

Neutral Citation No: [2020] NICC 13

Ref: McA11223

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

Delivered: 06/03/2020

IN THE CROWN COURT FOR THE DIVISION OF BELFAST

—————
THE QUEEN

v

CHRISTOPHER ROBINSON
—————

Mr David McDowell QC, Mr Samuel Magee QC, Ms Lauren Cheshire (Instructed by Public Prosecution Service for Northern Ireland) for the Crown

Mr Arthur Harvey QC, Mr Neil Fox (Instructed by O’Muirigh, Solicitors) for the defendant

McALINDEN J

[1] The Accused Christopher Robinson is charged with the murder of Adrian Ismay, a Prison Officer, in March 2016. He is also charged with causing an explosion with intent to endanger life and with providing property for the purpose of terrorism. At the time of his death, the deceased resided at 21 Hillsborough Drive, Belfast. The deceased was the owner and main driver of a blue VW Transporter van, registration number UUI 8496. This vehicle was reversed into the driveway of his home on the night of Thursday 3 March 2016 at 23:53. Shortly after 07:00 on the morning of Friday 4 March 2016, the deceased got into his vehicle, with the intention of driving to his work. He drove out of his driveway with the headlights on and started to drive along Hillsborough Drive towards the Woodstock Road. At 07:06 as Mr Ismay’s vehicle approached the junction with the Woodstock Road, an improvised explosive device which had been attached to the underside of his vehicle beneath the driver’s footwell exploded, projecting shards of shrapnel into the driver’s compartment. The deceased suffered serious leg injuries. He required surgery to debride his leg wounds and initially appeared to make a good recovery. He was discharged from hospital subject to review. However, on 15 March 2016, his condition suddenly deteriorated at home and he was urgently re-admitted to hospital. His condition continued to deteriorate and he suffered cardiac arrest, leading to his death. A post-mortem examination revealed that as a result of the

injuries he received at the time of the explosion, he developed a DVT (deep venous thrombosis) which migrated proximally and resulted in the occurrence of a fatal PE (pulmonary embolism).

[2] Professor Crane, an eminent Pathologist, in his evidence on 9 October 2018, described the results of the post-mortem examination in the following way:

“The man collapsed and subsequently died in hospital, eleven days after being injured when an improvised explosive device detonated under his van as he was driving to work. As a result of the explosion he had sustained some shrapnel injuries, principally to his legs, with a fairly large fragment of twisted metal embedded in the back of his left knee. As a result of the injury to the back of this left knee and the immobility caused by it, blood clots had formed within the deep veins within the muscles of the calf and knee. Eventually a long, coiled cylinder of blood had detached and had travelled in the circulation to the right side of the heart and then to the main pulmonary artery at the root of the right lung. The effects of this condition, known as pulmonary embolism, on the circulation of blood to the lungs, was responsible for his collapse and fairly rapid death.”

[3] It is clear from Professor Crane’s post-mortem examination of the deceased that a piece of shrapnel had been left in situ within the muscle at the back of the left knee (the popliteal fossa). Professor Crane’s opinion was that the retention of the fragment of metal significantly reduced Mr Ismay’s mobility and that this immobility predisposed Mr Ismay to the development of a very large clot in one of the deep veins in the leg (the popliteal vein). The migration of this large clot up to the heart and thereafter to the lung resulted in his death. It is clear that the injuries suffered by the deceased as a result of the explosion were the major significant factor in the development of the clot which resulted in the pulmonary embolism which caused the death of Mr Ismay on 15 March 2016.

[4] Under common law, in order to properly ground a charge of murder, it is sufficient that the defendant’s act contributed significantly to the death; it need not be the sole or principal cause: Archbold 2020, at 19-6. Plainly, in this case, the injuries sustained by Mr Ismay as a result of the explosion were a ‘significant cause’ of his death.

[5] Evidence relating to the forensic examination of the van, the road and fragments of debris found in the immediate vicinity of the van leaves the court in no doubt that the cause of the explosion which resulted in the death of Mr Ismay was the motion-triggered detonation of an improvised explosive device which had been attached to the underside of his vehicle by the use of at least two Mag Mount type

magnets and that RDX (Semtex) was the explosive used in that device. This attack bears all the hallmarks of a dissident Irish republican terrorist attack.

[6] The movements of the van prior to the explosion, the moment of the explosion and the immediate aftermath of the explosion were all captured on CCTV by a CCTV camera system located on the side wall of Willowfield Private Funeral Home, situated on the south side of the junction of the Woodstock Road and Hillsborough Drive, Belfast. The court has carefully studied this video footage. There can be no doubt that those who planned and executed this attack intended to kill or seriously injure the driver of this van.

[7] It is important to state at this stage of my judgment that a large volume of video and still imagery obtained from a considerable number of CCTV camera systems in the greater Belfast area was inspected and analysed by those charged with the investigation of Mr Ismay's murder and when any images were considered to be of evidential value, the related CCTV systems were checked and any difference between the actual time and the system time when a particular system was checked was noted. Any references to the timing of any observation in the remainder of this judgment is, where possible, a reference to the corrected time, rather than the time embedded in any imagery or the system time. I have already made reference to one specific CCTV system and as will be demonstrated in the following paragraphs, the CCTV camera that captured the images of the detonation of the improvised explosive device attached to the underside of Mr Ismay's van also captured images of the vehicle which was used to transport the individual who attached the device to the underside of Mr Ismay's van to and from Hillsborough Drive during the early hours of 4 March 2016.

[8] At approximately 02:21:05 on the morning of 4 March 2016, this camera recorded images of a small four door hatchback motor vehicle which appeared pink/purple in colour, with dark coloured wing mirrors and door handles, coming into camera shot from left to right, having just driven into the Hillsborough Drive from the Woodstock Road. The vehicle then proceeds along Hillsborough Drive past the house of the deceased. At one stage the brake lights are illuminated. It is important to note that on careful examination it is possible to discern that in addition to the two lower brake lights located in the rear light clusters, there is a third, higher mid mounted brake light and all three brake lights are illuminated between 02:21:16 to 02:21:19. The vehicle continues along Hillsborough Drive and then appears to deviate to the left. The recording function of this CCTV camera is motion sensitive so that it stops recording at 02:21:52 and the next recorded images commence at 02:23:50 when one is able to see that the same or a very similar small car is now parked in Hillsborough Drive facing the Woodstock Road on its correct side of the road near the commencement of double yellow lines that lead up to the junction. The vehicle is displaying no lights. The vehicle can now be recognized as a small Citroen or Peugeot four-door hatchback.

[9] I am convinced that this vehicle is the same vehicle that was recorded driving into Hillsborough Drive a short time earlier for two reasons. Firstly, the similarities in appearance are striking. Secondly, there were a number of houses in the area which were fitted with outdoor security CCTV cameras. The addresses where these CCTV cameras were fitted were 1 Hillsborough Gardens which is located on the only side street leading off Hillsborough Drive, a short distance before the bend in Hillsborough Drive; 37 Hillsborough Drive which is located just beyond the bend on the south side of Hillsborough Drive; and 63 Hillsborough Drive which is located on the same side but further along towards the Castlereagh Road end of Hillsborough Drive.

[10] These cameras recorded images of vehicles passing the respective houses. The recording systems attached to these cameras were interrogated and the vehicle in question did not pass by 1 Hillsborough Gardens on the night in question. Neither did it pass by 63 Hillsborough Drive. It did, however, pass by 37 Hillsborough Drive only to pass this house in the opposite direction a very short time later. I conclude that the vehicle in question entered Hillsborough Drive from the Woodstock Road, drove along Hillsborough Drive, past Mr Ismay's house, negotiated the left hand bend in Hillsborough Drive, passed 37 Hillsborough Drive, executed a form of three point turn in Hillsborough Drive, drove back down Hillsborough Drive and stopped short of the junction with the Woodstock Road with its lights off.

[11] Of crucial evidential importance in this case is the video evidence of what occurred in Hillsborough Drive whilst this vehicle was stationary. At approximately 02:23:56 the camera located on the wall of the funeral home captures images of movement on the footpath further up Hillsborough Drive on the same side of the road as Mr Ismay's house and at a point which is roughly where Mr Ismay's van is later seen emerging onto the road. It appears that someone emerges onto the footpath from one of the driveways on Hillsborough Drive. This individual is then seen running down the footpath towards the camera position and as he approaches the rear of the stationary hatchback vehicle at 02:24:11 he veers to his right onto the road behind the vehicle and at that stage it is possible to note that he appears to have a dark coat with some form of hood and lighter coloured trousers.

[12] This individual then runs to the rear driver's side of the vehicle and opens the door at 02:24:15 and gets into the vehicle and closes the door. It is interesting to note that the internal lights of the vehicle do not come on when the door is opened. The vehicle then quickly moves off without putting on its head lights or side lights. As the vehicle passes the camera position at 02:24:21, it is quite easily identified as a small Citroen or Peugeot four door hatchback, appearing pink/purple in colour in the prevailing lighting conditions, with rear mud flaps, a small spoiler at the top of the hatchback, an aerial fitting at the rear of the roof, dark wing mirrors and door handles, a rectangular bright area at the bottom left hand corner of the windscreen where one would expect a tax disc or MOT disc to be displayed and another bright patch at the top middle section of the windscreen which could represent some other attachment to the windscreen in this location.

[13] There are a number of highly significant events in this portion of video evidence. The individual is seen emerging onto the footpath from a location which is proximate to Mr Ismay's driveway. He then runs down the footpath and gets into the rear passenger seat on the driver's side of this vehicle. The internal lights do not come on when the door is opened. The vehicle then immediately drives off without putting on its lights. Why would this individual get into the rear passenger seat on the driver's side? Were the front passenger seat and the seat behind that occupied or otherwise unavailable? Nothing in the video evidence helps to answer these questions.

[14] Judging from the manner in which the individual concerned purposefully and without hesitation made his way to the rear driver's side passenger door of the vehicle, which was certainly not the door nearest to the footpath; if the seats other than the rear driver's side passenger's seat were unavailable for one reason or another, then this individual must have known this in advance of returning to the vehicle and this strongly suggests that he was in this vehicle before he returned to it and he had got out of the vehicle at some point on Hillsborough Drive out of camera shot before he is observed running along the footpath to get back into it.

[15] Where did this vehicle come from prior to entering Hillsborough Drive and where did it go to when it exited Hillsborough Drive? As will immediately become apparent, further video evidence exists to enable the court to definitively answer these questions?

[16] A CCTV camera fitted to the front of the same funeral home which was trained on the Woodstock Road in front of the funeral home and which recorded images in black and white captured the same vehicle emerging from Ravenhill Avenue at 02:20:53 and turning left onto the Woodstock Road. It is not seen turning right into Hillsborough Drive as it goes out of camera shot to the right of the screen at 02:21:01. But it is clear that the vehicle that goes off screen at 02:21:01 on the funeral home's Woodstock Road facing camera is the same vehicle that is picked up coming into camera shot from the left at 02:21:05 on the funeral home's Hillsborough Drive camera. Having regard to the timings and the striking similarities between the vehicles seen on both portions of video evidence, I am convinced that these two portions of video show one and the same vehicle.

[17] The last images of this vehicle leaving Hillsborough Drive towards the Woodstock Road are timed at 02:24:23. This same vehicle is then picked up by the Woodstock Road facing camera, entering camera shot from the right and proceeding countrywards on the Woodstock Road at 02:24:26, travelling right to left on camera. The vehicle still does not have any lights on. A definite increase in road illumination immediately in front of the vehicle indicates that the lights come on at 02:24:28 and the vehicle, without indicating, then turns right into Ravenhill Avenue at 02:24:30 before disappearing from view at 02:24:33. Having regard to the timings and the striking similarities between the vehicles seen on both portions of video evidence, I am convinced that these two portions of video show one and the same vehicle.

[18] Having carefully viewed this video evidence on numerous occasions, I am satisfied that the vehicle in question emerged from Ravenhill Avenue, turned left onto the Woodstock Road, immediately turned right onto Hillsborough Drive, proceeded along Hillsborough Drive towards the Castlereagh Road end, performed a three point type turn beyond the bend on Hillsborough Drive but before it had reached 63 Hillsborough Drive, drove back down Hillsborough Drive towards the Woodstock Road, and stopped near the junction of the Woodstock Road with its lights off for some time. During the time that the vehicle is stationary, an individual is seen running down the footpath and then getting into the rear of the vehicle via the rear driver's side door. The vehicle then drove out of Hillsborough Drive and turned left onto the Woodstock Road. The lights were then turned on and the vehicle then turned right into Ravenhill Avenue, without indicating.

[19] Ravenhill Avenue runs from the Woodstock Road to the Ravenhill Road and there are eight side streets leading off Ravenhill Avenue. It therefore becomes more difficult to definitively plot the routes taken by the vehicle on its way to and from the junction of Ravenhill Avenue and the Woodstock Road. The Police investigation in this case involved the interrogation of the Automatic Number Plate Recognition (ANPR) System in operation in the Greater Belfast area at the time in order to ascertain whether any vehicles of the type shown in the video evidence referred to above were captured on any ANPR cameras in this general location, during the relevant time period. One vehicle in particular became the focus of Police attention and that was a red Citroen C3 motor vehicle, registration number SKZ 6662. The ANPR captures relating to this vehicle with this registration number are definitive proof that the vehicle in question was being driven at the camera locations at the time the images were captured and processed.

[20] The ANPR evidence relating to this vehicle which was not challenged and which I accept in its entirety is that the vehicle was travelling along the Ormeau Embankment in the direction of the Ravenhill Road at 02:17:34 on the morning of 4 March 2016. At 02:25:38 on the same morning it was captured by the same camera system which is located on the Ormeau Embankment near the junction with Ravenhill Reach travelling along the Ormeau Embankment in the direction of the Ormeau Road. At 02:15:24 on the morning of 4 March 2016, the vehicle is captured by an ANPR camera located at the King's Bridge. At that time, the vehicle is travelling on the Annadale Embankment towards the Ormeau Road. There is another ANPR capture of this vehicle and this capture takes place at 02:28:21 on the morning of 4 March 2016 when the vehicle is travelling from the Governor's Bridge southwest towards the Stranmillis Roundabout.

[21] This evidence proves definitively that shortly after quarter past two on the morning of 4 March 2016, this vehicle travelled from the Kings Bridge, along the Annadale Embankment, through the Ormeau Road junction, onto the Ormeau Embankment in the direction of the Ravenhill Road and then made a return journey along substantially the same route, coming off the Governor's Bridge in the direction of the Stranmillis Roundabout at just before half past two.

[22] Police checks revealed that Mrs Gemma Robinson of 3 Deerpark Parade, Belfast, was the registered owner of this motor vehicle at the relevant time. Gemma Robinson is the wife of Peter Robinson who is the brother of Christopher Robinson, the defendant in this case. The Police conducted a search operation at this address on 6 March 2016. The Citroen C3 motor vehicle was found parked in the driveway and was seized at 21:25 hours and was subsequently subjected to intense forensic examination. The premises were also searched over the course of the next few days. A number of important pieces of evidence were obtained during this Police operation.

[23] Firstly, and most obviously, the vehicle was found to have a child's booster seat in the front passenger seat and a full infant car seat harnessed onto the rear passenger side seat. This would mean that unless one, other or both of these items were removed from the passenger compartment of the vehicle, the only seat readily available for use by an adult passenger would be the rear driver's side passenger seat.

[24] Secondly, and most importantly, swabs were taken from various locations inside this vehicle and analysed for the presence of explosives. Traces of the explosive RDX (Semtex) were found on the rear floor area of the vehicle and on the rear seat and the infant seat located in the rear passenger compartment. The trace amounts found were consistent with secondary or tertiary contact with the explosive. In other words, an object or objects which had been in direct contact with the explosive was or were then in direct contact with the seats or floor of the car (secondary contact); or an object or objects which had been in direct contact with another object or other objects which had been in direct contact with the explosive was or were then in direct contact with the seats or floor of the car (tertiary contact). The uncontested evidence at the trial which is founded on and supported by a wealth of scientific papers is that the finding of traces of RDX in the public environment is exceptionally rare. Swabs taken around laboratory sites which test for the presence of RDX explosive, from police stations, from holding cells, from SOCO garages and police vehicles have never tested positive for even trace amounts of RDX. Therefore, the presence of traces of RDX in the rear passenger compartment of this vehicle is consistent with this vehicle being used to transport an improvised explosive device containing the explosive RDX (Semtex).

[25] Thirdly, the contents of the black domestic bin located at 3 Deerpark Parade, Belfast (the number 3 was painted on the bin) were examined at 12:05 hours on 8 March 2016 during the search and in a black plastic bin bag found at the top of the bin, amongst other items of household rubbish, there was a windscreen sticker with an image of a red poppy and the wording "I'M SUPPORTING THE POPPY APPEAL". Photographs of this find were introduced at the trial as exhibit 68. This bin bag was found at the top of the bin and it is safe to assume that it was one of the more recent additions to the contents of the bin. The Poppy Appeal sticker was subjected to forensic examination and a partial palm print which was identified as being Peter Robinson's left palm print was found on the back of the sticker. A swab

taken from the edge of the Poppy Appeal sticker was subjected to analysis and this revealed the presence of a partial DNA profile matching the defendant, Christopher Robinson. The evidence given at the trial which was not challenged was to the effect that the profile found on the edge of the sticker would be at least one billion times more likely to arise if the DNA originated from Christopher Robinson than from an unrelated man.

