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IN THE HIGH COURT OF JUSTICE  
KING'S BENCH DIVISION  
**[2024] EWHC 813 (KB)**



No. QB-2022-000310

Royal Courts of Justice  
Strand,  
London, WC2A 2LL

Thursday, 14 March 2024

Before:

MRS JUSTICE COLLINS RICE

B E T W E E N :

(1) THE CHIEF CONSTABLE OF KENT POLICE  
(2) BERRYMAN'S LACE MAWER LLP

Claimants

- and -

DARYLL STURGESS TAYLOR

Defendant

\_\_\_\_\_

MISS K WILSON appeared on behalf of the Claimants.

THE DEFENDANT appeared In Person.

\_\_\_\_\_

**J U D G M E N T**

MRS JUSTICE COLLINS RICE:

**Application to Commit for Contempt**

- 1 This is the Claimants' application to commit Mr Taylor for contempt of court.
- 2 I am re-hearing this application. The application was originally heard by Steyn J on 25<sup>th</sup> October 2023. She proceeded on that occasion in Mr Taylor's unexplained absence, and subsequently handed down judgment on liability (*Chief Constable of Kent & Anor v Taylor [2023] EWHC 2687*). It later transpired that Mr Taylor's absence was a result of the fact that he was in detention on a separate (criminal) matter. So Steyn J's decision has been set aside. And I must consider the matter afresh.
- 3 I have therefore approached the application today with a fully open mind. For the purposes of this judgment, however, I need not rehearse again the uncontroversial background matters set out very fully and clearly in Steyn J's judgment. At [4]-[36] she sets out the relevant procedural back story of the underlying claim in breach of confidence, and the successive orders of Saini J which are the subject-matter of this application. At [37]-[59] she sets out the history of these contempt proceedings, which allege breach of the orders of Saini J. And I gratefully adopt her summary of the relevant law at [60]-[63]. I do not understand there to be any material dispute about any of these matters.
- 4 Mr Taylor was required to do two things by the mandatory injunctions contained in the orders of Saini J. First, he had to prepare, swear and serve an affidavit containing specified details relating to the police videos which had, by error and through no fault of his own, come into Mr Taylor's hands. Second, he had to attend the offices of the Claimants' solicitors, bringing his media devices with him, and submit them to an independent IT expert to ensure that the police videos were permanently deleted. Both of these had to be done by specified deadlines.
- 5 I am satisfied so that I am sure that these orders were clear and unambiguous in their terms. It was entirely plain what had to be done, and by when.
- 6 I am also satisfied so that I am sure that the orders were properly served on Mr Taylor. I accept the evidence of service placed before me. And I am satisfied so that I am sure that Mr Taylor was in fact aware of the requirements to which he was made subject by the orders. He does not materially dispute this.
- 7 I am also satisfied so that I am sure that what was required to be done was not done by the relevant deadlines, or at all. Mr Taylor does not suggest otherwise. And I am satisfied so that I am sure that it was within his power to comply with the orders by the deadlines set. Mr Taylor's media devices have since been taken into police custody, but that was after the deadlines had expired.
- 8 I have listened carefully to Mr Taylor's explanation for why he did not comply with the orders. He told me he had been unable to obtain legal advice (although he did not give me a clear or specific account of why not). He explained that he had been outraged by the mistake that had led to the police videos being inadvertently disclosed to him, and did not trust the Claimants as a result, and had been angered and frustrated by their subsequent demands of him.

- 9 I am satisfied in the first place that Mr Taylor had been given an ample opportunity, and positive encouragement, to obtain legal advice and representation. He accepts he was fully aware that the police videos had come to him by accident and not by entitlement. On the evidence before me, I am satisfied that the Claimants were attempting to be constructive and helpful with a view to supporting Mr Taylor to comply with the orders. Had he been less angry, and had he engaged constructively with the Claimants, he would have had every opportunity and positive facilitation to do so. But the evidence shows that, rather than being willing to acknowledge the plain requirements of the orders, and engage with the process of obeying them, he maintained an angry, confrontational and defiant position and simply refused to do so. In these circumstances, I am satisfied so that I am sure that, being within his power to comply with the orders by the due date, he deliberately chose not to do so.
- 10 In these circumstances, I am satisfied so that I am sure that Mr Taylor was aware of the obligations imposed by the orders, was able to comply with the obligations, but defiantly chose not to do so. I am bound therefore to conclude that he was guilty of a contempt of court.

