

**IN THE BRISTOL MAGISTRATES' COURT**

Marlborough Street,  
Bristol BS1 3NU

**Date: Wednesday, 27<sup>th</sup> January 2021**

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**Before:**

**HIS HONOUR JUDGE COTTER QC**

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**Between:**

**SOUTH SOMERSET DISTRICT COUNCIL**  
**- and -**  
**MULLEY**

**Claimant**

**Defendant**

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**MR R DENFORD** for the **Claimant**  
**MR RICHARDSON** for the **Defendant**

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**JUDGMENT**

**(Remote hearing)**

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**JUDGE COTTER QC :**

1. This matter comes before me for the determination of penalty for 5 admitted breaches of an order made on 4<sup>th</sup> September 2020 by District Judge Taylor (there was a prior *ex parte* interim injunction order made on 17<sup>th</sup> July 2020) . Ms Mulley has previously come before me on 8<sup>th</sup> December 2020 when for a total of 11 breaches I committed the defendant for a total penalty of 15 days. That penalty was imposed after taking into account days already spent in custody, as will be necessary with the custodial penalty that I impose today.
2. It is worth reflecting upon what faced me on 8<sup>th</sup> December 2020. Ms Mulley is a lady of mature years who has decided to adopt a lifestyle, as Mr Richardson describes it, of begging, occasional drug use, and associated anti-social behaviour in the centre of Yeovil. She has been doing this for a number of years. It is very important to stress in terms of the proportionality of the order which has never been challenged, and also in terms of the circumstances taken into account when imposing a penalty today that, as I observed in December, Mr Mulley has a number of options and chances to change her ways and received a wide range of assistance from the public purse, not only directly by way of state benefits but also by way of the intervention from the Applicant's staff, the provision of accommodation at hostels and assistance from dedicated individuals in the homelessness and drug and alcohol services. There have been protracted attempts to get her to change her ways. She has been unwilling to do so. She informed Mr Richardson and has informed anyone else who has enquired ( as I did directly) that she does not have ( and has never had ) any mental health issues. She is an intelligent lady who is very well familiar with the court and what she is dealing with, but to date has had it appears little intention of complying with the court's order. She intends to keep on doing what she currently does ; rough sleeping, non-passive begging ( i.e. asking for money) and some drug use.
3. In my view this is not the case of a court imposing a disproportionate order or a disproportionate penalty for public begging, the type of which Mr Richardson observes plagues many city centres and elsewhere. Many people engaged in begging are not destitute and receive the sort of help which I have described over a prolonged period provided by local authorities such as the claimant in this case, and others. Further, they are in receipt, as Miss Mulley has been, of state benefits. Ms Mulley was not and is not destitute. She had and then lost social housing but was provided with a hostel place. The papers before me and the information from the witness statement of Mr Paskin explain that on occasions her personal hygiene was so poor that she was asked to shower. She would not comply with hostel requests, and eventually she left when given the choice of either cleaning herself up – not metaphorically but literally cleaning up – or leaving the hostel, and she chose to leave the hostel. She has been back, but she clearly finds it difficult to abide by the hostel rules. A request that she wash regularly is hardly onerous. Ms Mulley takes drugs, which may or may not be the cause for her need to beg, and I do not regard it as directly relevant for the breaches with which I am concerned as Mr Richardson confirms that she is not addicted as many others in her general circumstances are.
4. All this paints a picture whereby eventually the local authority claimant had to come to court because it had run out of options, despite its best attempts, faced as it was by repeated complaints by shop owners, who found that their businesses were suffering adversely because Ms Mulley was a regular fixture in the town centre who, whilst quite

frankly smelling very badly and being was an eyesore in terms of her clothing and general possessions, was more importantly and concerningly sitting outside their shops asking for money from customers and/or passers by. Not surprisingly, some people avoided passing by the shops as being asked for money caused them some alarm and distress and they felt harassed. The statements also refer to Ms Mulley defecating and urinating in areas around the vicinity of the shops.

