ROYAL COURT
(Samedi Division)

20th July, 1989

Before: The Bailiff and
Jurats Lucas and Mrs. Le Ruêz

David Martin Watkins

- v -

Peter Geoffrey Kevitt Manton

Representation by the Plaintiff
alleging breach of the injunction
contained in his Order of Justice,
dated the 13th July, 1989.

Advocate D.E. Le Cornu for the Plaintiff
Advocate Mrs. S.A. Pearmain for the Defendant.

JUDGMENT

THE BAILIFF: The Courts accepts that in considering a matter of this sort, of contempt, there are three requirements which must guide its deliberations. First it has to be satisfied if the terms of the injunction are clear and unambiguous. Counsel for Mr. Manton has admitted that they are and we are quite satisfied that they are indeed clear and unambiguous. Secondly, that

the defendant has proper notice of the terms. There can be no doubt that Mr. Manton had proper notice of the terms because he was in breach of them, for which he apologised, and therefore there can be no doubt that he was aware of the terms, although under the circumstances prevailing when it sat last Friday, the Court took a merciful view of events. Thirdly that the breach of the injunction has been proved beyond reasonable doubt.

We answer the first two questions quite clearly in the affirmative. It is true that one part of the judgment of the Court was perhaps misunderstood and was referred to wrongly in the representation, but that does not alter the essential facts that the injunction itself was clear and that the defendant knew what the terms were.

It is extraordinary to us that the defendant did not disclose to the Court that he was contemplating sending out some altered statements. Had that been done, we have no doubt that the Court would at once have been put on notice and enquired what they were going to be. There is no doubt also in our minds that the defendant knew clearly that he had to obey the terms of the injunction. If he had any doubt at all as to what was in the shortened statements, statement No. 1 in particular, as to whether it might be in breach of that injunction, he had a duty to ascertain whether it was or not. Because again Halsbury refers to that duty as follows: Where an injunction is mandatory in its terms ...." (which this one is) ..."it is the duty of the party bound by the injunction to discover the proper means of obeying the Order".

We are told by Mrs. Pearmain this morning that Mr. Manton fulfilled that duty by relying on the printers and saying to himself that if the printers were prepared to print the amended shortened statement, that was sufficient, but we were told this morning and that must be relevant, that in fact they did not put their name on the bottom or wherever it is to be placed, of the document which is required by the Law. This leads us to suppose that they must have had some doubt in their minds. However, whether that is so or not it is not for us to decide this morning.

What we have to decide is whether the contempt has been proved beyond reasonable doubt, or using the words of Wynn LJ, in the judgment to which Mrs. Pearmain drew our attention in the case of re Bramblevale Ltd (1970) Ch. 128 at p.137, where he said this: "I agree and rest my decision on the simple ground, very properly adopted by Mr. Stamler in his helpful submission to the Court that unless the guilt of the appellant was proved with such strictness of proof as is consistent with the test "beyond reasonable doubt", or as my Lord has more than once put it ..." (that's Lord Denning) ".... consistent with such standard as the court with its responsibility regards as consistent with the gravity of the charge, - a test which I personally prefer - ...." (I interpolate and say there is much to commend it) "..... the decision that he should be imprisoned for contempt of Court cannot be justified". Of course the procedure there is somewhat different from ours, but the standard of proof we accept as being incumbent upon us.

Looking at the items which it is said were in breach of the Order, it is not necessary for us, I think, to take them singly. We can take them in aggregate. There are more than sufficient there, taken in aggregate for us to be satisfied that there has been a breach of the injunction and it has been a defiant breach, and a deliberate breach of the injunction.

Mrs. Pearmain has argued very ably that the injunction does not contain the word "innuendoes", but innuendoes can only be drawn from the words as published. The words or sufficiently similar words in a sufficient number of cases have been published and they carry with them the innuendo which of course has not yet been proved because that is another matter. At the moment we are only concerned with the injunction. We are quite satisfied and applying the strict standard of proof which we have to that there has been a further breach of injunction by Mr. Manton.