## LATER

### Sentence

- 11 The two contempts which have been established in this case are: first, that Mr Taylor deliberately failed to swear and serve on the claimants, by 3 April 2023, an affidavit providing the information required by [2] of the first order of Saini J as varied by [1] of the second order; and second, he deliberately failed to attend the office of Clyde & Co. at 12 noon on 6 April 2023, and failed to take his media devices with him on that occasion, or to give the independent IT expert access to enable the police videos to be permanently deleted or their prior deletion verified, as required by [3] of the first order as varied by [2] of the second order.
- 12 The principal penalties for contempt of court are a fine or committal to prison. On occasion, a finding of contempt may be considered sufficient in itself. Where an order for committal to prison is imposed it must be for a fixed term not exceeding two years. If a committal is ordered to take effect immediately, the defendant is entitled to automatic release without conditions after serving half of the term of the committal. The execution of an order for committal may be suspended.
- 13 I have directed myself to the guidance of the authorities on the approach to penalty given in *Attorney General v Crosland* [2021] UKSC 15, [2021] 4 WLR 103 and in *Liverpool Victoria Insurance v Zafar* [2019] EWCA Civ 392. I am going to read a short excerpt from the first of those.

[44]...The recommended approach may be summarised as follows:

- 1) The court should adopt an approach analogous to that in criminal cases, where the Sentencing Council's Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and the harm caused, intended or likely to be caused.
- 2) In light of its determination of seriousness, the court must first consider whether a fine would be a sufficient penalty.

- 3) If the contempt is so serious that only a custodial penalty will suffice, the court must impose the shortest period of imprisonment which properly reflects the seriousness of the contempt.
- 4) Due weight should be given to matters of mitigation, such as genuine remorse, previous positive character and similar matters.
- 5) Due weight should also be given to the impact of committal on persons other than the contemnor, such as children or vulnerable adults in their care.
- 6) There should be a reduction for an early admission of the contempt to be calculated consistently with the approach set out in the Sentencing Council's Guidelines on reduction in sentence for a guilty plea.
- 7) Once the appropriate term has been arrived at, consideration should be given to suspending the term of imprisonment. Usually the court will already have taken into account mitigating factors when setting the appropriate term such that there is no powerful factor making suspension appropriate, but a serious effect on others, such as children or vulnerable adults in the contemnor's care, may justify suspension.

- 14 I have also directed myself to the approach and relevant considerations summarised in *Deutsche Bank v Sebastian Holdings* [2022] EWHC 2057 (Comm) at [9]-[12], and in *Crystal Mews v Metterick & Ors* [2006] EWHC 3087 (Ch). As the authorities make clear, when sentencing for breach of a court order, a court should bear in mind (a) that this is always serious, because it undermines the administration of justice, and (b) for this form of contempt, it may sometimes be necessary for the sentence to include an element intended to encourage belated compliance with the court's orders.
- 15 So a penalty for breaching a court order serves or may serve two purposes: punishment for past disobedience and to secure future compliance. Deterrence may also be a consideration. The factors which may make the contempt more or less serious include the following:
- a) whether the claimant has been prejudiced by virtue of the contempt and whether the prejudice is capable of remedy;
  - b) the extent to which the contemnor has acted under pressure;
  - c) whether the breach of the order was deliberate or unintentional;
  - d) the degree of culpability;
  - e) whether the contemnor has been placed in breach of the order by reason of the conduct of others;
  - f) whether the contemnor appreciates the seriousness of the deliberate breach;
  - g) whether the contemnor has cooperated; and

h) whether there has been any acceptance of responsibility, any apology, any remorse or any reasonable excuse put forward.

16 As regards suspension of a committal order, in *Deutsche Bank* the Judge cited the guidance of the Court of Appeal in *Hale v Tanner* [2000] 1 WLR 2377 as follows:

“Suspension is possible in a much wider range of circumstances than it is in criminal cases. It does not have to be the exceptional case. Indeed, it is usually the first way of attempting to secure compliance with the court’s order.

The length of the suspension requires separate consideration, although it is often appropriate for it to be linked to continued compliance with the order underlying the committal.”

17 In passing sentence, a court must apply the criminal standard of proof to all factual matters and I have done so.

18 I turn, then, to my assessment of the appropriate penalty in this case. Mr Taylor’s culpability must be regarded as high. He deliberately and, indeed, defiantly flouted the orders of the court. Mr Taylor has provided no information responsive to the orders and did nothing to facilitate inspection by the independent IT expert of his media or devices as directed. There can be no doubt that these breaches were deliberately and wilfully disrespectful of the court. Mr Taylor openly asserted at the hearing before the first order was made that he had no intention of complying with it. The courteous correspondence from the Claimants’ solicitors, drawing attention to or reminding him of his obligations under the orders, was initially met by abuse and then by silence.

19 I do bear in mind that since his devices were seized by Kent Police on 15 June 2023, it has not been in his power to facilitate inspection by the independent IT expert of those devices. His ability to provide the required information may also have been hampered, to an extent, by his lack of access to his own devices. But at the time of the commission of each contempt it was fully within his power to comply.

