

ROYAL COURT

25th August, 1988

Before: The Bailiff and
Jurats Vint and Orchard

Between

Mrs F

Plaintiff

And

Mr F

Defendant

Representation brought in respect of
alleged breaches of injunctions obtained
by way of an Order of Justice

Advocate R.J. Renouf for the plaintiff
Advocate P.C. Sinel for the defendant

JUDGMENT

BAILIFF: This representation has been brought by the plaintiff in the action, Mrs F, against her husband, alleging that he is in breach of orders of the Court imposed when an Order of Justice was taken out by the plaintiff on the 2nd December, 1987. Those orders, which were in fact confirmed by the Court, prohibited amongst other things, the defendant from "entering or approaching the matrimonial home in the Parish of St Helier, or attempting to do so". This representation is really in respect of that part of the Order of Justice (although there is some suggestion that

another of those paragraphs had been breached, that is to say, "prohibiting him from harassing, threatening or assaulting the plaintiff, or attempting to do so by any means or at any place whatsoever").

We do not think it necessary for us to go through each and every one of the allegations. Some are obviously stronger than others. It is clear to us that the defendant knew perfectly well that he was injuncted. We are satisfied that we have to apply the fairly stringent test laid down in re. Bramblevale Limited 1970 Ch. D p.128, that is to say, that they amount to an offence against the dignity and orders of the Court. We have to have a high degree of proof to satisfy us, and we have to be satisfied therefore, there was the necessary intention as well as the physical acts. We are so satisfied. As I have stated, it is not necessary to go through all of the detailed allegations. We were helped by the evidence of Centenier Piasecki and his wife. They are quite unbiased witnesses and in spite of the suggestion that because they were friends of the plaintiff they were unreliable, or their evidence could be biased, we do not accept that view. Their evidence was very clear and it is abundantly obvious to us that the defendant put upon himself the decision as to how close he could go to the house. In any event he was close enough to be quite clearly within the definition of 'approaching' and there is no question of having to define it in greater detail, it is very clear in the Order of Justice what it is.

However, we are informed that proceedings are to be brought in this Court relating to one of the allegations of adultery which it is said Mrs F committed. We do not pronounce on that at all except to say this: that if, as was said, she was in bed naked with another man with the lights full on and drunk as is alleged, it is very strange that the police, although they found a man in the house, did not find either of the parties in a drunken condition. But we do not, as I say, pronounce, ourselves, as to whether or not any impropriety took place; it is not for us to deal with that today. What we are concerned about is whether there was a breach of the orders of this Court. We have no doubt that there has been a breach, but as it is a matrimonial matter, a domestic dispute, a matter in which there is obviously a good deal of ill-will and squabbling between the parties, where

both are concerned with the wellbeing of their children and where, as regards the children, the matter will have to come before this Court because I understand there will be an application (or one was started but not pursued by the former legal adviser of the defendant). Whether Mr Sinel will advise his client to continue in the light of the childrens' report, I do not know. But we are satisfied, as I have said, that there has been a breach. Stand up, Mr F , you are fined £50 for contempt of this Court and you will pay the taxed costs of the application. In default of payment of the fine you will serve seven days' imprisonment.

Authorities cited:

Re. Bramblevale Limited 1970 Ch. D p.128.