[26] It is argued by the Crown that the presence of partial DNA profile belonging to the defendant on the edge of the Poppy Appeal sticker is consistent with the defendant being in direct contact with this sticker. It is argued by the defence that it is also consistent with the sticker being in contact with an object that the defendant had been in contact with. The defendant when interviewed about these offences submitted a pre-prepared statement to the Police in which he accepted that he had on occasion been in his sister-in-law's Citroen C3 motor vehicle. If the presence of the defendant's DNA on the sticker is explicable by the defendant's presence in the Citroen C3 motor vehicle then this must mean that at some stage the Poppy Appeal windscreen sticker was in the motor vehicle so as to become contaminated with the defendant's DNA. The DNA evidence by itself does not establish that the defendant was in the vehicle at the same time as the sticker was present in the vehicle.

[27] Three booklets of photographs of the Citroen C3 motor vehicle were introduced at the trial as exhibits 66, 67 and 73. I have carefully studied each of the eleven images contained in exhibit 73, the nineteen images contained in exhibit 67 and the four images in exhibit 66. I have compared these images with the video images of the vehicle which was observed entering Hillsborough Drive, driving along that street, being parked in that street and driving out of that street onto the Woodstock Road. The vehicle in the video appears pink/purple in colour. The Citroen C3 is a non-metallic red colour. The Crown argues that the apparent colour of the vehicle in the video is simply a result of the CCTV camera capturing images illuminated by street light rather than day light. I take into account the fact that the source and quality of the illumination of an object at night clearly impacts upon the apparent colour of the object.

[28] Apart from the apparent difference in colour, there are a number of really striking similarities between the vehicle shown in the photographic exhibits and the vehicle shown in the video images. The overall shape is indistinguishable. The headlights are the same shape and relative size. The front grills are the same. The front bumper is the same. The front number plate is in the same place. The wheels are very similar. The dark wing mirrors and door handles are strikingly similar. Both vehicles have a spoiler on the top of the rear hatchback. Both vehicles have a third higher level brake light. Both vehicles have an aerial located centrally at the rear of the roof. Both vehicles have indicator lights located in the same position in the front quarter panels. Both vehicles have rubber strips on the doors. Both vehicles are fitted with rear mud flaps. The rectangular bright area at the bottom left hand corner of the front windscreen seen on the video footage of the vehicle in Hillsborough Drive is strikingly consistent with the size, colour and positioning of the vehicle tax disc and

MOT disc holder which is seen attached to the bottom left hand corner of the windscreen of the Citroen C3.

[29] However, when the photographs of the Citroen C3 were taken, there was nothing consistent with the bright patch observed at the top middle section of the windscreen of the vehicle captured on video in Hillsborough Drive. The Crown argues that this bright patch observed on the video was caused by the Poppy Appeal sticker being attached to the windscreen of the Citroen C3. It is argued that this was attached to this vehicle so that it would not seem out of place, if observed in East Belfast. The Crown case is that it was removed from the windscreen after the vehicle left Hillsborough Drive and was then disposed of in a black bin bag which was then placed in the black wheelie bin belonging to the owner of the vehicle. The evidence given at the trial by Mr Adam McLean was to the effect that the estimated dimensions of the item seen in the windscreen compared closely with the actual measured dimensions of the Poppy Appeal car sticker, lending support to the proposition that they were one and the same object.

[30] Following the ANPR capture of this vehicle at 02:28:21 on the morning of 4 March 2016 when the vehicle was travelling from the Governor's Bridge southwest towards the Stranmillis Roundabout, the next ANPR capture occurred at 08:44:58 later that morning when the vehicle was at the Antrim Road, Limestone Road, Cavehill Road junction. This is a daylight image. Although the tax disc/MOT disc holder is clearly visible in the bottom left hand corner of the windscreen, there is no sign of anything attached to the top central portion of the windscreen. If the Crown case is correct, then it would appear that the Poppy Appeal sticker had already been removed from the windscreen at that stage. Its swift removal by that time and its subsequent recovery from Mr Peter Robinson's bin with his partial palm print on it supports the proposition that he removed it from the windscreen when the opportunity to do so first arose and subsequently placed it in his bin.

[31] Having regard to the evidence set out above, I am convinced that the red Citroen C3 motor vehicle, registration number SKZ 6662, registered in the name of Mrs Gemma Robinson of 3 Deerpark Parade, Belfast, was the vehicle which was present in Hillsborough Drive between 02:21 and 02:24 on 4 March 2016. I am certain that this vehicle was used to transport an individual in its rear passenger compartment who was in possession of an improvised explosive device to Hillsborough Drive, Belfast, during the early hours of 4 March 2016, where this device was then attached to the underside of Mr Adrian Ismay's blue VW transporter van which was parked in the driveway of 21 Hillsborough Drive. I am certain that this same individual, having attached the device to the underside of Mr Ismay's vehicle, ran down the footpath of Hillsborough Drive towards the location of the parked Citroen C3, and in the knowledge that only one seat was available for use in the Citroen C3 (such knowledge being acquired from his journey to the scene in the same vehicle), got into the vehicle using the rear driver's side door. I am convinced that this vehicle was then used to convey this individual away from the scene. The presence of this individual and/or the device in the rear

passenger compartment of the vehicle resulted in the depositing of traces of RDX (Semtex) on the floor, rear seat and infant seat in the rear of this vehicle.

[32] I am convinced that the Poppy Appeal sticker found in the black bin bag near the top of the black wheelie bin at 3 Deerpark Parade, Belfast, had previously been attached to the windscreen of the Citroen C3 in the early hours of 4 March 2016, during the phase of the journey when the vehicle was in East Belfast. I am convinced that this was a cynical ploy by which it was intended to ensure that the vehicle would not appear out of place in that general area and/or would be less likely to be stopped and searched at a Police checkpoint, if such were to be encountered on the journey. The presence of the defendant's DNA on the Poppy Appeal sticker is entirely consistent with it being present in the said vehicle either at the same time or sometime after the defendant was present in the vehicle.

[33] Although I am convinced that the Citroen C3 motor vehicle, registration number SKZ 6662, is the vehicle that was used to transport the device to the scene and to transport the individual who attached the device to Mr Ismay's van away from the scene, this finding by itself does not conclusively point to any identified individual's involvement in this operation. The fact that this vehicle is registered in the name of Mrs Gemma Robinson of 3 Deerpark Parade, Belfast, the fact that the vehicle was found at this address, the presence of Mr Peter Robinson's partial left palm print on the Poppy Appeal windscreen sticker that I have concluded was present on the windscreen of the C3 when it was in East Belfast and the finding of this sticker in a bin bag at the top of black wheelie bin at the said premises would all justify attention being focused on this couple. However, the movements of the C3 motor vehicle before and after the established sightings of the vehicle are also important and it is to these issues that I now turn.

[34] Police investigations revealed that Mr Peter Robinson was employed as a support worker by First Housing and Support Services at the Ardmoulin Mews Hostel, Ardmoulin Terrace, Ardmoulin Street, off Divis Street in Belfast. On the night of 3 and 4 March 2016, his shift pattern was 19:30 to 08:00. He worked a similar shift pattern on the night of 4 and 5 March 2016. It is clear from the evidence of two members of staff working at the hostel (Marie Quinn and Esther Benstead) that Mr Peter Robinson arrived for work on the evening of 3 March 2016 at some time between 19:15 and 19:30 driving the red Citroen C3 motor vehicle. Staff were able to observe his arrival on the CCTV system which was in operation at the hostel at the time and also see him arrive and park his vehicle from the window of the main office of the hostel.

[35] The vehicle was parked in a parking space on Ardmoulin Terrace just beside the entrance to the hostel, facing towards the hostel. A booklet of photographs (exhibit 161) of the general area, the exterior of the hostel, the interior of the hostel and the main office, including the monitor screen which displays images from the 16 channel CCTV DVR system, is helpful in that photograph 1 shows where the Citroen C3 was parked on the evening in question. It was parked where the vehicle

registration number IGZ 4674 is seen parked in the photograph, facing the same way as this vehicle. It was parked immediately beside the entrance to the hostel. See photograph 3. Photograph 3 also shows the location of a CCTV camera immediately beside a light and above the intercom key pad on the right-hand side pillar of the entrance. A map of the area (exhibit 159) shows the proximity of the hostel to Divis Street, demonstrates that Ardmoulin Terrace is a cul-de-sac off Ardmoulin Street, and identifies the location of various CCTV cameras attached to the structure of the hostel and the entrance, which said cameras cover the area surrounding the hostel.

[36] Photograph 11 clearly demonstrates that the vehicle shown in photograph 1 which is parked in the same place as the Citroen C3 was parked on the evening in question is visible from the window of the main office of the hostel and that the rear half of the vehicle is also visible in the second CCTV camera image on the monitor (top row of images, second from left).

[37] Having regard to the photographic evidence adduced in this case, I am entirely satisfied that both Marie Quinn and Esther Benstead gave accurate and truthful evidence about the handover of responsibilities between support staff in the hostel at or about 19:30 on the evening of 3 March 2016. They had been on day duty and when their day shift was coming to an end, they handed over to Mr Peter Robinson and Mr Kevin Quinn who were coming on duty at 19:30. Mr Peter Robinson arrived in a red Citroen C3 at some time between 19:15 and 19:30 and parked the vehicle on Ardmoulin Terrace just beside the entrance to the hostel. Both Ms Quinn and Ms Benstead gave evidence that this vehicle was still in this location when they walked out the entrance, separately passing the vehicle at times between 19:40 and 19:50 and I fully accept that evidence.

[38] The arrival of the Citroen C3 at the Ardmoulin Mews Hostel between 19:15 and 19:30 on the evening of 3 March 2016 is further supported by two separate ANPR captures of this vehicle on the evening of 3 March 2016. The first ANPR capture occurred at 19:09:47 when the vehicle was captured by a camera unit situated at Clifton Street, Belfast, and the second ANPR capture occurred at 19:14:29 when the vehicle was captured by a camera unit situated on Divis Street, Belfast. These sightings are clearly consistent with the vehicle being driven towards the Ardmoulin Mews Hostel at the time. The question which must now be addressed is what happened this vehicle between approximately 19:50 when it was observed parked outside the hostel on Ardmoulin Terrace and when it was next captured by an ANPR camera located at the King's Bridge at 02:15:24 on the morning of 4 March 2016, when the vehicle was travelling on the Annadale Embankment towards the Ormeau Road?

[39] One possible line of inquiry for the Police to follow would have been the interrogation of the CCTV system in operation in and around the Ardmoulin Mews Hostel at the relevant time, in the expectation that it would have provided valuable information about the occupants of and movements of the Citroen C3 motor vehicle

at the commencement of its journey from Ardmoulin Terrace to Hillsborough Drive, Belfast. Unfortunately, for reasons which I will now address, the Police were denied the opportunity to interrogate this CCTV system.

[40] The CCTV recording equipment installed at the hostel at the relevant time was seized by the Police on 8 March 2016 and was subsequently subjected to forensic analysis. When it was seized it was noted that the embedded timer was 7 minutes and 30 seconds behind the actual time. When it was first forensically examined after 24 March 2016, the embedded timer was 9 minutes behind the actual time. This calls into question the timing of events recorded on the CCTV system. With that proviso as to the accuracy of embedded or recorded timings, interrogation of the CCTV system revealed that the following events are recorded as occurring at the following recorded times.

[41] The CCTV system installed in and around Ardmoulin Mews Hostel was switched off and did not record any imagery between the recorded times of:

- (a) 21:09 and 21:27:04 on 3 March 2016;
- (b) 23:15 and 23:20:17 on 3 March 2016; and
- (c) 02:40 and 02:47:42 on 4 March 2016.

[42] At 23:13 on 4 March 2016, the system settings of the CCTV system installed in and around Ardmoulin Mews Hostel were changed so that instead of retaining imagery from the 16 cameras on the hard drive for a period of 12 days, all imagery was deleted after a period of 24 hours. This change was effected when Mr Peter Robinson was on night duty in the hostel. This change in the retention period effected at 23:13 on 4 March 2016 meant that any imagery recorded prior to 23:13 on 3 March 2016 was permanently deleted at that stage and that by 08:00 on 5 March 2016 all imagery recorded during the period between 23:13 on 3 March 2016 and 08:00 on 4 March 2016 would have been permanently deleted. How did this come about?

[43] Four individuals employed at the hostel at the relevant time gave evidence during the trial. Two have already been identified as Marie Quinn, the Deputy Manager of the hostel, and Esther Benstead, an Accommodation Support Officer. The other two witnesses were Sarah Rooney, a Team Leader at the hostel, and Kevin Quinn, a Support Worker who was working with Mr Peter Robinson at the hostel on the night of 3 and 4 March 2016. The statement of Mr Patrick Daly dated 9 March 2016 was admitted by agreement.

[44] The four witnesses that gave oral evidence all stated that it was understood by all staff working at the hostel that the CCTV system should never be switched off. There was a sign to that effect in the office which was present on 3 March 2016. None of them had ever switched off the system. All gave evidence that only managers were authorised to adjust the settings of the CCTV system and if the system had to be interrogated in order to play back some imagery, a manager would be required to

do that. Sarah Rooney had a very basic knowledge of the operation of the CCTV system in that she could retrieve imagery by recalling imagery recorded on a certain date at a certain time but she had no idea how to adjust the settings. Her evidence was that there was an operating manual and that there was a passcode to access the system. The CCTV system was accessed by means of a series of buttons located on the front of the hard drive associated with the CCTV system. None of the staff were trained in the detailed operation and adjustment of the CCTV system and residents of the hostel were not allowed to enter the office if staff were not present.

[45] Only one staff member who gave evidence was able to cast any light on what occurred on the night of 3 and 4 March 2016. Mr Kevin Quinn has worked as a Support Worker in the hostel since 2003. During the night shift he was usually based in the Reception Office which is located just to the right of the main entrance to the hostel as one enters the hostel. (See photograph 13 of exhibit 161). This is where the CCTV system monitor and hard drive are located. Mr Kevin Quinn's evidence was that he was working the night shift with Mr Peter Robinson. He had received a hand over from Marie Quinn. At some time during that night when it was dark but before midnight he was in the office with Peter Robinson. His evidence was that Mr Peter Robinson either pulled the plug of the CCTV system out of the socket or switched the system off at the plug. Either way, the CCTV system was completely disabled. The monitor went blank. When he did this, Peter Robinson spoke to Mr Quinn in the following terms: "Our Christy" or "Our Chrissy" was "calling" to the hostel. Mr Quinn described how he was very uncomfortable about what had happened. He thought something was wrong and as a result he left the office and went down to the kitchen.

[46] This had not been the first time Mr Quinn had witnessed Mr Peter Robinson turn off the CCTV system. During the first week of January 2016, he had witnessed Mr Peter Robinson turn off the system when he was working with him. On that occasion, Mr Robinson stated that his brother Eddie was calling down to say "Happy New Year."

[47] On the night of 3 March 2016, when Mr Peter Robinson deliberately disabled the entire CCTV system in the hostel, Mr Quinn went to the kitchen. He remained there for a few minutes. When he was making his way back to the main office, he saw Mr Peter Robinson entering the office from the direction of the main entrance and he assumed he had been outside. He did not see anyone else and he could not remember if the CCTV system was working again when he went back into the office. Mr Quinn gave evidence on two separate occasions. On the second occasion he was questioned about the whereabouts of Mr Peter Robinson during the rest of the night. He stated that as far as he could recollect, Mr Peter Robinson did not leave the hostel but had spent some time in the creche watching television. He certainly did not remember Mr Peter Robinson making his way past the office to the main entrance at any time that he (Mr Quinn) was in the office. He stated that he would have been in the office from 01:00 on 4 March 2016 and did not see the CCTV system being

disabled on any other occasions. He accepted that there would have been nothing unusual about members of staff popping out to a shop.

[48] Having carefully considered the evidence of the various staff members, the photographic and cartographic exhibits and the agreed facts concerning the switching off the CCTV system and the changing of the imagery retention settings, I am convinced that the change in the retention settings was deliberately effected by Mr Peter Robinson at some time between quarter past and half past eleven on the night of 4 March 2016. This was at a time when the explosion in Hillsborough Drive had been widely reported in local news media during the course of 4 March 2016. This was a belt and braces approach to the removal of any possible video evidence of the comings and goings of persons to and from the hostel and the movements of vehicles parked within range of any of the cameras linked to the hostel CCTV system.

[49] I entirely accept the evidence of the various staff members including Mr Kevin Quinn who has shown considerable courage in giving evidence in this case and I am convinced that on each of the three occasions on which the CCTV system was disabled during the night of 3 and 4 March 2016, Mr Peter Robinson was responsible for disabling the CCTV system and that his reason for doing so was to prevent the recording of any possible video evidence of the comings and goings of persons to and from the hostel and the movements of vehicles parked within range of any of the cameras linked to the hostel CCTV system. I am also convinced that on at least one of those occasions the CCTV system was disabled so as to prevent the recording of any possible video evidence of the coming and going of his brother, Mr Christopher Robinson, the defendant in this case.

[50] Returning to the movements of the Citroen C3 on the night in question, now that the starting point and the end point of its journey has been identified, its possible routes to and from those locations have to be considered with a view to ascertaining whether there is any cogent evidence which supports the conclusion that the vehicle travelled along any of those routes.