However having said that we are very conscious of the strain which he has been going through, partly, let it be said, because of his own actions, partly because of circumstances and we propose to take a line which we hope will satisfy all the parties that not only is justice being done, but that we are at the same time helping Mr. Manton because we take the view that he needs assistance. He may not take that view, but we are going to ask you, Mrs. Pearmain, if your client gives the undertaking, but we have to have the

undertaking from him before we can impose the sentence - we would be minded to bind him over for a period of a year on condition that he seeks psychiatric assistance and undertakes such treatment as he is advised to by the psychiatrist. Is he prepared to give that undertaking?

ADVOCATE PEARMAIN: Sir, might I ask for a short adjournment?

BAILIFF: You may.

ADVOCATE PEARMAIN: Sir, I'm pleased to be able to tell the Court that I have explained the matter to my client and he and his wife have told me that they have already made arrangements hopefully for Mr. Manton to go to a home in Kent which specialises in spiritual problems and medical problems relating to the clergy.

BAILIFF: That may well be true, but is he prepared to undertake psychiatric diagnosis and treatment and I think in Jersey to start with.

ADVOCATE PEARMAIN: I'd have to adjourn, Sir, because my client has already instructed me he is prepared to attend this home in Kent, which is a psychiatric home I am informed.

BAILIFF: It is a psychiatric home, is it?

ADVOCATE PEARMAIN: Yes, it is a psychiatric home. I have in the past, spoken - Mr. Manton has already been there on one occasion.

BAILIFF: But only for a short time?

ADVOCATE PEARMAIN: Only for a short time, Sir, and on that occasion I did speak with his doctor who was in charge of his case and if the Court were minded to agree that Mr. Manton attended Burswood again and abided by the advice that he is given, I'm certain he would give that undertaking, Sir.

BAILIFF: Very well, Mr. Manton, stand up, please. The Court has found that you have committed a further and grave contempt of its orders. We note your undertaking to go and receive treatment at Burswood and to pursue it for as long as they prescribe. We are going to bind you over for a year on condition you do go to Burswood and follow the treatment they prescribe. It follows, as Mrs. Pearmain will explain to you, that if you go to Burswood and they diagnose something you do not like, or prescribe treatment you do not like and you do not follow it, you will be in breach of that Order and you will be liable to be brought back here and dealt with perhaps differently from the way we have dealt with you today. I want to make that quite clear. Yes, Mr. Le Cornu?

ADVOCATE LE CORNU: Sir, I would ask for an order for costs, on a full indemnity basis.

BAILIFF: Mrs. Pearmain?

ADVOCATE PEARMAIN: Sir, the difficulty is that there has already been one order for costs against Mr. Manton on a full indmenity basis. Mr. Manton has few if any assets of his own and I would ask the Court certainly not to award costs on a full indemnity basis. One has seen the stress and strain Mr. Manton has been undergoing and I hope the Court would accept that it is as a result of this strain that he is in this present predicament and if costs are on a full indemnity basis then it would financially cripple him, Sir. I feel also, if he is not in a position to be able to pay the Court would have very great difficulty in forcing any order unless of course incarceration was envisaged. I think it is unfortunate to consider making an order which could possibly only be enforced through incarceration. My learned friend is entitled to costs, but I'd hope not on a full indemnity basis.

ADVOCATE LE CORNU: Sir, I think the Court's Order should perhaps reflect the stress and concern that Mr. Watkins as plaintiff in this matter has also suffered. We hear all about the stress that Mr. Manton is suffering. It is Mr. Watkins who alleges that he has been wronged and has had to come back to this Court on at least two occasions alleging a breach of the injunction. I do not see at all why he should be out of pocket. How he enforces his order, of course, is another matter. But I think the principle should be in this case as it was on Friday afternoon that he should have his full costs.

BAILIFF: Much as one can sympathise with what you have said, Mrs. Pearmain, I think this is a case for the full costs to be awarded. You have heard what Mr. Le Cornu has said as to whether it be enforced or not and whether it is possible to find some other means of satisfying them. I must leave to counsel to ....

ADVOCATE PEARMAIN: I hope he will use his discretion, Sir.

Authorities

Halsbury's Laws of England (4th edition) Vol. 9: Contempt of Court: pp.40-42.

Iberian Trust, Ltd -v- Founders Trust and Investment Company, Ltd (1932) 2 KB 87-99.

P.A. Thomas & Company and Others -v- Mould and Others (1968) 2 QB 913-923.

In re Bramblevale Ltd (1970) Ch. 128 at p.137.