

IN THE COUNTY COURT AT BIRMINGHAM

Birmingham Civil and Family Justice Centre
Priory Courts
33 Bull Street
Birmingham
West Midlands B4 6DS

Date: 10.09.2021

Page Count: 8
Word Count: 3454
Number of Folios: 48

Before:

MR RECORDER BURNS

Between:

WOLVERHAMPTON CITY COUNCIL

Claimant

- and -

JODIE THOMPSON

Defendant

MR PRITCHARD-JONES for the **Claimant**
THE DEFENDANT appeared **in Person**

Approved Judgment

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2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP.
Telephone No: 020 7067 2900. DX 410 LDE
Email: info@martenwalshcherer.com
Web: www.martenwalshcherer.com

THE RECORDER:

1. Ms Thompson, you have attended court this afternoon in consequence of a committal application issued against you following the undertaking which you gave to the county court on 21 October last year. You are unrepresented but supported at court by your support worker, to whom I am grateful. You have had some time to discuss matters with Mr Pritchard-Jones, who represents Wolverhampton City Council, and who has done his best to assist you to present matters before the court in a fair and balanced way, and I am grateful to Mr Pritchard-Jones for doing that. I am also grateful to Wolverhampton City Council, and in particular to the claimant's lead officer Mr Moss, who is present in court, for the balanced and benevolent way in which they have approached consideration of your case as it stands today.
2. As you know, I have heard from Mr Pritchard-Jones and I have also heard from you, and I have taken account of and considered all of the matters that have been raised before me when looking at the appropriate sentence in this matter.
3. I will deal with procedural aspects of the background to today's hearing in a written order with detailed recordings, but in summary at this stage I am satisfied that you were made aware of your legal rights in the context of this committal application, and you have chosen, as is your right, to engage with the claimant and, in an effort to bring these proceedings to a conclusion today, to make certain admissions in relation to your historic conduct.
4. I will turn to those admissions in due course, but against that background and the three specific admissions you have made today, Mr Pritchard-Jones on behalf of the claimant seeks my permission to withdraw allegations 4, 5 and 6 on the original schedule of alleged breaches of undertaking. As you know, I have given the claimant permission to withdraw those allegations. My order will reflect that.
5. You have made the following three admissions of breach of undertaking today. First, that on 19 December 2020 you and others at your property were responsible for several voices which could constantly be heard between 3 and 5 coming from your property at such a level so as to be heard outside of your property. Second, that on 22 December 2020 you were responsible for noise nuisance in that music and voices could be constantly heard coming from your property at such a level so as to be heard outside of your property. Third, on 31 December 2020 you were responsible for noise nuisance in that talking, laughing and shouting could constantly be heard coming from your property at such a level to be heard outside your property.
6. You have admitted to the court today that each of those incidents occurred, and you admit that each of those incidents amounted to a breach of the undertaking you had given to the court on 21 October 2020.
7. The object of sentencing in a case of this nature is as follows: First, to ensure future compliance with any order or undertaking applicable in the case. Second, to protect the public, who would be affected by future breaches, and who have been affected by past breaches. Third, as a punishment for breaching the undertaking, the solemn promise that you gave to the court, to bring home to you the seriousness of the breaches.

8. When sentencing I must have regard to the sentencing guidelines titled "Breach of a Criminal Behaviour Order (also applicable to breach of an anti-social behaviour order): Anti-social Behaviour Crime and Policing Act 2014 (section 30). As you know, both Mr Pritchard-Jones and you have addressed me in relation to relevant matters in your case.
9. The sentencing guidelines I must have regard to were drafted for use principally in the criminal jurisdiction, and so are not a precise fit with sentencing for civil contempt. In particular, the civil court is not only sentencing for the offending conduct, but importantly in this context for breaches of an undertaking. Further, the maximum sentence in this court for civil contempt is two years, and not the five years set out in the guidelines, and therefore any sentence set out in the guidelines requires an adjustment for that reason. Finally, the guidelines reference community orders which this court has no power to impose.
10. I must be careful when applying the guidelines not to double-count any relevant factors in my ultimate assessment of your case. The powers of this court are in effect to make no order, to fine you or, if matters pass the custody threshold, to impose an immediate or suspended custodial sentence.
11. Turning first to culpability, I agree with Mr Pritchard-Jones that although any breach of undertaking is a serious matter, in the context of the range of cases of this nature seen by the courts, the admissions you have made amount to relatively minor breaches. In my judgment this is a culpability C case.
12. So far as harm is concerned, Mr Pritchard-Jones has invited me to consider whether this case should be categorised in category 2 or category 3. In my judgment the breaches you have admitted caused some harm and distress to Mr Waterfield, as you acknowledge, but in my judgment, although finely balanced, this particular case falls at the upper end of category 3.
13. Applying the relevant guidelines, I can immediately say, Ms Thompson, that I agree with Mr Pritchard-Jones that this case does not at this stage pass the custody threshold.
14. The starting point and category range in your case, as Mr Pritchard-Jones very fairly submitted, bearing in mind the sentences available to me, point squarely to a fine being a proportionate sentence in your case. That of course is subject to any aggravating or mitigating factors. In my judgment there are both aggravating and mitigating factors in your case.
15. So far as aggravating factors are concerned, I note that the admitted breaches in this case occurred relatively shortly after you gave the undertaking to the county court. The undertaking was designed to protect Mr Waterfield in particular, who is a man who has his own vulnerabilities. He described the anti-social behaviour at this time, which he experienced and which you admit, as conduct which disturbed his sleep and was impactful in that it made him, amongst other things, anxious, at a time when he was receiving medical treatment.
16. So far as mitigating factors are concerned, in my judgment there are a number. You have admitted three allegations today at the first available opportunity, and I give you maximum credit for that. I have given permission for the remaining allegations to be

