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IN THE HIGH COURT OF JUSTICE
QUEENS BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
[2022] EWCA Civ 1105



Claim No. H00BM603

33 Bull Street
Birmingham B4 6DS

Thursday, 9 June 2022

Before:

HIS HONOUR JUDGE MURCH

BETWEEN:

CHIEF CONSTABLE WEST MIDLANDS POLICE

Claimant

- and -

(1) L WRIGHT
(2) KEANU BARNETT

Defendants

MS S. ROBINSON appeared on behalf of the Claimant.

MS HEATH appeared on behalf of the Defendants.

JUDGMENT

HIS HONOUR JUDGE MURCH:

- 1 I am concerned with the sentencing of Mr Wright following his admitted breach of an injunction made in this court on 24 May 2021, as varied on 11 June 2021 and then again on 28 June 2021. The breach alleged against him is that on 25 September 2021 he was found in possession of controlled drugs, which was in breach of term 8 of the terms of his injunction.
- 2 The matter came before me for sentencing on 21 January 2021. The defendant admitted the matters alleged and that they amounted to a breach of the injunction. At the time I made the observation, for reasons I shall set out, that I did not think the custody threshold had been passed, but I wanted to adjourn the matter just to see that the assurances I was being given that there would be no further breaches would come to pass. I am very pleased to record those assurances have come to pass.
- 3 Very briefly, what happened was that Mr Wright was found in possession of five bags of cannabis. He promptly admitted that he was in breach of the terms of the injunction. One PC Burham offered Community Resolution, and Mr Wright completed a course, attending all sessions as requested, with the result that the file was closed, as far as the criminal matter was concerned, on 24 October 2021. No criminal proceedings were instituted as a result of the defendant being found in possession of the drugs. The point was made at the last hearing that this was possession of a controlled drug rather than any evidence being there was an intent to supply, which would have made this a far more serious matter.
- 4 Having regard to the Sentencing Council guidelines, I take the view this was a deliberate breach, that Mr Wright was aware of the terms of the injunction having previously been found to be in breach of them with no penalty imposed on that occasion, but the harm caused was very low indeed. I accept what was said, that this was intended to be possession rather than supply.
- 5 Against the background and the fact there has been no further breach since 25 September 2021, and also against the context that before a different judge on 26 May 2022, where the underlying injunction was being considered for continuation, Mr Wright entered into an undertaking promising to be bound by various promises until 25 November 2023, I take the view that no further penalty is required in this case. The breach on 25 September 2021 has been resolved by Community Resolution, and there have been no further breaches since then, and against that background it strikes me as appropriate that no further penalty be imposed today.

LATER

- 6 I am concerned now with the sentence to be imposed in respect of Keanu Barnett, who has admitted being in breach of the terms of an injunction granted by HH Judge Wall in this court on 28 June 2021. The terms of the injunction are a quite commonplace gang injunction, namely, that the defendant was not to enter an area depicted in a map attached to the terms of the injunction, and not to associate with a number of named people. The defendant, Mr Barnett, admits that on 19 October 2021 he was found in the company of Mr Montel Thomas, not a party to the terms of the injunction but somebody who was listed in clause 2 of it as somebody with whom he was not to associate.

- 7 The difficulty for Mr Barnett in this case is that that puts him in breach of the terms of the injunction, and also in breach of the terms of a suspended prison sentence which was imposed by HH Judge Truman on 11 August 2021. The suspension was conditional upon the defendant not breaching the terms of the injunction. That penalty was imposed following the defendant on 11 August, that same day, having been found in the area where he was not meant to be.
- 8 Breach of an injunction is a serious matter. An injunction is made for the purposes of being obeyed. I have to have regard to the Sentencing Council guidelines when determining which penalty is appropriate in this case. I regard this as a deliberate breach falling within category B. I say that because Mr Barnett was well aware of the terms of the injunction having previously been found to be in breach of them. He knew that he was not meant to be the exclusion zone. Against that, there is no suggestion that when he was on 19 October found associating with Mr Thomas that he was in breach of any other term of the injunction or engaged in any criminal activity. The level of harm was very low indeed.
- 9 When the matter came before me in January of this year, I was concerned that the breach with what I was concerned had not of itself passed the custody threshold but was serious given that there was a breach of both the injunction and the suspended sentence. I therefore adjourned the matter for sentence today to see whether the defendant could comply with the terms of the injunction.
- 10 I have listened to the submissions of both counsel, and it is clear that there have been no further breaches alleged of the injunction since January of this year. It is a matter of some concern that just some three months after HH Judge Truman imposed a suspended sentence Mr Barnett was found to have breached the terms of the injunction again, but I am satisfied, given that there has been no further breach alleged since January of this year, that it would not be appropriate to activate the terms of the sentence which Her Honour imposed, and further I impose no additional penalty today.
- 11 I think the point remains that HH Judge Truman's suspended sentence remains in place. Other judges might take a different view on another occasion, but I am not activating it today.
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CERTIFICATE

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This transcript has been approved by the Judge.