



**IN THE COUNTY COURT AT PONTYPRIDD**

**CLAIM NO. F05MA400**

**BEFORE  
DISTRICT JUDGE BARCELLO**

exercising the jurisdiction of a circuit judge with the permission of HHJ Harrison the Designated Civil  
Judge pursuant to CPR PD 81 para. 10.2

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**BETWEEN  
RHONDDA HOUSING ASSOCIATION**

**Claimant**

**and**

**JOHN ADDISON**

**Defendant**

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**JUDGMENT IN RESPECT OF SENTENCING  
AT HEARING DATED 17<sup>TH</sup> JANUARY 2020**

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**Attendance**

1. Mr Barry appeared on behalf of the Applicant, Rhondda Housing Association.
2. The Respondent did not attend and was not represented.

### Chronology

3. On the 31<sup>st</sup> October 2019, District Judge Woodward, sitting at Manchester County Court made a without-notice injunction in respect of Mr Addison, designed to prevent him from engaging in anti-social behaviour in Llys Graig Y Wion, a block of flats in The Graig, where he resides. A power of arrest was attached to paragraph 2 of the order, which forbids Mr Addison from using or threatening to use violence towards any lawful resident or visitor to the property.
4. On the 3<sup>rd</sup> November 2019, Rhondda Housing Association (RHA) effected personal service of the order upon Mr Addison, together with the case papers, including a notification of hearing for a return date at Pontypridd County Court on 13<sup>th</sup> November 2019.
5. On the 13<sup>th</sup> November 2019, the case appeared before me. Mr Addison failed to attend. I determined that the order should remain in place, in the form approved by District Judge Woodward and approved an order to that effect which I directed to be personally served upon Mr Addison.
6. On the 16<sup>th</sup> November 2019, Mr Addison was served with the order dated 13<sup>th</sup> November 2019 by delivery through his letterbox, which I had authorised on 15<sup>th</sup> November 2019. There was an incident between Mr Addison and the process server, which forms part of subsequent allegations that the order was breached.
7. On the 18<sup>th</sup> November 2019, Mr Addison was arrested following alleged breaches of the order, including an allegation that he had directly threatened to harm a neighbour. He was brought to court at 2pm on 19<sup>th</sup> November 2019. At that hearing, Mr Addison requested the assistance of a solicitor. I adjourned the hearing and granted him bail, with the condition that he comply with the terms of the order. He confirmed that he understood the terms of the order. I provided Mr Addison with a document prepared by the court which outlines the basis upon which a defendant in committal proceedings is entitled to representation, which is designed to be read by the defendant and, if necessary, given to a solicitor he/she seeks to instruct.
8. I had listed the case on 22<sup>nd</sup> November 2019 for a directions appointment. Mr Addison attended the hearing, but was not represented. He said that he had not had sufficient time to obtain representation, but that he would be able to do so in advance of any future hearing. I

made an order requiring RHA file and serve their supporting evidence (a schedule had already been filed and served), requiring Mr Addison file any such evidence in response and I listed the case for a trial on 9<sup>th</sup> December 2019 before myself. I urged Mr Addison to seek legal advice and to obtain legal representation. I also warned him that if he did not attend the hearing on 9<sup>th</sup> December 2019, or if he attended and was not represented, I was likely to proceed with the hearing.