withdrawn, and I disregard those entirely. You are 24 years of age. You are someone who is not used to appearing at court and, for the avoidance of doubt, has never been to prison.

17. Without going into significant detail in a public hearing, you plainly have had a difficult upbringing, having sustained trauma during the early part of your life. I am told that you have a diagnosis of Post-Traumatic Stress Disorder, and you have other diagnoses including Borderline Personality Disorder, psychosis, ADHD, bulimia, partial sight in the left eye, and at the moment, regrettably you have a broken arm.
18. I have been told about your significant history of mental health difficulties, and in particular that historically you have been sectioned on seven occasions. Notwithstanding those matters, and to your credit Ms Thompson you are, I am told by your landlord, maintaining your secure tenancy well. You have no rent arrears. You work as a stock taker, and the income from the employment that you undertake is topped up from time to time by universal credit, and you are also in receipt of disability living allowance.
19. You have told me that you are sorry for the breaches you have admitted. You have told me, and I accept, that at the time of those breaches you were not on stable medication. You were involved with others who took advantage of you, and in simple terms you got into the wrong crowd. Subsequent to those admitted breaches, you tell me that you had a period in hospital; you began to take your medication regularly, as you now do; you have secured gainful employment, and you have the benefit of a support worker to whom I have no doubt that you are very grateful. You are attending regular therapy and you told me, and I accept, that you do not want to find yourself in a courtroom again.
20. So far as any sentence is concerned, I enquired with you as to your financial circumstances, and you have told me that notwithstanding a degree of variance due to your benefits situation, your regular sources of income mean that you are confidently able to afford the sum of £5 per week if the court was minded to impose a fine in your case.
21. You knew what the undertaking required you to do, and you knew that you were required to comply with it. A breach of undertaking is a serious matter but, Ms Thompson, I do bear in mind that you have fully cooperated with the local authority today, and you have been engaged and courteous throughout the proceedings before me. I have found you to be somebody who has made your admissions and presented your current circumstances in a very straightforward and mature manner, for which I give you credit.
22. Of particular significance in my judgment, and very properly highlighted by Mr Pritchard-Jones, is the fact that there has been no suggestion of any breach of undertaking in this case for at least six months, on any view. That fact is entirely consistent with what you have told me, namely that after Christmas you turned your life around.
23. I have considered this case carefully today in order to achieve a just and proportionate outcome. Any sentence I impose ought to be the minimum commensurate with the circumstances of the case.

24. Bearing in mind all of the factors that I have set out, I have come to the conclusion that a fine is a just and proportionate sentence for the admitted breaches in this case. That fine, again having regard to the matters that I have set out, will be reduced, and will be in the sum of £100 on each breach, to run concurrently, making a total of £100. The fine must be paid within 140 days. That amounts in practice, Ms Thompson, to £5 per week for 20 weeks.
25. I want to be very clear, Ms Thompson, with you as to where matters go from here. If there are no further difficulties, and you pay the fine as ordered, which you must, that will be the end of the matter. If there is further alleged anti-social behaviour, then you must understand that you may find yourself facing a further committal application, if allegations relate to the residual period of the undertaking which runs until 21 October this year, or, beyond that, as you know, you may face a further application for an injunction to prevent further anti-social behaviour. Any further admitted or proved breaches of undertaking will result in the court needing to consider a further sentence in your case.
26. It is right that I raise with you in the interests of transparency that if matters escalate, and everybody hopes they will not, there is also the potential that the local authority will come to a view that they need to take steps to ask a judge to end your secure tenancy. You do not want that. It will not help you. The local authority do not want that if it can be avoided.
27. I need to make clear to you, Ms Thompson, that you have the right to appeal my decision on sentence. You do not need permission to appeal. Any appeal must be brought before the Court of Appeal, and your appellant's notice must be filed at the appeal court by 4pm 21 days from today. You will receive that date in writing this afternoon.
28. Pursuant to CPR 81.8(8), I direct production of a transcript of this judgment. Once approved, copies of the transcript will be provided to the claimant and also, Ms Thompson, to you, and a copy will be placed on the court file so that it can be referred to in the future if required.
29. So far as other consequential matters are concerned, the claimant does not seek any order for costs, and therefore I make no order as to costs in relation to these proceedings.
30. Now, Mr Pritchard-Jones, first to you, is there anything that I have not dealt with that I need to address before any order is drawn?

