

IN THE COUNTY COURT AT LUTON

Case No. H00LU186

Courtroom No. 5

Floors 4 & 5
Arndale House
The Mall
Luton
LU1 2EN

Thursday, 31st March 2022

Before:
HER HONOUR JUDGE BLOOM

B E T W E E N:

SETTLE GROUP

and

HELEN HODGSON

MR SAVILL appeared on behalf of the Claimant
THE DEFENDANT appeared In Person

JUDGMENT
(For Approval)

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HHJ BLOOM:

1. This is a hearing in relation to sentence for three breaches of an order that was made on 9 March 2021. At that hearing the defendant was not present.
2. The background is that this is a landlord and tenant matter where the landlord is Settle Group and they are seeking to get their tenant Miss Hodgson to behave in a manner that in effect is in accordance with the Tenancy Agreement.
3. An order was made which prohibited her from having visitors to the property in particular, or inviting them into the garden, the communal area or thereabouts. She was not to use or threaten violence to any of the residents; not to verbally abuse or behave in an intimidating manner to any of the residents or lawful visitors to Grange Court where she lives; not to scream, shout or use foul, abusive or threatening language; not to possess, use, store, or sell any kind of illegal substance in the property; not to allow noxious smells to come from the property; and not to cause a nuisance at the property.
4. That order was to remain in place for, I believe, a year, to be reconsidered on 6 April 2021.
5. When the matter came back before the Court on 6 April the defendant had only just been served and therefore it was adjourned to a later date, and it came back in front of District Judge Spinks on 21 September. The defendant was there; she had been arrested under the power of arrest, and she was advised about the need to get legal representation because of the application to commit, because she had been arrested for breaching the order.
6. It was then listed in front of me in February 2022. That was for the injunction hearing. Again the defendant represented herself and she agreed to the injunction continuing for a further two years but did not admit any breaches. She was strongly advised to get legal advisors and assistance in relation to the contempt hearing which was visited on 3 March. The injunction was continued until 4 February 2024.
7. Regrettably on 3 March 2022 the defendant did not attend. She tells me in Court today that that was because she got the date wrong, but she had been sent the piece of paper telling her when the Court hearing was, and she still did not come.
8. At the hearing before me on 3 March I heard evidence and found proved three breaches. Those related to 5 May, 7 July and 13 September 2021; Miss Hughes attended Court and gave evidence at Court. Miss Phillips attended remotely as she has a very small baby, but she attended remotely and gave oral evidence.
9. I was satisfied to the criminal standard of proof that those three allegations were made out.

10. The allegations were that on 5 May, so soon after the order had been made in March, that Mr Gilroy was present at the defendant's home. The police came because there was a report of shouting at the property. As far as 10 July was concerned, Miss Phillips gave evidence that she had seen the defendant smoking drugs from a piece of foil and felt woozy and it was proved that the defendant was using drugs. On 13 September, a video was played and the Court was satisfied that the person making the shouting and screaming in that video "I'm going to break your car. I'm going to break your face, then your dog, then your sad", was indeed the defendant.
11. The Court was mindful of the fact that the defendant was not present and that as this is a matter about her liberty that the Court should adjourn it, which I did until today to enable Miss Hodgson if she wished to, to attend Court and either apologise or explain, or offer mitigation or information about her personal circumstances.
12. I am pleased to say Miss Hodgson has taken the opportunity to come to Court. There is further witness evidence filed by Miss Hughes and indeed by Miss Phillips. I am not paying a huge amount of attention to the detail, but in essence what Miss Hughes is saying is that there are two people, Miss Phillips and another, who are still complaining about drug use and visitors to the property. I am not going to say more than that.
13. There is also a suspended possession order and I am told that there is an application for an outright order on the grounds of anti-social behaviour, the original suspended order having been on rent arrears.
14. The defendant comes to Court today. She is representing herself again; she has not got legal aid. She has not been to a lawyer, and she has not actually asked to adjourn. To be fair to her, I have thought about that but I am not going to adjourn. Even if she had asked me I would not have adjourned it. She has had so much opportunity both being told by Judge Spinks back in September of last year, and me in February 2022 and again when she got the order on 3 March, or thereabouts, she has had every opportunity to get representation and she has chosen not to do so.
15. What Ms Hodgson tells me is as far as the allegations are concerned, she does not really accept that she breached the order. She certainly does not accept the allegations made by Miss Phillips that she was smoking some sort of drugs that were not cannabis in the property. In addition, she neither admits nor denies that the screaming that was seen on the video related to her. She said she just cannot remember doing it. However, of course it has now been proved to the Court's satisfaction that it was her.

