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*Judgment: approved by the court for handing down
(subject to editorial corrections)**

ICOS No: 22/108734

Delivered: 28/06/2024

IN THE CROWN COURT IN NORTHERN IRELAND
SITTING AT LAGANSIDE COURTHOUSE

THE KING

v

GABRIEL PAUL MEEHAN

Mr C Murphy KC with Ms N Pinkerton (instructed by the PPS) for the Prosecution
Ms B Campbell KC with Mr J Brolly (instructed by Phoenix Law Solicitors) for the
Defendant

O'HARA J

Introduction

[1] The defendant who is 45 years old, pleaded guilty on 8 February 2024 to one amended count of collecting or making a record of information likely to be useful to a terrorist, contrary to section 58(1)(a) of the Terrorism Act 2000.

Background

[2] The particulars of the offence are that on 16 March 2021 without reasonable cause he recorded information of a kind likely to be useful to a person committing or preparing an act of terrorism. That information was in four parts, the first was a handwritten note containing the vehicle registration mark of a serving soldier. The second was digital images of an improvised firearm or device. The third was digital images of Enniskillen Police Station and the surrounding area and fourth was digital images of maps of the surrounding area.

[3] At the time of this offending the defendant lived in Irvinestown, Co Fermanagh, approximately 10 miles from Enniskillen. On 13 March a male telephone caller to the BBC in Belfast, who identified himself as a member of the continuity IRA claimed that a bomb had been placed on a road near the Fermanagh border. That call was made apparently to distract the security services. On 14 March a lady in Enniskillen heard two loud bangs from the other side of the River

Erne. At about 10pm a member of the public walking near the river in Enniskillen saw a man with something in his hand. A bang was then heard, and the man ran off. On 15 March a call was made to the office of the Impartial Reporter in Enniskillen by a man claiming to represent North Fermanagh Continuity IRA. He said that shots had been fired at the police station and that a device had been left at Shore Paths so that the area should be cleared. Later on 15 March the police issued a statement referring to this claim saying that nothing untoward had been found and that police had received no report of shots fired. At the time that was correct.

[4] On 16 March, the defendant was seen on his own walking in Enniskillen at about 10:36am. A short time later he was seen in his car. Over the next few hours the police were able to track some of his movements. The upshot of the evidence before the court about his movements is that he was seen near the Territorial Army Centre on Rossorry Church Road, from which after 3pm a soldier drove in his car. It was that soldier's vehicle registration mark which the defendant had in his possession when his home was searched on 30 March. In addition, the defendant was seen in the precise area where on 17 March the next day, an improvised weapon was found. On 17 March, the police cordoned off the area because a further call had been made to the Irish News in Belfast specifying where the device was.

[5] When the security alert was over on 17 March the police issued a statement confirming that a small and crude but potentially viable device had been found and was being examined. They highlighted the fact that it had been left on a pathway used and enjoyed by the public, including people who were fishing, boat owners, parents and children.

[6] On 19 March, in a further call to the Impartial Reporter, the Continuity IRA claimed responsibility for the attack by way of an improvised explosive device. It was asserted that the attack occurred on 14 March from the shore of the river. This claim ties in with the evidence provided by the two individuals referred to previously about what they heard and saw on 14 March.

[7] On 30 March 2021, the defendant's home was searched. Hidden in a void within an internal door, the police found a piece of paper with the vehicle registration mark of the soldier who had driven out of the Territorial Army Centre on 16 March when the defendant was in the vicinity. They also seized a mobile phone.

[8] On 6 May, the defendant's house was searched again, two Samsung mobile phones and one sim card were seized on that occasion. The phones seized from the defendant were accessed by the police and disclosed the following:

- (a) Images of the improvised weapon in the spot where the police found it on 17 March, the same place as the defendant was seen on 16 March, this suggested that the defendant knew where the device was before the police found it, but after it had been fired.

- (b) Photographs of the police station in Enniskillen, photographs of the police search and recovery operation, photographs of the area where the device was found.
- (b) In addition, there are images and messages which revealed his support and sympathy for the use of violence to achieve a United Ireland.

[9] The defendant was arrested on 25 May 2021, in respect of the images on his phone, his explanation was that he wanted to expose the police for their refusal to confirm the attack on the police station and for putting members of the public at risk. In respect of the vehicle registration mark of the soldier's car, he asserted that he had noted it because the soldier's car had been tailing his car. He said, "I just happened to just jot down the number of the car." The defendant also stated that he was not involved in the attack on the police and following this mindless act, I have taken a step away from Republican Sinn Fein in this area.

[10] It is important to be clear about what the defendant has pleaded guilty to. He is not accused of being involved in the use of the improvised device to attack the police on 14 March. By the time he took his photographs at the scene on 16 March the device had been used. This gives some weight to his explanation that his intention was to embarrass the police. However, by doing so, he was actively supporting dissident republicans and his plea shows that the images were likely to be useful to terrorists. So far as the vehicle registration mark is concerned, a determined effort was made to explain away the fact that he had written down the number and then hidden it. There is no evidence that he shared the number with anyone else but as his guilty plea shows, he had no reasonable excuse for having it and it is information which is undoubtedly likely to be useful to terrorists.

[11] The main debate between the prosecution and the defence was where the correct level of sentencing lies in this case. The offence falls within the definition of serious terrorist offences so that it is not possible to impose a suspended sentence on the defendant. The prosecution contend that a custodial sentence is appropriate and only a custodial sentence. The defence contend that a non-custodial sentence is warranted because of a number of factors including his guilty plea, his very limited criminal record, his personal vulnerabilities as evidenced by medical reports, his newly settled personal life and the time which has already been spent in custody, approximately nine months.

