

IN THE CROYDON MAGISTRATES' COURT

01LX044521

THE KING

-v-

DANIEL JARVIS

SENTENCING REMARKS

1. Mr. Jarvis, on 14th September 2022 I convicted you of one offence of aggravated trespass, contrary to section 68 of the Criminal Justice and Public Order Act 1994, and bailed you until today.
2. On 3rd September 2021, during one of England's innings, you entered a bathroom close to the field of play and changed into the whites of the Indian cricket team. An associate telephoned you, giving a signal to you; you left the bathroom and proceeded to enter the field of play. You ran past the bowler, up to the crease and, ignoring the umpire, bowled a ball. Your follow-through led you to collide with Jonathan Bairstow. Your behaviour was just not cricket; it brought the match to a halt for approximately 5 minutes.
3. As is set out in the pre-sentence report, you continue to deny you have broken the law even though, in the words of the author, you say your intention was "to disrupt play in order to amuse the crowd and viewers to [his] YouTube channel"; even now you fail to understand that in your own words you are guilty of the offence, and you continue to fail to understand the impact of your offending on others.
4. You are not a man of previous good character. You are 30 years old and have been convicted on 15 occasions of 21 offences. On 18th December 2014 you were convicted of invading a playing area at a football match: you entered the pitch at White Hart Lane during a football match as part of a competition with two others to see who could remain on the pitch for longest; this 'competition' was recorded for a YouTube channel. You twice breached the football banning order imposed on that occasion, and you have breached other court orders. As a result of public order offences committed at the National Gallery and Tate Britain in 2016, you are no stranger to custody. Your most recent conviction, in 2019, was for being drunk on an aircraft.
5. There are no sentencing guidelines published by the Sentencing Council for the offence of aggravated trespass. I therefore follow the steps set out in the "General guideline: Overarching principles".
6. My provisional sentence is reached without the assistance of any definitive sentencing guidelines for analogous offences or relevant sentencing judgments of the Court of Appeal (Criminal Division);

no such guidelines or judgments exist. The statutory maximum sentence for this offence is 3 months imprisonment.

7. In my judgment, your culpability is extremely high: you deliberately set out to disrupt a high-profile sporting event in order to gain publicity for yourself and footage for your own YouTube channel (from which you presumably also profited through a small share of the advertising revenue depending on the number of times the channel was viewed).

8. The harm caused by your conduct – which the pre-sentence report makes clear you fail to understand – was a disruption to the Test Match, including no doubt a negative effect on the concentration of the players involved (particularly the batters), the interruption to the televised broadcast of the match both domestically and internationally, interruption to the viewing experience of the thousands of spectators within The Oval, and a detrimental experience for future spectators as a result of having to comply with security measures over and above those that had been in place before – additional measures introduced as a result of your behaviour. In addition, and whilst fortunately you caused no injury, you collided with one of the players.

9. This offence is made more serious by your previous convictions, particularly your 2014 conviction for invading the playing area at a football match and the facts of your 2016 public order convictions. It is also made more serious by your failure to respond to the warnings about your behaviour resulting from your entry onto the playing areas during the Second and Third Test Matches (so your conduct in the Fourth Test Match was no slip up on your part) and the consequential level of planning you put into this offence in order to avoid the measures put in place seeking to prevent a repetition of that behaviour. In addition, you acted with an accomplice (though there is no indication that there was a third man).

10. I have read with care the pre-sentence report and I note the spin you continue to try to put on events, but in intending to disrupt play (the words of the report writer) – for whatever reason – you are guilty of the offence. Your history of poor compliance with court orders, and the report writer's assessment that you continue to pose a high risk of reoffending, means that I am not going to be bounced into accepting the author's recommendation without giving the matter detailed consideration.

11. I have taken into account everything urged upon me by your representative in mitigation, particularly the recent state of your mental health. However, I have seen no evidence whatsoever of any job offer overseas as has been suggested on your behalf.

