

IN THE COUNTY COURT AT LANCASTER

CASE NUMBER F00LA025

BEFORE DISTRICT JUDGE McATEER

BETWEEN

LANCASTER CITY COUNCIL (Claimant)

-and-

JOANNE BAILEY (Defendant)

SENTENCING FOR CONTEMPT OF COURT ON THE 4th AUGUST 2022

1. Joanne Bailey appears before me for sentencing for contempt of Court following a committal application made by Lancaster City Council on the 7th June 2022, as amended following an application made on the 15th July 2022. On the 20th December 2019 Joanne Bailey was made subject to an injunction made under Section 4 of the Anti-Social Behaviour, Crime & Policing Act 2014. Subsequently the period of time to which Ms Bailey is subject to the injunction has been extended and it is now in place until 22nd January 2025.
2. The injunction sought to prohibit anti-social behaviour by Ms Bailey towards her next door neighbour, Rachel Wiez. Ms Bailey and Ms Weiz live in adjoining properties. Ms Bailey owns her property. Over a period of years Ms Bailey's conduct towards her neighbour and her neighbour's lodgers and guests has been subject to numerous complaints to Lancaster City Council. The behaviour the injunction prohibits is, in summary: abusive, offensive, threatening or intimidating language; throwing stones or other items or missiles at her neighbour's property or vehicle; damaging her neighbour's house or vehicle; and noise nuisance audible outside her property.
3. There have been a number of breaches of the injunction since it was imposed. Ms Bailey has been sentenced to a suspended period of imprisonment for 3 breaches on the 11th February 2019; a further suspended period of imprisonment for 8 breaches and 3 breaches of an undertaking on 20th December 2019; immediate imprisonment for a one breach on the 13th January 2020, along with activation of a previous suspended sentence; immediate imprisonment for 2 breaches on the 19th May 2020; a suspended period of imprisonment for one breach on the 7th August 2020; immediate imprisonment for 6 breaches on the 8th October 2021, along with activation of a previous suspended sentence; and a suspended period of imprisonment on the 19th April 2022 for 2 breaches.

4. I sentence Ms Bailey today for 8 breaches of the injunction. All have been admitted by Ms Bailey and I give her credit for that when determining her sentence. Three breaches took place on the 19th April 2022, following a hearing at Lancaster County Court when she was made subject to a suspended period of imprisonment for 2 earlier breaches of the injunction. One breach took place on the 30th May 2022 and the 4 remaining breaches all took place on the 9th July 2022.
5. On the 19th April 2022 Ms Bailey accepts she played music between 8.20pm and 10.00pm, that she caused damage to Ms Wiez's car which was parked on the road outside her home and that she altered the height of boundary fencing panels between the 2 houses. Ms Bailey was arrested on the 19th April 2022 for criminal damage to Ms Wiez's car, an offence she pleaded guilty to at Blackpool Magistrates Court. She was sentenced on the 21st April 2022 to a 12 month Community Order with a 3 month Alcohol Treatment Requirement and 15 Rehabilitation Activity Requirement Days.
6. On the 30th May 2022 Ms Bailey accepts that she played music between 12 midnight and 12.25am.
7. On the 9th July 2022 Ms Bailey accepts that she entered Ms Wiez's garden and unplugged her CCTV, that she forcibly removed a CCTV camera attached to Ms Wiez's home, that she took and kept the camera from Ms Wiez's home and that she cut wires to forcibly remove the CCTV camera from Ms Wiez's home.
8. The maximum sentence I can impose for any contempt is 2 years imprisonment. Any sentence I pass upon Ms Bailey today must be proportionate to that maximum. The penalty must also be proportionate to the seriousness of the contempt. Any term of imprisonment must be as short as possible having regard to the gravity of the contempt.
9. I have considered the Sentencing Council's Guidelines for breach of a criminal behaviour order to assist me in assessing the gravity of the breaches which amount to contempt in this case. In terms of culpability, I find these breaches of the injunction to be persistent. There are 8 breaches over 3 separate occasions within a 3 month period. Ms Bailey's culpability is high. In terms of harm, I find this to fall within the middle category. Ms Wiez has had her property damaged on 2 separate occasions, and she must bear the financial cost of that, as she set out in her statements. These breaches are against the background of a long history of conduct towards Ms Wiez. I find the property damage to be particularly serious as it is deliberate and considered behaviour by Ms Bailey. While Mr Mainwaring has told me that Ms Bailey is trying to better soundproof her home and the noise issue may be due to the thin walls between the properties, this is not directly relevant to her damaging Ms Wiez's car, CCTV camera and wiring, nor to her interference with the boundary fence.
10. The contempt on this occasion is aggravated by the number of previous breaches of the injunction. While there were no breaches proven between her being sentenced on the 7th August 2020 and the breaches in June and July 2021, which led to her being sentenced on the 8th October 2021, she breached the injunction again in January 2022. This would have been after her release from the period of imprisonment to which she was sentenced on the 8th October 2021. She accepts 3 breaches of the injunction on the 19th April 2022, the same day she had appeared at Lancaster County Court and been sentenced to a suspended period of imprisonment for those breaches in January 2022.