[51] As a result of the ANPR capture of the vehicle on the Ormeau Embankment at 02:17:34 when it was travelling in the direction of the Ravenhill Road, the CCTV system relating to Glentoran House further along the Ormeau Embankment towards the Ravenhill Road was interrogated. There are two CCTV cameras that partially record traffic travelling along the embankment in front of Glentoran House and there are black and white images of a vehicle which could be described as being similar to a Citroen C3 briefly passing from right to left in the direction of the Ravenhill Road at approximately 02:17:51.

[52] As the route of the vehicle on the night in question definitely included at least part of Ravenhill Avenue, Belfast, a CCTV camera system attached to a dental practice Elite Dental Practice, 246-248 Ravenhill Road, Belfast which is at the south side of the junction of Ravenhill Avenue was interrogated. A CCTV camera covering

the mouth of the Ravenhill Avenue shows a vehicle travelling up the Ravenhill Road and turning left into Ravenhill Avenue, travelling left to right across the screen. The vehicle is similar in shape to a Citroen C3 and the sighting occurs at 02:18:30.

[53] Two cameras attached to the same CCTV camera system (the camera referred to in the previous paragraph and another camera which was pointed out towards the main Ravenhill Road) record a vehicle travelling along Ravenhill Avenue and turning right onto the Ravenhill Road at 02:24:27. This vehicle is generally similar in shape to a Citroen C3.

[54] From this evidence, it is reasonable to conclude that following the capture of the Citroen C3 motor vehicle on the Ormeau Embankment travelling in the direction of the Ravenhill Road, the vehicle progressed along the Ormeau Embankment to the end and turned right at the lights and travelled south on the Ravenhill Road until it turned left into Ravenhill Avenue. It then travelled along Ravenhill Avenue to the end and then turned left onto the Woodstock Road and then right into Hillsborough Drive. On the return journey the vehicle turned left out of Hillsborough Drive onto the Woodstock Road and then turned right into Ravenhill Avenue, travelling along Ravenhill Avenue to the junction with the Ravenhill Road, where it turned right and travelled north on Ravenhill Road until it turned left at the traffic lights onto the Ormeau Embankment when it was again captured by the ANPR system on the Ormeau Embankment.

[55] I remind myself that the Citroen C3 motor vehicle had been captured by the ANPR system travelling from the King's Bridge onto the Annadale Embankment in the direction of the Ormeau Road at 02:15:24. Interrogation of a CCTV system operated by Dunnes at its supermarket premises located on the south side of the Annadale Embankment near the junction of the Ormeau Road, which said system included a camera trained on part of the Dunnes car park closest to the supermarket in a general north westerly direction, which also took in a section of the Annadale Embankment, showed a smallish vehicle travelling along the Annadale Embankment from the King's Bridge towards the junction with the Ormeau Road at 2:16:04.

[56] These images are colour images and just before the vehicle goes out of shot it appears red in colour. It is reasonable to conclude that once the vehicle exited the King's Bridge onto the Annadale Embankment, it travelled along the Annadale Embankment and travelled across the Ormeau Road junction onto the Ormeau Embankment until it was captured by the ANPR system on the Ormeau Embankment travelling towards the Ravenhill Road. On the return leg, the ANPR sighting on the Ormeau Embankment at 02:25:38 when the Citroen C3 was travelling in the direction of the Ormeau Road and the subsequent ANPR sighting at the north end of the Governor's Bridge at 02:28:21 with no intervening ANPR sighting on the King's Bridge leads me to conclude that the vehicle travelled along the Ormeau Embankment in the direction of the Ormeau Road, crossed the Ormeau Road junction and travelled along the Annadale Embankment towards the

Governor's Bridge and then turned onto the Governor's Bridge. I am satisfied that the route of the vehicle has been established with a high degree of confidence from the King's Bridge to Hillsborough Drive and from Hillsborough Drive back to the north end of the Governor's Bridge where it was captured by the ANPR system as it travelled towards the Stranmillis Roundabout.

[57] In relation to the whereabouts of the vehicle before and after the sightings on or about the two Lagan bridges in the early hours of 4 March 2016, evidence was given at the trial relating to various potential video captures of this vehicle in the Lisburn Road, Malone Road and Stranmillis Road areas in the minutes leading up to 02:15:24 and in the minutes after 02:28:21.

[58] The court was shown colour video footage taken by a CCTV camera attached to the front of the Wineflair Off Licence, 179 Lisburn Road, Belfast. These premises are located on the south side of the Tate's Avenue junction, on the west side of the Lisburn Road. The camera is directed along the Lisburn Road in the direction of the city centre and it is possible to view traffic emerging onto the Lisburn Road from Tate's Avenue. Images recovered from the CCTV system show a small red vehicle emerge from Tate's Avenue and turn right onto the Lisburn Road at 02:12:00. The overall shape of this vehicle is similar to the Citroen C3. The next section of video footage shown to the court was a video capture from a CCTV system operated by Duffy and Co, Accountants, 126 Eglantine Avenue, Belfast. These premises are situated on the north side of Eglantine Avenue and the camera which is a black and white camera is primarily trained on the front curtilage of the premises although it does also record the movement of vehicles travelling along Eglantine Avenue, particularly those travelling towards the Malone Road. At 02:13:35 a small four door hatchback motor vehicle which is similar in shape to a Citroen C3 is seen travelling along Eglantine Avenue towards the Malone Road.

[59] The next section of video shown to the court was a video capture from a PSNI CCTV camera system located at an elevated position on the Malone Road adjacent to the David Kier Building. Images were obtained from the camera covering the Malone Road countrywards of the camera position. The Botanic Inn is clearly shown. The Elmwood Avenue junction is visible on the right and the Chlorine Gardens junction is visible beyond that on the left. The image quality is much better than the output of many of the other CCTV systems shown to the court and at 02:13:35 a small red vehicle is seen emerging from Elmwood Avenue, turning right onto the Malone Road and then turning left onto Chlorine Gardens. Prior to turning left into Chlorine Gardens, the brake lights of the vehicle are illuminated and it is readily apparent that the vehicle has an additional centrally placed brake light which is located above the level of the other two brake lights.

[60] The next section of video shown to the court was a video capture from a CCTV system attached to 11 Chlorine Gardens, Belfast. As one travels from the Malone Road along Chlorine Gardens, this property is located on the right-hand side of the road before the bend and just before the Queen's University Biological

Sciences building. The black and white camera is trained on the curtilage to the front of number 11 but the road is clearly visible and at 02:13:36 a small hatchback type vehicle is seen travelling from left to right across the screen in the direction of the Stranmillis Road.

[61] The next section of video shown to the court was a video capture from a PSNI CCTV camera system located at an elevated position on the Stranmillis Road just citywards of the junction with Chlorine Gardens. Images were obtained from the camera covering the Stranmillis Road countrywards of the camera position. The Chlorine Gardens junction is clearly visible on the right and the image quality is very good. At 02:14:12 a small red four door hatchback motor vehicle is seen emerging from Chlorine Gardens, turning right onto the Stranmillis Road and then proceeding along the Stranmillis Road until it is lost from sight due to the topography of the road. The vehicle seen in this section of video is very similar to the Citroen C3.

[62] The next section of video shown to the court was a black and white video capture from a CCTV system attached to a Value Cabs depot at 137 Stranmillis Road, Belfast which is located in the block of properties between the junctions of St Ives Gardens and St Albans Gardens. The camera is trained on the footpath to the front of number 137 and sections of the road to the top right and top left of the screen are clearly visible but due to the angle of the camera, the road is not particularly well visualised in the top centre portion of the screen. At 02:14:29 a small hatchback type vehicle is seen first in the top left of the screen and then in the top right of the screen, travelling in the direction of the Stranmillis Roundabout.

[63] The next two sections of video shown to the court were video captures from two colour cameras of a CCTV system attached to gaming machine premises then known as Little Vegas now operating under the name of Elite Gaming, 163 Stranmillis Road, Belfast. These premises are situated on the cityside of the Sandymount Street junction. One camera is angled across the Stranmillis Road, pointing in a citywards direction and the other camera is pointed in a countrywards direction along the Stranmillis Road. A small red hatchback motor vehicle is sequentially seen travelling from left to right in a countrywards direction in images captured by both cameras at or about 02:14:25. In relation to the images captured from the camera pointing countrywards, it is impossible to discern whether the vehicle progresses along the Stranmillis Road to the Stranmillis Roundabout or whether it turns left down Ridgeway Street.

[64] Having carefully considered all these various video clips, I conclude that these various sections of video capture the movements of the Citroen C3 from the top of Tate's Avenue at 02:12:00 to the Stranmillis Road at or near the junction of Ridgeway Street shortly after 02:14:45. Because of the timings involved, I conclude that the vehicle did make its way down Ridgeway Street to cross the King's Bridge at 02:15:24. The Crown does not rely on any other evidence in relation to the whereabouts of the vehicle before it emerged from the top of Tate's Avenue at 02:12:00. Therefore, the movements and timing of the movements of the Citroen C3

motor vehicle between approximately 19:50 on 3 March 2016 when it was observed parked outside the Ardmoulin Mews Hostel, off Divis Street and 02:12:00 when it is captured turning right out of Tate's Avenue onto the Lisburn Road, remain unknown.

[65] The route of the Citroen C3 vehicle after it crossed the Governor's Bridge and turned southwest towards the Stranmillis Roundabout at 02:28:21 can be ascertained by close scrutiny of images obtained from a number of the CCTV systems referred to in paragraphs [58] to [64] above. Video captures from the two colour cameras of the CCTV system attached to gaming machine premises then known as Little Vegas which are of reasonably good quality sequentially show a small red hatchback motor vehicle similar to a Citroen C3 travelling citywards along the Stranmillis Road at 02:29:13.

[66] The next section of video shown to the court was a black and white video capture from the CCTV system attached to the Value Cabs depot. As the vehicle is now travelling on the citybound lane closest to the camera it is more readily visible in the section of video shown to the court. At 02:29:27 a small four door hatchback type vehicle with dark door handles is seen progressing citywards. The next section of video shown to the court was a video capture from the PSNI CCTV camera system located at an elevated position on the Stranmillis Road just citywards of the junction with Chlorine Gardens. Images were obtained from the camera covering the Stranmillis Road countrywards of the camera position. The Chlorine Gardens junction is clearly visible on the right and the image quality is very good. At 02:29:33 a vehicle is seen driving citywards along the Stranmillis Road, towards the camera position. It is initially identified as a vehicle only by its headlights. As it travels towards the camera, it does not indicate left but it does turn left into Chlorine Gardens. As it turns into Chlorine Gardens, it is readily identifiable as a small red four door hatchback motor vehicle. The vehicle seen in this section of video is similar to the Citroen C3.

[67] The next section of video shown to the court was a video capture from the CCTV system attached to 11 Chlorine Gardens, Belfast. At 02:30:28 a small hatchback type vehicle is seen travelling from right to left across the screen in the direction of the Malone Road. The image quality is quite poor. The next section of video shown to the court was a video capture from the PSNI CCTV camera system located at an elevated position on the Malone Road adjacent to the David Kier Building. Images were obtained from the camera covering the Malone Road countrywards of the camera position. The Elmwood Avenue junction is visible on the right and the Chlorine Gardens junction is visible beyond that on the left. At 02:30:13 a small hatchback type vehicle is seen emerging from Chlorine Gardens, turning right onto the Malone Road and then turning left onto Elmwood Avenue.

[68] The final section of video footage shown to the court which dealt with the apparent movements of the Citroen C3 on the night in question was a video capture from the CCTV system operated by Duffy and Co., Accountants,

126 Eglantine Avenue, Belfast. At 02:30:36 a small four door hatchback motor vehicle which is similar in shape to a Citroen C3 is briefly seen in the top right-hand corner of the screen travelling along Eglantine Avenue towards the Lisburn Road.

[69] Having carefully considered all these various video clips, I conclude that these various sections of video capture the movements of the Citroen C3 as it travelled citywards along the Stranmillis Road, turning left onto Chlorine Gardens and then right onto the Malone Road before turning left onto Eglantine Avenue where it travelled towards the Lisburn Road end of Eglantine Avenue. The Crown do not rely on any other evidence in relation to the whereabouts of the vehicle after it was observed passing 126 Eglantine Avenue. The next sighting of the vehicle was the ANPR capture of the vehicle at the Antrim Road, Limestone Road, Cavehill Road junction at 08:44:58 on 4 March 2016. The movements and timing of the movements of the Citroen C3 motor vehicle between approximately 02:30:36 on 4 March 2016 when it was observed passing 126 Eglantine Avenue, Belfast, and 08:44:58 when it is captured by an ANPR camera on the Antrim Road, remain unknown.

[70] The evidence to which I have so far referred which potentially links the defendant Christopher Robinson to the murder of Mr Ismay is the partial DNA profile on the Poppy Appeal sticker which was deliberately used to render the Citroen C3 motor vehicle inconspicuous in East Belfast and/or less likely to be stopped at a Police checkpoint and the evidence that his brother Peter Robinson explained why he deliberately turned off the CCTV system in the Ardmoulin Mews Hostel by stating to Mr Quinn that the defendant was calling to the hostel. However, this is not the only evidence which potentially links the defendant to the murder.

[71] The defendant was arrested at his home at 16 Aspen Park, Belfast, at 20:10 hours on 6 March 2016. At the time of his arrest, a silver Skoda Fabia, four door hatchback, registration number KFZ 2352, registered in the defendant's name was found on the premises and seized by the Police. Also found and seized on the premises was a Nokia Lumia 735 mobile phone without a battery or a subscriber identification module (SIM) card (exhibit JS 3). When this telephone was subsequently subjected to forensic examination, by Detective Constable Chris Hill, the International Mobile Equipment Identity number (IMEI) of this mobile phone was noted to be 354265067590225. The statement of Detective Constable Chris Hill dated 25 May, 2016 refers to a report prepared by him and this report is also dated 25 May 2016. The section of the report prepared by Detective Constable Chris Hill dated 25 May 2016, which deals with the examination of the mobile phone is set out at pages 567 to 592 of the Additional Evidence, and in this report, he refers to this IMEI number which he states can be considered as the:

“serial number of the handset and is unique to that handset at the time of manufacture. The first 14 digits of the IMEI are used to uniquely identify each handset. Sometimes the IMEI shown electronically or printed on

the manufacturer's label of the handset may have additional digits appended to it. These relate to other technical information for that handset, for example software version and/or version of handset hardware. The IMEI shown on a Call Data Record (CDR) may have a zero at the end (digit 15). This zero is transmitted to the network by the handset so that data conforms to certain technical specifications. The first eight (8) digits relate to the Type Allocation Code (TAC). The next six (6) digits are the serial number produced by the manufacturer to that particular handset."

Therefore, the important 14 digit IMEI identification number in respect of this handset is 35426506759022 and this is unique to this mobile telephone handset.

[72] More will be said about the movements of the defendant's vehicle and the movements of this mobile phone in the period leading up to and immediately after the attack on Mr Ismay in a later section of this judgment. In the paragraphs that follow I will concentrate on the voice call, SMS messaging, internet and Facebook social media activities of the defendant both prior to and subsequent to the planting of the device which resulted in the death of Mr Ismay and I will then refer to the material found during the search of the defendant's home on 6 March 2016.

[73] At the outset it is important to note that a comprehensive, though still incomplete, record of the activity of the defendant's mobile phone was only able to be collated by extracting information from this phone's memory and analysing the voice call, SMS messaging and data records relating to a mobile telephone number linked to the defendant and combining this information with information obtained from similar analysis of a mobile telephone (complete with installed SIM card) which was seized during the search of the defendant's brother's premises (Mr Peter Robinson, 3 Deerpark Parade, Belfast) on the same date.

[74] The mobile telephone seized during the search of the defendant's premises on 6 March 2016 (a Nokia Lumia 735 with the IMEI number set out in paragraph [71] above but without a battery or SIM card) had contact entries for "Peadar" and Gemma Robinson. The number linked with the name "Peadar" in the Nokia phone's contacts was 07474227360 and this is the number programmed into the SIM card found in the Samsung Galaxy S4 mobile phone seized during the search of Peter Robinson's home. A subscriber check (Exhibit 75) confirmed that this number was associated with a mobile phone contract taken out by Mr Peter Robinson of 3 Deerpark Parade, Belfast in 2013/14. The number linked with the name Gemma Robinson in the Nokia's contacts (07724745715) was the same as the number linked to a similarly named contact in the Samsung S4 phone seized during the search of Peter Robinson's premises. The Samsung S4 mobile phone seized from 3 Deerpark Parade had a contact number for the defendant (Christie Robinson) which was 07835821518.

[75] Following the forensic analysis of the mobile phone seized during the search of the defendant's premises, the voice call, SMS messaging, data, contact entries and internet history for the said Nokia mobile phone (exhibit JS 3) were obtained and presented in a report for the court dated 23 May 2017 (exhibit 70), pages 541 to 674. See the second statement of Detective Constable Chris Hill dated 23 May 2017. A further report dealing exclusively with internet activity, based on browser history entries retained in the phone's memory, consisting of 71 pages (exhibit 164), was introduced in evidence on 18 June 2019.