9. On 9<sup>th</sup> December 2019, Mr Addison failed to attend the hearing. All witness evidence of RHA had been filed and served appropriately, Mr Addison had not filed anything in response. The witnesses, though not in the building, were on notice to attend court in order to give evidence. Mr Addison had not contacted the court to explain why he had not attended. I do not have the power to issue a bench warrant to enforce his attendance. Given the clear warning to him that the case might proceed in his absence should he not attend and the absence of an explanation for his failure to attend, I formed the view that he had deliberately absented himself from the hearings and that it was appropriate for me to determine the allegations as to breach in his absence. I had regard to the statements filed, each backed by a statement of truth. I did not request the witnesses be brought to court, as there were no questions arising from their statements and there would be no cross examination of them. I found 4 breaches proven, applying the criminal standard of proof. I did not consider it desirable to sentence Mr Addison in his absence and adjourned the case further for sentence to take place on 20<sup>th</sup> December 2019. The order contains the warning that I would proceed in the absence of Mr Addison, should he not attend.
10. On 13<sup>th</sup> December 2019, Mr Addison was arrested for an alleged breach of the order. At a hearing before District Judge Wilson Williams later that day, Mr Addison was released, it being the determination of the court that the arrest was unlawful in that the behaviour complained of, was neither the use or threatened use of violence. A copy of my order dated 9<sup>th</sup> December 2019 was served upon Mr Addison at the hearing. Directions were given in respect of the new allegations, which were to be considered also, at the hearing listed for the 20<sup>th</sup> December 2019.
11. On 20<sup>th</sup> December 2019, Mr Addison failed to attend the hearing. I indicated my reluctance to sentence Mr Addison in his absence, but my concern that I had no means by which to secure his attendance before the court, should he refuse to attend voluntarily (or be arrested and denied bail between hearings). I adjourned the hearing until 17<sup>th</sup> January 2020, to provide Mr Addison with a further opportunity to attend, with the order containing a warning that I would likely proceed in his absence in respect of both sets of breach proceedings if he did not. I

indicated also, that I wished to discuss the case with the DCJ, to ascertain if there was an alternate means of securing the attendance of Mr Addison involuntarily.

12. On 3<sup>rd</sup> January 2020, Mr Addison was arrested and appeared before District Judge Phillips. At that hearing, he was served with the witness statements relating to the breach alleged on the 13<sup>th</sup> December 2019. An order was made requiring the filing and service of evidence in relation to the new allegations of breach. The case listed to coincide with the hearing on 17<sup>th</sup> January 2020. Mr Addison was granted bail, conditional upon his complying with the terms of the order and not contacting the named witnesses (which included not knocking on their doors).

### The Hearing

13. The case thus appeared before me today. The case was listed at 10am. By 10.30am, Mr Addison had not attended. He made no attendance at court at any stage this morning, the time now being 2pm.

14. Following hearing submissions from Mr Barry I determined that it is necessary and proportionate for me to proceed in the absence of Mr Addison, to deal with the breach proceedings arising from the incidents on or around 18<sup>th</sup> November 2019, which have already been found proven, but which require sentencing and to deal with the breach proceedings in respect of the incidents on 13<sup>th</sup> December 2019, of which all evidence has been served upon Mr Addison and for which there is a clear warning, contained with an order that the court will likely proceed to hear in absence. I determined that as no such warning has been made in respect of the allegations relating to 2<sup>nd</sup> January 2020, though a statement and schedule had been put through Mr Addison's letterbox (he refuses to open the door to enable personal service), it would not be appropriate for me to proceed in respect of that allegation.

15. The breaches of 18<sup>th</sup> November 2019, having already been proven, I considered the evidence in support of the alleged breach of the 13<sup>th</sup> December 2019. I had before me a witness statement of Cherelle Huntley, who was in attendance at court, willing to give evidence. Her statement is backed by a statement of truth and contains clear and unequivocal evidence as to the behaviour of Mr Addison on 13<sup>th</sup> December 2019, when he continuously banged on her door and that of a neighbour. I indicated that I did not require Ms Huntley to be called as I had no questions for her and Mr Addison had not attended to cross examine her. I gave a short judgment outlining that I found the allegation proven.

16. I then heard submissions from Mr Barry in respect of sentencing. I indicated that I would put the case back to consider what sentences to pass and would attempt to provide a written judgment (which could be read in public). I indicated that other matters, including costs and the January 2020 allegation would be considered after my sentences were pronounced.

