



Neutral Citation Number: [2026] EWCA Civ 231

Case No: CA-2025-001653

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
Richard Kimblin KC (sitting as a Deputy High Court Judge)
KB-2024-003851

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 6 March 2026

Before :

LORD JUSTICE PETER JACKSON
LORD JUSTICE COBB
and
LORD JUSTICE MILES

Between :

MUHAMMAD AKSAHIN

**Appellant/
Defendant**

- and -

LONDON BOROUGH OF ENFIELD

**Respondent/
Claimant**

The Appellant appeared in person
Fabjola Aruci (instructed by London Borough of Enfield Legal Services) for the Respondent

Hearing date : 5 March 2026

Approved Judgment

This judgment was handed down remotely at 10.30am on 6 March 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Lord Justice Peter Jackson:

1. Street cruising, or car cruising, in which groups of people engage in motor racing, stunts and dangerous driving in public places, often in front of crowds, is a form of anti-social behaviour that causes danger and serious nuisance. A number of local authorities have been forced to obtain High Court injunctions against named and unknown persons to prevent the activity going on in their areas. Examples of such orders are found in the decisions in *Sharif v Birmingham City Council* [2020] EWCA Civ 1488; [2021] 1 WLR 685 and *Wolverhampton City Council v Persons Unknown; Birmingham City Council v Persons Unknown* [2024] EWHC 2273 (KB).
2. On 6 December 2024, the London Borough of Enfield obtained such an order from Hill J in respect of its area. It prohibited persons unknown from participating as a driver, rider or passenger in such activities between the hours of 3 pm and 7 am.
3. Personal service was dispensed with. The order however contained detailed provisions for service of the injunction by placing signs in numerous locations where these activities had been prevalent, and by publication on social media and in specialist car publications. One of the locations was the Enfield Retail Park, where some 20 notices were prominently on display, stating “NO CAR CRUISING PERMITTED WITHIN THE LONDON BOROUGH OF ENFIELD”, and explaining that there was an injunction in force with a power of arrest.
4. Section 59(3) of the Police Reform Act 2002 empowers the police to seize a vehicle where it is used in manner that causes alarm, distress or annoyance. Subsection 4 provides that seizure must be preceded by a warning and a repetition.
5. On 18 May 2025, the appellant Muhammad Aksahin was personally served with a Section 59 warning, after being found by the police to be driving his own car in an antisocial manner and doing donuts at Enfield Retail Park. The appellant accepted that he had been so served after driving in that manner.
6. Five days later, on 23 May 2025 at 00.45, the appellant was a passenger in a BMW car that was racing in an area of Enfield called Clay Hill. The car was driven by Alin Hussein. It was speeding alongside another vehicle. It was pulled over by the police at a point about one mile away from Enfield Retail Park. The two men were arrested for breach of the injunction.
7. At a hearing before Goose J on 27 May 2025, Hussein and the appellant were strongly advised to obtain legal advice. Hussein did so, but the appellant did not.
8. On 16 June 2025, the two men appeared at the Royal Courts of Justice before Mr Richard Kimblin KC, as he then was, sitting as a Deputy High Court Judge. Hussein admitted breaching the injunction, the appellant did not. The appellant gave evidence and was cross-examined by Ms Aruci. He said that he did not know about the injunction and that, as he had asked Hussein to stop, he had not participated in the prohibited activity. Giving judgment, the judge said that he was sure to the criminal standard that the appellant knew of the order and that he had participated as a passenger. Having given the two men the opportunity to mitigate, the judge sentenced Hussein to imprisonment for 25 days and the appellant for 14 days, in each case suspended for

three months on condition that they complied with the injunction. Each of them was ordered to pay the costs of the council in the sum of £5,170.50, payable at the rate of £100 per month.

9. The appellant now appeals on six grounds:

Ground 1 - No participation or encouragement

At the hearing, it was found that the appellant participated in a breach of the injunction. The appellant was a passenger and was discouraging the driver, not inciting or assisting them. Passive presence is not enough to establish a breach, and no evidence was raised at trial to suggest otherwise.