[76] The following records were obtained in relation to the telephone number linked to the defendant:

- (a) The mobile data events relating to the mobile telephone number 07835821518 were obtained from Telefonica O² for the period between 00:01:00 on 19 February 2016 up to 20:30:00 on 6 March 2016 and these records are presented as part of exhibit 74, pages 677 to 685;
- (b) The outgoing call data for voice calls and SMS messages relating to the mobile telephone number 07835821518 were obtained from Telefonica O² for the period between 00:01:00 on 19 February 2016 up to 20:30:00 on 6 March 2016 and these records are presented as part of exhibit 74, pages 686 to 689; and
- (c) The device data records relating to the mobile telephone number 07835821518 were obtained from Telefonica O² for the period between 18:25:00 on 3 March 2016 up to 03:25:00 on 4 March 2016 and these records are presented as exhibit 78, pages 697 to 702.

[77] The following records and report were obtained in relation to the telephone number linked to the defendant's brother Peter Robinson:

- (a) A subscriber check for the number 07474227360 was provided on 6 March 2016, exhibit 75, pages 690 and 691;
- (b) The outgoing call data for voice calls and SMS messages relating to the mobile telephone number 07474227360 were obtained from Hutchinson 3G for the period between 00:01:00 on 19 February 2016 up to 20:30:00 on 6 March 2016 and these records are presented as exhibit 77, pages 692 to 696; and
- (c) Following the forensic analysis of the mobile phone and SIM card seized during the search of the Mr Peter Robinson's home, the voice call, SMS messaging, WhatsApp messaging, data and contact entries for the said Samsung S4 mobile phone were obtained and presented in a report for the court dated 30 May 2017 (exhibit 107), pages 927 to 941.

[78] In exhibits 74 and 78 there are columns of entries relating to the IMEI identification number of the mobile handset used when the SIM card with the

telephone number 07835821518 was communicating with the network. In exhibit 74 (pages 677 to 685) which are the mobile data events relating to 07835821518, the IMEI number is stated to be 3542650675902213. In pages 686 to 689 which contain details of all outgoing calls voice and SMS relating to 07835821518, the IMEI number is given as 354265067590220. In exhibit 78, pages 697 to 702, which are the device data records relating to 07835821518, the IMEI number is stated to be 354265067590225. Given that the first 14 digits constitute the unique identifying serial number for the handset in question and given that the first 14 digits set out in each entry of all the columns containing IMEI entries in all these records are identical and match the IMEI code printed on the Nokia Lumia 735 seized during the search of the defendant's premises, there can be no doubt that the handset in use which resulted in the generation of the data contained in exhibits 74 and 78 was the Nokia Lumia 735, exhibit JS 3, found during the search of the defendant's premises.

[79] Forensic analysis of the this Nokia Lumia 735 mobile telephone including interrogation of its memory and the analysis of the voice call, SMS messaging, internet and data records relating to the telephone number 07835821518 conclusively link this telephone number to this telephone during the relevant period and consideration of all this material conclusively establishes that this handset had been used to send a text at 17:53 hours on 6 March 2016 and had been used to access the internet at 19:10 hours, commencing to download content at that time and continuing to do so until 19:56 hours on the same date. As stated above, although the handset was seized during the search of the defendant's premises on 6 March 2016, which commenced at approximately 20:00 on that evening, neither the battery for this handset nor the 07835821518 SIM card was recovered. These items must have been removed from the handset very shortly before the Police arrived at the defendant's address and dealt with in such a manner that they were not amenable to discovery during the search of the defendant's premises. As the defendant was the only person present on the premises when the Police teams arrived to commence the search operation, the removal and placing beyond discovery of these items can only reasonably be viewed as a deliberate attempt by the defendant to dispose of material which he considered to be at least potentially incriminating.

[80] This is not the only example of a deliberate attempt by the defendant to put beyond discovery material which is clearly relevant to the investigation of the murder of Mr Ismay. Exhibit 70 at pages 549 to 567 contains details of the SMS text messages sent and received by the defendant using the Nokia Lumia 735 handset, exhibit JS 3, between 11:58 hours on 10 December 2015 and 15:59 on 6 March 2016 which have been retained in the telephone's memory. There are 570 texts during this period saved in the phone's memory. However, in the period between 14:10 hours on 3 March 2016 and 17.45 hours on 4 March 2016, there is no record in the phone memory of any texts being either sent or received or any voice calls being made or received other than a call to voice mail at 21:15 hours on 3 March 2016. However, the analysis of the contents of the memory of the defendant's brother Peter Robinson's Samsung S4 mobile phone contained in exhibit 107 at pages 930 to 932, coupled with analysis of the outgoing call data for voice calls and SMS messages

relating to the mobile telephone number 07835821518, exhibit 74, pages 686 to 689, conclusively demonstrates that the defendant's mobile made five calls (not including the one to voice mail) during this period and also sent four texts. Two of the outgoing calls and all of the outgoing SMS texts were to Peter Robinson's phone.

[81] The defendant's brother Peter Robinson also sent the defendant two texts during this period. However, no record of any of these calls or texts were kept on the defendant's phone. Records of the outgoing communications are contained in the outgoing call data records, exhibit 74, and records of the content of the six SMS text messages exchanged between the defendant and his brother are preserved in the memory of Peter Robinson's mobile telephone.

[82] It is important to set out the content of the SMS text exchange between the defendant and his brother Peter Robinson, evidence of which is preserved in the memory of Peter Robinson's mobile telephone but deleted from the memory of the defendant's mobile telephone. At 20:54:42 on 3 March 2016, the defendant sent the following text to his brother who was then at work in Ardmoulin Hostel: "Put kettle on bro. 5." The response was sent at 21:17:51: "No problem." At 21:19:30 the defendant sent the following message to his brother: "Coming now, got held up ffs." The reply at 21:19:48 was: "No rush." Then at 02:39:40 on 4 March 2016 there is a further text message from the defendant to his brother in the following terms: "Hey bro, how's work?? Couldn't sleep." In addition to this text exchange, it is clear that the defendant also made voice calls to his brother's mobile at 02:40:24 on 4 March 2016 with the call lasting 16 seconds and at 03:24:40 on the same date with the call lasting 45 seconds. However, there is no record of these calls in the memory of the defendant's phone.

[83] The deliberate deletion from the memory of the defendant's mobile phone of any record of this exchange of SMS messages and calls must be viewed in the context of the defendant's brother telling Mr Quinn, a fellow worker at the hostel, that the defendant was coming to the hostel on the night in question; the defendant's brother switching off the hostel's CCTV system for a period on three separate occasions during the night in question; the defendant's brother's alteration of the retention period of CCTV images on the hostel CCTV system during his next working shift at the hostel; and the movements of the Citroen C3 motor vehicle as established by its definitive capture by the ANPR system and its observation by means of other CCTV systems on the night in question. The deletion of this record can only reasonably be viewed as a deliberate attempt by the defendant to dispose of material which he considered to be at least potentially incriminating.

[84] One of the issues explored at the trial was the existence of prior links between the defendant, Christopher Robinson and the deceased, Adrian Ismay. The evidence in relation to this issue is such that I am convinced that the defendant and the deceased were known to each other. They had both worked as volunteers for St John's Ambulance Service. In paragraph 11 of the formal admissions made in the case, it is accepted that Mr Adrian Ismay had been involved in processing the

defendant's application to join St John's Ambulance Service in 2010. Following the attack, Mr Ismay was interviewed by the Police while still an inpatient in hospital on 7 March 2016. A statement was obtained and this statement was admitted in evidence at the trial.

[85] In his statement, Mr Ismay estimated that he had last seen the defendant over two years before the incident, when he worked for St John's Ambulance Service at the Saintfield Road base in the Brackenvale Industrial Estate. Mr Ismay stated that he solely knew the defendant on a work basis and never socialised with him. He had never been to Mr Robinson's home and Mr Robinson had never been to his. During the 3 to 4 years Mr Ismay had worked along with Mr Robinson, "we never had cross words, we never had any run ins, we actually got on well. We never discussed any topics to do with religion or politics." Documentation adduced at the trial in the form of the Annual Return and Record of Volunteers for 2012, exhibit 27, pages 22 to 24, demonstrates that the defendant and the deceased had worked together for St John's Ambulance Service in 2012, Mr Ismay having joined the organisation in 1998 and the defendant having joined in 2010. In one of two prepared statements submitted by the defendant during Police interview, the defendant stated that he had not kept in touch with Mr. Ismay. In his statement dated 7 March 2016, Mr Ismay stated that as he had been in the Prison Service for 29 years, he was "pretty certain" that the defendant Christopher Robinson would have been aware of his occupation.

[86] The court received unchallenged evidence of a Prison Governor employed by the Northern Ireland Prison Service and from this it is clear that Mr Ismay joined the Prison Service in September 1987. He worked in the HMP Maze until 1994 when he transferred to the Young Offenders' Centre at Hydebank Wood. He was promoted to the rank of Senior Officer in 2014 and was transferred to the Prison Service College as a tutor. He remained in this post until his death. It was confirmed that Mr Ismay was not involved in 'Separated Training for Staff' working in Roe House, nor had he ever been posted to Maghaberry prison.

[87] In addition to volunteering for St John's Ambulance Service, the deceased also volunteered for another similar organisation, Community Rescue Service and was an Area Commander in this organisation. On 27 September 2015, Christopher Robinson performed a Google search on his mobile telephone for the website of this organisation and accessed the "unit's" web page which detailed the locations in which the organisation was based. See exhibit FOH 2, page 3. On the same evening, the defendant made a contact request via the Community Rescue Service web site. Subsequently, contact was made with the defendant by a member of the organisation and it became clear that the defendant was interested in joining the organisation. As a result, a meeting was arranged at the training base on Apollo Road in Belfast for the evening of 8 October 2015 but the defendant cancelled the meeting at short notice and did not pursue his application.

[88] In his contact request made on 27 September 2015 via the Community Rescue Service web site, the defendant gave his e-mail address as christy19d@gmail.com and he gave his mobile number as 07835821518. See exhibit 71, page 675. On 7 January 2016, between 04:30 and 05:45, the defendant performed Google searches using his mobile phone for St John's Ambulance Service, including the Brackenvale base, Community Rescue Service, and, crucially, he searched for Adrian Ismay's profile on a website www.remoteemergencycare.com at 05:28:17 and 05:34:45.

[89] The court received evidence from the Director and founder of Remote Emergency Care Limited who described this company as a certification body for first aid trainers. The company engages in registering, publicising, quality assuring and certifying courses run by approved trainers. The company also provides training support, produces and provides manuals and handouts to and facilitates continual professional development for first aid trainers. The company's website provides details of the services that the company provides but the site also provides links to the web profiles of approved trainers who can post updates to their profiles including giving details of any courses they are organising or running. This information is also publicised on the "course" web page of the main website. Adrian Ismay's web profile address was www.remoteemergencycare.com/training-providers/Adrian-Ismay. This profile included a profile photograph of the deceased. It did not include details of his address. Mr Ismay had applied to become an approved trainer with Remote Emergency Care Limited in September 2012 and this application was successful. His trainer profile was listed on the company's website from November 2013.

[90] On 28 January 2016, the defendant, who resides at 16 Aspen Park, Dunmurry, performed a Google search on his mobile telephone in respect of the opening times of the Tesco supermarket on the Castlereagh Road. This supermarket is located opposite the Castlereagh Road entrance to Hillsborough Drive. On 18 February 2016, at 02:40:18 and 02:47:05, the defendant again performed Google searches for Adrian Ismay's profile on remoteemergencycare.com. See exhibit FOH 2 at pages 4 and 5 of 71. On 25 February 2016 at 21:20:45 he again performed a Google search for Adrian Ismay's profile on remoteemergencycare.com. See exhibit FOH 2 page 11 of 71. Further Google searches for Mr Ismay's profile on this website were performed on the evening of 29 February 2016 between 18:14:59 and 18:15:29. See exhibit FOH 2, page 15 of 71. This was just three days before the device was attached to the underside of Mr Ismay's van which was parked in his driveway at Hillsborough Drive, Belfast.

[91] Analysis of the defendant's mobile telephone internet browser history also reveals an obvious interest in the subject of the treatment of Irish republican prisoners and militant Irish republicanism in general. There were a number of images in the browser history and I will describe six images in particular which strongly support such an interpretation. There is a photograph of an armoured police Landrover taken at night (image accessed on 24 February 2016 at 01:34:49); a poster comprising an Irish flag and the silhouette of a crowd with their arms raised

and writing in the lower section of the poster declaring "I support Irish Unity"(image accessed on 6 March 2016 at 02:08:53); a photograph of a Irish Republican demonstration with men in paramilitary uniforms (image accessed on 6 March 2016 at 02:18:47); a poster showing police officers in riot gear with shields and weapons with writing that declares "End Political Policing Now!"(image accessed on 6 March 2016 at 02:23:24); another photograph of an armoured Landrover (image accessed on 6 March 2016 at 02:27:31; and a poster of a young child waving an Irish flag with a print of Bobby Sands' face on the middle panel and writing that declares "Our revenge will be the laughter of our children!" (image accessed on 6 March 2016 at 02:27:07).

[92] Analysis of the defendant's mobile telephone internet browser history reveals that the user of this mobile phone frequently visited the Irish Republican Prisoners' Welfare Association website and Facebook page. The Irish Republican News website was also visited. There are a number of searches in relation to Republican prisoners in Maghaberry Prison. This phone was used to visit the IRPWA website related to prisoner issues in Roe House on 29 May 2015 at 18:26:57. Between 20 August and 12 September 2015 the phone was used to visit the IRPWA website and this organisation's Facebook page in relation to prisoner issues in Roe House on five occasions. On 13 September 2015 this phone was used to visit the Facebook page of Republican News at 21:29:25 and on 20 September 2015 at 20:36:28, the same Facebook page was visited in respect of the PSNI harassment of an ex-prisoner. Also, on this date, the phone was used to access the Republican News website at 21:25:12.

[93] On 28 September 2015 at 20:58:29 and 20:59:59 this phone was used to access a site and a Facebook page that contained references to Maghaberry prison not being fit for purpose. On 10 October 2015 at 00:21:49, the phone was used to access a website which contained an Irish News item that reported that a dissident suspect was willing to do 15 years if it meant that a police officer was killed. On 3 November 2015 at 21:04:03, the phone was used to access a website "republicanunity.org" in relation to prisoners recommencing a protest. On 15 January 2016 at 21:40:20 and 21:40:59, the phone was used to access a website and a Facebook page relating to the suspension of a prison officer at Maghaberry. On 24 February 2016 at 01:25:13, 01:27:38 and 01:27:41 the phone is used to view the Twitter and Flickr pages and the website of An Phoblacht, in particular the "roll of honour" listing the names and dates of death of IRA volunteers killed between 1969 and 2012.

[94] Bearing in mind that the forensic evidence which I have accepted in this case reveals that the explosive device was attached to the underside of Mr Ismay's van by the use of at least two magnets, I regard it as highly relevant that on 1 and 2 March 2016, the defendant's mobile phone was used to perform internet searches and to access websites which discussed the magnetic qualities of aluminium, electromagnetism, permeability (the measure of resistance of a material against the formation of a magnetic field) and materials for use in electrical components. The browser history of the phone also reveals that a webpage entitled "Why iron is chosen as the material for the core of the transformer. Why don't we use

aluminium?" was accessed on 2 March 2016 at 14:10:57 and searches were carried out using the terms "aluminium magnetic permeability" on 2 March 2016 at 14:09:11, 14:10:09; 14:10:16 and 14:10:59.

[95] I also regard it as highly relevant that analysis of the browser history of the defendant's mobile phone reveals that from the morning of 4 March 2016, after the device had exploded under Mr Ismay's van, up to the time of the defendant's arrest on 6 March 2016, this mobile phone was used to search for and view news reports relating to this attack on a total of 80 occasions. The first such internet activity occurred on 4 March 2016 at 09:18:02 and the last such activity occurred on 6 March 2016 at 12:57:56. In simple terms, this means that in a period of just over 51½ hours there were 80 occasions on which the user of the phone accessed the internet to view webpages relating to this one news event. Between 09:18:02 and 09:57:08 on the morning of 4 March 2016, there are 30 separate entries in this mobile phone's internet browser history to establish that this phone was used to access the internet in order to view webpages carrying accounts of this attack. Of significant relevance is the fact that at 20:53:41 and 20:54:37 on 4 March 2106, this mobile was used on two separate occasions to access the internet in order to view a gallery of photographs of the scene of the attack compiled by UTV news.

[96] It must be remembered that although these various news stories did disclose the fact that the victim of the attack was a serving prison officer, the identity of the victim was not disclosed at this time. Further, in one of his pre-prepared statements, the defendant positively asserted that the first time he heard Mr Ismay's name being mentioned in relation to the incident was when police attended his home to arrest him on the evening of 6 March 2016. Therefore, the court cannot possibly conclude that the extreme degree of interest shown in this story by the user of this phone was based on the user's knowledge that a former work colleague had been caught up in such an attack. Having given this matter careful consideration, the only possible innocent explanation for this intense and enduring interest in this news story (although it must be stressed that this is not a case that is being made by the defendant) is that the defendant at the time of the explosion knew that his former work colleague Adrian Ismay was a prison officer who lived in east Belfast and the defendant was following this story to seek confirmation as to whether Mr Ismay had been the victim of the attack.