#### Judgment in respect of Sentencing

17. I am required to sentence Mr Addison in respect of 5 breaches of the order dated 31<sup>st</sup> October 2019. The breaches I have found proven are as follows:

- a) On 18<sup>th</sup> November 2019, at around 4pm, after being served with my order dated 13<sup>th</sup> November 2019, Mr Addison stood in front of the process server's vehicle, preventing them from moving from their parking space. He shouted and swore at the process server, whilst waving the documents. He asked what they were about. Following an explanation from the process server, he said "stick them up your arse" and attempted to throw them in the car. He then returned to the building. This was a breach of conditions 1 and 4 of the order, namely conduct causing nuisance or annoyance to a lawful visitor and using insulting and/or abusive language towards a lawful visitor.
- b) On 18<sup>th</sup> November 2019, Mr Addison stood outside the door of the flat occupied by Cherelle Huntley, his next-door neighbour and banged on her door repeatedly for about a minute before walking away. This was a breach of condition 1 of the order, namely conduct causing nuisance or annoyance to another resident.
- c) On 18<sup>th</sup> November 2019, at around 5pm, Mr Addison approached the flat occupied by Philip Iveson and banged on the window repeatedly. He left for a short period, then returned and banged the window again. He did this up to 6 times. This was a breach of condition 1 of the order, namely conduct causing a nuisance or annoyance to another resident.
- d) Mr Iveson, having left his flat to visit a friend was approached by Mr Addison. Mr Addison shouted at him aggressively "I am going to slice you and cut you up, I will go to prison for you". He moved close towards Mr Iveson's face and called him a "cunt" and a "wanker". This was in breach of condition 2 of the order, namely the use or threatened use of violence. Mr Iveson described the incident as being extremely

threatening. Mr Iveson, a man who requires the use of crutches to aid his mobility being scared that he was going to be attacked. I am aware that Mr Iveson has since left the flat to live elsewhere.

- e) On 13<sup>th</sup> December 2019, at 8.10am, Mr Addison approached the property occupied by Cherelle Huntley and banged on the door continuously for 3 to 4 minutes. He then left and did the same on the door of flat 17, before returning and knocking the door of Ms Huntley's flat once, before leaving. Ms Huntley describes feeling scared whilst Mr Addison was banging the door, remaining quiet and hoping he would go away.

18. In considering what penalty to impose for the breaches that have been found, there are two dimensions, the offending conduct itself and also, the fact that the breaches directly contravene an order of the court. One which was made to bring an end to a pattern of behaviour which has been causing distress to other residents in the vicinity of his flat.

19. I remind myself of the "Breach Offences: Definitive Guidelines" sentencing document as it relates to breaches of criminal behaviour orders. In relation to breaches of orders under the 2014 Anti-Social Behaviour, Crime and Policing Act there is a maximum penalty of five years in custody. The proceedings before this court are civil proceedings with a maximum penalty of two years imprisonment and/or an unlimited fine. Nevertheless, the Definitive guidelines are helpful insofar as they provide guidance as to how I should approach the issues of culpability and harm and as to what a criminal court would consider appropriate range of sentences for each breach. I am dealing with more than one breach, as such, though I may pass a sentence for each breach, I must address the totality principle in respect of the overall sentence.

20. I begin first with the breach of condition 2 of the injunction, which took place on 18<sup>th</sup> November 2019. This, in my view is clearly the most serious of the breaches of the order, in that there was a direct threat of violence made by Mr Addison. In my view, addressing the issue of culpability, this falls within bracket B in that it is a deliberate breach of the order. In respect of harm, I consider that it falls within category 2 of the guidelines, in that whilst it neither causes serious harm or serious distress (bringing it into category 1), it cannot be said to have caused little harm (bringing it into category 3). This is a breach which clearly caused distress to the witnesses, him being scared that he might be attacked, in my assessment that was not or could not be categorised as very serious distress.

