

General Form of Judgment or Order

In the County Court at Central London	
Claim Number	G01CL259
Date	21 September 2020



MAYOR AND BURGESSES OF THE LONDON BOROUGH OF RICHMOND	1st Claimant Ref L/RD/139/23
HARRISON GOLDSTEIN	1st Defendant Ref

Before Her Honour Judge Baucher sitting at the County Court at Central London, Central London, R. C. J, Thomas More Building, Royal Courts Of Justice, Strand, London, WC2A 2LL.

IT IS ORDERED THAT:

1. This is my judgment. It also stands as a statement pursuant to paragraph 13 of Practice Direction: Committal for Contempt of Court- Open Court.
2. On 18th August 2020 HHJ Letham made an Injunction order forbidding the defendant from 1) entering the London Borough of Richmond as marked with a red boundary on the attached map, at any time and for any purpose whatsoever save for: attendance at his GP for an appointment which has been arranged in advance, or; b. Attendance at a police station if he is escorted there by a police officer. 2) A power of arrest was attached to the order.
3. The order was imposed after clear evidence of the defendant's anti-social behaviour including defecating in public, being found in possession of drug paraphernalia, chasing after people and intimidating members of the public including children by approaching people at close face- face contact at a time of Covid19.
4. The injunction was ordered to remain in force until 17th August 2021. The injunction was served on the defendant in the presence of PC Holland on the 5th September 2020.
5. On the 15th September at 13.30hrs the police received a telephone call that there was a male causing a nuisance outside Iceland, High Street Whitton. On attendance the Defendant was arrested by PC Holland whereupon the defendant asked: "for one more chance".
6. The defendant was brought to court on the 16th September and having been informed as to his legal rights admitted breach of the injunction. The defendant had earlier declined legal advice but I persuaded him to obtain legal assistance for the purpose of mitigation. I accordingly adjourned sentencing until today. However the defendant attended today and advised that he had not been able to secure representation as he had been unable to

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make the number of telephone calls required. I find that to the contrary this is part and parcel of the defendants' consistent failings to engage with professional bodies. Counsel, Ms Bhogal, for the claimant reminded the court of attempts the claimant had made set out in a statement from Mr Lucas to engage and assist the defendant. Indeed, the claimant provided accommodation pursuant to Covid19 to stop the defendant being homeless but it seems the defendant sub-let the property preferring to be street homeless.

7. The statement from PC Holland dated 15th September states that the defendant (who is well known to him) was seen on the High Street, a prohibited area, on 8th September but disappeared. PC Holland then saw the defendant again in a prohibited area on the 14th September. PC Holland told the defendant on that date he was banned from the area and if he returned he would be arrested for breaching the Injunction order. I find that to be important evidence given that the defendant said today that he initially thought that he could be on the High Street. The defendant was told in clear terms by PC Holland and could not have been in any doubt. Indeed his request for one last chance flies in the face of his alleged misunderstanding.

8. I have had regard to a number of legal authorities; *Solihull v Willoughby* [2013]EWCA Civ 699, *Leicester CC v Lewis* (2001)33 HLR 37 CA. I have also had regard to *Hale v Tanner* [2000] 1WLR 2377 to which the court referred in *Willoughby* and the recent case of *Centek Holdings Ltd v Tristram Giles* [2020]EWHC 1682 (Ch).

9. Ms Bhogal referred me to the old sentencing guidelines for ASBOs. I have applied the Sentencing Council Guidelines for breach of criminal behaviour order by analogy. However, I have taken into account that the maximum sentence for breach of a criminal behaviour order is five years whereas the maximum sentence for contempt of court is two years. This suggests that sentences for contempt involving breach of an anti-social behaviour injunction will tend to be lower than for breach of a criminal behaviour order. I find support for that in principle five as set out by Hale LJ in *Hale v Tanner*.

10. I am satisfied that this a Culpability B Category 2 matter given that the defendant received a clear warning the day before his breach and yet totally ignored that warning and blatantly breached the injunction. It is also evident that the defendant also ignored the injunction on the 8th September. Other aggravating factors are that the breach occurred within a mere few days of being served with the injunction order. In mitigation I give credit for the defendant's admittance of the breach and that he said sorry today. I also know that the defendant is without fixed abode (through personal choice) and is a drug user and openly shoots drugs. He told me he has been given a prescription whilst remanded and would ask his GP for one if released.

11. I have had regard to the Sentencing Council's guideline in criminal courts on community and custodial sentences when considering whether a suspended sentence would be appropriate. Suspending a sentence may help in meeting two of the objectives of sentencing to secure future compliance with the court's order and to secure the defendant's rehabilitation.

12. I am satisfied that the breach crosses the custody threshold. I have considered whether I can suspend the sentence but given the wanton breach of the order in such a short period of time from its service and the failure to act in accordance with PC Holland's clear warning I consider that an immediate custodial sentence of the shortest term commensurate with the seriousness of the offence is necessary. The defendant has so far been incapable of obeying the injunction put in place to protect the public from his anti-social behaviour particularly at a time of national crisis and I do not consider that a suspended sentence will have the necessary deterrent effect.

13. The defendant is sentenced to an immediate custodial sentence of 8 weeks.

14. The defendant will serve one half of that period in custody in accordance with the Criminal Justice Act 2003. The days the defendant has been remanded, which I calculate to be 6 days will be deducted from his sentence. If the days are inaccurate then I will allow the court order to be amended administratively without a further court hearing.

Dated 21 September 2020

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