[97] In the context of this trial, the defendant's relevant online activity is not restricted to the accessing of third-party material but also includes his own activities in relation to the creation and maintenance of his Facebook page to which other Facebook users had access. Evidence as to the contents of the defendant's Facebook page was given during the trial. In his Facebook page the defendant describes himself as a "Remote Medic at Medicine in Remote Areas, MIRA and EMT at Emergency Medical Technician." This is clearly one of his interests and it was clearly through this interest that he encountered Mr Ismay. However, this same Facebook page contains an abundance of material which would lead a viewer to reasonably conclude that the person responsible for the content of that Facebook page

supported the use of violence in furtherance of the aims and goals of Irish republicanism.

[98] In his Facebook page, the defendant is highly critical of those elements of Irish republicanism who have given up the armed struggle and have embraced the peace process. He has specifically included warnings on his Facebook page that those who provide information to the State about the activities of Irish republicans involved in the armed struggle will be harshly dealt with. He strongly supports and endorses the views and aims of the Irish Republican Prisoners Welfare Association including claims that Irish republican prisoners are being interned by the State (unjustified lengthy periods of detention on remand) and mistreated by Prison Officers (subjected to strip searches). There are posts critical of Gerry Adams, Sinn Fein and the Andersonstown News, insofar as that newspaper carried a story which portrayed a dissident Irish republican in a bad light. Gerry Adams is depicted in a PSNI uniform. Another post indicates that Sinn Fein members in general are liars and the party is described as being out of touch. The PSNI is depicted in a post as engaging in the same abuses of citizens' as the RUC was regularly accused of engaged in. A clothing company called IRA is liked. In the context of numerous posts by the defendant indicating strong support for armed struggle and those engaged in it, it is relevant to observe that the defendant chose to place a photograph of himself posing with a realistic modern looking firearm as his Facebook profile picture.

[99] The comments posted on the defendant's Facebook page by those of his Facebook friends who viewed this image indicate that they regarded the image as some form of joke. However, there is nothing in any comments or posts on this Facebook page which would suggest that, for example, the photograph depicting what would happen touts was anything other than serious. The defence submitted a medical report prepared by Dr G Loughrey, Consultant Psychiatrist, following an examination of the defendant on 19 September 2018. This was admitted in evidence as defence exhibit 2. A diagnosis was made of complex post-traumatic stress disorder arising from childhood sexual abuse and Troubles related trauma and alcoholism.

[100] I refer to this medical report at this stage of my judgment because in the history section, it is recorded that the defendant stated that he had been a Community Worker for Sinn Fein and had been a member of Sinn Fein and because of this Loyalists had tried to shoot him on the Crumlin Road. He reported ongoing death threats. He reported that the PSNI had informed him that his file had gone missing from Castlereagh Police Station.

[101] The clear impression given to Dr Loughrey in September 2018 was that the defendant was a supporter of Sinn Fein who had suffered as a consequence of this support. This is very much at odds with the content of the defendant's Facebook page which contains expressions of contempt for Sinn Fein and the path taken by that party. It is difficult to reconcile the information given to Dr Loughrey in 2018

with the views expressed on the defendant's Facebook page in 2016. I shall return to this medical report at a later stage in this judgment.

[102] Another strand of relevant evidence uncovered by forensic examination of the internet browser history retained on the defendant's mobile phone were the records of purchases made by the defendant on the Amazon website between 27 January 2016 and 7 February 2016. The relevant purchases were of a pair of self defence gloves on 27 February 2016 at 22:51:53, five balaclavas on 5 February 2016 at 01:24:38 and a morph mask on 7 February 2016 at 11:48:52. During the search of the defendant's premises on the evening of 6 March 2016, two further balaclavas were found in the kitchen. These were improvised balaclavas made out of sections of sleeve with eye holes cut out. Swabs were taken from these improvised balaclavas and a DNA profile matching that of the defendant was found on the swabs lifted from one of these improvised masks. In addition to these items, four walkie talkie two way radios were also found in the search of the defendant's house. A DNA profile was obtained from swabs taken from one of these radios. This matched that of Christopher Robinson.

[103] Other items purchased by the defendant on Amazon such as fake tattoo sleeves would support the submission made by Mr Harvey QC that the defendant is an individual who likes to dress up in costumes and engage in role play. However, in the context of the entirety of the evidence in this case, the purchase of balaclavas and the finding of improvised balaclavas during a search of the defendant's house is very unlikely to be connected to a penchant for fancy dress. The self defence gloves could theoretically be linked to the finding of a Balmoral Hotel security badge during the search on the basis that a security man working at this establishment might feel the need to be in possession of such a pair of gloves. Similarly, the possession of walkie talkie radios may have a connection with the defendant's interest in emergency rescue and first aid. But neither the defendant's interest in emergency rescue and first aid nor his possible engagement as a security man in a hotel would explain his purchase of balaclavas and his possession of improvised balaclavas made out of sleeves.

[104] Following his arrest, the defendant was interviewed by the Police on 16 occasions between 7 March 2016 and 11 March 2016 in the presence of a Solicitor and an appropriate adult. He did not answer any questions during interview other than to confirm his name and address but two pre-prepared statements were provided to the Police. In the statement which was provided on 7 March 2016, the defendant stated that he had worked with the deceased as a voluntary emergency transport attendant with St John's Ambulance Service at the Saintfield Road base. Mr Ismay had been the defendant's senior officer. The defendant stated that Mr Ismay had left St John's Ambulance some three years prior to the date of this statement and although he had a good relationship with Mr Ismay, he had not kept in touch with him since Mr Ismay left the service. The defendant stated that he was never at Mr Ismay's home and did not know what sort of vehicle he drove. The only time they had socialised together was when they had both attended the St John's Ambulance

Christmas Dinner in the Ramada Hotel some four years prior to the date of the statement. The statement does not contain any formal denial that he knew Mr Ismay was a prison officer. However, the defendant positively asserted that the first time he heard about the attempted murder of an off-duty prison officer was when he heard it on the news. He did not know at that time that the target was Mr Ismay. The first time he heard Mr Ismay's name mentioned in relation to this incident was when the Police informed him at the time of his arrest. This is an important issue. When interviewed by the Police under caution, the defendant submitted a statement to the effect that he had not known that Mr Ismay had been the victim of the bomb attack until the Police told him at the time of his arrest.

[105] In his statement, the defendant accepted that his brother had a Citroen motor vehicle and that he had been in that vehicle but not between 3 March 2016 and 6 March 2016. The defendant stated that he had not left his home of Thursday 3 March 2016 or Friday 4 March 2016 save to go to his mother's house for dinner. He had also walked the dog on Thursday 3 March. He did not leave his home on Saturday 5 March 2016 until 18:00 as he had a sore back. He then went to his mother's house for an hour or so. On Sunday 6 March 2016, he went to his sister's house for a Mother's Day dinner and returned to his own home at 19:00. He was arrested shortly after 20:00. During the course of a subsequent interview on 7 March 2016, a second pre-prepared statement was provided by the defendant in the following terms: "I, Christopher Robinson, state as follows: I am not, never have been nor ever will be a member of a proscribed or specified organisation. I deny any allegation that I am an active member of the New IRA."

[106] Having regard to the matters set out above in paragraphs [84] to [90] and [104] above, I am compelled to conclude that the interest expressed by the defendant in Mr Ismay and the area where he resided in the period leading up to the attack upon Mr Ismay, as evidenced by the defendant returning to view Mr Ismay's web profile on a number of occasions and in checking the opening hours of the supermarket nearest to Mr Ismay's house, cannot possibly have arisen out of the defendant's simple curiosity about the activities of a former volunteer work colleague or an interest in shopping at this location. The repeated visits to Mr Ismay's profile compel me to conclude with utter certainty that such activity was motivated by much more than mere curiosity about the present activities of a former volunteer work colleague.

[107] Having regard to the matters set out above in paragraphs [91] to [93] and [97] to [101] above, I am compelled to conclude that the frequent visits to internet sites which were concerned with the treatment of Irish republican prisoners and militant Irish republicanism in general and the population of his Facebook page with posts relating to these issues, not only demonstrate the defendant's open support for militant Irish republicanism but also are clear evidence of his animosity towards those State agents directly involved in what he obviously regarded as the serious mistreatment of Irish republican prisoners. It matters not whether that animosity only developed after his period of working with Mr Ismay came to an end or

whether it was present during that period but was not overtly displayed to Mr Ismay. All that matters is that this animosity was present at the time of the attack upon Mr Ismay.

[108] Having regard to the matters set out in paragraph [94] above, I am compelled to conclude that the frequent visits to internet sites discussing and describing the magnetic permeability of aluminium in the period leading up to the attack on Mr Ismay do not represent the abstract quest for knowledge by a curious scientific mind but can only be explained on the basis that this specific and esoteric subject had some material bearing and relevance to the present, pressing and concrete reality of Mr Robinson's actions and endeavours at that time. It is of note that he did not display any interest in this subject after the explosive device was successfully attached to Mr Ismay's vehicle by the use of two or more magnets.

[109] Having regard to the matters set out above in paragraphs [95] and [96] and [102] and [103] above, I am compelled to conclude that the frequent visits to internet news sites which reported on the attack on Mr Ismay, commencing just over two hours after the explosion took place, far from being motivated by concern for the welfare of a former volunteer work colleague or his passing curiosity in relation to current news items, was motivated by the defendant's intense personal interest in the story, having regard to the intimate and integral role he played in the events giving rise to that news story.

[110] In relation to the matters referred to in paragraphs [102] and [103] above, the defendant's purchases from Amazon in the period leading up to the attack on Mr Ismay and the finds resulting from the search of his house at the time of his arrest are frankly inexplicable in the context of someone trying to avoid arousing suspicion in the minds of those involved in the investigation of serious violent crime. There is nothing to suggest that the balaclavas or walkie talkie radios were actually utilised during the attack on Mr Ismay. It is somewhat bizarre behaviour for an adult to cut sleeves off items of clothing and cut eye holes out of these sleeves in order to make improvised balaclavas, unless that adult wished to use these items to avoid his face being seen when engaging in criminal activity or taking part in a public protest organised by an unlawful organisation. The defendant's intent and purpose in acquiring and manufacturing balaclavas cannot be ascertained with certainty. However, it is simply not credible to propose that these items were acquired and manufactured just for the purposes of engaging in fancy dress.

[111] Having regard to all the available evidence, the interpretation most favourable to the defendant that can reasonably be placed on him acquiring and manufacturing these items is that, just as he posed with a realistic looking firearm for a photograph which he chose as his Facebook profile image, he had some sort of fixation with the trappings of paramilitarism which arose out of his support for militant Irish republicanism.

[112] Two further related major strands of evidence concerning the movements of Mr Christopher Robinson's silver Skoda Fabia motor vehicle and the associated and synchronised movements of his mobile telephone have now to be considered.

[113] As was outlined in paragraph [76](c) above, the device data records relating to the mobile telephone number 07835821518 were obtained from Telefonica O² for the period between 18:25:00 on 3 March 2016 up to 03:25:00 on 4 March 2016 and these records are presented as exhibit 78, pages 697 to 702. Evidence given by Mr Paul Hope, an expert in Cell Site Analysis and Radio Frequency Surveying, conclusively demonstrated that the device data records relating to Mr Christopher Robinson's mobile telephone contained details which identified the mobile telephone mast or base transceiver station utilised by the mobile telephone to connect to the mobile network at any particular time. His evidence was that each such mast or base transceiver station has a number of directional radio transceivers (usually three) and these allow the transmission and reception of radio signals in a 360⁰ radius around the mast, with each transceiver covering at least 120⁰ with some overlap. Each separate transceiver on a mast can be identified by an azimuth angle which, in simple terms, is the compass direction, with 0⁰ as north and 180⁰ as south, in which that transceiver is pointing.

[114] A concrete example would be a mobile base transceiver station with three transceivers with azimuths of 60⁰, 180⁰ and 300⁰. The 60⁰ azimuth transceiver is designed to pick up signals from and send signals to a mobile telephone which is within range and located at a point somewhere between 0⁰ and 120⁰ of the mast. The 180⁰ azimuth transceiver is designed to pick up signals from and send signals to a mobile telephone which is within range and located at a point somewhere between 120⁰ and 240⁰ of the mast. The 300⁰ azimuth transceiver is designed to pick up from and send signals to a mobile telephone which is within range and located at a point somewhere between 240⁰ and 0⁰ of the mast.

[115] By knowing which mobile base transceiver station a mobile telephone is attached to and by refining this by identifying the azimuth of the transceiver being utilised at any particular time, it is possible to give a general estimation of the area in which the mobile telephone is located at any particular time. By identifying the transfer of the signal from one transceiver on a mast to another on the same mast or to a transceiver on another mobile base transceiver station, it is possible to give a general estimation of the direction of movement of the mobile telephone at the relevant time.

[116] It is important to note that the device data relating to any particular telephone is still recorded by the network even if the phone is not being actively used at the time. So long as the mobile phone is turned on and is within range of a mast, device data will be received and recorded by the network provider. If a mobile phone is turned on the device data sent to the network by the phone will consist of a connect notification and when a mobile phone is turned off the device data sent to the network will consist of a disconnect notification. A disconnect notification is not sent

by the phone to the network when the mobile telephone goes out of signal range, or if it runs out of battery charge or if the mobile phone is not powered down normally but the battery is taken out.

[117] In addition to studying the device data records relating to a particular mobile telephone, a trained expert such as Mr Hope can use specialist radio receiving equipment to conduct onsite tests in order to identify which masts provide mobile signal coverage at any particular location. However, those test results are only valid for the times when the tests were performed as the local environment which has an influence on signal reception may alter over time. It is clear that in highly built up urban areas, a particular location can be served by a number of differently located masts and there are a number of factors which influence which azimuth transceiver of which base transceiver station a mobile telephone will attach to. Proximity is relevant but it is not the sole or determining factor. Turning then to this case, Mr Hope gave evidence in relation to his analysis of Mr Christopher Robinson's mobile telephone device data records for the night in question and also gave evidence in relation to the results of his cell site surveys conducted at 16 Aspen Park, Dunmurry, the Ardmoulin Hostel and Princes Dock Street, Belfast on 23 March 2018. The relevance of the last listed location will become apparent when I come to discuss the last remaining major strand of evidence, namely the movements of the defendant's silver Skoda Fabia motor vehicle on the night in question.

[118] It should be remembered that when the defendant was interviewed by the Police following his arrest, a pre-prepared statement was submitted on his behalf to the Police on 7 March 2016. The fact that this was a pre-prepared written statement submitted by a Solicitor during the course of a formal interview, which said interview was preceded by the administration of an appropriate caution, is important in that the court can conclude that the production of the statement was not a rushed process and that the factual assertions set out therein were only made after careful consideration of the implications of the same and after consultation with and receipt of advice from skilled and experienced legal practitioners. In the pre-prepared statement provided on behalf of the defendant it is expressly and explicitly stated that the defendant did not leave his home on Thursday 3 March or Friday 4 March 2016 other than to walk his dog on the Thursday and to visit his mother on both evenings. If the defendant went to Ardmoulin Mews Hostel in order to see his brother on the night of Thursday 3 March 2016, then his statement submitted on 7 March 2016 contains a blatant and obvious lie. If other evidence conclusively establishes that he went somewhere else that night then that blatant and obvious lie is compounded.

[119] The Police investigation into the movements of the defendant's silver Skoda Fabia motor vehicle, registration number KFZ 2352, between the early evening of 3 March 2016 and the morning of 4 March 2016, involved the interrogation of the ANPR system for the greater Belfast area, PSNI CCTV cameras in the same area and the seizure and inspection of CCTV camera images from other CCTV camera systems operating along routes where it was suspected that the vehicle of interest

had travelled. Inspection of a number of these CCTV systems are alleged to have yielded positive results with a number of sightings of a vehicle very similar to the silver Skoda Fabia owned by the defendant.

[120] The capture of the vehicle by an ANPR camera is definitive proof that the vehicle was at the site of the ANPR camera at the time of capture. It is then possible to compare this location with the DDR records of the defendant's mobile telephone in order to ascertain whether the approximate location of the mobile phone is consistent with the known location of the vehicle at the same time. If the phone and vehicle locations are consistent with each other and, in particular, if there is evidence of movement of both the vehicle and the mobile phone with the locations of both the vehicle and the mobile telephone remaining consistent with each other, then it is reasonable to conclude that the mobile telephone is being carried in the vehicle during the course of its journey.

[121] In relation to ANPR captures of the silver Skoda Fabia motor vehicle during the late evening of 3 March 2016 and the early morning of 4 March 2016, the first relevant ANPR capture occurred on 3 March 2016 at 20:11 hours. This was by an ANPR camera located at Woodbourne on the Stewartstown Road. The vehicle was travelling along the Stewartstown Road in the direction of Belfast at the time. This location is shown as the box "1a" on the map AS/8, exhibit 135. Just prior to that sighting, between 20:08:31 and 20:09:30, the defendant's mobile telephone had been utilising the mobile base transceiver station "Poleglass South" located at the Dairy Farm Shopping Centre on the Stewartstown Road, Belfast, also shown on this map. The transceiver that the mobile phone was connected to was orientated towards azimuth 210° and subsequent testing conducted at 16 Aspen Park demonstrated that these premises were covered by the signal for that transceiver. At 20:10:28 the mobile telephone was connected to the "Poleglass South" transceiver orientated towards azimuth 330° and then between 20:11:28 and 20:12:55 the mobile was connected to the "Belfast Suffolk" mobile base station utilising the transceiver orientated towards azimuth 270° before utilising the "Belfast Suffolk" transceiver orientated towards azimuth 30° at 20:13:32. The "Belfast Suffolk" mobile base transceiver station is shown on the same map and is located on the Stewartstown Road, citywards of the ANPR camera in the vicinity of the Ladybrook Estate.