[12] So far as the criminal record is concerned, it is right to acknowledge that although there is a history of offending, it is not serious, it does not involve any time spent in jail and there has been no offending at all since 2004. In terms of personal vulnerability reports from Dr McDonald, Psychologist, and Dr East, Psychiatrist, describe a man with a difficult history, including being unable to cope with the death of his mother, abusing alcohol, losing a daughter and having suicidal

inclinations. Dr McDonald found him to be of low IQ and with a very high level of suggestibility.

[13] That is somewhat different from Dr East who found the defendant's intelligence to be within the normal range. Having said that, Dr East's opinion in April 2024 was that the defendant has a recurrent depressive order, though that is now in remission. He also found no evidence from his risk profile that the defendant has the capacity to cause serious harm to others. His conclusion was that a non-custodial sentence would allow the defendant to continue with mental health treatment by way of medication that he has been receiving since about 2021. That, in turn, would reduce the likelihood of a return to poor coping strategy and involvement with dissident political activity.

[14] His current partner who he met in September 2022 appears from her statement to have been helpful to the defendant in terms of personal stability and support which she has given to him and which he has also returned to her. While these reports are promising in terms of what they indicate for the future, the pre-sentence report dated 11 April 2024, read very differently. The report is alarming in a number of ways. First, the defendant said that he does not believe he is guilty and only pleaded guilty on the advice of his solicitor to ensure a lesser sentence. Second, his position is that he did not commit a crime and that being a republican is not a criminal offence. Thirdly, he repeatedly expressed support for the use of violence. Fourthly, he said that he is not actively involved, but that if the need arose, he would be "one of the first on the front line."

[15] The author of the report concluded, not surprisingly, that the defendant poses a high risk of serious harm towards the public, specifically to groups or individuals holding an opposing ideology and to others including criminal justice staff, specifically police, prison officers and probation staff. He also is assessed as posing a medium risk of reoffending.

[16] Of real concern about this report was the total absence of remorse on the defendant's part and a conclusion that he cannot be managed in the community by way of a non-custodial sentence.

[17] I heard submissions at the original plea hearing on 24 May, obviously the contents of the pre-sentence report were debated. Ms Campbell highlighted the fact that the author had not seen the reports of Dr McDonald and Dr East and had been, therefore, at a disadvantage.

[18] I, therefore, asked the author to review those reports and in light of their contents confirm whether she would change her position. By way of an addendum report dated 4 June 2024, the author confirmed that she had been advised by the Probation Board that they would not be able to supervise the defendant if he received a non-custodial sentence, in light of her assessment, that he presents a high

risk of serious harm to groups such as criminal justice staff including Probation Board staff.

[19] At the resumed plea hearing on 25 June, Ms Campbell submitted that this analysis does not stand up to scrutiny, she emphasised that the defendant is of generally good character, that he is being used by shadowy figures in the background and that his actions were limited. In the circumstances, she submitted that the custodial threshold was not passed and that alternatives such as a deferred sentence or a community order or even a conditional discharge were more appropriate.

[20] Mr Murphy contended that in terrorist cases, personal circumstances are less compelling than in other cases and he submitted that the defendant's personal vulnerabilities combined with his ideology amounted to a risk to the public going forward.

Conclusion

[21] My conclusion is as follows. There are no guideline cases on sentencing for this type of offence, that may well be because the variables are so great, for example, how sinister is the information which is collected, when was it collected and what evidence is there as to its likely or actual use? It has been submitted that the defendant's actions in this case were limited. That is probably correct so far as the images of the improvised device are concerned, but it is definitely not correct so far as the effect on the soldier, whose vehicle registration mark was recorded, is concerned. His victim impact statement illustrates all too clearly, how stressful this episode has been for him and for his family and it has not just been passing stress, it is clearly an understandably stress which has lasted and which has troubled him for some time.

[22] There are significant points made for the defendant in terms of his criminal record, or lack of it, his personal history and his current settled relationship. It is obviously correct to say that in sentencing him, I am to punish him for what he has done, not for what he might do in the future. In normal circumstances, a guilty plea is taken as a factor in the defendant's favour which is recognised when passing sentence, but in this case, whatever benefit a defendant would ordinarily gain from a guilty plea, must be lost because of what he told the official preparing the pre-sentence report. Far from distancing himself from dissident republicans, which is what was being advanced on his behalf, he still supports violence and those who perpetrate it, and he has refused any idea that he is guilty of any offence.

[23] Having said that, I still recognise the level of his offending, in my judgment, it passes the threshold for custody, a non-custodial sentence is not appropriate especially by reference to the soldier's vehicle registration mark, but the offending is less sinister than for instance in the case of *R v Perry* in which I imposed a sentence of four years.

[24] In all the circumstances, I impose on Mr Meehan the sentence of two years and six months in custody, by virtue of the current statutory provisions, the effect of this is that the defendant will serve at least two thirds of the sentence of two years and six months before the parole commissioners decide if, and when, he should be released. The statutory provisions also dictate that at the end of the two years and six months there will be a licence period which will last for a further year. The terms of that licence will be determined by the Ministry of Justice and will have to be fully observed by the defendant.

[25] Finally, I order that the phones found by the police during the two searches of the defendant's home are to be forfeited.