

JERSEY / JUDGMENT

# Robbins v O Sullivan [2001]

## JRC 74 (27 March 2001)

[2001] JRC 74

---

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

---

### JUDGMENT

THE DEPUTY BAILIFF: 1. On 26 th January, 2001, I granted an Order of Justice which contained the following injunctions: "THAT service of this Order of Justice by the Viscount or one of his Officers upon the Defendant shall operate as an immediate interim injunction:- (a) preventing him/his servants and/or agents from harming or molesting the Plaintiff; (b) preventing him/his servants and/or agents from threatening or otherwise abusing or interfering or communicating in any way with the Plaintiff; (c) preventing him/his servants and/or agents from approaching within 200 metres of the Plaintiff's place of residence." That Order of Justice was subsequently confirmed upon presentation of the Order of Justice before the Court. 2. It is now alleged by the plaintiff that the defendant has been in breach of the injunctions on two occasions. First, it is said, that on 16 th March, the defendant entered the plaintiff's flat and assaulted her when she returned there by punching her arm and kicking her leg. 3. Secondly, it is said that he broke the injunction on 26 th March. He allegedly telephoned her at about 9.45 that evening and said he was on his way over. She states that she telephoned the police to say that he was coming over. They said to call again if he came. He did come; she called the police again; she talked to him at the door; the police then arrived and arrested him, pursuant to the power of arrest conferred by the Royal Court. 4. As to the events of 16 th March, the defendant denies assaulting the plaintiff as alleged. He admits that he was in her residence but says that he was there at her invitation and had spent the previous night with her. He further says that in relation to 26 th March, he had spent the night of 25 th March with the plaintiff at her home and that he returned to see her on the evening of 26 th March at her invitation in order to discuss the outcome of certain proceedings which had taken place in the Magistrate's Court that day. In essence therefore, he admits only to breaching the injunctions by attending the premises on two occasions and says that on both of those occasions it was done at her request and with her consent. 5. He further went on to develop this and said that he had spent many nights with the plaintiff since the injunction was granted. Indeed, he said that during the last two weeks there were only four nights which he had not spent with the plaintiff at her residence. Altogether, he said that he had probably technically breached the injunction some 30 times since it was granted, but that this had been done with the consent and, indeed, connivance of the plaintiff. 6. We have seen the plaintiff give evidence and also her mother, Mrs. Buesnel. We have also seen and heard the

defendant give evidence. We remind ourselves that in order to prove a contempt of court it is necessary that the court should be satisfied to the criminal standard of proof. In other words it should be sure that a contempt has occurred. 7. We are quite satisfied that the evidence of the plaintiff and her mother is to be preferred to that of the defendant where they conflict. We have been assisted by hearing of the events which took place on 16 th February and 4 th March. I do not propose to go into them in detail as they do not form part of the allegations of breach of contempt, but the plaintiff accepted that on 4 th March she, her mother, her daughter and her sister had gone out for the day with the defendant. She felt compelled to do this in order to avoid a scene, but she was willing to accept that on this occasion she had gone out with him and associated with him with her agreement. She also accepted that the defendant had spent nights at her flat prior to the grant of the injunction. 8. Mr. Taylor sought to rely on the contents of a statement made to the police on 19 th February in connection with the proceedings before the Magistrate's Court to which we have referred. In that statement the plaintiff says: "since we split up, he has had trouble finding accommodation and because of this I have, on a few occasions, allowed him to stay the night in my flat. He would sleep in my bed with me." When this was put to the plaintiff she stated immediately that it related to a period over Christmas when the defendant had had trouble with accommodation and with employment. 9. In short, we found the plaintiff and her mother to be credible and honest witnesses. As against that we found the defendant's evidence to be unreliable. We are satisfied to the necessary standard that the contempts alleged by the plaintiff in relation to the 16 th and 26 th March are proved. [ Counsel then addressed the Court in mitigation ] 10. This was a deliberate contempt of Court and it involved an assault, which cannot be overlooked. Were it not for the fact which I am about to mention, the sanction would have been greater. But on 4 th March it is accepted that the defendant spent the day with the plaintiff. We accept the evidence of the plaintiff that she felt she had no alternative but nevertheless conduct of this nature risks sending the wrong message to a defendant who is subject to an injunction. If a plaintiff blows hot and cold, in other words, one day she relies upon the injunction, the next day she encourages breaches of it, the defendant does not know whether he is in reality bound by the injunction and whether it will be enforced against him by the plaintiff. If a plaintiff has an injunction she must not agree to breaches of it. She cannot have an injunction and yet associate with the defendant. 11. We accept that as a result of the incident of th March, the defendant may have received mixed messages, but nothing that took place on 4 th March can justify an assault in breach of the injunction. We consider the minimum penalty we can properly impose is one of 7 days' imprisonment. 12. Let me say this to you. The injunction of the Court must be obeyed. If you breach it again the punishment will be much more severe and it will become increasingly severe until you will be spending long periods in prison. So, you must obey this injunction and simply not make contact with the plaintiff, nor visit her flat. Authorities *Le Boutillier -v- Bester* (27 th July, 2000) Jersey Unreported. Page Last Updated: 19 Aug 2015

BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

## Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

**ORIGINAL SOURCE**      <https://www.bailii.org/je/cases/UR/2001/>

**CASE PAGE**              <https://chat.esheria.ai/case-law/jersey/robbins-v-o-sullivan-2001-jrc-74-27-march-2001>

Prepared on 29 October 2026 · Esheria