[122] These various strands of evidence are strongly supportive of the defendant's mobile telephone being in 16 Aspen Park shortly after 8.00 p.m. on 3 March 2016 and then beginning a journey in the defendant's motor vehicle, northwards onto the Stewartstown Road, before travelling along the Stewartstown Road in a north easterly direction towards the city.

[123] The next mobile base transceiver station utilised by the defendant's mobile phone was the "Belfast Ladybrook" station. It connected to the transceiver orientated towards azimuth 270° between 20:14:30 and 20:14:45. The location of this station is shown on the map AS/8, exhibit 135, and it is located at the side of the M1 countrybound carriageway close to the Musgrave Park Hospital site. The mobile

then utilised the “Belfast Ladybrook” transceiver orientated towards azimuth 30⁰ at 20:15:42 before connecting to the “Turf Lodge” mobile base transceiver station, using the transceiver orientated towards azimuth 200⁰ between 20:16:43 and 20:16:58. This base station is shown on the map AS/8, exhibit 135, and is located on the section of the Andersonstown Road between the Kennedy Way Roundabout and the Glen Road junction, in the immediate vicinity of the Kennedy Shopping Centre.

[124] The mobile phone then jumped back to the “Belfast Ladybrook” azimuth 30⁰ transceiver between 20:17:47 to 20:18:48 before it connected to the “Boucher Road Windsor” mobile base transceiver station, using the azimuth 180⁰ transceiver at 20:18:49. The “Boucher Road Windsor” base station is shown on the same map and is located at the Donegal Road exit from the citybound carriage of the M1 motorway. The mobile phone then connected to the “Turf Lodge” base station using the transceiver orientated towards azimuth 200⁰ at 20:18:51 before reconnecting to the “Boucher Road Windsor” base station using the azimuth 180⁰ transceiver at 20:19:09. The phone then connected to the “Belfast Milltown” mobile base transceiver station utilising the transceiver orientated towards azimuth 255⁰ also at 20:19:09. This mobile base transceiver station is shown on the said map and is located on the Boucher Road, Belfast in the vicinity of Harry Corry’s and Halford’s. The phone then reconnected to the “Boucher Road Windsor” base station using the transceiver orientated towards azimuth 180⁰ between 20:19:24 and 20:19:43.

[125] The mobile then utilised a new mobile base transceiver station “Blythfield Park”, connecting to the transceiver orientated towards azimuth 180⁰ at 20:20:40. This base station is identified on the same map and is located beside the citybound carriageway of the Westlink in the vicinity of Distillery Street/Court. The mobile then connected to another new mobile base transceiver station “Carlisle Circus Belfast”, connecting to the transceiver orientated towards azimuth 220⁰ at 20:21:40 before connecting to another transceiver on that base station orientated towards azimuth 130⁰ between 20:22:42 to 20:23: 51. The defendant’s motor vehicle was then captured by an ANPR camera located on Clifton Street at 20:23 hours. At that time, the vehicle was travelling along Clifton Street towards Donegall Street, Belfast. The position of the vehicle at this time is marked by a box “1” with an arrow giving the direction of travel on map AS/7, exhibit 134. Also at this time, a colour PSNI camera located at the junction of Donegall Street and Clifton Street which was directed up Clifton Street at the relevant time captured images of a small silver car travelling on Clifton Street on the inside lane towards the camera position, coming to a rest at the traffic lights at the junction behind another motor vehicle.

[126] These various strands of evidence are strongly supportive of the defendant’s mobile telephone being present in the defendant’s motor vehicle after 20:00 on 3 March 2016 as this vehicle travelled along the Stewartstown Road in a north easterly direction towards the city centre, before negotiating the Kennedy Way roundabout and travelling down Kennedy Way and then turning onto the M1 motorway in a citywards direction, continuing onto the Westlink, before eventually exiting the Westlink at the Clifton Street exit and turning right onto Clifton Street and travelling

down to the junction with Donegall Street before stopping at the traffic lights at the junction.

[127] After this last sighting, the whereabouts of the vehicle and telephone are unknown for some time. A detach notification was sent to the network by the telephone at 20:23:51 and this is consistent with the telephone being turned off at that time. The next DDR event was an attach notification at 20:53:55 when the mobile telephone utilised a new mobile base transceiver station "Limestone" and connected to a transceiver orientated towards azimuth 180°. The "Limestone" base station is shown on map AS/7, exhibit 134. It is located on the north side of the lower Limestone Road at the junction with Crosscollyer Street.

[128] After this attach notification DDR event at 20:53:55, there are no further DDR events until there is another attach notification at 21:18:11 when the telephone utilises the "Turf Lodge" mobile base transceiver station by connecting to the transceiver orientated towards azimuth 40°. There is no detach notification in between these two attach notifications at "Limestone" and "Turf Lodge". As indicated above, there are three possible explanations for this:

- (a) there was no network coverage;
- (b) the battery of the phone ran out of charge; or
- (c) the battery was removed.

[129] It is unlikely that poor network coverage was responsible for this absence of communication between network and phone. Greater Belfast is well served by mobile base stations. It is also unlikely that the phone battery ran out of charge. I come to this conclusion for the following reasons. If the battery ran out of charge, it was obviously charged sufficiently again by 21:18:11, less than half an hour later, to enable the phone to remain connected to the network for the rest of the night. If the phone battery ran out of charge, then it would have been necessary to use a charger to charge the phone. If the phone was in the defendant's vehicle at the time, then it would have been necessary to use a charger that was compatible with the 12 volt supply from the vehicle. No such charger was found during the search of the car. Finally, if such a charger was available in the vehicle, the mobile phone could have been turned on and used if necessary while charging. There would have been no need for it to remain turned off while it was being charged.

[130] The exclusion of these two possibilities, compels the court to conclude that the most likely explanation for the absence of a detach notification between the two attach notifications at 20:53:55 and 21:18:11 is that the battery was taken out of the phone and this caused the connection between the network and the phone to be suddenly lost.

[131] Following the sighting on Clifton Street at 20:23 hours, the Crown case is that the vehicle is next seen travelling on North Queen Street and turning left onto Spamount Street at 20:43 hours. The images which were produced to the court were

images from a CCTV camera system operated by the owners of the Yorkgate retail complex. The camera in question was pointed in a north westerly direction across North Queen Street, looking up Spamount Street. The video clip shows a small silver four door hatchback type motor vehicle turn left from North Queen Street onto Spamount Street. Given the short distance and the long-time interval between this purported sighting and the last established sighting, I cannot conclude with any degree of confidence that this is the defendant's vehicle. This vehicle is similar to the defendant's vehicle but that is all that can be concluded from repeated close scrutiny of these images.

[132] The next purported sighting of the defendant's motor vehicle is alleged to have occurred when the vehicle was observed on PSNI CCTV footage travelling along North Queen Street in a northerly direction and then turning right from North Queen Street onto Brougham Street at 20:50 hours. The CCTV camera which captured these images was located on North Queen Street, pointing in a generally southerly direction. The vehicle is seen being driven along North Queen Street for some distance. This vehicle then stops at the junction on North Queen Street for some time before it performs a right turn into Brougham Street. The quality of the images is very good and the vehicle is recognisable as a silver Skoda Fabia. At the very start of this video clip it would appear that this vehicle emerged from a side street and turned left onto North Queen Street towards the camera. However, due to the lighting conditions and the distances involved, I cannot state with certainty that such a manoeuvre is captured on these images and in any event there is no further video footage taken by the Yorkgate retail complex camera at this time of the vehicle emerging from Spamount Street or passing by the Spamount Street junction.

[133] If this is the defendant's vehicle turning right from North Queen Street onto Brougham Street at 20:50 hours then there is no evidence as to the whereabouts of the vehicle between 20:23 when it was observed on Clifton Street and 20:50 when it turned right into Brougham Street.

[134] The next apparent sighting of this vehicle is alleged to have occurred when the vehicle was captured by a CCTV camera affixed to the exterior of the Tesco Petrol Filling Station which is located on the Yorkgate shopping complex site. The CCTV camera in question is pointed diagonally across Brougham Street looking slightly towards North Queen Street. The bulk of the field of view consists of the car park of the shopping complex. Beyond that there is a high fence and beyond that to the top of the screen there is the road. A silver four door hatchback motor vehicle is seen travelling across the top of the screen from left to right. The vehicle is very similar to a Skoda Fabia but there is no evidence as to when these images were recorded and in the absence of even an approximate time for the recording of these images, they cannot be taken into account.

[135] The next event captured on CCTV footage upon which the Crown relies is footage captured from a CCTV camera attached to the exterior of McKenna's Bar. These licensed premises are located on a corner site at the junction of Dock Street

and Garmoyle Street, as shown in the satellite image AS/9, exhibit 158. There are two CCTV cameras attached to the exterior of McKenna's Bar. One is directed diagonally across Dock Street in the direction of the docks and the other is directed down Garmoyle Street in the direction of Corporation Street.

[136] The black and white images captured by the CCTV camera looking diagonally across Dock Street in the direction of the docks at 20:51 hours show a male walking along the south side footpath of Dock Street towards the Garmoyle Street junction. This male is wearing light coloured trousers and a short, dark coat which is closed. The coat has a hood but the hood is not up. The individual is wearing a dark woollen hat with a band of interrupted lighter pattern and a bobble. He appears to be wearing gloves. This individual is lost from view to the left of the screen but I can safely conclude that this individual crossed the Garmoyle Street junction and proceeded along Dock Street as he is captured on CCTV imagery produced from a CCTV system operated by the Stella Maris Hostel which is located on a corner site at the junction of Dock Street and Garmoyle Street, on the other side of Garmoyle Street from McKenna's Bar. See AS/9, exhibit 158.

[137] The camera that captured these images is attached to the exterior of the hostel and is pointed in the general direction along Dock Street towards Nelson Street/Duncrue Street. It appears to be a colour time lapse CCTV camera system. Evidence was given that the interval between successive captured images was one second. There is a large street direction sign located at height on two poles on the footpath in the middle of the field of view of this camera. The rear of the sign faces the camera. This sign blocks the camera's view of a portion of Dock Street and it is impossible to observe the upper part of a vehicle present in one of the lanes on Dock Street intended for traffic travelling towards the docks as the vehicle approaches the Garmoyle Street junction.

[138] The image quality from this camera is not great but it is sufficiently good for the careful observer to be able to discern the individual with the dark coat and bobble hat walking along the south side footpath of Dock Street away from the camera position in the direction of Nelson Street/Duncrue Street at 20:51. As this individual progresses along the footpath and is lost from view, a small silver car is seen travelling along Dock Street in the direction of the docks (the opposite direction from the pedestrian) and its colour and general shape are clearly seen just before the camera's view of the car is blocked by the road sign referred to earlier.

[139] As this vehicle moves behind the road sign, the bottom part of the vehicle remains visible below the bottom of the road sign and it is clear that the vehicle comes to a halt on Dock Street but not at the traffic lights at the junction with Garmoyle Street. The vehicle definitely stops short of the traffic lights and it is clear that this is not due to the presence of stationary traffic or any other form of obstruction in front of it. It is possible to see the rear wheel of the vehicle and the lower portion of the vehicle in front of and behind the rear wheel. The front wheel is

hidden from view not by the road sign itself but by the right hand pole upon which the sign is mounted.

[140] At this stage an individual can be seen on a traffic island which is located between the opposing lanes of Dock Street. Consecutive images show this individual moving in the direction of the docks. See the images at 2 minutes and 2 seconds and 2 minutes and 3 seconds into the video clip "JL2 Stella Maris.mp4" The next image shows that this individual has moved from this traffic island onto another traffic island to the individual's left which is laid out between the lanes turning right into Garmoyle Street from Dock Street and the lanes for traffic heading straight across the junction towards the docks. The individual is moving in the general direction of the rear offside of the small silver car parked behind the road sign. This image is at 2 minutes and 4 seconds/2 minutes and 5 seconds into the video clip "JL2 Stella Maris.mp4". The next image demonstrates that the individual has moved behind the road sign at that stage but part of the individual can be seen beneath the bottom of the road sign and this individual appears to be approaching the rear driver's side of the small silver car. The next frame demonstrates that the rear wheel of the vehicle is momentarily obscured and then there is the appearance of darkening and lightening of the image in the immediate vicinity of the rear driver's side door of the said vehicle consistent with activity at that location. This localised area of darkening/lightening of the image neither moves towards the front of the vehicle nor towards the rear of the vehicle in any subsequent frames. It simply disappears in the vicinity of the rear driver's door and the image of the vehicle stabilises in subsequent frames. There is no evidence on any subsequent frame of this or any other individual emerging from either the right or the left-hand side of the road sign and no pedestrians are observed again in the camera footage. However, shortly after the darkening/lightening of the image in the vicinity of the rear driver's door disappears, the small silver car moves off from its stationary position from behind the road sign and then stops again before it emerges into full view. It remains stationary for a short time and it is reasonable to conclude that at this stage it has stopped at the traffic lights at the junction with Garmoyle Street. It then moves off towards the docks out of screen shot, presumably when the traffic lights change in its favour. Before the vehicle moves out of screen shot, it is clearly visible, and its appearance is remarkably similar to a silver Skoda Fabia four door hatchback.

[141] The next event captured on CCTV footage upon which the Crown relies is footage captured from the CCTV camera attached to the exterior of McKenna's Bar which is directed diagonally across Dock Street in the direction of the docks. The timing of this capture is 20:51 and these images clearly show the same vehicle that is referred to in the previous paragraph. The vehicle comes into camera shot from the left and proceeds along Dock Street towards the docks. It then executes a U turn and travels along Dock Street towards the camera position. It stops at the traffic lights at the Garmoyle Street junction and it is then clearly visible as a silver Skoda Fabia four door hatchback. I have studied these images on a large number of occasions and I am convinced that this is a silver Skoda Fabia four door hatchback. This means that

the vehicle referred to in paragraphs [138], [139] and [140] is also a silver Skoda Fabia four door hatch back and is, indeed, the same car.

[142] It is clear that this vehicle then drove across the Garmoyle Street junction and then proceeded along Dock Street towards Nelson Street/Duncrue Street because it is captured in time lapse images taken at 20:51 hours by the colour time lapse camera attached to the Stella Maris Hostel CCTV system; the same camera as is described in paragraph [137] above.

[143] As stated in paragraph [127] above, there is then a DDR event in the form of an attach notification at 20:53:55 when the defendant's mobile telephone utilised the mobile base transceiver station "Limestone" and is connected to a transceiver orientated towards azimuth 180°. See map AS/7, exhibit 134. I have already determined in paragraph [82] above that at 20:54:42 on 3 March 2016, the defendant sent the following text to his brother who was then at work in Ardmoulin Hostel. The content of the message was: "Put kettle on bro. 5."

[144] The next event captured on CCTV footage upon which the Crown relies is footage obtained from the PSNI CCTV system on North Queen Street, that being the camera described in paragraph [132] above. A small silver four door hatchback motor vehicle very similar to a Skoda Fabia four door hatchback is observed turning left out of Brougham Street onto North Queen Street and then travelling in a southerly direction along North Queen Street at 20:55 hours.

[145] Following this sighting, the Crown case is that the vehicle is next seen at 20:55 hours travelling along North Queen Street in the direction of Clifton Street. The images which were produced to the court were images from the CCTV camera system operated by the owners of the Yorkgate retail complex as described in paragraph [131] above. The video clip which is of good quality shows a small silver four door hatchback type vehicle which is very similar to a Skoda Fabia four door hatchback, travelling from screen right to screen left.

[146] The next event is a key event in this case and it is the capture of the defendant's motor vehicle by an ANPR camera located on North Queen Street at 20:55:33. The vehicle at the time was travelling towards Clifton Street. The position of the vehicle at this time is marked by a box "11a" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[147] The next event captured on CCTV footage upon which the Crown seeks to rely is footage obtained from a PSNI colour CCTV system sited at the junction of Donegall Street and Clifton Street. The camera in question was directed up Clifton Street at the relevant time. At 20:57 hours a small silver hatchback motor vehicle is seen progressing on the inside lane towards Carlisle Circus, away from the camera position. A silver saloon car is seen in front of this vehicle and it is relatively easy to distinguish the silver saloon car from the silver hatchback. As the hatchback vehicle travels along Clifton Street, it starts to indicate left as it approaches the slip

road onto the Westlink. It stops at traffic lights. It is the vehicle nearest the lights on the inside lane and when the lights turn green, this vehicle turns left onto the Westlink onslip.

