

**IN THE COUNTY COURT AT
NOTTINGHAM (Sitting at the
Magistrates' Court)**

Justice Centre, Carrington
Street, Nottingham NG2 1EE

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Before:

HIS HONOUR JUDGE GODSMARK, QC

Between:

**NORTH WEST LEICESTERSHIRE
DISTRICT COUNCIL**

Claimant

- and -

KATHLEEN NEAL

Defendant

**MR. LEE for the Claimant
MR. SOOD (C) for the Defendant**

JUDGMENT

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JUDGE GODSMARK QC :

1. This comes before me as an application to commit Mrs. Kathleen Neal to prison for breach of the terms of the injunction made back in June 2016.
2. The case has its roots in Mrs. Neal's behaviour towards her next-door neighbours, Mr. and Mrs. Brookes. The Neals live, I think, at 75 Park Lane, Castle Donnington; the Neals next door at no. 73.
3. The terms of the injunction, which was made back in June 2016, were that Mrs. Neal was not, whether by herself or by instructing or encouraging or allowing any other person, to start a bonfire, using accelerants or items which would cause an abundance of smoke; deliberately peering over or through a hedge to look into her neighbours' garden; pruning vegetation not overhanging her side of the fence; throwing any object on to her neighbours' property; trespassing on her neighbours' property; behaving in a way which could cause alarm, harassment or distress to her neighbours; making unsolicited telephone calls to her neighbours.
4. There have been allegations of previous breaches, which allegations have been proved or admitted. In August of 2017, before District Judge Douce, some 14 allegations of breach were made, all of which the learned District Judge found proved, and in respect of which he ordered Mrs. Neal to pay a fine of £250 for each breach.
5. There were then further allegations of breach heard by His Honour Judge Owen, Queen's Counsel, on 23rd February of last year, 2018. Ten allegations were made. Six of them were admitted, although those admissions followed pretty cogent CCTV evidence of the behaviour alleged. It involved spraying

of weedkiller or something toxic into the Brookes' garden. His Honour Judge Owen, Queen's Counsel, having found those breaches admitted, passed sentences of eight months' imprisonment suspended on condition of compliance with the terms of the injunction thereafter.

6. Notwithstanding that suspended committal order, there are now further breaches alleged, nine in all. It is alleged that on 1st August, Mrs. Neal sprayed something toxic, such as weedkiller, over or through the fence between the two properties, resulting in killing of the grass or vegetation on the Brookes' side of the fence. That is denied by Mrs. Neal. She says that she was simply stripping algae off the fence and any damage to the Brookes' vegetation is because it was a long hot summer.
7. The second allegation, 6th August 2018, is one that Mrs. Neal made offensive hand gestures to the Brookes', captured on CCTV. Mrs. Neal says that she was simply waving to her son.
8. On 10th August it is alleged that a bin liner which was put on the top of the fence between the two properties is then pushed over with a stick by Mrs. Neal, falling on to no. 73. That is simply denied.
9. On 9th October it is said that Mrs. Neal pushed over some plant pots which had been placed close to the boundary of the property to try and form some sort of barrier to prevent anything being sprayed or passed under the fence of the property from the Neals' side. That is denied by Mrs. Neal.
10. On 9th October, some 13 minutes later, an allegation of peering into the property, again denied by Mrs. Neal. Another allegation of waving, with the

same response, waving to her son, this waving or hand gestures while Mrs. Neal was walking up her own driveway.

