

IN THE BROMLEY COUNTY COURT

Case No: G00BR641

College Road,
Bromley BR1 3PX

Date: Tuesday, 22nd December 2020

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Before:

DEPUTY DISTRICT JUDGE PAUL

Between:

PEABODY TRUST

Claimant

- and -

OFFOMAH

Defendant

MR KING for the **Claimant**
MISS MEREDITH for the **Defendant**

DRAFT JUDGMENT

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DEPUTY DISTRICT JUDGE PAUL:

1. This is case No G00BR641 Peabody Trust v Mr Offomah. Today is 22nd December at about 11.30 and I am about to sentence in committal proceedings that have been brought by the claimant against the defendant.

2. The background to this has been provided to me today by Mr King and is also provided for in a statement prepared by the (inaudible) officer that in April of this year complaints were being made about Mr Offomah's occupation of his one-bedroom flat at Beverage Court, Saunders Way in SE28 in relation to groups of people attending and noise during the day and night. The problem was exacerbated so far as other residents were concerned by the fact that certainly as of April of this year we were in the midst of a Covid pandemic and everybody has been made aware through publicity nationally and locally of the importance of social distancing and respecting the advice of the health agencies so as to avoid the risk of Covid being spread. Today's and yesterday's most recent news developments simply highlight how serious a problem that is.

3. Against the backdrop of what I have just said, the claimants brought an application for an injunction, which was subsequently granted on 16th April 2020 by Her Honour Judge Major in this court, which provided for the standard terms of an antisocial behaviour order in relation to behaviour causing a nuisance, the selling or producing of any illegal drugs, excessive noise, and the presence of visitors. In this case, perhaps unusually, there was a complete prohibition made on the presence of visitors either entering or remaining at the address at Beverage Court.

4. On 19th November the address was visited by the police, and I am told that a number of fixed penalty notices were issued. On 11th December 2020 there was another reported breach, and on 15th December the police – that day it appears having seen Mr Offomah in a vehicle – followed him to his address, where at the address they found a young lady, who I am now told was his girlfriend and Judge Brooks when he dealt with the case last week was told was there because she had mental health problems. Indeed, it was also said before Judge Brooks last week that the presence of another male on 11th December was also due to mental health problems.
5. The breaches of 11th December 2020 and 15th December 2020 led to the defendant being arrested and produced before Judge Brooks on 16th December. He then made an order having dealt with a number of matters, including, most importantly, the defendant having accepted and effectively pleaded guilty to the allegations that were made against him. The matter was then adjourned to today's date, but in the interim the defendant was remanded in custody.
6. Today the claimant, being represented by Mr King, has been present throughout these proceedings, and the defendant is being represented by Miss Meredith. Agreement was reached between the parties that rather than further adjourning this case until 8th February, which was the date that was previously fixed by Judge Brooks for sentencing, both parties agreed that it would be better to proceed to sentencing today. Mr King indicated that there would be no further evidence provided, and although that was a requirement set out in the order of Judge Brooks Miss Meredith does not seek to rely on it as a

reason for saying that the sentencing cannot proceed today. Neither is there any further evidence submitted by Mr Offomah, and Miss Meredith does not ask for more time for that evidence to be prepared. In other words, therefore, both parties are content for me to proceed to deal by way of sentence in respect of the two breaches of the order of 16th April 2020, those breaches having occurred on 11th December and 15th December, as outlined a moment ago.

7. Mr King has drawn my attention to the Sentencing Guidelines which provide for various ranges of culpability from persistent at the highest end to minor, being just the wrong side of reasonable excuse at the lower end, and in relation to harm caused the higher element being that of very serious antisocial behaviour or harm associated with that, and at the lower end little or no risk of actual distress caused. Mr King has submitted that Mr Offomah's behaviour breached the highest levels of the culpability and harm guidelines in that it was persistent, and also particularly given the context and background to the injunction having been brought in the first place, it was capable of causing and indeed probably did or could have caused harm.
8. Miss Meredith has made a number of what I consider to be very helpful submissions. The first is that having regard to the nature of the original injunction which provided a list of forms of behaviour, she said that that which prohibits the presence of the visitors at this flat on any view has to constitute the least serious element of the order, because having someone in your flat is a lot less serious than selling drugs, or at least consuming drugs either in the flat or anywhere in the vicinity. Furthermore, she says that although there is

clearly a background I am sentencing today in relation to two breaches, both of which on the evidence before me – and I use that word advisedly in the sense that I have not heard evidence on oath or had detailed witness statements from the defendant or anybody else who was present – involved people who it was said were there for a good and valid reason.

9. She submits, therefore, that the culpability here is not persistent in the sense that it involves the breach of the injunction involving behaviour which by itself is very serious, for example the selling of drugs or making a very loud noise so as to cause, deliberately or otherwise, distress to neighbours; it is the mere presence of 2 people on 2 separate occasions. She says that is not evidence of persistent breaches, but does not obviously seek to say that they are not breaches and that in their own way being a breach nevertheless are still serious.
10. In relation to the harm caused, she submits that in truth very little harm was caused here, because of course there is no suggestion that the presence of the visitors to the flat at that time was in any way linked to any other antisocial behaviour, for example the taking of drugs or the making of a very loud noise, and although there may have been a history certainly in relation to noise going back to the early days of the claimant's concern about the defendant's conduct, those were not matters that are proved to be part of the two breaches. She says, therefore, that the matter is to be treated at the lower level.
11. I have considered those submissions alongside Mr King's in relation to the Sentencing Guidelines and I am persuaded by Miss Meredith that this is not behaviour that either breaches the highest level of culpability or indeed in

relation to the highest level of harm. Nevertheless, they were breaches and part of the seriousness of it can be deduced from the fact that not only was Mr Affomah aware of an injunction prohibiting him from having people at his flat, there had been on a previous occasion penalty notices issued to people who were present at his flat. Reference has been made to a fob which shows a very high level of access. Again that is a background factor. It is not direct evidence before me today to prove any aggravating feature in relation to these two breaches. The breaches are discrete and have to be dealt with on their own.

12. I am told from the Sentencing Guidelines, and having now had the chance to consider them, that insofar as Miss Meredith is concerned this could be dealt with at this level by way of a community penalty or a fine. She says that her client Mr Offomah is currently studying Business Studies at University of East London, and like everybody else he is having a difficult time in these particularly testing conditions. She concedes that were I to consider that the level of the behaviour exceeded the very minor level, then it would be possible to consider a sentence of between 12 weeks and one year. In my view, the seriousness of these two breaches can be dealt with today by passing a sentence which in effect meets the penalty that Mr Offomah has experienced as a result of having been detained since 16th February, and effectively therefore having now spent 6 days in custody. In my view, the sensible way of dealing with this, bearing in mind that it must have been quite a sharp learning curve for Mr Offomah to suddenly find himself in custody, is that he has in effect received a punishment by reason of the deprivation of his liberty for the last 6 days, which aptly meets the seriousness of the breaches that he

committed in this case. Therefore, the sentence I pass is the sentence that effectively is equivalent to that of the time served. I am looking at the custody officer to determine whether or not that provides sufficient detail for you to report to Hightown that effectively he is liable to be released forthwith.

13. CUSTODY OFFICER: Yes, that's fine.
 14. DEPUTY DISTRICT JUDGE PAUL: Thank you all very much.
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