Ground 2 - No knowledge of the injunction

The appellant had not been served with the injunction and had no knowledge of its existence at the time of the incident. A person cannot be held in contempt of breach of an order which they were unaware. Whilst the appellant was previously served with a Section 59 notice, 7 days before the incident on 23 May 2025, as the Judge referred to at the hearing, the appellant was unaware that there was an injunction within the area. The appellant does not reside within the London Borough of Enfield and would not have reasonably been expected to have knowledge of the injunction in place. Evidence of the police officer's bodycam at the time the appellant was given [sic] a Section 59 can be obtained should the Court require this.

Ground 3 - Misapplication of the Legal Test for breach

At the hearing, the finding that the appellant breached the injunction by being present in the vehicle as a passenger did not fully take into account whether the appellant had actual knowledge of the injunction or intended to participate in the prohibited activity. While the injunction includes passengers within its scope, a breach still required deliberate and informed conduct, not merely passive presence.

Ground 4 - Misuse of Section 59 warning

The Court gave improper weight to a Section 59 warning previously issued to the appellant. Section 59 notices are administrative, not judicial findings, and cannot be relied upon to establish breach or propensity.

Ground 5 - Disproportionate Sanction

The fine and costs were excessive given the appellant's lack of culpability, non-driving passenger and financial position. The Appellant received the same fine and conviction as the driver which is disproportionate and unfair. The court failed to consider these mitigating factors.

Ground 6 – Procedural unfairness due to lack of legal representation and language barrier

In the Court proceeding with the hearing, where the appellant was a litigant in person and lacked sufficient understanding of the English language to meaningfully participate. The absence of legal representation, combined with a failure to provide adequate interpretation or ensure comprehension, resulted in a serious procedural irregularity and a breach of the appellant's right to a fair hearing under Article 6 ECHR.

10. The appellant represented himself at the hearing before us. He began by expressing concern about being at a disadvantage, here and below, as a result of being unrepresented and having a limited command of English after being in this country for 12 years. He told us that he had had informal legal help in the drafting of the grounds of appeal and the accompanying five-page skeleton argument. Prior to the hearing, he had made no application for an adjournment, either to seek legal representation or the services of an interpreter. Nor did he ask us to adjourn the appeal hearing (and indeed asked for it to go ahead) and we assured him that we would bear these matters in mind. As it was, he was able to engage with the court for around half an hour and I am satisfied that he had a fair opportunity to explain and supplement his written case.
11. Against that background, I address the last ground of appeal first. This issue was considered by the judge, as he recorded:

“5. Mr Aksahin also attended this morning, just after the hearing had been called on, and he appeared without representation. I asked him about representation and he explained to me that he did not require representation because he had done nothing wrong. In that regard I note that the order made on 27 May 2025, by Goose J, expressly invites the defendant to obtain their own legal advice, and I also note that the letter which is sent by Enfield Council enclosing the witness statement by way of service, says this, “As you will recall, you were strongly advised to seek independent legal advice concerning this matter, and I echo and repeat that advice”. I understand that to be a reference back to what was said by Goose J when the matter came before him. Mr Aksahin was very clear that he wished to proceed today without legal advice. He made no application for an adjournment.

6. It was apparent during Mr Aksahin's evidence that his understanding and ability to communicate in English is good to very good, and I am satisfied that he did not need the assistance of an interpreter.

7. Mr Aksahin stated that he wished to have a trial. In those circumstances I explained the course of such a trial, and he made it clear that he understood the nature of the procedure that would be adopted.”

