

ENGLAND AND WALES / JUDGMENT

Sandwell MBC & Ors v Vaz

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Neutral Citation Number: [2017] EWHC 1550 (QB) IN THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION BIRMINGHAM DISTRICT REGISTRY Claim No. A90BM228 The Priory Courts 33 Bull Street Birmingham B4 6DS Date: Wednesday, 31 st May 2017 Before: HIS HONOUR JUDGE MCKENNA Sitting as a Judge of the High Court

- ----- Between: SANDWELL MBC & OTHERS -v- FILIPE MIGUEL GUERREIRO VAZ Applicants Respondent
- ----- Transcribed from the Official Tape Recording by Apple Transcription Limited Suite 204, Kingfisher Business Centre, Burnley Road, Rawtenstall, Lancashire BB4 8ES DX: 26258 Rawtenstall – Telephone: 0845 604 5642 – Fax: 01706 870838
- ----- Solicitor Advocate for the Applicants: MR BAHADUR Counsel for the Respondent: MR SWINNERTON
- ----- JUDGMENT APPROVED BY THE COURT Apple Transcription Limited 0845 604 5642 1-958-1311-260/ah v.5 A B C D E F G H HIS HONOUR JUDGE MCKENNA: 1. 2. 3. 4. 5. 6. 7. This is the hearing of a committal application brought by Sandwell Metropolitan Borough Council against Filipe Miguel Guerreiro Vaz in respect of an alleged breach of an injunction granted by His Honour Judge Robert Owen QC on 1 st December 2014. That injunction was granted to Sandwell Metropolitan Borough Council and other authorities against persons unknown. The purpose of the injunction was to restrain an activity known as car cruising. The terms of the injunction were as follows: “It is forbidden for anyone to participate in car cruising [as that term is defined in the injunction] anywhere within the Black Country area.” There is a plan attached to the injunction. “Car cruising” is defined as “two or more motor vehicles, including motorbikes, between the hours of 3pm and 7am being on a highway or in a publicly accessible place within the Black Country area as defined on the map at which any such vehicle or occupant of a vehicle performs any of the prohibited activities listed in clause 3, which causes or is capable of causing any of the prohibited consequences set out in clause 4.” “Participating in car cruising” is defined as being the driver of or being carried in or on a motor vehicle, including motorbikes, in circumstances in which paragraph 1 applies. “The prohibited activities” are defined as speeding, driving in convoy, racing, performing stunts, sounding horns, playing music, using foul or abusive language, using threatening intimidating behaviour towards another person and causing obstruction on a public highway. “The prohibited consequences” are defined as excessive noise, danger or risk of injury to road users, damage or risk of damage

to property, risk of harm, nuisance and annoyance. The injunction included a penal notice and what is said against Mr Vaz is that on 30th April 2017 he was racing his vehicle against other vehicles, at speed, within the prohibited area. The application for injunctive relief is supported by an affidavit by Russell Anthony Clarke, a constable with the West Midlands Police. Mr Vaz has attended at court today and is represented by counsel. Through his counsel, he has made a full admission and effectively throws himself on the mercy of the court. In Mr Clarke's affidavit, he describes how he was in full uniform on duty in a mobile marked police vehicle together with another officer in Hallens Drive, Wednesbury, following reports of a gathering of car cruisers. He describes there being something of the order of 40 cars clearly gathering, some of which were, including it must be said Mr Vaz's car, modified. Dealing with Mr Vaz specifically, he describes Mr Vaz's car as being clearly lowered with non-standard alloy wheels. When the vehicle was examined, it had been stripped. The rear seats and boot had been cleared of everything including seats and carpet, presumably to save weight, and there was some form of roll cage consisting of metal bars to protect the cabin in the event of a crash. Apple Transcription Limited 0845 604 5642 1-958-1311-260/ah 8. A PC Clarke in his affidavit describes the manner of the driving and the speed of the driving in these terms: B C D E F G H "The driving is dangerous, there were several vehicles parked on either side of the road with people spectating and standing on the kerbside with no protection and little chance of getting out of the way should the vehicles lose control, this is hazardous to other road users and dangerous to those spectating who are standing near the edge of the road." 9. 10. He also refers to the obvious nuisance to normal road users. He also describes how Mr Vaz sought to evade the police by driving away and describes the resulting chase with speeds in excess of 70 to 75 miles an hour with the chase only coming to an end after the Respondent's vehicle was "stung" with a tyre deflating devise which had the effect of deflating the car's two front tyres. Given that Mr Vaz has admitted the breaches, there is no need for me to deal with the exact circumstances in any greater deal. Suffice it to say that the activity concerned was obviously dangerous. Not only did Mr Vaz put himself at risk but he also put at risk members of the public. There is no issue but that Mr Vaz was aware that there was an injunction in place and that he should not have done what he did. He did so without regard to the potential consequences. This sort of activity must be prevented and those who participate must understand that the court will take a very serious view of such behaviour in order to secure deterrence. So far as mitigation is concerned Mr Vaz, through his counsel, as I say, has admitted the breach, apologises for his actions and asks the court to take into account a number of mitigating factors and, in so doing, relies on statements from three individuals. They are firstly Laura Reynolds, his current partner, with whom, together with her children aged 13 and 9, Mr Vaz lives; his former partner, Tara Rock, who is also the mother of his two boys who are aged 13 and 9; and finally, a statement from Stuart Smith who is his immediate boss where he works. All three give character references in favour of Mr Vaz.

