

## TRANSCRIPT OF PROCEEDINGS

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Ref. F01BS253

### IN THE CIVIL AND FAMILY JUSTICE CENTRE AT BRISTOL

Sitting at Bristol Magistrates' Court  
Marlborough Street  
Bristol

Before HIS HONOUR JUDGE RALTON

IN THE MATTER OF

**ADVANCE HOUSING AND SUPPORT LIMITED (Claimant)**

-v-

**MOUSAH (Defendant)**

**MR C CHAMBERS** appeared on behalf of the Claimant  
**THE DEFENDANT** did not attend and was not represented

### JUDGMENT

**29<sup>th</sup> JUNE 2021, 14.33 – 14.57**  
**(FOR APPROVAL)**

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JUDGE RALTON:

1. This is the ex tempore judgment of the court upon the application by a landlord, Advance Housing and Support Limited, which is the claimant in this case, for the committal to prison of its tenant, Mr Martin Mousah, for breaching an injunction order made under the provisions of the Anti-social Behaviour, Crime and Policing Act 2014.
2. By way of background, the claimant first applied for the injunction order on 25 July 2019. The application was supported by a witness statement of its housing officer, Mr Simon Ridley, which was dated the same date, 25 July 2019. The property called Old Vicarage is divided up into eight flats. The claimant is the leaseholder of flat 1 and in turn, it has shared ownership with Mr Mousah. Flat 1, I gather, is the lower ground floor flat, which shares an entrance and communal area with flat 2.
3. The application was made because of Mr Mousah's behaviour, as described within Mr Ridley's statement in support. That behaviour included the playing of loud music in an antisocial way but also the main piece of behaviour which brought about the application was apparently Mr Mousa being abusive and threatening to contractors in July 2019.
4. The application came before the court on 25 July 2019 and a without notice injunction order was made. It is an extensive injunction order, which forbids Mr Mousah, whether by himself or instructing or encouraging any other person in using or threatening to use violence against any person with a right of whatever description to reside in the Old Vicarage or any lawful visitor to the Old Vicarage or to the claimant's employees, agents or contractors or anyone else who visits or engages in lawful activity in the locality of the property. Then it goes on, forbidding Mr Mousah from using abusive sexual or offensive language towards or that may be heard by any categories of persons described above. It forbids Mr Mousah from intimidating or acting in an intimidating manner towards any of the categories of person set out above. Harassing or attempting to harass, be it physically or verbally, any of the categories of person in clause 1A et cetera above, and then causing nuisance, annoyance or distress to any of the categories of person above.
5. A power of arrest was attached. It could, of course, only be attached to the violence/harm provisions. The without notice order with a return date was served on 29 July 2019. On the return date, 16 August 2019, Mr Mousah did not attend. There was a slight modification to the order which we need not trouble ourselves today.
6. The claimant observed that the judge's order had not stopped Mr Mousah from his behaviour and on 16 July 2020, it made an application to extend the injunction order,

supported by a second statement of Mr Ridley made on 16 July 2020. The focus of the application was on the antisocial playing by Mr Mousah of loud music. Indeed, Mr Ridley made a third statement of 20 July 2020, speaking of further incidents of loud music.

7. Service took place on 19 July of last year. The injunction order was extended by DDJ Mather on 22 July and that order was served on 30 July 2020. Provision was made for a further, as it were, return date. On 12 August 2020, Mr Ridley made a fourth statement. Again, further incidents of noise are alleged. The hearing came before DJ Rowe on 24 August of last year and Mr Mousah did not attend. The claimant explained in their evidence at that time that they did not want to bring contempt proceedings but wanted to bring a further order by way of time extension to contain Mr Mousah.

8. Unfortunately, the claimant finds itself again back before the court seeking orders, this time, by way of a contempt application made under the new part 81 of the Civil Procedure Rules 1998 on the new form being the N600. The application was made on 6 May 2021. It has been served on Mr Mousah and I am told that there is a certificate of service and he was served on Saturday 19 June of this year, which is a week and a bit ago.

9. I am also reassured that Mr Mousah knows about this hearing by reason of an email to which I shall refer in a moment. Thus, this hearing takes place today and I'm assisted by Mr Christopher Chambers, counsel for the claimant but there is no Mr Mousah. Therefore, the first question which must arise is whether or not the court proceeds today in the absence of Mr Mousah, given that these are contempt proceedings, potentially involving Mr Mousah being deprived of his liberty.