12. The description at paragraph 6 may suggest a slightly higher degree of fluency in English than the appellant demonstrated to us, but I am as satisfied as the judge was that he is able to communicate effectively about the relatively simple issues that arise in these proceedings. There was no procedural irregularity in the hearing before the judge, let alone a serious one, and there has been no breach of his right to a fair hearing under Article 6 ECHR.
13. Ground 1 concerns participation. The appellant argues that passive presence is not enough to establish a breach, and no evidence was raised at trial to suggest otherwise. In evidence to the judge, the appellant gave two reasons for the fact that he was a passenger and not the driver: his car was “broken”, and he was not driving because of the s.59 warning. The judge recorded the appellant’s evidence before making his finding:

“20. Mr Aksahin gave evidence, which he did clearly and succinctly. He explained his arrival with Mr Hussein from the north into Enfield Borough, and they came in from Potters Bar. When arriving into Enfield, there was, as he put it, no speeding around. He explained why he was in the car, which was because his car was broken, and so he was with Mr Hussein. When they came into the Enfield area he explained that Mr Hussein became excited and went fast when encountering another vehicle, that he shouted to Mr Hussein not to do it because he was scared, but that Mr Hussein would not listen. He said that he did not have any control, and therefore believes that he is “not guilty” because he is a passenger.”

“32. As was confirmed in the evidence adduced by the council and was agreed in cross-examination, Mr Aksahin was present in the vehicle at the time that the breach admitted by Mr Hussein took place. Mr Aksahin said in evidence that he asked Mr Hussein to stop. The evidence of the breach demonstrates that the breach was a significant course of conduct in which the officers explained that they struggled to keep up with the BMW. It was explained that there was some popping and crackling coming from the exhaust of the vehicles and that the vehicles were seen accelerating away into the distance, considerably over the speed limits, and, as Mr Hussein puts it in his admissions, up to 50 miles an hour. The council’s evidence, in the form of the witness statement from Mr Ashley Dawes-Beilby, is that the two vehicles appeared to be racing each other.

33. I have no doubt that there was participation which was sufficient to amount to a breach of the injunction. These defendants were present in a car at the prohibited times in Enfield, knowing that the injunction was in place, and were racing at speed and the necessary consequence of that from Mr Aksahin’s point of view is that he was a participant in that racing. The fact that he was not the driver is a matter which, in my judgment, goes to the question of sanction, not to his liability.”
14. In a similar account to that he gave to the judge, the appellant told us that he lives in Stratford-upon-Avon and had merely accepted a lift from Oxford with Mr Hussein so

that he could come to London to see his aunt and children. He told us that the racing had not been arranged and that when Mr Hussein started racing he gave him a caution and told him not to. He therefore says that he was not taking part. At the trial, Mr Hussein did not support this account as that would have made his own situation worse – he had in effect dropped the appellant in it.

15. This ground of appeal does not impress. At trial, the appellant offered no explanation for why he was being driven around Enfield after midnight in someone else's car so soon after being warned for car cruising in that very area. The mere presence of one car cruiser as a passenger in another car cruiser's car will constitute strong evidence of participation because, by its nature, it encourages the type of showing off that lies at the heart of car cruising. In this case, the judge, who had the advantage of hearing the appellant's evidence and considering all the circumstances, was clearly entitled to conclude that he was participating in a breach of the injunction.
16. Ground 2 concerns knowledge of the injunction. The appellant told us that he had not seen the order and that he would not have been doing donuts in the retail park if he knew about it. He described scenes at the retail park where "thousands of people" were gathered, as if that should give him no reason to suspect anything.
17. The judge dealt with this issue in two ways. First, he was sure that the appellant actually knew about the injunction:

"29. I find, so that I am sure, that Mr Aksahin knew that there was a prohibition on car cruising in Enfield and he knew that by reason of the service of the warning on him just five days earlier. Further, and in any event, having seen the photographs of the locations of the notices of the injunction within the car park which I have referred to as the B&Q car park, I am also sure that those visiting the car park would be fully aware of the fact of the injunction, and fully able to be able to learn more of its terms if they wished to. I consider the nature of the notice to be absolutely clear and unequivocal in that it states that no car cruising is permitted and it refers to the borough as to the geographical limits of that prohibition. Mr Aksahin was in the B&Q car park when served with the warning. He would have seen the numerous signs. I therefore do not find it credible that Mr Aksahin did not know of the injunction, I do not accept his evidence that he did not know, and I am sure that he did know."
18. That was a primary finding of fact that was obviously open to the judge on the evidence. More broadly, he also held (applying *Elliott Cuciurean v Secretary of State for Transport and HS2 Limited* [2021] EWCA Civ 357 at [54-60] and the *Wolverhampton* case (above) at [47]) that where, as here, there has been good service of the injunction in accordance with its terms it is not open to a defendant to committal proceedings to plead that he did not know of its existence. The issue of actual knowledge might, however, be relevant to what action should be taken in respect of the breach. For these two reasons, given by the judge, this ground of appeal fails.
19. Ground 3 adds nothing.