[148] The next event is a key event in this case and it is the capture of the defendant's motor vehicle by an ANPR camera located on Clifton Street at 20:57:13. At that time the vehicle is travelling along Clifton Street towards the Westlink/Carlisle Circus, Belfast. The position of the vehicle at this time is marked by a box "12" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[149] Working backwards from this ANPR sighting, the following factual conclusions can be definitively reached from careful and cautious scrutiny of the various strands of evidence. The defendant's vehicle was on Clifton Street at 20:57:13, travelling up towards the Carlisle Circus from the North Queen Street junction. It was on North Queen Street travelling towards the Clifton Street junction at 20:55:33. It turned left onto North Queen Street from Brougham Street at 20:55 hours. At 20:54:42, the defendant sent a text to his brother who was then at work in Ardmoulin Hostel. The content of the message was: "Put kettle on bro. 5." A DDR event in the form of an attach notification at 20:53:55 occurred when the defendant's mobile telephone utilised the mobile base transceiver station "Limestone" and was connected to a transceiver orientated towards azimuth 180⁰. This transceiver is intended to serve mobile devices within range between azimuth 120⁰ and azimuth 240⁰ of the base station including Brougham Street and North Queen Street. I am certain that the defendant and his mobile telephone were in his Skoda Fabia motor vehicle at or about Brougham Street when he sent that text.

[150] A silver Skoda Fabia four door hatchback very similar to the defendant's vehicle is captured travelling along Dock Street in the direction of the Nelson Street/Duncrue Street junction at 20:51 hours. The time interval and distance interval between this sighting and the sighting when a vehicle is seen emerging from Brougham Street onto North Queen Street support the case that these two sightings are of one and the same vehicle. This vehicle had previously executed a U turn on Dock Street before stopping at the Garmoyle Street junction before travelling across the Garmoyle Street junction in the direction of Nelson Street/Duncrue Street at 20:51. Prior to executing this U turn it had travelled along Dock Street towards the docks. It had stopped on Dock Street short of the junction with Garmoyle Street for some time before moving off again only to stop at the junction before progressing straight through the junction and then performing this U turn manoeuvre shortly thereafter. While it is stopped on Dock Street facing the docks at a point back from the junction with Garmoyle Street, an individual approached the vehicle and activity can be observed occurring in the immediate vicinity of the rear driver's side door of the vehicle.

[151] I conclude that contrary to what he told the Police that he had not been out of the house that day other than to walk the dog and to visit his mother, the defendant drove his motor vehicle from his home in Dunmurry to the docks area of Belfast

between 20:00 and 21:00 on the night of 3 March 2016 and that although his whereabouts cannot be ascertained from the available evidence for the period between 20:23 and 20:50, he definitely stopped his vehicle on Dock Street at approximately 20:51 and that by arrangement he picked up an individual at this location who got into the rear driver's side of the vehicle and that as he drove away from the docks with this individual on board, he contacted his brother via SMS message to inform him that he would be with him in Ardmoulin Mews within a short space of time. The factual determination that the defendant picked up a passenger on Dock Street is based on fact that the vehicle that I have concluded was the defendant's silver Skoda Fabia motor vehicle definitely stopped on Dock Street and careful and repeated scrutiny of the video clip "JL2 Stella Maris.mp4" between 2 minutes and 5 seconds and 2 minutes and 11 seconds on a computer screen using a display resolution of 1920 x 1080 definitely shows activity approaching the rear driver's side of the vehicle, the momentary obscuring of the rear driver's side wheel of the motor vehicle and darkening/lightening in the immediate vicinity of the rear driver's side door of the motor vehicle which is followed by the vehicle moving off shortly thereafter.

[152] The next events captured on CCTV footage upon which the Crown seeks to rely are sections of footage obtained from a colour CCTV system on the Divis Tower site in Divis Street as shown on map AS/7, exhibit 134. Unlike other timings of sightings, a verified time could not be obtained for the cameras on this site and, therefore, all the court has to rely upon are the timings shown on the images themselves. The court was shown footage from camera 11 and camera 1 and a split screen video presentation was prepared so that the synchronised images from both cameras could be seen together. Both these cameras record images of a small silver hatchback driving along Divis Street (right to left across the screen) from the Westlink in the direction of the Falls Road at 21:05:19. The vehicle shown in the images captured by both cameras is very similar to a silver Skoda Fabia hatchback. This is particularly so for the direct side profile images taken by camera 1.

[153] A third camera on the Divis Tower site (camera 13) also captured images of the same vehicle timed at 21:05:22. This camera is directed along Divis Street towards the Falls Road and there is a limited view into Ardmoulin Street which is the first street off to the left as one views the images. The vehicle progresses from mid left to top right of the screen and then turns left into Ardmoulin Street. The Crown alleges that the same camera captured images of a small silver hatchback motor vehicle emerging from Ardmoulin Street at approximately 21:06:54. A vehicle does appear to drive along Ardmoulin Street up to the junction with Divis Street at that time but the degree of image definition is so poor that it is impossible to conclude that this vehicle is the defendant's vehicle or, indeed, is similar to it.

[154] Analysis by the Police of Peter Robinson's mobile telephone memory and the call and SMS records relating to this phone demonstrates that at 21:17:52, Peter Robinson responded to his brother's earlier SMS message in the following terms: "No problem." If subsequently received by the defendant, this response must

have been deleted from the memory of the defendant's phone. As referred to above, a connect notification was received by the network from the defendant's mobile phone at 21:18:11 when the telephone utilised the "Turf Lodge" mobile base transceiver station by connecting to the transceiver orientated towards azimuth 40⁰. See map AS/8, exhibit 135. This is clearly well removed from the area of Ardmoulin Hostel, being located on the Andersonstown Road, at the Kennedy Shopping Centre.

[155] Obviously the defendant would only have received his brother's text message after he had turned his mobile back on at 21:18:11. The next mobile base transceiver station utilised by the defendant's mobile phone after it was turned back on was the "Belfast Windsor North" station. This base station is located on the east side of the Lisburn Road between Eglantine Avenue and Malone Avenue. See map AS/8, exhibit 135. The mobile connected to the transceiver orientated towards azimuth 295⁰ at 21:18:36 and again at 21:18:40. The mobile also connected to the "Belfast Beechmount" mobile base transceiver station at 21:18:40, utilising the transceiver orientated towards azimuth 250⁰. This transceiver station is located on Beechmount Avenue at the back of St Mary's University College. See map AS/8, exhibit 135. The mobile also connected to the "Boucher Road Windsor" mobile base transceiver station at 21:18:40, utilising the transceiver orientated towards azimuth 300⁰. This is located near the M1 motorway in the vicinity of the entrance to the Royal Group of Hospitals complex at the bottom of the Donegall Road.

[156] At 21:18:57 the mobile reconnected to the "Belfast Beechmount" mobile base transceiver station, utilising the transceiver orientated towards azimuth 250⁰ before reconnecting to the "Boucher Road Windsor" mobile base transceiver station utilising the transceiver orientated towards azimuth 300⁰ at 21:19:27. It should be recalled that one second later, the defendant sent a SMS message to his brother Peter Robinson in the following terms: "Coming now, got held up ffs." His brother replied to this SMS text message at 21:19:49 by stating: "No rush." The defendant's mobile was still connected to the "Boucher Road Windsor" transceiver orientated towards azimuth 300⁰ before switching to utilise the azimuth 60⁰ transceiver attached to the same base station between 21:20:00 and 21:21:05. The mobile then connected to the "Royal Victoria Hospital South" mobile base transceiver station, utilising the transceiver orientated towards azimuth 270⁰ at 21:21:20 before utilising the azimuth 30⁰ transceiver attached to the same base station at 21:21:44. This base station is located beside the countrybound lanes of the Westlink near the junction of Milner Street and Empire Street. See map AS/8, Exhibit 135. The defendant's mobile then connected to the mobile base transceiver station "Blythfield Park", utilising the transceiver orientated towards azimuth 60⁰ at 21:22:15. This base station is identified on the map AS/8, exhibit 135, and is located beside the citybound carriageway of the Westlink in the vicinity of Distillery Street/Court.

[157] Between 21:22:16 and 21:22:36 the defendant's mobile was connected to the "Durham House" mobile base transceiver station, utilising the transceiver orientated towards azimuth 330⁰. This mobile base transceiver station is located on the east side of Durham Street and the south side of College Square North, just at the junction.

See map AS/8, exhibit 135. Crucially, the defendant's mobile phone then connected to the "Shankill South" mobile base transceiver station at 21:23:04, utilising the transceiver orientated towards azimuth 60⁰ and the mobile remained connected to this same transceiver without interruption until 02:28:01 on 4 March 2016. This base station is identified on the map AS/8, exhibit 135, and is located on the north side of Divis Street on the east side of Northumberland Street, just at the junction. This base station is very close to the Ardmoulin Hostel.

[158] In relation to the events of 3 March 2016, the final events captured on CCTV footage upon which the Crown seeks to rely in establishing the movements of the silver Skoda Fabia four door hatchback are further sections of footage obtained from a colour CCTV system on the Divis Tower site in Divis Street as shown on map AS/7, exhibit 134. The court was shown footage camera 1 and this camera recorded images of a small silver hatchback driving along Divis Street (right to left across the screen) from the Westlink in the direction of the Falls Road at 21:27:31. The court was also shown footage from camera 11. This camera also recorded images of a small silver hatchback driving along Divis Street (right to left across the screen) from the Westlink in the direction of the Falls Road between 21:27:31 and 21:27:34. All these images are of good quality and the vehicle shown in the images captured by both cameras is very similar to a silver Skoda Fabia hatchback. This is particularly so for the direct side profile images taken by camera 1.

[159] Concentrating on the evidence relating to the location of the defendant's mobile phone, the court concludes that at 20:53:55, the defendant's mobile telephone was in an area south of the "Belfast Limestone" mobile base transceiver station which is located near the bottom of the Limestone Road. Twenty-four minutes and sixteen seconds later at 21:18:11, the defendant's mobile phone is in an area to the north east of the "Turf Lodge" mobile base transceiver station which is located on the Andersonstown Road, adjacent to the Kennedy Shopping Centre. The subsequent sequence of connections to identified mobile base transceiver stations clearly demonstrates movement of the mobile phone from this part of west Belfast towards the city centre in a general north easterly direction. The sequential utilisation of the 300⁰ and 60⁰ transceivers of the "Boucher Road" mobile base transceiver station, followed the sequential use of the 270⁰ and 30⁰ transceivers of the "Royal Victoria Hospital South" mobile base transceiver station is consistent with the mobile phone being transported along the Falls Road citywards, travelling along the Donegall Road to the Westlink and then travelling along the Westlink towards the city centre.

[160] The subsequent sequential utilisation of the 60⁰ transceiver of the "Blythfield Park" mobile base transceiver station followed by the 330⁰ transceiver of the "Durham House" mobile base transceiver station followed by the 60⁰ transceiver of the "Shankill South" mobile base transceiver station is consistent with the mobile phone being transported along the Westlink in a citywards direction to the Divis Street area, arriving in this area at 21:23:04 and remaining in that area for the next five hours.

[161] Is this consistent with the video evidence in this case which the Crown seek to rely on? The vehicle which the Crown allege is the defendant's vehicle is captured by colour CCTV cameras attached to Divis Tower at 21:27:31. If these images are of the defendant's car and if this time is accurate then one would have expected that the utilisation of the "Shankill South" would have commenced later than 21:23:04. However, this time shown on the CCTV images cannot be stated with any degree of certainty to be accurate. It is the screen time and the evidence that was given at the hearing which was not challenged was that it was not possible to establish an accurate time for the Divis Tower images.

[162] I have already concluded that the defendant had his mobile in his vehicle at 20:54:42 at or about Brougham Street, Belfast, when he sent a text to his brother informing him that he would be with him in five minutes. It is clear that the defendant's mobile phone was transported by vehicle to west Belfast, being located in an area north east of the Kennedy Centre some twenty-three minutes later at 21:18:11. At 21:19:30, the defendant sent a SMS message to his brother Peter Robinson in the following terms: "Coming now, got held up ffs." Having regard to the fact that the defendant's mobile phone was connected to the 300⁰ transceiver of the "Boucher Road Windsor" mobile base transceiver station at or about that time, I conclude that the defendant and his mobile were travelling in a vehicle in the Donegall Road area at that time. I conclude that the defendant and his mobile then travelled citywards along the Westlink to the Divis Street area arriving there at approximately 21:23 and at that time the CCTV system installed in and around Ardmoulin Mews Hostel was switched off and did not record any imagery and it had been switched off for some time because the defendant had been expected to arrive somewhat earlier than he actually did.

[163] For the avoidance of any doubt, I am convinced that the defendant was expected by his brother at the hostel that evening. He did make his way to the hostel in his car. He did have his mobile phone in the car at the time of his arrival in the area and the CCTV system installed in and around Ardmoulin Mews Hostel was switched off by the defendant's brother so as to ensure that there was no video evidence of the defendant's arrival or presence in the immediate vicinity of the hostel. The defendant had picked up an individual on Dock Street at approximately 20:51. No doubt this was by prior arrangement. Did this individual remain in the vehicle up to the time of its arrival at Divis Street at approximately 21:23? Given that the individual was in the vehicle with the defendant when the defendant contacted his brother by SMS text at approximately 20:55 and told him that he would be with him in five minutes, I conclude that it certainly was the intention of the defendant at that time and part of this arrangement to take his passenger to Divis Street.

[164] I have already dealt with the entirety of the evidence which has been placed before the court for the period between 21:27 on 3 March 2016 and 02:28 on 4 March 2016. The material events are the switching off of the Ardmoulin Mews Hostel CCTV system between 23:15 hours and 23:20:17 on 3 March 2016 and the ascertained journey of the Citroen C3 from 02:12 on 4 March 2016 (Tate's Avenue/Lisburn Road

junction) to 02:31 on 4 March 2016 (Elmwood Avenue). During the entirety of this period, the defendant's Skoda Fabia motor was not captured on any ANPR or CCTV camera system and the defendant's mobile telephone remained on and attached to the mobile base transceiver station "Shankill South", utilising a transceiver orientated to azimuth 60°.

[165] The defence in this case rely heavily on the lack of any evidence about the movements or activities of the defendant following his alleged arrival at the hostel at approximately 21:25 on 3 March 2016. The defence also highlights the lack of any evidence concerning the movements of the Citroen C3 prior to approximately 02:15 on 4 March 2016 and the lack of any evidence to connect the defendant to the C3 during this period. It is entirely correct to assert that there is a significant evidential lacuna in this case during the period referred to above. The only events and circumstances of note during this period are the switching off of the Ardmoulin Hostel CCTV system between 23:15 and 23:20, the attachment of the defendant's mobile phone to a mobile base transceiver station located near the hostel during the entirety of the period and the absence of any sighting of the defendant's own motor vehicle during the entirety of this period. The switching off of the CCTV system between 23:15 and 23:20 on 3 March 2016 is unexplained but must have been carried out for the purpose of ensuring that the movements of persons and/or vehicles in the immediate vicinity of the hostel were not recorded. In relation to the use and location of the defendant's mobile phone and vehicle all that can be ascertained with certainty is that the phone was not used and did not move from the an area around Divis Street during the said period and the defendant's car was not captured at any location on the Belfast ANPR system during this period.

[166] The defence also argues that the absence of any evidence of a link between the defendant and the Citroen C3 during the period prior to the ascertained journey of the Citroen towards Hillsborough Drive is largely mirrored when one comes to look at the journey back from Hillsborough Drive. Following the observation of the Citroen C3 on Eglantine Avenue at 02:31, the vehicle is not observed again until it is the subject of an ANPR capture at the Antrim Road/Cavehill Road/Limestone Road junction at 08:44:58 on 4 March 2016. The defence argues that there is not one shred of evidence to demonstrate that the Citroen C3 motor vehicle returned to the hostel at any particular time during the early hours of 4 March 2016 and there is nothing to link the defendant to the Citroen C3 during this period. As this is one of the central themes in the defence submissions in this case it is incumbent upon the court to direct the most intense degree of scrutiny on the evidence relevant to this issue.

[167] The next event upon which the Crown seeks to rely following on from the observation of the Citroen C3 in Eglantine Avenue at 02:31 on 4 March 2016 is the continued utilisation of the 60° transceiver of the "Shankill South" mobile base transceiver station between 02:28:01 and 02:39:37 without any evidence of active use of the phone until an SMS text was sent at 02:39:37 using this phone to the defendant's brother's phone. There is no record of this text message in the memory of the defendant's phone. It was obviously deleted. The call and SMS message

records of the defendant's phone reveal that a SMS message was sent at this time, with the defendant's brother as the recipient and the interrogation of the defendant's brother's phone memory reveals the content of the message: "Hey bro, how's work?? Couldn't sleep." This was a peculiar message for the defendant to send to his brother at 02:40 on 4 March 2016, given the fact that he was nowhere near his home in Dunmurry let alone his bed at that time but was instead in the vicinity of Divis Street.

[168] There is no evidence to indicate that the defendant's brother responded to this text message, despite the text message being framed in such a manner as to seemingly invite a response. However, the defendant's brother must have been in the office of the hostel at or about this time because he turned off the CCTV system installed in and around Ardmoulin Mews Hostel so that it did not record any imagery between 02:40 and 02:47:42 on 4 March 2016. Eight minutes after the Citroen C3 had passed along Eglantine Avenue in the direction of the Lisburn Road, on its way from Hillsborough Drive, the defendant contacted his brother by SMS message. At that time the defendant was in the vicinity of Divis Street. At or about the same time, the CCTV system at the hostel was turned off by the defendant's brother. Could these three events just be matters of coincidence or are they inextricably linked, forming part of a chain of events which occurred during the operation to place a bomb under Mr Ismay's vehicle? This question will be answered below.

