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IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION



No. QB-2020-004282

The Royal Courts of Justice
Strand
London
WC2A 2LL

Monday, 31 July 2023

Before:

MR JUSTICE SWEETING

B E T W E E N :

MAIDSTONE BOROUGH COUNCIL

Claimant

- and -

LANGLEY FRANK BECK

Defendant

MR S STEMP (instructed by Ivy Legal) appeared on behalf of the Claimant.

MR R SALIS (instructed by Irwin Mitchell LLP) appeared on behalf of the Defendant.

J U D G M E N T

MR JUSTICE SWEETING:

1 On 1 April 2021, Mr Beck, the defendant, was made the subject of an injunction by the court relating to unauthorised development of his land of a sort which had been prohibited by an enforcement notice served by the claimant council. In March of this year, I heard a contested application to commit Mr Beck for contempt in relation to breaches of that order. It is not necessary for present purposes to set out the background, which is to be found in the written judgment that I handed down following that hearing.

2 Mr Beck's capacity to conduct litigation was raised as an issue in the course of the committal proceedings. That issue was determined on 14 December 2022, when Mr Beck was found to have capacity by Heather Williams J. In my earlier judgment I observed that it did not appear that her decision was reflected in an order, because there was no order in the bundle then before me and neither counsel on that occasion recollected an order having been made. That was incorrect. Heather Williams J had made an order and that order is now in the bundle prepared for this hearing.

3 The issue in March when the matter came before me was not whether Mr Beck had committed acts which were prohibited by the injunction, or failed to carry out those required, but whether he was incapable of doing so as a result of his mental health problems. I heard psychiatric evidence from both parties and concluded that Mr Beck does have the necessary agency and mental capacity to understand and comply with the terms of the injunction.

4 As I said on that occasion, Mr Beck may think that the world is ranged against him and be resentful of the action the council has taken; those feelings may be amplified by the two underlying conditions which the psychiatrists agreed affected his mental health and the more

recent adjustment disorder from which he now suffers, but this is not the same as being powerless to comply with the order. A person may doubt or deny the jurisdiction of the court or the rights of another party, but that does not render them unable to comply with the court's orders.

- 5 The position had, nevertheless, been that until that hearing there was always some basis on which there was an argument that Mr Beck was not in contempt. He had never come to court anticipating that he might be dealt with for breach of the court order. I considered in those circumstances that there needed to be a period of reflection. I took into account the stress that the litigation had caused, which had no doubt worsened the position. I was sympathetic to the fact that he had recently lost his dogs, who were his daily companions.
- 6 The local authority has acted in the public interest with the ultimate purpose of bringing to an end those activities which should not be carried out on the land and restoring it to a condition appropriate to its situation in an Area of Outstanding Natural Beauty in Kent. That remains the local authority's principal concern in these proceedings.
- 7 I adjourned the issue of penalty. I did so with the intention that that would allow Mr Beck to take steps to purge his contempt; in other words, to put things right. I acknowledged that those steps might well be partial and of the sort that he indicated he was willing to take in his witness statement of March 2022. I stated that if by the time of the adjourned hearing it was clear that he was seeking to comply with the order, that would count significantly in his favour and inform the penalty that the court imposed. I required a witness statement dealing with his financial position, including the ownership of other land and properties. That information has either not been provided or has been made available in the most limited form. Bank statements show a £12,000 balance, but that is a snapshot of a month's

statement. It does not show money moving in and out. The position in November of last year, when he told the probation service about his assets in the criminal proceedings, was that he had an amount of £42,000. He has been entitled to a representation order,. It is something of a conundrum as to why he has spent a considerable amount of money on legal costs. That money could all of course have been applied to complying with the order.

8 Apart from the land which is the subject matter of these proceedings Mr Beck does have other parcels of land, one of which at least may have a substantial value. That was conceded by his counsel in the course of submissions. Its significance for today's purposes is that he may well have the means to realise capital and to use it to comply with the terms of the injunction insofar as it may require him to incur significant cost in restoring the land to its original state and removing the considerable amount of waste and rubbish which he has allowed to accumulate on it.

9 There is an important public interest in seeing that court orders are complied with. As Lord Woolf MR said in *Nichols v Nichols* [1997] 1 WLR page 31 at B-C:

“It is no longer appropriate to regard an order for committal as being no more than a form of execution available to another party against an alleged contemnor. The court itself has a very substantial interest in seeing that its orders are upheld. There are two purposes for imposing a sanction for civil contempt. One is to uphold the authority of the court, for the reasons I have just indicated, and, secondly, to underline that court orders should be obeyed. The other purpose is to provide an incentive for compliance, even if belated. A committal order is appropriate where there is serious contumacious flouting of orders of the court.”

10 Lawrence Collins J (as he then was) in the case of *Crystal Mews Limited v Metterick & Ors* [2006] EWHC 3087 (Ch) set out a number of principles that apply to sentencing for civil

contempt. At paragraph 13, he noted various factors which he suggested should be taken into account. They include the following:

“First, whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy. Second, the extent to which the contemnor has acted under pressure. Third, whether the breach of the order was deliberate or unintentional. Fourth, the degree of culpability. Fifth, whether the contemnor has been placed in breach of the order by reason of the conduct of others. Sixth, whether the contemnor appreciates the seriousness of the deliberate breach. Seventh, whether the contemnor has co-operated.”