11. Miss Reynolds in particular seeks to paint a different picture of Mr Vaz to that which appears from his actions on 30th April 2017. She says that she has known Mr Vaz for nine years and, whilst he occasionally has made poor choices, he has exhibited characteristics of a man with good intentions, a good heart and the like who looks after not only his own children but those of Miss Reynolds as well and then describes some charitable activities which he has undertaken and which, indeed, his counsel has also referred me to. As I say, Mr Vaz is in full-time employment and whilst there are some minor transgressions in the past, there is nothing in his record remotely similar to that with which this court is today concerned. 12. There is no doubt, and indeed his counsel did not seek to persuade me otherwise, that, given the seriousness of what Mr Vaz did on 30th April, the custody threshold has been crossed. The real issue which I have to consider is whether any sentence should be suspended or whether the interests of justice require an immediate custodial sentence. There are a number of aggravating factors to which I have already referred, not least of which is the excessive speed, the modified nature of Mr Vaz's vehicle and the obvious danger of his behaviour on 30th April. Against that, he is a family man in full-time Apple Transcription Limited 0845 604 5642 1-958-1311-260/ah employment who has a number of dependants and there must be a realistic prospect that, were I to impose an immediate custodial sentence, he would lose his job and the consequences not only for him but also for his partner, children and stepchildren would be significant. 13. By a narrow margin, therefore, I conclude that it would be appropriate that any sentence in this case should be suspended in order to provide a deterrent to prevent any future breach of the terms of the injunction. In coming to that conclusion, I am also aware that Mr Vaz faces criminal charges in respect of dangerous driving as a result of his having sought to flee the scene, that he intends to plead guilty to those charges and will inevitably face a significant sentence in respect of those matters.
14. What I am concerned with, however, is the breach of the terms of the injunction and the sentence which I impose is in respect of that admitted breach for which, in all the circumstances and having regard in particular to the evidence of PC Clarke as to the circumstances and the modified nature of the vehicle, I impose a sentence of six months suspended on terms that Mr Vaz abides by the terms of the injunction for the balance of the period of the injunction. The period of the suspension will be until 1 st February 2018.
15. Mr Vaz will be aware, because I am sure his counsel will have told him but I shall make the point in any event, that should there be any further breach of the terms of the injunction proved to the requisite standard against Mr Vaz, not only will he be subject to whatever sentence is imposed for that breach but the overwhelming likelihood is that the sentence which I impose today will also be activated and, therefore, Mr Vaz will be facing a very significant period of time in prison. I trust that that will be a sufficient deterrent to ensure compliance going forward. A B C D E (There followed a discussion as to costs) F 16. G H The next issue is costs. Costs are in the discretion of the court. The usual order is the unsuccessful party should pay the successful party's costs. Plainly, in this case Sandwell Metropolitan Borough Council have been successful and they seek an order for costs.

Unfortunately, there is no costs schedule but, having had to deal with a number of these types of applications, both made on behalf of Sandwell, Wolverhampton and indeed Birmingham, I am well aware of the sort of costs which are involved in pursuing these applications. I am, therefore, content to make an order without sight of a costs schedule and I order that Mr Vaz should pay £500 towards Sandwell's costs, those costs to be paid in 14 days. Thank you both very much. MR BAHADUR: My lord, just a final matter. THE JUDGE: Yes. MR BAHADUR: I assume the transcript of the judgment will be made available at public expense. THE JUDGE: Yes, in due course. Apple Transcription Limited 0845 604 5642 1-958-1311-260/ah MR BAHADUR: I am grateful, my lord. THE JUDGE: Yes, thank you. [Hearing ends] A B C D E F G H Apple Transcription Limited 0845 604 5642 1-958-1311-260/ah

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