5. So against this picture the Claimant eventually came to court and sought and obtained an order addressing the anti-social behaviour. They did so long ago as July 2020. Since then there have been a number of hearings before the court and attempts to try and persuade Miss Mulley to comply with the order of the court, notwithstanding her continued breaches. Eventually on 8<sup>th</sup> December 2020 Miss Mulley had run out of road before me, no mitigation was left and she showed total disregard for the order. At this stage the only option correct in principle was to impose a custodial sentence, albeit for breaches which in isolation may be thought by many to be at the lowest end of the spectrum of anti-social behaviour. The custody threshold had eventually been passed largely because she rejected assistance and clearly had no intention whatsoever of complying with the order and wished to continue to behave in an anti-social fashion unabated. Standing back and looking at the overview the court could either give up and allow her to continue with her anti-social behaviour, or impose the only penalty which was, taking into account the extent of the breach and the wilfulness of the breach, the only appropriate order. No court imposes a custodial sentence unless there is no other proper alternative
6. Returning to the chronology, my judgment in December 2002, of a length equal to this, had little effect, because having been released after 7 further days in custody (half the sentence as is prescribed by statute) on 15<sup>th</sup> December Ms Mulley went straight back to doing what she had done before. The penalty has no effect.
7. Ms Mulley accepts, and it is the first of the breaches, that on 16<sup>th</sup> December she was begging outside Superdrug in Yeovil. There were two further breaches on 22<sup>nd</sup> Decembers outside Café Nero which involved asking people for money. There were two further breaches on the 22<sup>nd</sup> December. After an application a warrant was issued on 16<sup>th</sup> December. I do not know what number warrant this is for Miss Mulley ; I suspect it is warrant number 3 or 4. Not surprisingly given the drain on public expenditure it took some time for the police to be able to devote appropriate resources to arrest Miss Mulley. In the interim she breached on 22<sup>nd</sup> December and 5<sup>th</sup> January 2021
8. It is necessary to observe that these are the breaches which Ms Mulley admits. They are not the only breaches that were alleged. It is clear, because Ms Mulley through Mr Richardson has made it clear, that she will only accept a breach if there is photographic evidence or a video of her presence i.e. not if there is a witness statement by a member of the public, a police officer or a member of the claimant. Not surprisingly, the claimant has not thought it necessary to pursue the other breaches but rather to be content that the court is able with its sentencing powers to pass an appropriate sentence for the behaviour on the basis of the 5 breaches to which I have referred.
9. Begging remains a criminal offence, but a threshold has to be met under the 2014 Act before an order is made. Asking for money in the circumstances in which Miss Mulley does clears that threshold. The order has never been challenged. Parliament has decided

that behaviour of this type, causing harassment alarm and distress cannot be tolerated and the Court is duty bound to uphold the law. Hence the court's order. When it is breached the court has three purposes when imposing a penalty: punishment, rehabilitation and, here to the fore and centre stage, compliance with its orders. I bear those matters in mind. I have considered also the principle of totality.

10. I have regard, as I in my view I should, not only the extant criminal sentencing guidance in relation to breaches but also to the guidance issued by the Civil Justice Council (albeit yet not fully implemented) in its recent report in relation to penalties. Taking that as a guide, I would say that this would be category B, either 2 or 3, more properly 2. That gives usually a range of 1 to 3 months. However, few are the cases in which the court will be faced with such persistent behaviour and clear refusal to accept its orders, and as I said I took a long time on the last occasion to explain that the court would not be cowed or bent and would proceed to sentence appropriately, proportionately and with the principle in mind that it should seek to ensure that its orders are complied with. The aggravating feature here, is the persistent breaches of the order and wilful disregard of the order, including on the day after release from prison. In my view it must be considered as a significantly aggravating feature. Ms Mulley has options of help ; she just does not want to take them rather she wishes to do as she pleases.
11. Mitigation beyond admission of the breaches is very hard to discern. Indeed Mr Richardson, a hugely experienced advocate, was struggling to find much to say other than this is a lifestyle which the defendant is finding very difficult to break and that she feels that she has nothing to else put in its place. As I have stated there is no suggestion of mental health issues; surprising though this may seem.
12. The view that I take is that the starting point is that for the breach on the 16<sup>th</sup> there should be a sentence of 6 weeks. For the offences on the 22<sup>nd</sup>, concurrent sentences of 10 weeks and for the offences on the 5<sup>th</sup>, consecutive to the first two but concurrent to each other, a sentence of 2 weeks. So that makes 6 plus 10 plus 2 ; 18 weeks. Mr Richardson is correct of course that I should give full credit for a guilty plea, although it is in fact more properly described as an admission, and I do. I follow the guideline and I give a third, and that reduces matters down to 12 weeks. However this is not a criminal court and I therefore have to give specific credit for the time that Ms Mulley has spent in custody with symptoms of Covid (although she did not actually have Covid). That amounts to 21 days, which doubles up to 42 days of penalty imposed ( because only half a sentence is served) ; effectively 6 weeks. So the position is that the sentence that I pass is 18 weeks, which I reduce down to 12 due to the admissions and I then take off the 6 weeks , and that leaves me with a sentence of 6 weeks.
13. I then have to go back and set out penalties that reflect that end result. It is a rather cumbersome method of doing things, but it is the only way in which justice can properly be done given the need to reflect the lengthy time spent on remand.
14. So the penalties I impose are as follows. There is a one-week custodial penalty in relation to the incident on 16<sup>th</sup> November, a 4 week custodial penalty concurrent on each of the two sentences on 22<sup>nd</sup> December, and a further one week custodial penalty for the breaches on 5<sup>th</sup> January. That produces a total of 6 weeks. Half of that will be served, which will mean that Miss Mulley has a further 21 days in custody before she is released.

15. Any future breaches by Ms Mulley will, so far as I am available, be reserved to me. I have nothing else to add to the judgment, as I would only be repeating what I have not said in the past, save to say that again that Ms Mulley has to change her lifestyle. Her behaviour is anti-social She is not destitute and she has options of assistance. If she continues with her choice, the Court will not bend and will continue to apply the law.
16. Mr Richardson, you can give appropriate advice to Ms Mulley in relation to the normal matters that go with every such penalty : the ability to purge contempt, right to appeal, etc.

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*This Judgment has been approved by the Judge.*