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No. F05MA163

IN THE MANCHESTER COUNTY COURT
(Sitting at Manchester Magistrates' Court)

Manchester Magistrates' Court
Wood Street
Crown Square
Manchester, M60 1PR

Wednesday, 18 May 2022

Before:

DISTRICT JUDGE GOODCHILD

B E T W E E N :

MANCHESTER CITY COUNCIL

Claimant

- and -

IAN CALDERLEY-HARPER

Defendant

MR GORTON (of Counsel) appeared on behalf of the Claimant.

MR STARR (of Counsel) appeared on behalf of the Defendant.

J U D G M E N T

THE DISTRICT JUDGE:

- 1 Mr Calderley-Harper, you have admitted two breaches of the injunction on 4 May when you were in the Arndale Centre and on 10 May when you were present, and indeed I think arrested on that occasion, when you were in the Arndale Centre. Both of those matters being in breach of the injunction which was not to go there. A straightforward injunction; it is not something which is difficult to comprehend or understand.
- 2 You have been before the court for matters relating to your presence in the centre of Manchester and in the Arndale since October 2019. My calculations roughly suggest that you have had least fifteen hearings in respect of your breaches of what is a straightforward order not to go there and, again, you are before the court.
- 3 You have seen a number of my colleagues. My colleagues have variously imposed sentences upon you and it is my understanding that you have received two previous custodial sentences, the last one from which you were released on 1st April and just over a month later you are in the Arndale Centre again.
- 4 I can understand that you have difficulties with drugs. I can also understand that it is a reason, but not an excuse. You knew full well that you were not supposed to be there. When you went there, it appears you committed a criminal offence. I am not dealing with that criminal offence today because you have already had that dealt with. But it seems to me that not very much is being done by the fact that you are having imposed upon you a custodial sentence and, as soon as you come out, you breach it again.

THE DEFENDANT: It is easier (inaudible). That's why.

THE DISTRICT JUDGE:

- 5 I can understand that and that it is an argument for imposing a longer sentence so that you do get some help when you are in custody, but I am not sure that that sentence is an appropriate order to make so that you get the help you need. You need to be responsible for getting the help you need. If a DRR order had been made - a drug rehabilitation order - then that may have assisted, but without an accommodation address you may have had difficulties dealing with that. I do not underestimate the problems you have with drugs, but it has to come from you. Whilst you are in custody, one would hope that you can at least achieve some level of sobriety before you are released again.
- 6 I agree with the suggestions in the culpability and in the category of this matter. Category 1C starts at twelve weeks' custody. Category 2 again culpability B starts at twelve weeks' custody and it seems to me that that is the appropriate starting point. It does pass the custody threshold taking into account your previous breaches, the number of breaches and the period of time - October 2019 and we are now April 2022 - and you are still before the court for matters that you should have had dealt with by now. You should be seeking assistance now to try to sort yourself out.

THE DEFENDANT: Because I'm only in for a civil matter, they can only do so much.

THE DISTRICT JUDGE: I know. I know. Which is why I did not want to consider at all the possibility of a custodial sentence, but it is either that or a fine. Those are the only powers I have.

- 7 I take into account the immediate admission made on the last occasion. I take into account that there has been a sentence for theft but of course that is an entirely different matter, although imposed for ten weeks from an event which occurred on 4 May at the same time.
- 8 I take into account the guidance in the sentencing guidelines which, of course, are based and predicated on the Magistrates' Court powers of sentencing. Given that they are able to impose community orders and impose the maximum sentence of five years, I can do neither and it seems to me that I have to take that into account when considering those guidelines.
- 9 Looking at the starting point, taking into account the early admission and taking into account the sentencing guidelines imposed for the Magistrates' Court and taking into account the reasons for your attendance there, attendance on its own would not perhaps attract such a serious starting point. But given the history, of course, that is why the starting point is as it is.
- 10 For all of those reasons, it seems to me that, taking into account what I have said, a twelve week sentence of imprisonment will be appropriate. That will be calculated in days and I will deduct the time that you have spent in custody accordingly.
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CERTIFICATE

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This transcript has been approved by the Judge.