

**IN THE COURT OF PROTECTION AT LEEDS**

1 Oxford Row  
Leeds  
LS1 3BG

Friday, 1 March 2019

BEFORE:

**HER HONOUR JUDGE ANDERSON**

BETWEEN:

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**NORTH YORKSHIRE COUNTY COUNCIL**

Applicant

- and -

**P**

-and-

**GEORGE ELLIOT**

Respondents

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**MR LAKE** appeared on behalf of the Applicant  
**MS GARDNER** appeared on behalf of the first Respondent  
**MS PHILLIPS** appeared on behalf of the second Respondent

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**APPROVED JUDGMENT**

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(Official Shorthand Writers to the Court)

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*This judgment was delivered in private. The judge has given leave for this version of the judgment to be published on condition that (irrespective of what is contained in the judgment) in any published version of the judgment the anonymity of the children and members of their family must be strictly preserved. All persons, including*

*representatives of the media, must ensure that this condition is strictly complied with. Failure to do so will be a contempt of court.*

1. HER HONOUR JUDGE ANDERSON: This case concerns a single woman who has a diagnosis of a learning disability. This has been a hearing of an application by the applicant council to commit George Elliot to prison for breach of an injunction; an injunction against George Elliot made by Cobb J in the Court of Protection on 23 October 2018 and for a breach of a further amended injunction made by Cobb J on 21 January 2019. This hearing has taken place in public.
2. The first of those injunctions was made without notice to George Elliot. The injunction order was set out in clear terms. The injunction prohibited him from contacting or attempting to contact the young woman who is the subject of these proceedings whether directly, face-to-face or indirectly by any means whatsoever including telephone, texting or messaging, email, Skype, FaceTime or through any social media platform including, but not limited to, WhatsApp, Twitter, Instagram or Snapchat.
3. At the time of that hearing, George Elliot was in prison following an alleged breach of a sexual harm protection order. The second injunction was made in his presence at an on-notice hearing, again before Cobb J. That hearing took place on 21 January 2019. Mr Justice Cobb amended the terms of the first injunction to make them more precise. It seems that the aim of the judge was to make it clear to Mr Elliot that the injunction included a prohibition on any communications even if initiated by the young woman at the heart of this case. So, therefore, an injunction was made in Mr Elliot's presence prohibiting him from communicating with or attempting to contact her, whether directly, face-to-face, et cetera. The word "communicating" was put in the injunction in place of "contacting".
4. In addition to amending the injunction to make it absolutely clear what Mr Elliot was not to do, the judge explained the reasons for making the injunction, explained what the injunction meant and spelled out the seriousness of the order and the implications of breaching it. When that order was served on Mr Elliot, the injunction order contained a section making it clear to him that if he breached it he could be brought back to the court for a committal hearing.

5. Very briefly by way of background, it is relevant that the young woman has been assessed as lacking understanding of the risk posed by people with whom she might come into contact. She lacks an ability to weigh up the pros and cons of having contact with them. It had come to the attention of those working with her that she had had contact with Mr Elliot, who is the subject of a sexual harm prevention order dated 22 December 2017. That order prevents him from having contact with children under 16. At the time these injunctions were made, Cobb J had made interim declarations that this young lady lacks capacity to make decisions about contact with others. I understand that he has now made final declarations.
6. There has been an earlier hearing before Judge Hillier in relation to this committal application. Mr Elliot was unrepresented at that hearing. Urgent inquiries were made to find some representation for Mr Elliot. Fortunately, he has attended at court today with his very experienced solicitor, Ms Phillips. Judge Hillier also gave directions for the filing of a schedule of alleged breaches and for affidavit evidence in support of those alleged breaches. So, I have now had the benefit of reading those affidavits, of reading that schedule and hearing submissions by the parties.
7. I was told that Mr Elliot, after careful discussions with his solicitor, had made concessions in so far as some of the breaches are concerned. I will deal with those in a moment. The local authority, sensibly in my view, took a proportionate position in relation to other breaches. It was decided that they would not proceed with alleged breaches prior to the hearing in January and a further breach was not proceeded with, which was really just a description of what happened in front of Cobb J on 21 January.
8. The outcome of that exchange of submissions was that Mr Elliot, with the benefit of legal advice, admitted breaching the injunction on 21 January by having direct contact with this young woman by telephone and by telling her that he had attended at court, he was now at home, that he had spoken to the judge and the judge had given him the papers. In other words, this was a breach which occurred within hours of Mr Elliot having been informed of the meaning of the injunction and the serious nature of the injunction. It was a deliberate breach while the words of the judge were fresh in his

mind. Mr Elliot has also accepted that on the morning of 22 January he had direct contact with this young lady by telephone about medication and that on the evening of 23 January he had direct contact with her by telephone in which he told her that he was going to an Internet cafe in a specific town in this area.

9. Those are the three breaches which are conceded, and the applicant withdrew the alleged breaches 1 to 15 inclusive and also number 19. Aware, as I am, that these breaches need to be proved by the applicant to the necessary standard of proof, the criminal standard of proof, I accept the concessions made by Mr Elliot and confirm that those breaches are proved to the necessary standard of proof.
10. Having established that, I heard submissions from the parties in relation to penalty. I was reminded by the applicants of the Court of Appeal authority *Hale v Tanner* [2000] which sets out the guiding principles in relation to sentencing in a case of this nature. I must take into account that this injunction was made in the Court of Protection to protect a vulnerable person from contact with Mr Elliot. I take into account that the terms of the injunction were spelled out clearly by Cobb J to Mr Elliot directly in court. The breaches were deliberate breaches of the court order where Mr Elliot had a choice and took the decision to breach the order.
11. I also take into account, by way of mitigation, that Mr Elliot has admitted the breaches once he had the benefit of legal advice. I note that he was not represented at the hearing in January, and that he comes to court today to apologise, through Ms Phillips, for the breaches and the inconvenience caused to the court. I take into account that he has conceded them and that it has not been necessary for there to be a contested hearing. I take into account that, according to Ms Phillips on instructions, Mr Elliot has blocked this young lady from Facebook and all the other ways of communication available to them through social media. I am told by Ms Phillips that allegedly he has received notifications by way of a sound on his phone which indicate that, despite being blocked, the young lady has made attempts to contact him.
12. I take note of that but, obviously, as he was reminded by Cobb J, he must be strong. If it is true that she is trying to contact him, then he must be strong, he must obey court

orders and he must obey injunctions. So, he must not respond. He tells me through his solicitor that he has done all he can so far to prevent her from contacting him and that he hopes next week, once he is in funds, to purchase another phone, to get a new telephone number and that will draw an end to it, he says, from his point of view. I am told by Ms Phillips that Mr Elliot has been informed that Cobb J has decided, at an intervening hearing, that this young person does not have capacity and that he has told Ms Phillips that in the light of that he acknowledges that any relationship between them is over. He tells me that he will be fully compliant in the future.

13. I am very much conscious that the aim of these committal proceedings and the objective of contempt proceedings is to mark the court's disapproval of these breaches and to secure compliance with these orders in the future. Taking all those matters into account and having considered the matter very carefully, I do sentence Mr Elliot for a period of imprisonment of twenty eight days in respect of breach number 1, suspended for one year, for a period of imprisonment of twenty-eight days in relation to breach number 2, again suspended for one year, twenty-eight days' imprisonment in relation to breach number 3, again suspended for one year, sentences to be concurrent. That will be marked on the court record.

