

IN THE COUNTY COURT AT SLOUGH

The Law Courts
Windsor Road
Slough, SL1 2HE

Date of hearing: 17th August 2020

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Before:

DISTRICT JUDGE CATHERINE COMISKEY

Between:

THAMES VALLEY POLICE

Claimant

- and -

SUKHPAL SINGH

Defendant

MS JULIE BALL for the Claimant

MR LYALL THOMPSON for the Defendant

SENTENCING REMARKS

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JUDGE COMISKEY: I have found a number of breaches proved and it now falls to me to sentence Mr Singh. Mr Singh, please stand. First of all, in considering sentencing, I remind myself of the findings that I have just made. I am grateful for the submissions received from counsel, in particular counsel for the Defendant, reminding me of my powers and suggestions as to what might be appropriate and into which categories the various findings should fall.

I remind myself that the Defendant is not currently under any sort of suspended sentence but, in connection with the current applications, he has been arrested on two occasions and brought before the County Court. I have considered whether I can give any credit for what appeared to be a “plea” as at 15 May. However, the Defendant resiled from those admissions, and that has led to this hearing being rather longer than it perhaps ought to have been. The time estimate of one day appears to have been based on the partial admission.

There has not at any stage been any admission relating to the use of foul language towards police officers or contacting Mr Karam Singh. I remind myself of the County Court’s sentencing powers, which are more limited than in the criminal courts. The range includes imposing no penalty, imposing a fine, imprisonment for up to two years and a sentence of imprisonment could be suspended.

The sentencing guidelines which apply to breaches of an injunction have been referred to and I have reminded myself of those but also, importantly, of the fact that those guidelines relate to the criminal courts. The guidelines suggest that I should consider issues of both culpability and harm done. The culpability ranges, as noted, range from very serious or persistent breach through to minor breach. It seems to me that in all three types of breach I have found proved, there is a degree of deliberation. The breaches are neither very serious or persistent nor are they minor, so the culpability is at level “B” of the guidelines.

So far as harm is concerned, again there is a range for me to consider, between category 1, which is causing very serious harm or distress, and a continuing risk of serious, criminal and/or anti-social behaviour, and category 3 where there is little or no harm or distress and a continuing risk of minor criminal and/or anti-social behaviour. I am satisfied that the harm here is between those two categories; that is, the level of harm caused is at level 2.

I note that the Defendant was aware of the order, aware he should not have been in the exclusion zone, aware he should not contact Karam Singh and aware that he should not use foul language. There is some degree of persistence demonstrated: five breaches proved with regard to the exclusion zone, four phone calls proved to Karam Singh and the degree of

belligerence during the arrest on 14 May. The court, in sentencing for breach of an injunction, is interested in ensuring adherence to its orders rather than punishment.

I have noted the helpful submission on behalf of the Defendant that he is no longer living in High Wycombe and it is suggested, therefore, that there is no real risk of further breaches. I am aware of recent allegations which I have not dealt with and, therefore, cannot take them into account today, but it is clear that the Defendant was, once again, arrested on 15 August. That suggests that the Claimant is right to have concerns about the Defendant's ongoing conduct; the harm is not trivial nor is it major.

The most harm is probably in relation to Karam Singh. Whilst the phone call received on 3 April was the most distressing in nature and certain of the others were described as being calm, I note the evidence that I have from Mr Karam Singh (which I accept) is that he has received abuse from the Defendant over a period of time, such that he was advised to record telephone calls. It would not be helpful for me to say that because somebody gets used to being abused the harm is any less. Similarly, whilst I have no doubt that police officers often receive abuse and hear foul language in the course of their duty, that does not minimise the unpleasantness and the fact that they should not have to endure such behaviour.

Overall, the exclusion zone and the telephone calls I consider to be slightly more serious than the foul language issue, but the latter is not trivial either. I have considered if a fine is appropriate, as was urged on me by counsel for the Defendant. I am not satisfied a fine is appropriate. Whilst I have been told that the Defendant has some means, I have no proper information about the source of his funds or how much he has, in order to be able to pitch an appropriate level of fine.

In any event, even if I did have that information, I am satisfied that both culpability and harm in this case make it suitable for a custodial sentence. Custody is appropriate, in particular given the persistence and the harm. The order was intended to prevent harm and, as it has been breached, harm has been caused. For the exclusion zone breaches which relate to five different incidents and the contact with Karam Singh, I would consider two weeks' custody to be appropriate for each of those categories and one week suitable for the foul language incident.

I then have to consider, overall, whether the point I have reached is appropriate and proportionate. I have to consider whether any sentences I impose should be consecutive or concurrent. In this instance, I am satisfied that I would impose consecutive periods because

the types of breach are different. Overall, to reflect the seriousness but without duplicating punishment, I am satisfied that 28 days in custody is appropriate.

I do note, in considering if that is proportionate, that that is one-third of the starting point under the criminal sentencing regime for similar matters. I have considered whether the sentence of imprisonment should be suspended, but I am not satisfied that is appropriate. The last breach relates to an incident about a week after the first arrest. I cannot be satisfied that the Defendant showed he was learning or had modified his behaviour. So, my sentence is, therefore, 28 days of imprisonment, not suspended, that is, it will begin now.

Dealing with other matters, the applications to vary will be adjourned generally with permission to restore and I think I need to list a directions hearing with a time estimate of one hour concerning the further alleged breaches, the 16 August matters, for which the Defendant has been produced to court today. If either party has any representations about precisely what my order should stay, I will, of course, hear those. It seems to me any directions hearing should be after the Defendant's release.

Marten Walsh Cherer hereby certifies that the above is an accurate and complete record of the proceedings or part thereof.

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