16. As far as the original matter concerning Mr Gilroy, her evidence about visitors to the property is in effect that there are visitors to the property and indeed she accepts that quite recently in March, when Miss Hughes visited the property, somebody called Rio was at the property which was again in blatant breach of the order.
17. What she says to me is that she has multiple problems. She has mental health problems. She has alcohol addiction but does not accept there is any other sort of addiction. She recently, in January, or thereabouts, was given a Community order in relation to theft, two offences of stealing alcohol, another offence of beating somebody, and another offence of failing to attend on bail. In addition, she is now seeing the probation and she says that is helping her.
18. She also tells me that she is seeing CGL, who are an alcohol and drug rehabilitation centre and they are helping her with her alcohol addiction.
19. She says that it is very difficult for her to keep people away from the property. Partly she says that the rumour has gone round that she is a drug dealer, so people come to see if they can get drugs from her. Also, she has mental health problems. She is depressed; she is taking anti-depressants and beta blockers, and sometimes she needs help from other people, and people come to get help from her. In Rio's case, as I understood it, Rio was being bullied by Catherine Phillips, and was someone who had come to her for help.
20. She also said that there is a smell of cannabis coming from her block. It is not to do with her. It is to do with everyone else, because everyone else smokes weed, or at least two-thirds of the people in the building smoke weed.
21. She tells me she has got rid of her dog by moving him out of the area, because he was also causing issues.
22. I have listened carefully to what she says, but there is no apology at all coming from the defendant. She has broken the order, she has not apologised at all for breaking the order. She continues to break the order by her own admission by letting people come to the property, even though she knows that that is in breach of the order. In addition, I am satisfied, she has certainly told me she has cannabis at the property, although she asks me to accept she does not smoke it at the property. That said, I find that most unlikely. However, in any event, she is not meant to have cannabis at the property. She is not allowed to have drugs in her possession, so that is another breach of the order.
23. I am quite prepared to accept that the defendant has a lot of problems, but she has to remember that her neighbours are not social workers. They are not there to tolerate her behaviour when

she is drunk or under the influence of drugs. They are entitled to live peaceful lives and not be tormented by her and her friends. The order is in place.

24. As far as sentencing is concerned, I have to decide whether or not this is a case where I should impose a custodial sentence. The Sentencing Council offer guidance for breach of a criminal behaviour order which is very similar to the injunction in this case, and it is seen as the correct way of measuring whether or not to impose a custodial sentence.
25. The first thing one is looking at is culpability and then one also looks at the harm that is being caused. As far as culpability is concerned, I take account that although the initial incident was relatively minor, it was a deliberate breach immediately, or very soon after, the order was made, and really no excuse has been given for that at all. I put it in the B category for breach, because although it was minor, it was deliberate. As far as harm is concerned, I accept it is as the bottom of the ladder. The starting point therefore would be some sort of community order.
26. Turning to the second breach, which is the incident taking drugs, that is a deliberate breach. The harm is more serious because people can smell it, and it clearly demonstrates a continuing risk of anti-social and serious criminal behaviour, and also causes serious harm and distress if people are taking drugs at the property, especially those who have small or young children. I would put the culpability for that in category one, and therefore the starting point for that would be a custodial sentence.
27. As far as the third incident is concerned, that was a very serious breach in my view. There as foul language, threats being made, screaming and shouting outside the property, and the defendant cannot even remember that she did it. That would be culpability A, and the harm is obvious. The victim was, I believe, pregnant at the time and living on her own, and it was extremely scary, although I believe she had a friend with her at the time.
28. Again, the starting point would be a custodial sentence.
29. I then considered again what are the other factors. Is there anything else that are aggravating factors? As I have said, the first breach was committed soon after the order was made. This is more than one breach. There is targeting of Miss Phillips on the last occasion, who is somebody who is part of the reason why the order was made.
30. In terms of mitigation, I do not think there is any misunderstanding of what this order meant. Miss Hodgson is articulate and intelligent and she clearly understands what the orders were that were made.
31. There is no admission of breach in the sense of her accepting or pleading guilty, and indeed before me today there has been no apology for the breaches that have occurred.

32. What Miss Hodgson has told me, and I take account of, is she, although she has not got any actual evidence, I am quite satisfied she does have some mental health problems. She tells me she has been awarded PIP and she would only get that if there was evidence of mental health problems. She would not get the Personal Independence Payments if she was not, and she tells me it is for mental health reasons. I am prepared to accept that, and therefore there are some mitigating factors.
33. I am also satisfied that she suffers with depression and she has an alcohol addiction. Whether she has a drug addiction is not for me to say. I have not actually seen evidence of that, whereas there is some evidence from the documents she has produced towards me from CGL that she is known as someone who has an alcohol problem.
34. She has now got a community order, and she tells me, and I have no reason to dispute it, that she is engaging with probation and CGL, and those are factors which I do take into account.
35. Whilst I accept that her compliance with the order has not been good, I note that she does understand the order. She has told me she has sent her dog away in order to reduce that issue. I have made it clear to her as well today that it is zero-tolerance as far as visitors are concerned, but even with all that in mind, there is no question in my mind that the only order that the Court can make today is a custodial sentence. In relation to the first incident which is probably the least serious in one sense, the Court will order a 2-week custodial sentence. As far as the second incident, the breach is concerned which is the smoking of drugs, the Court will order a three-week custodial sentence to run consecutive to the first sentence. The final breach which the Court considers the most significant, a six-week custodial sentence, making a total of 11 weeks' custodial sentence in all.
36. The Court however is mindful of the fact that this is the first time that the defendant has been before the Court for a breach of the Court order and is persuaded that given the mental health problems and the fact that the defendant appears to be engaging with probation and CGL I will on this occasion suspend the sentence, providing that the defendant complies with the Court order completely in that there are no visitors, none at all, and no drugs in her property, and no shouting abuse at anybody, or contacting anybody to speak to them unless they are friends who wish to be spoken to by her.
37. Miss Hodgson, if you breach this order, and you come back to the Court because you have breached the injunction, not only is it likely that you will go to prison for the breach but this sentence will be activated and you will get an 11-week custodial sentence. Therefore you are very much in the last-chance saloon. I have suspended it because I have some sympathy for

your personal predicament and I recognise that you tell me you are trying to do something about your alcohol addiction. However, I am afraid at the end of the day, the Settle Group's other tenants and your neighbours are entitled to peace. If your behaviour or your friends behaviour is such that it is causing disturbance to other people, it is unacceptable.

End of Judgment.

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