11. On 23rd October, two allegations involving the knocking over of planters, small troughs in which plants were growing, again placed up close to the boundary of the property on the Brookes' side to act as some sort of barrier to anything coming in under the fence.
12. Finally, allegation number 9, a building sack on a stick is the best way to describe it, some structure which was raised to put in front of a CCTV camera and, it is said, trespassed across on to the Brookes' side of their property.
13. So far as these latter allegations are concerned, the response of Mrs. Neal for pushing over the planters is that she says she was provoked, she was protecting her boundary line and then protecting her privacy so far as the blocking of the camera was concerned.
14. Mrs. Neal is not here, and I have already given a short judgment as to why I am proceeding in her absence. However, the court is grateful to Mr. Sood of counsel, briefed to represent her today, who has fulfilled his role in testing and challenging the evidence of Mrs. Brookes, from whom I heard live evidence.
15. Most of her allegations arise out of incidents recorded on CCTV footage. Essentially, the task for me is to view and construe that CCTV footage. I should say that I do accept the evidence of Mrs. Brookes. I am troubled to some extent by the extent of the CCTV coverage which I have seen, impinging as it does potentially upon the privacy of the Neals in the way that it covers areas of their garden and driveway. However, I am told that this is as a result

of the wind blowing rather than any deliberate targeting. Be that as it may, it is not a matter that I am required to deal with today. The matters I am required to deal with today are the alleged breaches of the injunction.

16. Mr. Sood has challenged the evidence in accordance with his instructions. I also have a witness statement from Mrs. Neal. It is brief but it comprises what are essentially denials. I have given that such weight as I can, but it must be limited in the light of the absence of Mrs. Neal.
17. It is an oddity and a feature of this case that through much of the period with which I am concerned, a fence panel had been removed by the Neals, that fence forming a visible barrier, a screen between the two properties. One panel was removed so as to afford potential access or certainly easy sight through into the Brookes' property. That is without explanation, and on the face of it, clearly provocative on the part of the Neals
18. There is the suggestion of a boundary dispute. It is not clear to me how this is supposed to have arisen. It is not an argument which has been developed; I do not blame Mr. Sood for that, he has not got the material with which to develop it and it is nothing that I can take seriously on the evidence before me.
19. With those background remarks, I turn to my findings. These being committal proceedings, I have, of course, to be satisfied beyond a reasonable doubt as to any findings of fact that I make. However, in accordance with that standard of proof I make the following findings. I find that on 1st August, weedkiller has been used by Mrs. Neal to damage the grass at 74 Park Lane. The CCTV itself is a little indistinct, but Mrs. Neal's witness statement makes it clear that it is her in the picture that I can see on the CCTV.

20. She says she is scrubbing algae from her fence, but what I find difficult to accept in terms of her assertion of denial and innocence is the clear evidence that one week later there is damage to the vegetation, to the grass in the same area that she is seen, and I accept Mrs. Brookes' evidence that that is damage caused not by the long hot summer that we had - we can see areas of sparsity of grass elsewhere on the CCTV - this is sharp, bright yellow killed grass. It is something that Mrs. Neal has done before. It is a repeat of past behaviour, and I find that she has done it again. The allegation, therefore, of 1st August I find to be proved. That is a breach of the terms of the injunction, clauses 1(d) and 1(f).
21. So far as the second allegation of hand gestures is concerned, I find that not to be proved. I can see her gesturing on her own property. One can only see these gestures by reviewing them through CCTV footage, which arguably should not be trained on that part of the Neals' property in any event. I am not satisfied that the behaviour that I have seen there constitutes any breach of any order, and that particular allegation is not proven.
22. No. 3 relates to the pushing of the bin liner. That is clearly seen on CCTV. Clearly, something is pushed over the fence on to no. 73, the question is in large measure, who did it? I find as a fact beyond a reasonable doubt that it was Mrs. Neal. She is seen on the CCTV footage within two minutes of that occurring, and the inference is clear and is there to be made. Who else would be doing it? I find that it was her and that is a breach of clause 1(d) of the injunction.