MR PRITCHARD-JONES: Not from our position, thank you, your Honour.

THE RECORDER: Ms Thompson, other than dealing with the orders which now need to be drafted to reflect the events and outcome of today, is there anything further that you want to say to me at this stage?

MS THOMPSON: No, thank you.

THE RECORDER: Do you understand the outcome?

MS THOMPSON: Yes.

THE RECORDER: And the fine that you must pay?

MS THOMPSON: Yes.

THE RECORDER: And you will pay it?

MS THOMPSON: Yes.

THE RECORDER: Very good. I am going to ask Mr Pritchard-Jones, as an officer of the court, to liaise with my clerk and make sure that you get the paperwork you need. He will also need a copy for his client. Mr Pritchard-Jones, there is an N603 to which I have attached a copy of the undertaking from last year and a copy of what is now a schedule of admissions containing admissions 1, 2 and 3.

MR PRITCHARD-JONES: Thank you.

THE RECORDER: I will hand that to you via my clerk so that you can have a look at it and tell me in due course if you feel that any amendment is required.

31. Separately to that document I will provide by email to my clerk a draft order which will contain a number of recitals recording a number of matters that have arisen in relation to today's hearing so that should another judge come to consider the matter in the future, it is clear that all of the defendant's rights were explained to her at the outset of the hearing, and how we got from 2.30 pm today to where we are now. That document will contain two proposed orders at the end of the various recitals. First, that the outcome of the committal application is set out in the document you now have; and second permission to your client to withdraw allegations 4, 5 and 6 on the schedule. You and Ms Thompson can have a look at that proposed order once my clerk can print a copy for you both.
32. I am not going to read it all out to you now; it is two pages long. But I am going to stay in this court building. Once you have both seen the proposed order, can you please send a message to confirm if you have any query in relation to it. If either of you do, I will come back into court. Please do not hesitate to bring me back into court if you have any query at all. Or you can send a message via my clerk to say that you are both content, and you have no queries, in which case I will make the proposed order and my clerk will seal the order and provide you both with copies as soon as possible.
33. Now, Ms Thompson, I am sorry but that process might involve you walking over to the county court building with the local authority, simply because it needs to have a civil court seal, and this is a criminal court, all right?

MS THOMPSON: Yes.

THE RECORDER: I am sorry about that.

MS THOMPSON: It is all right.

THE RECORDER: But at least you will get the paperwork, and that will be helpful. Is there anything further?

MR PRITCHARD-JONES: Is it your Honour's intention to have this version of the committal form photocopied and sealed?

THE RECORDER: Yes. The N603 will be sealed and photocopied, and what will go with it, and I have handwritten this on the final page of the N603, is the typed document that I am going to email to my clerk now, which he will share with you both so that you both can consider it.

MR PRITCHARD-JONES: Thank you very much.

THE RECORDER: Is there anything further you want to say at this stage?

MS THOMPSON: Thank you.

THE RECORDER: You are very welcome, and I do not want to put you on the spot given your role here as the defendant's support worker, but are you comfortable that you understand where we are at?

THE SUPPORT WORKER: Yes, thank you.

THE RECORDER: You are very welcome. Mr Moss, may I also thank you very much for your attendance. As I say, I am not going to leave this court until I have got a message one way or the other, and then I will be going back to the civil court this afternoon, but for present purposes I will rise and, Richard, if you can pop through as soon as you can because I want to come back into court once the court is clear if that is okay? All right.

THE CLERK OF THE COURT: Yes.

34. Mr Pritchard-Jones, thank you very much for the way you have dealt with the case. I am very grateful, and I am sure that Ms Thompson is also grateful. Ms Thompson, thank you very much for your courtesy before the court. I really do hope we do not see you again, and I mean that in the nicest possible way, but I should just say to you in the presence of your support worker that if matters do go downhill, you must understand that this situation could escalate quite quickly. There are no community sentences in these cases. It is no order, and that is not likely to happen; or a fine, and you have had that today, or a suspended or immediate prison sentence. There are no other options in this court.

MS THOMPSON: Okay.

THE RECORDER: You are, if I may say so, intelligent enough to know that if there is no further issue, then that is the end of it; but if there are further issues, you understand the direction of travel, don't you?

MS THOMPSON: Yes.

THE RECORDER: All right.

MS THOMPSON: Thank you.

THE RECORDER: Thank you very much.

This Judgment has been approved by the Judge.