20. Ground 4 argues that the judge gave improper weight to the section 59 notice, because notices are administrative, not judicial findings, and cannot be relied upon to establish breach or propensity. Here, the judge did attach significant weight to the notice, in relation to knowledge, participation and sanction. He was right to do so, as it was directly relevant to the issues he had to decide and it shone a clear light on the appellant's lack of credibility on the first two issues and his culpability on the third. This ground also fails.
21. Finally, the appellant submits that the fine and costs were excessive given his lack of culpability, passenger status and financial position. He says that it was disproportionate and unfair that he received the same fine and conviction as the driver and that the court failed to consider these mitigating factors. The first thing to note is that the judge did not impose a fine; the only monetary order was in respect of costs.
22. The judge directed himself correctly with reference to *Cuciurean* (above) at [17]; *Lovett Network Homes Limited v Wigan Borough Council* [2022] EWCA Civ 1631 at [33] and *Wolverhampton* (above), and said this about sanction:
- “45. So far as Mr Aksahin is concerned, I reach a similar conclusion in respect of aggravating features. In his instance he was a participant in this episode, and as he has emphasised to me, he was not the driver. That places him in a somewhat different position to Mr Hussein, and accordingly I would adjust and reduce the seriousness having regard to that factor. However, he does not benefit from any credit because he had a trial.”
23. The sanction of committal has now lapsed as the period of suspension expired almost six months ago. This appeal could not be heard urgently (as committal appeals normally are) because the appellant had failed to file the necessary papers in time. The appellant appeared to be offended at his ‘conviction’, but the judge’s finding that he was in breach of the injunction was sound. Likewise, the suspended term of imprisonment imposed in this case was entirely proper, differentiating appropriately between the two defendants. Mr Aksahin should note that, if he commits further breaches of this or a similar injunction, any sanction of imprisonment is unlikely to be suspended.
24. As to costs, the judge stated:
- “49. So far as costs are concerned, there was agreement during the course of the hearing that the appropriate course in respect of both defendants is that they shall pay the costs of the claimant council in the sum of £5,170.50 (each), and to pay that to the council at a rate of £100 per month, until the costs liability has been discharged.”
25. The appellant now says that this was not fair as he was only the passenger and that he could not afford it on his salary as a barber. Asked what would have been a fair outcome for the point of view of the inhabitants of Enfield, who had been put to the expense of having to deal with this scourge, he said that the judge should have done nothing. No part of the costs order has yet been paid.

26. The judge had a wide discretion in the matter of costs, leaving aside any agreement there may have been. In a case of this kind, he was entitled to prioritise the prospect of the local authority recovering as much of its costs as possible by way of orders imposing joint and several liability on the defendants. When determining the extent of any order, he was not required to consider the appellant's ability to pay. The appellant was not legally aided and, even if he had been, protection under s.26 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 is not available to assisted parties in contempt proceedings: *Secretary of State for Transport v Cuciurean* [2022] EWCA Civ 661; [2023] 1 All ER 674 at [14-24].
27. The judge however, did take some account of the appellant's means by making an order for payment by instalments. He was not obliged to do more for the appellant and, in a case where the appellant is at least in possession of a motor vehicle, he might have done less.
28. The appeal is therefore dismissed. If permission to appeal had been required, it would have been refused and the application would have been certified as being totally without merit for the reasons I have given.

Lord Justice Cobb :

29. I agree.

Lord Justice Miles :

30. I also agree.
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