23. Allegation no. 4 relates to the pushing over of plant pots. That is clear from the CCTV. It cannot be gainsaid, and in fairness to Mr. Sood, he has not tried to. The plant pots are pushed over by Mrs. Neal, poking at them with a stick from her side of the boundary. In pushing them over, she is pushing the stick through across on to her neighbours' property and trespassing thereby. That is also behaviour which could cause alarm, harassment or distress. I find that she did push the pots over and it is a breach of paragraph 1(e) and 1(f) of the injunction.
24. Allegation no. 5 is the peering in to property. Again, one can see it on CCTV, Mrs. Neal is peering round or through a small hedge or vegetation on her side of the boundary, through and into the Brookes' property, through the gap created by the removal of the fence panel. That is a breach of paragraph 1(b) of the injunction.
25. The sixth allegation is of waving again. I find this not to be proved for the same reasons essentially as I dismissed allegation no. 2. Allegations 7 and 8 relate to the pushing over of planters, the troughs in which plants had been put to grow. Clearly again, that is caught on CCTV; equally clearly, it is Mrs. Neal who pushes some sort of stick through, knocks the planters over and, I must say, with some venom. That is a breach of paragraph 1(e), trespass, and 1(f), behaving in a way which could cause alarm, harassment or distress to neighbours.
26. The final allegation relates to what is called the building sack trespassing, it is the structure on the end of a stick which is lifted to try and obstruct a CCTV camera. Clearly, that structure trespasses across on to the Brookes' side of the

boundary. It is, thus, a trespass, perhaps only a technical one, but a trespass nonetheless and a breach of clause 1(e) of the original injunction.

27. Accordingly, I find seven of nine allegations proven as being a breach of the injunction, and accordingly also, breaches of the suspended committal order made by His Honour Judge Owen.

(Later)

28. This is the third time that Mrs. Neal has been found to be in breach of a court order. The first occasion she was fined, the second occasion she was made the subject of a prison sentence, suspended on terms of compliance. Despite those warnings, I have found seven breaches between 1st August 2018 and 26th October.
29. One is left with the overwhelming impression that Mrs. Neal is simply not taking this seriously. She has been warned and she continued with her behaviour. She is warned again and she has continued, leading to today's hearing and the findings which I have made.
30. She is an elderly lady and the last thing the court wants to do is to send anybody such as her to prison. However, she is leaving me with almost no choice. There is very little else that I can do to make clear to her that she will obey orders of the court.
31. What can be said is that with the exception of the finding that I made so far as use of weedkiller or something toxic is concerned, these are relatively minor

breaches. There are seven of them in total but they are not of themselves of the most serious. What places her in the greatest jeopardy is that she is in breach of the suspended eight-month sentences, and if one takes the normal course I would start with a sentence of eight months in relation to the matters that she was found to be in breach of on the last occasion and then add to it, by reference to the findings that I have made today.

32. The conclusion that I have reached is that what it is most important to seek to achieve today is to bring home to Mrs. Neal that if she is in breach of court orders, custodial sentences will follow. Accordingly, I am going to make an immediate custodial order, but it will be for the least period that I hope is necessary to bring home to Mrs. Neal the position in which she places herself.
33. The sentences that I am going to pass, so far as allegation 1 is concerned, I will call it the weedkiller, there will be a sentence of 28 days' imprisonment. For the other matters that I have found proven, there will be concurrent sentences of 14 days, except for the last allegation, 26th October, which I have described as a technical trespass, which is the covering of a CCTV camera. There will be no penalty for that.
34. I am going to take no action at this stage on the breaches of the suspended committal order. However, that suspension will remain hanging over Mrs. Neal. Thus, if there are any further breaches, she will place herself in a very difficult position in terms of avoiding the implementation of those sentences.
35. I am going to pass a sentence, therefore, of a total of 28 days' imprisonment. I am also going to order that when the warrant is executed, before she is taken to prison, she is brought to this court to appear before a Circuit Judge, and I

hope it will be me, so that any representations can at that stage be made on her behalf.

36. You have done a sterling job, Mr. Sood, but it is best, I think, if the court can hear anything that she wishes to be said on her behalf when she is present and proper instructions can be taken.

MR. SOOD: Thank you.

JUDGE GODSMARK:

37. So I am going to afford her that opportunity. When the warrant is executed, she will be brought before the court before she is taken to prison, and I hope, before me.
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