of one month imprisonment but
14 adjourned for three months. We appreciate that obviously custody is only reserved
15 for the most serious of breaches but given the considerable impact it is having on
16 Sarah Bearder, we would submit that it would be one month but obviously adjourned
17 for three months. And it is for those reasons, those are my submissions in terms of
18 sentencing.

19 JUDGE ANTHONY: So, you're saying one month's imprisonment but adjourned in
20 consideration-

21 MS MISTRIE: For three.

22 JUDGE ANTHONY: To three. So, are you saying [inaudible]?

23 MS MISTRIE: Yes.

24 JUDGE ANTHONY: The notes, are you saying suspended for three months?

25 MS MISTRIE: Yes. I think it's also because it's a first conviction as well. I think obviously
26 the position would be different if we've had a history of other previous convictions.

27 **Pause.**

28 MS MISTRIE: I mean, having looked at my submissions and obviously the ongoing level
29 of noise, and my client's told me that it's still ongoing to this day, I think the claimant
30 has been a bit generous in terms of the submission. But I think obviously it's just to
31 give him that one last opportunity to engage and comply with the order. I know that
32 it might be unlikely, but I think this is the most reasonable starting point in terms of
33 the sentencing that the Court may want to impose on the defendant.

34 **Pause.**

35 JUDGE ANTHONY: Do you want to say anything else?

1 MS MISTRIE: No, that was it. Thank you, ma'am.

2 JUDGE ANTHONY: Thank you. I am going to just pause for about ten minutes.

3 MS MISTRIE: Yes.

4 JUDGE ANTHONY: To consider your submissions and I will come back with the decision.

5 MS MISTRIE: Okay, thank you ma'am.

6 JUDGE ANTHONY: Thank you.

7 **Discussion *sotto voce*.**

8 **Court rises.**

9 **Court resumes.**

10 JUDGE ANTHONY: Ms Mistrie, thank you for your submissions.

11 **Judgment transcribed separately.**

12 JUDGE ANTHONY: Are there any other clarifications required?

13 MS MISTRIE: No, it's quite clear what your decision is, ma'am.

14 JUDGE ANTHONY: Thank you.

15 MS MISTRIE: Thank you.

16 JUDGE ANTHONY: And I will complete the necessary forms, and I think that is... That

17 is all I need to do.

18 MS MISTRIE: Yes, I think so... And the three months would start from today?

19 JUDGE ANTHONY: From today, yes.

20 MS MISTRIE: Yes.

21 JUDGE ANTHONY: So, one month suspended for three months to commence from today?

22 MS MISTRIE: Yes... Thank you, ma'am.

23 JUDGE ANTHONY: Thank you, now unless there is anything else you need to bring to my

24 attention Ms Mistrie? That brings today's hearing to a conclusion.

25 MS MISTRIE: Yes, thank you, ma'am.

26 JUDGE ANTHONY: Thank you.

27 **Court rises.**

28 **End of hearing.**

29

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