- 11 As far as the first question is concerned (that of prejudice), in this case it can be reversed. The contempt can be undone. How long it takes for the effects of Mr Beck’s activities on the land to go away is an open question. It is accepted that the land enjoys the highest level of protection, albeit that it is largely hidden and there is no public access.
- 12 Of the factors identified by Lawrence Collins J, it is accepted that numbers 2, 5 and 7 do not apply. I deal with the other factors further below.
- 13 Where a defendant is found to be in contempt of court, there are three options open to the court under CPR81.9: first, to impose no penalty because the breach is technical or trivial or that the defendant was not aware of the order; secondly, to impose a fine, which is potentially unlimited, or to confiscate assets; and, thirdly, imprisonment. Section 14 of the Contempt of Court Act 1981 provides that a committal must “be for a fixed term, and that term shall not on any occasion exceed two years”. If the committal is ordered to take effect immediately, the contemnor is entitled to automatic release without conditions after serving half of that committal; in other words, mirroring the position in criminal proceedings.
- 14 It is necessary to consider whether committal to prison is necessary and, if so, what the shortest time necessary for such imprisonment would be and whether a sentence of

imprisonment can be suspended. The sanction of custody on a committal application has been described as the court's "ultimate weapon" (see *JSC BTA Bank v Solodchenko & Ors* [2010] EWHC 2404 (Comm)) and must be sparingly used and only invoked when truly needed. Any sanction imposed for contempt has, as I have said, two purposes: punishment for the historic breach and to secure compliance with the original order. It is only if the two purposes conflict that the primary purpose of the sanction must be to secure compliance (see *Forest of Dean District Council v Wildin* [2018] EWHC 2811 (QB)). An assessment of culpability and harm is required.

- 15 **Culpability.** The claimant points to the fact that Mr Beck was carrying out an activity which he knew required permission. He has operated activities on the land as a business. He has allowed others to operate there and has taken money for renting parts of the land to others. He did obtain felling licences in relation to coppicing, so that he knew he needed permission for activities on the land.
- 16 However, the culpability focus here is on the position since the order was made in 2021. In relation to that, Mr Beck has blown hot and cold about taking steps to comply. To date, he continues to live on the land and has shown little or no intention to live elsewhere. In my view, this is a case of high culpability.
- 17 The planning designations in this case are of an Area of Outstanding Natural Beauty. It is ancient woodland. That is the highest level which can be accorded to land within the planning system. There is a significant area of land involved (some 4.5 hectares, or 11.11 acres). Although it is right that there is no visible impact to members of the public, there has been an impact on the character of the land and it will take a long time to recover. Residential use is not authorised in the area and Mr Beck would not be able to secure it.

Upholding the system of planning is important and his conduct amounts to a flagrant disregard of planning controls. There is also harm to the public interest caused by a serious breach of an injunction.

- 18 The other aggravating features are essentially limited to his lack of steps to comply and his continuing insistence that he reside on the land. I note that the reasons that he has given more recently include discovering bats in his portacabin and nesting birds, but these are of little weight given the nature of the breach.
- 19 **General and personal mitigating factors.** Whilst it is accepted that the breach is deliberate, the analysis by Dr Wilson, given his evidence in the earlier proceedings, is relevant. He concluded that Mr Beck's mental health was a mitigating factor in assessing his conduct. His world outlook was described as akin to being in a cult. "Ego-dystonic" was the way Dr Wilson put it. Mr Beck is nearly 60. He has lived this lifestyle for many years and is set in his ways. It is necessary to take into account his psychiatric condition when considering penalty including the impact of an immediate custodial sentence.
- 20 The claimant accepts that he has carried on business on the site. That has stopped, as far as one can tell, since the injunction. He has failed to remove items, but that is going to take some time. He is still living on the land, but I was urged to take into account both his age and his rigidity of thinking. He has lived on the site for two decades in the same way and one of the reasons he wants to be present is to defend the land and to stop people from coming on to it, in particular to fly tip.
- 21 It was submitted that his more recent witness statements in June and July show a change of attitude. He has taken some steps, as the council concede, to try and clear up on site. There

was a site visit, spoken to in the most recent witness statement from Mr Whittaker. Mr Beck accepts that he has only got so far in complying with the injunction, partly because it was very wet in April, but nevertheless has made some progress in cleaning up. Nothing else has been brought onto the sight. The overgrown nature of some of the tracks indicates that vehicles have not been up and down. That rather cuts both ways, but it does show that he is not continuing to pollute the site with waste and other material.

22 It is also said that there is at least a hint of the fact that he accepts that he may have to move. The only property that he owns that would be a contender for residence is derelict and would require repair and expenditure. His circumstances are already limited. His mental health is a mitigating factor in relation to this and more generally. The way forward, it was suggested, should have a pragmatic result and could only do so if Mr Beck was allowed to continue his efforts, albeit limited, to restore the land. Plainly, if he is in prison there would, at least, be a delay in him achieving what is required under the order.

23 In all the circumstances, given the seriousness of the breaches, I consider that the custody threshold has been crossed and that I do need to impose a custodial sentence. Nevertheless, this is a case in which it may be suspended.

24 The penalty that I impose is a sentence of four months' imprisonment. It will be suspended for 18 months with the condition that Mr Beck continues to comply with the terms of the injunction. I make it plain that that includes clearing the site and making arrangements to live elsewhere and in fact ceasing to live on the land. It is acknowledged that that may take a little while, but there is no reason that it cannot be carried out and finalised during the currency of the period of suspension. If Mr Beck is not making any attempts to comply with the terms of the injunction, particularly in relation to those two matters, he can expect to be

brought back in front of this court and may be committed to prison to serve the prison sentence I have imposed.