21. The Definitive guidelines in relation to criminal offence would on those findings give a starting point of 12 weeks' custody with a category range of a medium level community order, which of course is not available to this court, and an upper range of one year in custody. I ask myself whether there are any aggravating and mitigating factors which are relevant. It is an aggravating feature that Mr Iveson is a person who by reason of his mobility, is vulnerable. It must have been apparent to Mr Addison that Mr Iveson has limited mobility, him having use of crutches at the time of the incident. In respect of mitigation, as Mr Addison has not engaged in the proceedings, he has not outlined any issues which might speak as to mitigation. It is known however, that Mr Addison has historically been a patient of the community mental health team, though he is not an open case to them. Historically, though it is not known precisely when, he received a diagnosis of paranoid schizophrenia, which was said to be in remission in 2015. In October 2019, he was assessed under the Mental Health Act and not detained. Having been referred to the CMHT, he has failed to engage with them at all. Neither did he attend an appointment made for him at Ty Draw, arranged by Dr Joseph in November 2019. In summary, the police have had no reason to detain Mr Addison under the Mental Health Act, when arrested for the alleged breaches and, though concerns have been raised as to his mental health, he has failed to engage with assessments and services provided. As such, there has never been evidence before me that Mr Addison does not have the capacity to comply with the terms of the order, and indeed, he himself assured myself (and District Judge Phillips recently) that he understands the terms of the order. However, he does appear to have a medical history to suggest that his mental health might be impacting upon his day to day actions and choices. His neighbours are certainly of this view. They consider that he needs some support. I agree. However, I cannot force him to engage with the help he has been offered. I am inclined however, to take account of concerns about his mental health in this sentencing exercise. Notwithstanding this, I am of the clear view that the breach was so serious, that a custodial sentence is necessary. I have decided however, first that the period of custody should be reduced from the starting point within the guidelines, to a period of 6 weeks custody. I have also determined that the sentence shall be suspended, having regard to the mental health concerns in respect of Mr Addison. I make it clear however, that if the power to suspend were not available, I would be imposing an immediate custodial sentence.

22. In respect of the further 3 breaches on 18<sup>th</sup> November 2019, I am of the view that these fall into the lower brackets outlined by the sentencing guidelines, namely culpability bracket C and harm category 3. They are relatively minor breaches, albeit causing nuisance and annoyance to the victims. However, the conduct amounts to no more than banging doors and windows for a relatively short period of time and in one instance using foul language to a

process server who was in a car and leaving the area. Such offences carry a range of sentencing from a fine to a high-level community order. I do not consider the offences justify a custodial sentence and have no power to order a community order. I have considered whether a fine is appropriate and have determined that it is not. There is no evidence that Mr Addison could pay any fine and the costs orders already made within these proceedings far outweigh any fine I might consider imposing. I make no order in respect of these breaches.

23. In respect of the breach of 13<sup>th</sup> December 2019, though the activity was similar to breaches for which I have imposed no order, the circumstances are different. At this stage, Mr Addison was on bail, having been arrested for alleged breaches. There is no doubt that he was aware that constantly banging upon his neighbour's door would be considered behaviour causing a nuisance or annoyance. Again, the behaviour was directed at Ms Huntley, causing particular concerns for her that she may be a target of his anger. I am of the view that the culpability bracket is B, it being a deliberate breach falling between A and C. I am of the view that the harm bracket is category 3, in that the level of distress, whilst present, is relatively low, given that Ms Huntley was inside a locked building. The sentencing range is between a community order and 26 weeks custody. In my view, as this offence was committed whilst on bail and is directed towards a previously named complainant, this offence requires the imposition of a short custodial sentence. I am imposing a sentence of 3 weeks custody, consecutive to the sentence already passed. I suspend this also, for the same reasons as outlined earlier.

24. In conclusion then, I pass the following sentences:

- For the breach on 18<sup>th</sup> November 2019, relating to the threat against Mr Iveson, a custodial sentence of 6 weeks (42 days) suspended until the conclusion of the order on 31<sup>st</sup> October 2020, upon condition that Mr Addison complies with the terms of the order.
- For the breach on 13<sup>th</sup> December 2019, relating to banging the door repeatedly of Ms Huntley and another neighbour, a custodial sentence of 3 weeks (21 days) consecutive to the sentence passed above. This is suspended upon the same terms.
- For all other proven breaches, I make no order.



25. I confirm, that standing back and taking into account the totality principle, I am satisfied that the total sentencing is just and proportionate. Mr Addison has served no time on remand for which a deduction to the sentence should be made.

26. I have suspended these custodial sentences until the expiry of the injunction, but I make it clear even though Mr Addison is not present in court today, that if further applications are made in relation to allegation of new breaches of the injunction order and if further findings are made to the criminal standard of proof that there have been further breaches, the court is likely to invoke the suspended sentence that has been passed today, in addition to dealing with any further breaches as it thinks appropriate.

District Judge Barcello

17<sup>th</sup> January 2020