

Nottingham City Council v. Nkanka

Nottingham Crown Court 12th September 2012, His Honour Judge James Sampson

Mr Leo Ozemene had a wedding at premises occupied by the Nigerian Community Group, the Chairman of which was the Defendant. The premises had been acquired in June 2009. They were at 28 Handel Street, Nottingham. After the wedding, the guests had gone to the ground floor for refreshments. Guests were using the area outside on the fire escape for smoking. One person was Stephane Chaprone. He was outside when the handrail collapsed causing him to fall between 10 and 15 feet into a basement area. He suffered spinal injuries and is now paralysed from the waist down and in a wheelchair. The Council has brought this case pursuant to s4 of the Health and Safety at Work Act 1984. Mr Nkanka has pleaded guilty.

In essence he accepts responsibility for failing to prevent guests and visitors from going outside into an area which he knew to be dangerous. Indeed, he was responsible for the health and safety check which identified this difficulty. He accepts responsibility for this breach and the accident which befell Stephane Chaprone. Culpability is clear.

However, how to sentence a man who is impecunious? This does not cross the custody threshold so the starting point is a fine. What sentence is appropriate? There are features about him which are significant: he was stalwart and acted honestly and in good faith. That was the case leading up to the accident for which he is genuinely sorry. I have considered whether to make a community order but none are particularly appropriate. A fine of any significance would put Mr Nkanka in default of imprisonment because he would not be able to pay. I would be setting him up to be in default. I have to take into account his ability to pay a fine or costs.

What is left? I make a 12 month order for conditional discharge. This is not in any way to understate the importance of what has happened. The Council acted quite properly in bringing this prosecution and the sentence means that the matter will not finally be disposed of for Mr Nkanka for another 12 months. It should serve as a warning to the public at large that health and safety offences are serious.