

**IN THE COUNTY COURT AT
GLOUCESTER & CHELTENHAM**

Claim No. B00GL354

Kimbrose Way
Gloucester
GL1 2DE

Thursday, 9th July 2015

Before:

DISTRICT JUDGE HEBBLETHWAITE

Between:

CHELTENHAM BOROUGH COUNCIL

Claimant

-v-

PAUL HEADLAND

Defendant

Counsel for the Claimant:

MISS FENNELL

Counsel for the Defendant:

MR YOUNG

JUDGMENT APPROVED BY THE COURT

Transcribed from the Official Tape Recording by
Apple Transcription Limited
Suite 204, Kingfisher Business Centre, Burnley Road, Rawtenstall, Lancashire BB4 8ES
DX: 26258 Rawtenstall – Telephone: 0845 604 5642 – Fax: 01706 870838

Number of Folios: 25
Number of Words: 1,671

JUDGMENT

DISTRICT JUDGE HEBBLETHWAITE:

- A
- B
- C
- D
- E
- F
- G
- H
1. Mr Headland, I have heard what Mr Young has said on your behalf and it is clear from what he said that you have had a number of problems over the last few years and I understand that you have got an opportunity to move to more suitable accommodation, which I very much hope works out for you. In the meantime, I am concerned with behaviour, which you have admitted, which is causing a serious nuisance to some of your neighbours and that is behaviour both before this injunction order was obtained without notice, and incidentally I think it is to your credit that you have accepted that should continue and you do not contest its continuance, and I am also concerned with the behaviour since the injunction order was made without notice and served on you.
 2. You have admitted breaching that injunction order and, at the beginning, Miss Fennell briefly outlined the dates on which breaches had occurred, 24th June, 4th July, 6th July and 8th July. Loud music and shouting and swearing do seem to be the main behaviours but you must realise that that does upset some of your neighbours. It is a question of what penalty I should impose on you for those breaches. Mr Young has told me he has explained to you the powers of the court so I will not go over that again, I am sure Mr Young has done that, and, on your behalf, he has put forward that the court should impose a suspended sentence on you, leaving it to the court to decide how long that should be. I am going to do that, I think it is appropriate and, as Mr Young has stated and I am sure he told you earlier, if you breach the order again, the suspended sentence can be implemented so that you do have to go off to prison to serve the suspended sentence. It is important you realise that.
 3. There are sentencing guidelines. I do not just pluck a figure out of the air. The starting point for this sort of breach is actually a term of six weeks. I have considered whether there are aggravating features that should make it longer than that or mitigating factors that should make it shorter. I do not think there are aggravating features that should make it longer than the starting point. As regards mitigation, obviously Mr Young has put forward some mitigation on your behalf, which we have all just been listening to, and I accept that you have a mental condition, you are on regular medication for it but there is a problem with the noise you make, both in terms of having your music on loud and your shouting, and coupled with the shouting is the swearing. Whilst I understand that you have these medical problems, I do have to balance it against the interests of the neighbours so, on balance, I have decided it should remain at the starting point of six weeks in prison but I am going to suspend it because I have accepted Mr Young's point on that and, indeed, the landlords don't object to a suspended sentence, which is a helpful indication. So I am going to suspend it for one year. If, in the next year, there is no further problems the sentence will fall away and you will not have it hanging over your head, but for the next twelve months you do have to be aware that if there is a further breach you would probably have to serve that sentence.
 4. I have spoken at some length to explain why I am making the order I make. You are represented by Mr Young. I know he has gone over a lot of this with you beforehand. Is there anything, however, you want to ask me or say before we pack up?

A MR HEADLAND: I just regret that I have to use language, it's mostly rhetorical. I'm talking about myself. I feel as though I've failed myself.

THE DISTRICT JUDGE: Yes.

MR HEADLAND: That's all I can say.