12. I have had regard to the five statutory purposes of sentencing (as set out in section 57 of the Sentencing Act 2020). In my judgment those that are of most relevance in this case are the punishment of offenders, the reduction of crime (including its reduction by deterrence) and the protection of the public. Through your YouTube videos of you entering fields of play, you have sought to publicise the entry of spectators onto the sporting arena. In doing so, viewers of your videos may be encouraged to enter sporting arenas themselves. Players and officials do not know whether a person crossing the boundary is intent on doing them physical harm or not (even if the person is not intent on causing physical harm, as your own conduct shows it is possible for physical contact to be made with a player inadvertently, risking such harm); as with any other member of the public, players and officials deserve to feel safe within their workplace. Contrary to your attempts to do otherwise with your YouTube videos, the message needs to go out that wrongly entering the arena at a sporting fixture is not a silly matter; it is so wide of the mark of acceptable behaviour that it will be met with severe sanction by the courts.

13. In the circumstances of this case, weighing your culpability, the harm you caused, the aggravating and mitigating features and your personal mitigation, I am satisfied that this offence is so serious that only a custodial sentence can be justified, and that such a sentence is not unavoidable. The least sentence that I can impose commensurate with the seriousness of the offence is one of 8 weeks imprisonment.

14. I turn to consider the six factors set out in the definitive guideline "Imposition of Custodial and Community Sentences" that indicate whether it may or would not be appropriate to suspend the sentence. In my judgment, there is little prospect of your rehabilitation given your continued pattern over the last 8 years of entering sporting arenas for your own publicity. Whilst you yourself may not currently present a risk or danger to the public (unlike those who may be entering sporting arenas following your example), your previous convictions show a repeated disregard for court orders. However, weighing all of the factors required of me by that guideline, together with the maximum sentence in law for the offence, in my judgment I can punish you in a way that gets to the root of your offending without sending you to prison today. Whilst I have considered the suggested operational periods in the definitive guideline "Imposition of Custodial and Community Sentences", anything less than the maximum permissible operational period would not in my judgment adequately address the risk of your reoffending nor adequately protect the public that risk.

15. Mr. Jarvis, the sentence I impose upon you is one of 8 weeks imprisonment. That sentence will be suspended for 2 years. If, within the next 2 years, you commit any offence, whether or not it is of the same type for which I am sentencing you today, you will be brought back to court and it is likely that this sentence will be brought into operation, either in full or in part.

16. There will be three additional requirements to the sentence:

a. An exclusion requirement – for the next 2 years you are excluded from entering or being within any premises or land in England or Wales used for a sporting fixture open to paying spectators during the sporting fixture, the hour before the scheduled start time of the fixture, and the hour after the fixture concludes.

b. A foreign travel prohibition requirement – for the next 12 months you are prohibited from travelling to any and all countries and territories outside the British Islands.

c. A rehabilitation activity requirement of up to 20 days, in order to provide overall management and ensure compliance with this order. That means that you must meet with the officer supervising this requirement as and when required and you must attend and co-operate fully with any activities that are arranged.

If you fail to comply with any of these requirements you will be in breach of this order, which means that you will be brought back to court and you will be on a sticky wicket because you will be liable to serve the sentence of imprisonment, whether in whole or in part.

17. In addition, you will pay the statutory surcharge of £128 by 31st December 2022. I make a collection order, which allows court staff to make sure that the sum is paid as ordered.

18. In light of the sentence I have imposed there will be no order for costs.

19. If you wish to review my decision, you have the right to appeal to the Crown Court.

Application for a Criminal Behaviour Order

20. The prosecution has today applied for a Criminal Behaviour Order with terms prohibiting you from (i) attending any cricket ground in England and Wales, (ii) trespassing at any sporting event within England and Wales, and (iii) entering any pitch, playing area or other area where members of the public are not permitted access when matches/games or events are being held. That order is sought without limit of time.

21. I can make a Criminal Behaviour Order only if I am satisfied that you have engaged in behaviour that caused or was likely to cause harassment, alarm or distress to any person and that making the order will help in preventing you from engaging in such behaviour.

22. In light of the exclusion requirement I have imposed upon you as part of the suspended sentence order, I do not consider that the proposed Criminal Behaviour Order provides any extra assistance in preventing you from engaging in behaviour likely to cause others harassment, alarm or distress; further I do not consider it appropriate today to make such an order simply to extend the period in which the exclusion applies. I therefore refuse the application for a Criminal Behaviour Order.

DISTRICT JUDGE (MAGISTRATES' COURTS) DANIEL BENJAMIN

19th October 2022