

General Form of Judgment or Order

In the County Court at
Central London

Claim Number E00UB301

Date 22 July 2020



LONDON BOROUGH OF EALING	1st Claimant Ref LEGAL/KR/00675375
STEPHEN WILKINS	1st Defendant Ref

At the County Court at Central London, Central London, R. C. J, Thomas More Building, Royal Courts Of Justice, Strand, London, WC2A 2LL.

Before:

HIS HONOUR JUDGE HELLMAN

BETWEEN:-

LONDON BOROUGH OF EALING
Claimant

-and-

STEPHEN WILKINS
Defendant

Ms Christi Scarborough appeared for the Claimant

The Defendant did not appear and was not represented

JUDGMENT
In Court

This judgment is Crown Copyright

1. This judgment is given pursuant to paragraph 13 of Practice Direction: Committal for Contempt of Court – Open Court.

2. In relation to Case No: E00UB301 on 22 July 2020 at the County Court at Central London, I, HHJ Hellman, sentence Stephen Wilkins to 12 weeks imprisonment for contempt of court. The sentence is suspended until 4 pm on 2 September 2020. The basis of that sentence is as follows.

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3. On 9 March 2018, DDJ Shelton made an injunction order (“the Injunction”) against Mr Wilkins under section 1 of the Anti-social Behaviour, Crime and Policing Act 2014, with a power of arrest attached.
4. On 9 May 2019, HHJ Backhouse found that Mr Wilkins had breached the Injunction on 9 March 2018, 19 April 2019, 16 May 2018, and 2 May 2019. She imposed a sentence of 5 weeks imprisonment, suspended until 9 May 2020 on condition that Mr Wilkins complied with the terms of the Injunction.
5. On 20 June 2019, DJ Ahmed found that Mr Wilkins breached the Injunction on a date on or before 25 May 2019, which I infer occurred after he was sentenced on 2 May 2019, and imposed an immediate sentence of 12 weeks imprisonment.
6. On 2 September 2019, HHJ Backhouse varied the Injunction. I do not know when the Injunction as originally made was served on Mr Wilkins, but the Injunction as varied was served on him on 24 June 2020.
7. Paragraph 1 of the Injunction prohibits Mr Wilkins from entering or being in the area of Southall which was outlined in bold on a map attached to the Injunction (“the exclusion zone”).
8. Paragraph 5 of the Injunction prohibits Mr Wilkins from being in possession of any drugs or drugs paraphernalia anywhere in the exclusion zone.
9. On 9 July 2020 at 15.10 hours Mr Wilkins was stopped by police officers while within the exclusion zone and searched on suspicion of being in possession of drugs as he was in the company of a known class A drug user. He was searched under section 23 of the Misuse of Drugs Act 1971 and found to be in possession of numerous lighters and a glass crack pipe. No drugs were found on him.
10. Mr Wilkins was arrested for breach of the Injunction and brought to court the next day. He was bailed to attend court on 17 July 2020, having been advised of his right to free legal representation and supplied with a schedule setting out the alleged breaches of paragraphs 1 and 5 of the Injunction. The Claimant, LB Ealing, which was represented by counsel, indicated that they sought an order for committal.
11. Mr Wilkins failed to attend court on 17 July 2020. The Court was satisfied that he was aware of the hearing and that he knew that he had to attend. It considered the allegations that he had breached paragraphs 1 and 5 of the Injunction and found both breaches proved. Consequently, Mr Wilkins was liable for contempt of court. The Court adjourned sentencing until 22 July 2020, and directed that the LB Ealing serve Mr Wilkins at the address which he had given to the court with a copy of the order which the court had made that day. I have seen a certificate of service signed by a police officer stating that he handed a copy of the order to Mr Wilkins’ partner at that address. I am therefore satisfied that Mr Wilkins has been served with an order giving notice of today’s hearing. I am further satisfied that it is fair to proceed to sentence him in his absence as he has chosen not to engage with these committal proceedings.
12. I have applied the Sentencing Council guidelines for breach of a 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 imprisonment, whereas the maximum sentence for contempt of court is two years imprisonment. 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.
13. I find support for this position in principle 5 of the sentencing principles stated by Hale LJ (as she then was) in *Hale v Tanner* [2000] 1 WLR 2377. However the following principles at 2381 B – D are all relevant:
 - “3) If imprisonment is appropriate, the length of the committal should be decided without reference to whether or not it is to be suspended. A longer period of committal is not justified because its sting is removed by virtue of its suspension.
 - (4) The length of the committal has to depend upon the court’s objectives. There are two objectives always in contempt of court proceedings. One is to mark the court’s disapproval of the disobedience to its order. The other

is to secure compliance with that order in the future. Thus, the seriousness of what has taken place is to be viewed in that light as well as for its own intrinsic gravity.

(5) The length of the committal has to bear some reasonable relationship to the maximum of two years which is available.

(6) Suspension is possible in a much wider range of circumstances than it is in criminal cases. It does not have to be the exceptional case. Indeed, it is usually the first way of attempting to secure compliance with the court's order.

(7) The length of the suspension requires separate consideration, although it is often appropriate for it to be linked to

continued compliance with the order underlying the committal.

(8) Of course, the court has to bear in mind the context. This may be aggravating or mitigating. ...”

14. This was a deliberate breach falling within culpability band B in the guidelines. The level of harm fell within category 2 in the guidelines. On the one hand, the breach caused little or no harm or distress. Further, no drugs were found on Mr Wilkins. On the other, Mr Wilkins' presence in Southall demonstrates a continuing risk of the behaviour which the exclusion zone was imposed to prevent, specifically that he will come into contact with and threaten or harass several people resident within the exclusion zone who are named in the Injunction and whom the Injunction was expressly intended to protect. The possession of a crack pipe indicates a continued risk that Mr Wilkins will take class A drugs. There is therefore a continuing risk of criminal and/or anti-social behaviour which cannot be described as minor.

15. The starting point under the guidelines for sentencing a breach falling within band B and category 2 is 12 weeks custody.

16. The exacerbating factors are as follows. This was the sixth occasion on which Mr Wilkins has been found to have breached the Injunction. It is the third occasion on which he has been brought before the Court for breach of the Injunction. The breach occurred less than 1 month after he was served with the Injunction as varied.

17. The mitigating factors are as follows. This was the first breach of the Injunction for more than one year. It was the first breach of the Injunction after it was varied. I also take into account that Mr Wilkins is a vulnerable person in that he has a history of drug dependency and has no fixed abode.

18. I find that the contempt is sufficiently serious to require a custodial sentence. 12 weeks imprisonment is the appropriate figure. However, the sentence can properly be suspended. The suspension will run for the duration of the Injunction.

Dated 22 July 2020

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Stephen Wilkins
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