11. Ms Bailey's admitted breaches in May and July 2022 occurred while she was subject to the Community Order from Blackpool Magistrates Court for criminal damage to Ms Wiez's car on the 19th April 2022. All of these breaches took place while she was subject to the suspended period of imprisonment imposed at Lancaster County Court on the 19th April 2022.
12. Breach of any injunction is disobedience to an Order of the Court.
13. In mitigation Ms Bailey admitted the breaches to the Court at an early stage. On her behalf I have been shown the reports of Dr Matthew Appleyard, a Consultant Forensic Psychiatrist, dated 20th March 2022 and Ms Veronica Bliss, a Consultant Clinical Psychologist, dated 5th May 2022.
14. Ms Bailey has been subject to the injunction since January 2019 and she cannot be in any doubt as to its terms. She is 51 years of age and, while the report of Dr Appleyard recounts a history of difficulties in her younger years and with her mental health, he found that she was not suffering from a major mental disorder that prevents her from being able to moderate her behaviour.
15. Ms Bailey has, from Dr Appleyard's report, been concerned for some time that she has autism. Dr Appleyard did not believe this to be the case, Ms Bliss believes that Ms Bailey does meet the criteria for a diagnosis for Autism Spectrum Disorder. Ms Bliss's report does not offer any explanation as to how such a diagnosis impacted upon or caused Ms Bailey's behaviour. While Ms Bailey is of the view that her conduct is explicable by that diagnosis, Ms Bliss does not specifically offer that opinion. Dr Appleyard's opinion is that Ms Bailey has an anxiety disorder, a paranoid personality disorder and an emotionally unstable personality disorder, complicated by a history of polysubstance misuse and currently harmful use of alcohol.
16. I have read the report from Ms Zoe Gorman from the National Probation Service, who is working with Ms Bailey through her current Community Order. She reports good compliance with the Order by Ms Bailey, including work with a recovery service on alcohol misuse and enquiries about support with autism services and Adult Social Care. While Ms Bailey's compliance with the National Probation Service is a mitigating feature, in showing a willingness to address the causes of her behaviour, it does not appear to have been effective in stopping her from damaging Ms Wiez's property on the 9th July 2022. Mr Mainwaring told me that Ms Bailey's alcohol treatment did not begin until after that incident.
17. A penalty for contempt is intended to deter others from engaging in similar conduct, that is breaching injunctions put in place to protect other people. It is also intended to secure future compliance with the injunction.
18. I have no hesitation in saying that these breaches cross the custody threshold for all of the reasons I have set out above. While Mr Mainwaring quite properly set out mitigation on Ms Bailey's behalf, there appears to be little acknowledgment in the papers or in what was said on her behalf by Ms Bailey of the effect of her conduct upon Ms Wiez. Given the history of repeated breaches, the risk of repetition of breaches is of grave concern to me. A fine or no action on the 8 admitted breaches simply does not do justice to the gravity of the circumstances of this case, such disposals would be a failure of my public duty to do justice.
19. Mr Mainwaring has suggested an amendment of the injunction to prohibit Ms Bailey from residing at her home. Alternate housing is being sought for her and Ms Wiez is,

I am told, selling her property. Ms Bailey has an address out of the area now available to her. This submission was based upon late submissions received by Mr Mainwaring and there is no formal application before me to amend the injunction. Mr Francis was not aware of this until it was put in submission by Mr Mainwaring and he has no instructions.

20. My main consideration has been whether, notwithstanding the history of this matter, I can suspend the term of imprisonment given that Ms Bailey is engaging with her Community Order and working with the Probation Service, such work to include assessing her behaviour and triggers for this; her misuse of alcohol is being addressed; she is or will be receiving support from autism services and from Adult Social Care; and there is alternative accommodation available to her out of the area.
21. Mr Francis draws my attention to the 7 previous committals and the repeated breaches. Mr Mainwaring submits that the Community Order is in its early stages and that positive work is now being done with Ms Bailey to address the issues that lead to behaviour breaching the injunction and causing distress to her neighbour. Immediate custody will bring that work to an end and is, he submits, counter-productive.
22. Having reflected carefully on everything I have read and heard, I am persuaded that today I can suspend the periods of imprisonment I will impose for the 8 breaches of the Order. I will not activate the suspended period of imprisonment imposed by District Judge Bland on the 19th April 2022, it will remain in place.
23. For breaches 2, 3 and 4, I bear in mind that for the damage to Ms Wiez's car, Ms Bailey was sentenced to a Community Order. Mr Mainwaring submits it is unfair for her to effectively be punished twice. I am sentencing her for contempt for her disobedience to the injunction and for the other aspects of the events of that evening. I do accept, however, that there has already been a sentence imposed upon Ms Bailey for the damage to the car by the Magistrates and that this incident was part of a wider course of conduct. For each of breaches 2, 3 and 4 I impose a term of imprisonment of 28 days, concurrent to each other.
24. For breach 6, the playing of music on the 30th May 2022, I impose a term of imprisonment of 42 days, concurrent to that for the breaches 2, 3 and 4.
25. I find breaches 9, 10, 11 and 12 to be particularly serious. Ms Bailey has damaged her neighbour's property and I cannot find this to be anything other than a targeted incident towards Ms Wiez. Ms Bailey knew her conduct was wrong. Her engagement with the Probation Service did not prevent it, nor did her already being subject to a suspended period of imprisonment from the 19th April 2022 or these proceedings in respect of 6 breaches brought by the Council on the 7th June 2022. For each of these breaches I impose a sentence of imprisonment of 112 days, concurrent to each other but consecutive to my sentence for the breaches 2, 3, 4 and 6.
26. The total sentence is therefore imprisonment of 154 days. I will suspend this for a period of 12 months, that is, until 4.00pm on the 3rd August 2023. The suspension of the sentence is conditional upon Ms Bailey complying with the injunction order.
27. The Defendant may apply under CPR 81.10 to discharge this Order. The Defendant has the right to appeal and her appellant's notice must be filed by 4.00pm on the 26th August 2022.
28. A transcript of this judgement will be published on the website of the Judiciary of England and Wales.