20 I bear in mind also that it was in no way Mr Taylor’s fault that he was given, inadvertently, access to the police videos. I bear in mind that he did immediately inform the Claimants’ solicitors of the inadvertent disclosure. But that does not excuse or reduce his culpability for his subsequent behaviour in deliberately and confrontationally flouting the orders of the court.

21 As regards harm, at the heart of this case is confidential information relating to a vulnerable minor. That information was contained in the police videos. The orders of Saini J were made with a view to protecting that information, and the minor in question. Breach of a court order is always serious because it undermines the administration of justice. And in this case the risk to the confidential information relating to the vulnerable minor must be considered a serious factor relating to harm.

22 In assessing harm, however, I also bear in mind that, first, there is no evidence, and it has not been alleged, that Mr Taylor breached the prohibition on accessing, disclosing or otherwise using the police videos. And, secondly, it is right to recognise that following his arrest pursuant to a bench warrant and consequent attendance at the directions hearing on 27 July 2023, Mr Taylor did provide at least some worthwhile information. Mr Taylor had told Saini J that he accessed the police videos on his desktop. In his email of 11 September 2023, he stated, “*the computer isn’t in my possession*”, and he provided the Claimants’

solicitor with a copy of the search record. That has enabled them to ascertain which devices were seized and that they remain in police custody. Mr Taylor stated in the same email, *“however, the leaked information was accessed on my phone, which could be made available to an independent party within my area”*. The phone has not, as I understand it, to date been made available for inspection.

- 23 But the harm that flows from Mr Taylor’s breaches of the mandatory orders, in addition to the harm to the administration of justice, is that the Claimants have been unable to ascertain which devices or media he downloaded the police videos onto. They have been unable to verify whether they have been deleted or to ensure that they are permanently deleted. They have had to incur considerable costs and spend considerable time in their efforts to ensure the protection of a vulnerable minor’s confidential information. I regard the inherent risks of that as significant harm in itself, although I note, and the Claimants accept, that I have limited evidence of actual harm to any third party.
- 24 In light of the seriousness of the two instances of contempt of court of which Mr Taylor is guilty, I am satisfied that only a custodial penalty will suffice. The next step for me is to consider the impact of any aggravating and mitigating factors. I do not consider there to be any further aggravating factors beyond those that I have already taken into account. As regards mitigating factors, Mr Taylor was plainly not acting under pressure or placed in breach by reason of the conduct of others. He has not accepted responsibility, apologised, shown any remorse or really acknowledged any appreciation of the seriousness of his deliberate breaches or put forward any reasonable excuse. While the absence of an admission or apology does not aggravate the sentence, there is no mitigation to be derived from any remorse which is not apparent.
- 25 Mr Taylor has provided no evidence in personal mitigation. He has mentioned a diagnosis of Asperger’s Syndrome and a difficulty in negotiating complexity, interacting with people and perhaps dealing with pressure. But there is limited weight I can place in the balance on this account against what has been a persistent course of conduct, over a relatively long period, characterised by an angry refusal to respect the authority of the court, and the substitution of his own sense of entitlement and grievance as the sole determinative consideration. I conclude in these circumstances that there are no material aggravating or mitigating factors to be taken into account.
- 26 The minimum sentence necessary to impress upon Mr Taylor the seriousness of his actions, and which is commensurate with the culpability and harm in this case, is one of 6 months’ custody. Bearing in mind the closely related nature of these two breaches, I make the term in respect of each contempt concurrent.
- 27 It will be open to Mr Taylor to apply to the court for some part of his sentence to be remitted in the event that there should be any belated attempt to comply or cooperate to the extent now possible, or at least to the extent of providing clear and active consent for the seized devices to be examined by an independent IT expert for the purposes identified. It will be for the court on any such occasion to determine whether any such compliance merits any remission of the sentence.
- 28 I have considered whether the term of imprisonment should be suspended, but I see no justification for taking that course. This is not a case where there has been purported or partial compliance with either mandatory order. There has been no compliance at all. There has been defiance. The factors that might have led the court to consider suspending the sentence are simply not present here. The defendant has had a long period to comply in the first place and, indeed, to obtain legal advice having been advised of his right to do so. He

has been given many warnings as to the potential penalty if he did not comply and did not engage. By his conduct in the course of these contempt proceedings over recent months, he has demonstrated that he is a serial defier of court orders.

- 29 Please stand Mr Taylor. I am going to issue a warrant for the committal of the Defendant, Daryll Sturgess Taylor. His contempt comprises culpable and harmful failures to comply with orders made by the court. The penalty I impose is a term of imprisonment for 6 months. That will be served consecutively to the sentence of imprisonment he is currently serving following conviction for an unrelated matter. He will be entitled to automatic release after serving half of the term of the committal, that is, after 3 months.
- 30 Mr Taylor has a right to appeal to the Court of Appeal against the decisions I have made today. The time for filing an appellant's notice with the Court of Appeal is 21 days after the date of the order I make today.
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**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.