B THE DISTRICT JUDGE: Unfortunately, because of the volume of voice that you use, and it may well be that the walls are a bit thin I do not know, we need not go into the detail of it, this has been heard by your neighbours on numerous occasions and can be interpreted as being directed at them on some of the occasions. So what I am hoping very much is that you will take onboard from today's court appearance the seriousness of this and that neighbours have been affected and upset. I know you are getting support from Mr Donovan and that there is a hope you will be able to move to more suitable accommodation if the question of the rent arrears can be sorted out but, in the meantime, you owe it to your neighbours, who have been the complainants in this case, to observe the injunction. Of course, on top of that, you have now got the suspended sentence hanging over your head which is meant to be an incentive to you. That is the whole idea of a suspended sentence, it is meant to be an incentive to behave yourself, putting it bluntly. That is that. Mr Young, we normally have a clerk in here on these committals and we have not got one. Can you just ensure that Mr Headland does not leave until I have checked with the office whether there is any documentation to be served on him before he goes?

C

D MISS FENNEL: Yes, he will need the committal papers that will need to be drafted downstairs.

E MR YOUNG: Right. Right, yes, I will make sure that happens.

THE DISTRICT JUDGE: That is very helpful.

MR YOUNG: Thank you.

F MISS FENNEL: Sir, can I just confirm that the injunction and power of arrest will continue as...?

THE DISTRICT JUDGE: Yes, was the injunction made for a period—?

MISS FENNEL: It was. It was made on 29th June and it was for a period of one year.

G THE DISTRICT JUDGE: I shall simply leave that and confirm it remains in force.

MISS FENNEL: It remains in force until—

THE DISTRICT JUDGE: Until the same date as originally, I shall not start the clock running again.

H MISS FENNEL: No, that is fine. I do have an application for costs, sir, but on the basis of what we have heard then I am going to leave that to you as to whether or not you want to hear from me in relation to costs because the concern my client and I have is, obviously, I have got to ask for the costs but obviously if you do grant the costs and it

A is going to get added to his arrears, and on the basis that they are looking to try to move him but he has already got £400 of arrears—

THE DISTRICT JUDGE: I think if there is a general view that it would be a good thing, helpful to Mr Headland himself and to your client for him to move, it would be counterproductive to make this costs order, apart from the fact he would not be able to pay it straightaway but he would have to be on some sort of—

B MISS FENNELL: No, I understand that.

THE DISTRICT JUDGE: —instalment order which would take a long time to clear. I do not know whether you have seen the costs statement, Mr Young.

C MR YOUNG: It was handed to me just before.

THE DISTRICT JUDGE: Just over £1,000, which is probably an amount that could be justified, but I think I will accept Miss Fennell's proposal that it is not pressed and I will simply make no order for costs.

MR YOUNG: I am grateful.

D THE DISTRICT JUDGE: Given that you are on criminal legal aid, do we need to make an order for a legal aid assessment as we do in civil cases?

MR YOUNG: No, I was on the telephone for quite a while to them this morning and we now can apply online and I questioned whether or not that was possible in this case because of the fact that, of course, the application or the hearing is today and I am told that I can apply online in the usual way so I do not need to ask the court to say whether or not legal aid was justified. I have to justify it when I submit my application.

E THE DISTRICT JUDGE: Very well.

MR YOUNG: Hopefully, the fact that I will receive the committal papers and the suspended order, in the interests if justice, I think ought to be fairly obvious. So I do not need an order by the court.

F THE DISTRICT JUDGE: Miss Fennell, are you in the other case I have got to deal with?

MISS FENNELL: I am, sir, yes.

G THE DISTRICT JUDGE: When I get back to my chamber, I will ring the office and tell them what has happened because we usually do have a clerk here, as you know, Miss Fennell.

MISS FENNELL: Yes, I am happy to speak to them if they need me to clarify anything with them for the papers because they will normally just type them up and then they will be served on Mr Headland before he leaves.

H

[Hearing ends]