

In the County Court at Newcastle upon Tyne

Case Number F01NE065

Between :

Claimant's Name

The Council of the City of Newcastle upon Tyne

and

Defendant's Name

Christopher Sean Forbes

**Short written judgment made at the conclusion of Committal Proceedings
conducted in public at the Newcastle upon Tyne County Court on 10th July 2019**

1. At a hearing on 11th June 2019 DDJ Pescod made a without notice injunction order in favour of the Claimant against the defendant under the provisions of sections 1,4,6 and 7 of the Anti Social Behaviour Crime and Policing Act 2014 (ASBCPA) which was expressed to last until 11th June 2021. A power of arrest was added to paragraphs 1-4 of the injunction under section 4 ASBCPA which was also expressed to last until the same date.
2. The terms of the injunction provided that “1) Christopher Sean Forbes is forbidden (whether by himself or by instructing or encouraging any other person) from threatening or using violence towards or acting in a manner which causes or is capable of causing a nuisance or annoyance to :-.... (c) Any person residing , living or working within 100 metres of Mostyn Green, NE3 3AL”.
3. I am satisfied that the injunction was served personally on the defendant on 14th June 2019 at 18.30 as shown by the certificate of service on the court file.
4. The Defendant failed to attend at the return date of 24th June 2019 and the injunction continued in force without amendment.
5. On 26th June 2019 the Defendant was arrested at his flat at 65 Mostyn Green for breach of Paragraph 1(c) of the injunction for playing music loudly and shouting within 65 Mostyn Green causing a nuisance or annoyance to John Moran, a person residing within 100 metres of Mostyn Green. He appeared before me on 27th June 2019 represented by counsel and asked for an adjournment to obtain legal advice. I granted him bail to 10th July 2019 and adjourned the matter to that date. Before he left court I recited the terms of the injunction to him and told him that I expected him strictly to comply with the terms of the injunction.
6. On 1st July 2019 the Defendant was arrested once more for breach of paragraph 1(c) for carrying a door and frame into the communal area of the Mostyn Green flats and banging and shouting loudly that he was going to Barricade himself in. In so doing it was alleged that he was causing a nuisance or annoyance to a person identified as witness 1 in the statement of PC3007 Jackson dated 1st July 2019. He appeared before DJ Phillips on 2nd July 2019 who adjourned the matter and granted bail to the following day for the purpose of obtaining legal advice. He subsequently extended this bail until today and adjourned that matter until today.
7. The circumstances of the first alleged breach are set out in the statements of PC 2028 Birch, Sgt 44 Urquart and John Moran dated 26th June 2019 and the second breach in the statements of PC 3007 Jackson and PC6 Leonard both

dated 1st July 2019 and I have read and considered those written statements. I have not heard any oral evidence.

8. The defendant appears today in prison by video link having been convicted of possessing a bladed article and sentenced to 21 weeks imprisonment between the date of the last injunction hearing and today. I have indicated at the outset of the hearing today that in the event that the breaches alleged are proved or admitted it is not my intention to impose a custodial sentence which would have the effect of extending the time the Defendant would spend in custody over that which has already been imposed by the criminal court for the unrelated matter of possession of the bladed article.
9. The Claimant is represented today by Solicitor, Miss Davidson and the Defendant by Counsel, Miss Towers.
10. The Defendant admits both breaches alleged against him.
11. The representative of the Claimant suggests that the Sentencing Guidelines Council guideline issued for offences under the Crime and Disorder Act 1988 ought to provide guidance the court in a case of this type and that this breach ought to be regarded as one involving a lesser degree of harassment, alarm or distress, where such harm was intended or would have been likely if the offender had not been apprehended. She suggests that the starting point should be 6 weeks custody with a sentencing range of community order up to 26 weeks custody.
12. Counsel for the Defendant mitigates on the basis that, had it not been for the fact that the Defendant could not pay a fine and that he was serving a freshly imposed 21 week sentence, the appropriate order would be within the band appropriate for situations where no harassment, alarm or distress was actually caused by the breach and none was intended by the offender and this would be reflected by a punishment within the starting point of Community Order and a range of a Band B fine to community order.
13. I remind myself that the guidelines were issued for Criminal Offending for an offence which carries a maximum of 5 years of imprisonment whereas I am dealing with a Civil Contempt in which a maximum of 2 years applies.
14. I take the view that the breaches were towards the bottom end of seriousness for matters of this type but that in relation to the second breach it took place only 3 days after I had warned the defendant of the seriousness of his position and had read out in court the relevant terms he was expected to comply with. Furthermore, these were two breaches in quick succession and evidence before me that the Defendant's behaviour was causing nuisance and annoyance to his neighbours and so affected a wider community than simply an individual. The injunction itself had also been granted following worrying behaviour affecting employees of the Claimant and incidents of concern around the Defendant's occupation of his property.
15. I have concluded that the matters admitted are sufficiently serious to pass the custody threshold, although they are towards the bottom of the range of appropriate sentences and certainly below the 6 weeks contended for by the Claimant. I have considered the time spent by the defendant while in police custody which amounts to 2 days. As no remission is allowed for such periods following committal for civil contempt I give credit for them in determining the sentence by deducting 4 days from the period imposed. I also give credit for the Defendant's admissions today. I have considered whether any committal should be suspended but have concluded that it should not. I wish to see the defendant eventually released from his criminal sentence and this order with no continuing liability hanging over him although the injunction will remain in force for the remainder of its original duration.

16. Taking into account the matters above and giving credit for the admissions made by the Defendant I consider that a sentence of 20 days imprisonment in total would be appropriate for these breaches. After deducting 4 days for the time spent in police custody I sentence the Defendant Christopher Sean Forbes to 16 days imprisonment concurrent on each of the two breaches. This will also be concurrent with any sentence he is already serving for the Criminal proceedings and so will not add to his overall time in custody.
17. I make no order as to costs, none being sought against the Defendant.

District Judge Coulthard

10th July 2019

The County Court at Newcastle upon Tyne