10. Today is 29 June. Late yesterday, the court received an email from a Mr Michael Turpentine of Avon and Somerset Police, and he was writing with respect to Mr Mousah of 1 The Old Vicarage. Mr Michael Turpentine describes himself as the police offender manager for Mr Mousah. He says within his email, "I have spoken to Mr Mousah about recent events and he mentioned that he was due to appear at the Civil Justice Courts tomorrow, 29 June 2021 in relation to a breach of his housing injunction, which relates to his home address, 1 The Old Vicarage."

11. Pausing there, that therefore reassures me that this hearing comes as no surprise to Mr Mousah. The email then goes on to say on behalf of Mr Mousah, "Mr Mousah has asked me to contact the court on his behalf as he does not have access to internet, to inform the court that he will not be able to attend the hearing tomorrow due to health problems and complications and stress related to ongoing matters with Children's Services, relating to his young son."

12. I do not have any more detail than that. In particular, whilst I am aware from the evidence generally, that Mr Mousah has health difficulties, I am not privy to the specific health problems that he says he has at the moment which prevent him from coming to court. I also have no idea what it is about the Social Services intervention with his son that means he cannot attend court. Stress itself is not a reason not to attend court.

13. Given the paucity of the evidence in support of adjourning the case on an informal application, I have made the decision to proceed today to deal with breach but in order to give Mr Mousah a final opportunity to participate, I will not sentence today but I will sentence at a later hearing. I will give the date today, later on. Then Mr Mousah will have the opportunity to attend court and the opportunity to speak up in mitigation on his behalf or indeed, the aid of an advocate if he chooses to obtain legal representation.

14. That then takes me to the matter of the breaches. There is a lot of them. They have been formulated into a schedule. There are 45 incidents running in the schedule from 7 March 2020 through to 26 April 2021. They are all of the same nature, playing of music excessively loud and at antisocial times, in particular in the early hours.

15. So far as the evidence is concerned, we commence with the affidavit of Mr Ridley, sworn on 28 April 2021. Inevitably, as he is the housing officer, his part is assembling evidence and information given to him in support of the allegations. Mr Ridley has attended court, been affirmed and has confirmed his affidavit.

16. Mrs Sue Burchett also occupies a flat within the Old Vicarage. She is in flat 9. She has made an affidavit, sworn on 29 April 2021. She provides more generalised evidence but she speaks clearly and coherently of unacceptable noisy music being played in the early hours. Mrs Burchett has attended court today. She has been affirmed and she has confirmed her affidavit and she has also said the problem is ongoing.

17. There is then hearsay evidence from two individuals described as resident A and resident B. Perhaps unsurprisingly, they are not here to give evidence. I remind myself that the breaches must be proven to the criminal standard. Namely, I must be satisfied that I am sure that Mr Mousah is in breach of the injunction order made against him.

18. Of course, I have no evidence against the things what are alleged by the claimant. I have no evidence from Mr Mousah or on his behalf. Of course, there is no obligation on Mr Mousah to file and serve any written evidence and I simply point out that all of the evidence the court has derives from the claimant's side.

19. I have no reason from the evidence to be suspicious of any of the evidence that has been provided to me. For example, in these sorts of cases, sometimes there is an element of

local feud or vendetta going on. It may be the case that in fact, the apparent victim is not behaving any better, really than the apparent perpetrator. That does not seem to be the situation here. There is straightforward evidence of noise nuisance.

20. Indeed, in I think earlier evidence, it has been said against Mr Mousah that it is not even as if he has a hi-fi or music playback machine which is just turned up too loud within the flat but speakers and such like have been arranged in such a way to push the music outside.

21. I am satisfied that I am sure of two things. Firstly, that the music has been played as described in the evidence and the features in the Scott Schedule. Secondly, that that amounts to a breach of the injunction order. It also seems to me to be an intolerable situation which must stop.

22. As I indicated earlier, I am going to make those findings but I am not going to sentence today and therefore, the balance of the application is adjourned to a date that we will set in a moment for the purposes of sentencing. The order, amongst other things, will need to include an undertaking to file the certificate of service and there must, of course, be an expedited transcript of this judgment at public expense.

23. The notice of the next hearing will also need to be personally served upon Mr Mousah. It would probably do no harm at all if the order explains that the purpose of the next hearing is to consider sentence and to give Mr Mousah the opportunity to speak in mitigation on his own behalf or via Legal representation if he so wishes.

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