

IN THE COUNTY COURT AT WEST CUMBRIA

Case No: G00WH068

Hall Park
Ramsay Brow
Workington
CA14 4AS

Monday, 26th October 2020

Before:
HIS HONOUR JUDGE DODD

B E T W E E N:

HOME GROUP LIMITED

and

FLETCHER

UNKNOWN COUNSEL appeared on behalf of the Applicant
UNKNOWN COUNSEL appeared on behalf of the Respondent

JUDGMENT
(For Approval)

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HHJ DODD:

1. This is an application for an order for committal to prison brought by Home Group Limited against Mr Liam Fletcher who is one of their tenants. The application is based upon allegations of breaches over a short period in the middle of this year of an interim injunction regulating Mr Fletcher's behaviour at the property he lets from Home Group.
2. The application has been adjourned once to allow Mr Fletcher the opportunity to obtain legal advice/representation. Today Mr Fletcher is legally represented (as is the claimant) and with the benefit of that representation has signed a schedule of admissions, which I shall read:
 - (1) He was subject to the terms of an interim injunction imposed on 9 July 2020 and made final on 21 July 2020.
 - (2) On 11 July 2020, a number of males attended his home address uninvited and gained entry. The defendant admits that the incident culminated in him engaging in a fight with the males outside the property in the garden which resulted in him sustaining injuries and the police being called. The defendant admits his behaviour on 11 July constitutes a breach of the injunction.
 - (3) On 14 July 2020, there were a number of people present at the address including the defendant. The defendant admits that the behaviour degenerated into disorderly conduct and culminated in a physical altercation occurring within the front garden. The defendant admits that this constitutes a breach of the injunction.
3. The factual background I have been provided with is extremely brief but includes the inevitable observation that the reason there was an application for an injunction at all was the occurrence of similar behaviour earlier in the year.
4. As to the two occasions upon which the defendant admits his behaviour constituted breach, it is said on his behalf that on each occasion there was a social gathering at the property. Mr Fletcher had guests, but they were added to through no invitation of his and there was a resulting fight in the garden; the police attended. That is an admission to something which is on the borderline of there being some reasonable excuse.
5. The second occasion is slightly more serious and is put this way on his behalf: Mr Fletcher has limited recollection of the occasion; there was a party and there was another fight in the garden. That is not anywhere near a reasonable excuse.
6. I am invited by way of disposal to impose a fine on Mr Fletcher or if I find that the custody threshold is passed to suspend any custodial term: I indicated in the course of submissions that unless I was told something surprising about this case that I would not be imposing an immediate custodial sentence.

7. The background to the events of 11 and 14 July is a sad one, although there is promise for the future. Mr Fletcher, I am told by his counsel, had problems with drugs when he was living in Brighton. He made significant efforts to come off them involving methadone. He even came eventually off methadone but then with lockdown came a removal of (or the making it considerably more difficult to access) his usual support for his underlying PTSD. He self-medicated, as they say, by drinking heavily.
8. He apologises through his counsel and indicates remorse, and I can take that seriously because it is accepted by the claimant that since 14 July there has not been no repeat of this sort of conduct on the part of the defendant. On 14th July he went back to Brighton to “get his head together” (as it was put on his behalf). However he returned to this part of world at the beginning of August. Therefore, during August and September and most of October there was no recurrence: in my judgment that is Mr Fletcher’s best point.
9. I am happy to note his personal life is much improved also in terms of spending much more time with his children and the children's mother. He is not using drugs or drug replacements and he only occasionally uses alcohol and that only socially, not for its effect.
10. I take as a route through to a decision as to disposal the Sentencing Council's guidelines on breach of anti-social behaviour orders. The first step determining the offence category. It was contended on Mr Fletcher's behalf that these breaches were Culpability C, minor breach, or breach just short of reasonable excuse. That is true of the first allegation but not, in my judgement, the second.
11. It is not a very serious or persistent breach. It is a deliberate breach, however, and certainly in the case of the second allegation [falls into the gap between A and C.
12. Next, what level of harm was caused or being at risk of caused? Category 1 - very serious harm or distress or a continuing risk of serious antisocial behaviour ? Clearly not. Category 3, breach causing little or no harm or distress, or a breach demonstrating a continuing risk of minor criminal and/or antisocial behaviour.
13. At the time, that is what the breach demonstrated: a continuing risk of minor criminal or antisocial behaviour, parties, and fights in the garden. They are not fights that go into the street. Passers-by are not assaulted. There was not widespread property damage or anything of that sort. It is thoroughly unpleasant and unacceptable that neighbours had to put up with this sort of thing. It is certainly worrying, more than just a nuisance but it is not very serious harm or distress, and it is not serious criminal behaviour.
14. Therefore, on this analysis, this is a B3, which means the starting point is high-level

community order. The category range is low-level community order up to 26 weeks custody or of course there is the option of a fine. Mr Fletcher is in receipt of benefits, including benefits he is paid in respect of a disability.

15. These breaches were sufficiently serious and sufficiently close together that the effect on the neighbours must have been significant. The custody threshold is met and passed. A fine would not, in my judgement, reflect the gravity of what occurred.
16. I have not been told that Mr Fletcher has been in any equivalent trouble previously. Having considered the effect on others, it is, as things are going at the moment, not likely to be repeated. I take that from his behaviour since then. His previous behaviour has not been spotless: it was sufficient to justify granting an injunction.
17. The custodial sentence I am going to pass is going to be suspended. Mr Fletcher will not be imprisoned today. The sentence will be suspended on condition that he commits no further breach of the terms of the injunction.
18. However, on breach of the terms of the suspension he will have to serve the sentence I am about to pass as well as any further sentence which I or another judge might pass for the events giving rise to a breach. The appropriate sentence is six weeks' custody. The sentence will be suspended for a period of one year, on the basis that if there has been no breach after a year and it is extremely unlikely that there will be a breach at all.

End of Judgment

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291-299 Borough High Street, London SE1 1JG
Tel: 020 7269 0370
legal@ubiquis.com

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