[169] As indicated in paragraph [167] above, when the defendant sent his brother the "Hey bro, how's work?? Couldn't sleep." SMS message at 02:39:37 on the morning of 4 March 2016, the defendant's mobile phone was still connected to the 60⁰ transceiver of the "Shankill South" mobile base transceiver station. However, between 02:40:16 and 02:40:51, the mobile was connected to the 330⁰ transceiver of the Durham House mobile base transceiver station. It was during this period of connection that the call and SMS message records of the defendant's mobile reveal that a call lasting sixteen seconds was made from this mobile to the defendant's brother's mobile, with the call commencing at 02:40:34.

[170] Following the making of this call, the defendant's silver Skoda Fabia motor vehicle was captured by the ANPR system located on Clifton Street at 02:48:22 hours. At that time the vehicle is travelling along Clifton Street towards Donegall Street, Belfast. The position of the vehicle at this time is marked by a box "18" with an arrow giving the direction of travel on map AS/7, exhibit 134. The vehicle is also captured on images taken by two colour PSNI CCTV cameras located in the vicinity. One camera is at Carlisle Circus looking down Clifton Street and the other is located at the junction of Donegall Street and Clifton Street looking up Clifton Street. I have studied the images adduced in evidence from these cameras and it is clear that the Carlisle Circus camera images show a small silver hatchback motor vehicle emerging from the Westlink off slip at 02:48 hours, turning right onto Clifton Street, and then progressing away from the camera position. The PSNI CCTV camera located at the junction of Donegall Street and Clifton Street picks up this motor vehicle on the inside lane of Clifton Street progressing towards the

Donegall Street junction. The image quality is not particularly good but the ANPR capture is conclusive proof that the defendant's motor vehicle was progressing along Clifton Street towards Donegall Street at 02:48.

[171] The next alleged sighting upon which the Crown relies is the capture of the defendant's vehicle as it travelled along North Queen Street in a countrywards direction by the colour CCTV camera located at the rear of the Yorkgate complex opposite the junction with Spamount Street. This capture is alleged to have occurred at 02:49. I have carefully viewed these images and they are of very good quality and I am convinced that the vehicle shown travelling from left to right across the screen is a silver Skoda Fabia 4 door hatchback. The timing of this observation links closely with the previous observations on Clifton Street and I am convinced that the vehicle seen at 02:49 on North Queen Street is the defendant's vehicle. The position of the vehicle at this time is marked by a box "19" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[172] This same vehicle is then clearly seen on footage obtained from the PSNI CCTV camera located on North Queen Street, just countrywards of the junction with Brougham Street. This colour CCTV camera was directed citywards along North Queen Street and at 02:49 the said silver Skoda Fabia four door hatchback is seen approaching the junction of North Queen Street and Brougham Street and, without indicating, the vehicle is clearly seen turning right into Brougham Street. The position of the vehicle after this manoeuvre is marked by a box "20" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[173] The next alleged sighting upon which the Crown relies is the capture of the defendant's vehicle as it travelled along Dock Street at 02:50 towards the docks by the one second time lapse, colour CCTV camera "JL 2" located on the exterior of the Stella Maris hostel. The location and field of view of this camera has been discussed in some detail in paragraphs [136] to [138] above. The images on this occasion show a vehicle moving along Dock Street from the left of the screen to the right of the screen. When the vehicle emerges from behind the road sign previously referred to it can be easily recognised as a silver Skoda Fabia four door hatchback motor vehicle. The position of the vehicle at this time is marked by a box "21" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[174] Having regard to the timing of this sighting, I am convinced that these images are images of the defendant's motor vehicle. The image of the vehicle as it emerged into full view to the right of the road sign at 02:50 on 4 March 2016 is very similar to the image of the same vehicle as it emerged into full view to the right of the same road sign at 20:51 the previous night. However, there is one crucial difference. On the evening of 3 March 2016 when the vehicle emerged into full view it was in the lanes for traffic heading straight through the Garmoyle Street junction towards the docks. On the morning of 4 March 2016, when the vehicle emerged into full view, it is closer to the camera position and is in fact located in one of the lanes for traffic

turning right from Dock Street into Garmoyle Street in the direction of Corporation Street.

[175] I have already determined as a matter of fact that at 20:51 on the night of 3 March 2016, the defendant was in Dock Street in order to pick up an individual by prior arrangement. The question which now must be asked, and, if possible, answered is what was he doing driving along Dock Street at 02:50 on the morning of 4 March 2016?

[176] The next alleged sighting upon which the Crown relies is the capture of the defendant's vehicle as it travelled along Garmoyle Street at 02:50 towards Corporation Street. These images were captured by a black and white CCTV camera located on the exterior of McKenna's Bar. The location and field of view of this camera which was directed down Garmoyle Street towards Corporation Street is referred to in paragraph [135] above. The images on this occasion show a vehicle coming into view close to the camera position in the mid right of the screen. It is clear from the angle of the vehicle as initially seen that the vehicle has turned right from Dock Street into Garmoyle Street and these initial close up images clearly show a silver Skoda Fabia four door hatchback. Having regard to the timing of this sighting, I am convinced that these images are images of the defendant's motor vehicle. The position of the vehicle at this time is marked by a box "22" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[177] Careful scrutiny of the close up images of the vehicle at screen time 02:55:32 reveals that one can see into the front passenger compartment of the vehicle and that there are two brighter areas shown in this compartment. A smaller disc of brightness is seen above and separate from a larger area of brightness. It is impossible to positively identify what these areas of brightness are but because of their relatively forward position in the front passenger compartment, they are unlikely to be the seat and headrest but may indicate the presence of a person in this seat.

[178] As the vehicle moves away from the camera position, it is clear that the brake lights of the vehicle become illuminated just as the vehicle moves out of screen shot at screen time 02:55:35. (Analysis of this CCTV system showed that the screen time shown on the images was out of synchronisation with real time by 5 minutes and 10 seconds). The surface of the road at this time is clearly wet and in addition to seeing the brake lights becoming illuminated just as the vehicle goes out of screen shot at screen time 02:55:35, the reflected light on the road to the rear of the vehicle significantly increases in size and brightness once the brake lights are illuminated. Even after, the vehicle goes out of screen shot, and the bright area on the road surface representing the reflection of the brake lights is clearly seen progressing away from the camera and then stopping and becoming superimposed on a pre-existing thin area of brightness on the road which probably represents the reflection of a street light at screen time 02:55:40. This now enhanced area of brightness on the road remains stable in position, size and intensity until screen time 02:55:55 when it lessens in size and intensity. Thereafter, the reflected light in this

area is reduced in size and intensity and is restored in appearance to that which pertained before the reflection of the vehicle's brake lights was superimposed on this pre-existing narrow reflected area of brightness. Having studied these images on a considerable number of occasions, I am satisfied that what I have described in this paragraph can only be explained by the vehicle in question stopping on Garmoyle Street beyond camera shot for approximately fifteen seconds between real time 02:50:30 and 02:50:45. The position of the vehicle at this time is marked by a box "24" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[179] Confirmation that a vehicle travelling along Garmoyle Street towards Corporation Street stopped at or about the location and time referred to in the previous paragraph is definitively provided by images obtained from a CCTV camera attached to the premises of Clanmil Housing Association, Harbourview Apartments, on the north east side of Pilot Street. See map AS/9, exhibit 158. This camera is a black and white CCTV camera and it was directed up Pilot Street at the relevant time. I have studied the images carefully and at screen time 02:50:55, a vehicle comes into view from the left of the screen and is seen to stop on Garmoyle Street at the mouth of the junction with Pilot Street. It remains stationary until screen time 02:51:10 when it moves off towards the right edge of the screen. The period of time during which the vehicle was stopped approximates very closely with the estimated time that the vehicle referred to in paragraph [178] was stopped.

[180] The Crown also relies on images obtained from another CCTV camera system in operation in Pilot Street at the relevant time. The Ladbrokes betting shop is located on the corner site at the north east side of the junction of Garmoyle Street and Pilot Street. See map AS/9, exhibit 158. A black and white CCTV camera attached to the exterior of Ladbrokes premises which was directed down Pilot Street recorded images of an individual walking on the opposite footpath of Pilot Street away from the junction down towards the Dockers' Club between screen time 02:50:41 and 02:50:58 when the individual is lost from view. These timings were found to be accurate. The images at screen time 02:50:41 reveal that the individual is wearing a short, dark coat and lighter trousers and in his right hand, which is out to the side of his body, there is a light source which he seems to strike against the wall immediately to his right. A small light source then falls to the ground behind him at 02:50:43 as he walks on. Between 02:50:41 and 02:50:43 there is a definite dark dot at the top of this individual's head above a lighter band of colour and this resembles a bobble hat. It cannot be said with certainty that the individual is wearing a bobble hat but there is a very definite dark dot at the top of the individual's head best seen at screen time 02:50:43. No other pedestrians are seen in the area.

[181] It cannot be stated with certainty that this individual seen in a dark short length coat and lighter trousers was wearing a bobble hat as he walked along Pilot Street. However, the image at 02:50:43 is consistent with him wearing such a hat. It cannot be stated with absolute certainty that this individual got out of the defendant's car at the entrance to Pilot Street shortly before he is captured by the Ladbrokes CCTV camera. But what can be said with certainty is that the defendant's

vehicle did stop on Garmoyle Street at the entrance to Pilot Street at approximately 02:50 on the morning of 4 March 2016 and the defendant's vehicle remained stationary for approximately 15 seconds before moving off onto Corporation Street and, most crucially, map AS/9, exhibit 158 shows that there are no traffic lights at this junction. Therefore, the reason for the defendant stopping his vehicle at this location at this time of night cannot be explained by him being required to do so by reason of a red traffic light. Further, there are no records of any voice calls being made or text messages being sent by the defendant's phone at this time. It cannot be argued that the defendant could have stopped his vehicle for that reason.

[182] That this was, indeed, the defendant's vehicle is utterly copper fastened by the ANPR capture of his vehicle by an ANPR camera located on Corporation Street at 02:51:15. At the time, the vehicle was travelling along Corporation Street in the direction of Dunbar Link. The position of the vehicle at this time is marked by a box "24a" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[183] The same vehicle is then captured on black and white CCTV images obtained from a CCTV camera attached to Jobs and Benefits Office at the Design Centre at 39 Corporation Street, Belfast. Although the image quality is not great, at 02:52 on 4 March 2016, the vehicle is easily recognised travelling across the screen from right to left. The position of the vehicle at this time is marked by a box "25" with an arrow giving the direction of travel on map AS/7, exhibit 134.

[184] The same readily recognisable vehicle is then captured on black and white CCTV images obtained from a CCTV camera attached to Cathedral Eye Clinic at 89/91 Academy Street, which is just off the north westerly bound carriageway of Great Patrick Street. The camera in question was directed towards the York Street junction and the vehicle enters the screen from the right and moves away from the camera position up towards York Street. The vehicle appears to be in the second lane out from the kerb. The vehicle was captured at 02:53 and the image quality is good. The position of the vehicle at this time is marked by a box "26" with an arrow giving the direction of travel on map AS/7, exhibit 134. The vehicle can be seen going straight across the York Street junction onto Frederick Street because the first vehicle travelling behind the defendant's vehicle is clearly seen braking and turning right onto York Street.

[185] The Crown relies on another event which it alleges occurred when the defendant's mobile telephone was in the vicinity of Corporation Street. This important Device Data Record (DDR) event is timed at 02:53:20. At this time there is an attach notification sent by the defendant's mobile telephone to the azimuth 110° transceiver which is part of the "Sinclair Seaman's Church" mobile base transceiver station located on the north east corner of the junction between Corporation Street and Corporation Square. See map AS/7, exhibit 134.

[186] There was no detach notification sent to the network by the defendant's mobile at any stage after the defendant's sixteen second call to his brother at

02:40:34. There are no DDR events relating to the defendant's phone between 02:40:51 and 02:53:20. The absence of a detach notification means that the telephone was not turned off using the power button. It could have run out of battery charge; it could have been out of reach of a signal; or the battery could have been removed to immediately turn it off. For the reasons discussed earlier at paragraphs [128] to [130], I consider that the most likely explanation for this hiatus was the deliberate removal of the battery shortly after 02:40:51 as the defendant left the Divis Street area and the turning on of the phone at 02:53:20 as the defendant travelled along Corporation Street sometime after he had stopped at the entrance to Pilot Street.

[187] Between 02:53:51 and 02:54:57 the defendant's mobile was attached to the azimuth 50⁰ transceiver of the "Peter's Hill" mobile base transceiver station which is located on the south east corner of the junction of North Street and Millfield. See map AS/7, exhibit 134. At 02:55:32 the defendant's mobile attaches to the azimuth 130⁰ transceiver of "Carlisle Circus" mobile base transceiver station, which is located just to the south of Carlisle Circus. See map AS/7, exhibit 134. At 02:55:53, the defendant's mobile phone attaches to the azimuth 220⁰ transceiver of the same mobile base transceiver station.

[188] The defendant's mobile then connects to the following transceivers in the following order at the following times:

- (a) Azimuth 330⁰ transceiver "Durham House" (AS/8, exhibit 135) at 02:56:16;
- (b) Azimuth 300⁰ transceiver "Blythfield Park" (AS/8, exhibit 135) at 02:56:57;
- (c) Azimuth 180⁰ transceiver "Boucher Road Windsor" (AS/8, exhibit 135) at 02:57:59;
- (d) Azimuth 40⁰ transceiver "Turf Lodge" (AS/8, exhibit 135) between 02:58:04 and 02:58:16;
- (e) Azimuth 30⁰ transceiver "Belfast Ladybrook" (AS/8, exhibit 135) at 02:58:58;
- (f) Azimuth 150⁰ transceiver "Belfast Suffolk" (AS/8, exhibit 135) at 03:00:02;
- (g) Azimuth 120⁰ transceiver "Dunmurry North" (located to the north of the onslip leading from Black's Road onto the citybound carriageway of the M1, AS/8, exhibit 135) between 03:00:16 and 03:00:34;
- (h) Azimuth 220⁰ transceiver "Dunmurry North" (AS/8, exhibit 135) at 03:01:07;
- (i) Azimuth 250⁰ transceiver "Andersonstown" (located in the Kilwee Industrial Estate off Upper Dunmurry Lane, AS/8, exhibit 135) between 03:01:59 and 03:02:10;

- (j) Azimuth 330⁰ transceiver "Poleglass South" (AS/8, exhibit 135) between 03:03:09 and 03:05:00;
- (k) Azimuth 60⁰ transceiver "Poleglass" (located to the south of the junction of the Pantridge Road and the Brian's Well Road, AS/8, exhibit 135) at 03:08:00;
- (l) Azimuth 270⁰ transceiver "Belfast Suffolk" (AS/8, exhibit 135) at 03:08:56;
- (m) Azimuth 30⁰ transceiver "Saunders House" (located in the Springbank Industrial Estate, Pembroke Loop Road AS/8, exhibit 135) between 03:09:55 and 03:10:17;
- (n) Azimuth 150⁰ transceiver "Saunders House" (AS/8, exhibit 135) at 03:11:46;
- (o) Azimuth 30⁰ transceiver "Saunders House" (AS/8, exhibit 135) at 03:13:32;
- (p) Azimuth 150⁰ transceiver "Saunders House" (AS/8, exhibit 135) at 03:14:34; and
- (q) Azimuth 30⁰ transceiver "Saunders House" (AS/8, exhibit 135) at 03:15:31;

[189] It is an agreed fact that the defendant's mobile phone accessed the internet using the Wi-Fi at his home, 16 Aspen Park, Dunmurry at 03:15:50 on 4 March 2016. Thereafter, the call and SMS message records relating to his mobile phone reveal that the defendant's mobile phone made a voice call to his brother's mobile phone at 03:24:47 and at that time the defendant's mobile was utilising the azimuth 90⁰ transceiver of the "Poleglass South" mobile base transceiver station.

[190] Having regard to the matters set out in paragraph [169] to [186] above, I am convinced that at approximately 02:40 on 4 March 2016, the defendant, who was then in possession of his mobile telephone, left the vicinity of Divis Street in his silver Skoda Fabia four door hatchback motor vehicle and made his way via the Westlink to Clifton Street. At an early stage of this journey, the defendant telephoned his brother and the call lasted sixteen seconds. All records of this call were subsequently deleted from the memory of the defendant's phone. Following this call, the defendant removed the battery from his mobile phone. When the defendant reached the top of the offslip at Clifton Street, he turned right and drove down Clifton Street to the junction of North Queen Street where he turned left and travelled along North Queen Street before turning right into Brougham Street. It is to be remembered that this was the second time that the defendant had driven to this area on the night of 3/4 March 2016. On the first occasion he made a diversion between Clifton Street and Brougham Street. Where he went to during that twenty-seven minute period and what he did remains unknown.

[191] On his second journey to this area on the night in question, following his right turn into Brougham Street, he made his way to Dock Street. Unlike his earlier visit to

this area, he did not stop his vehicle on Dock Street on this occasion and he did not pick up a passenger. Instead, he turned right from Dock Street onto Garmoyle Street and stopped his vehicle at the mouth of Pilot Street for approximately fifteen seconds. Neither visible traffic nor ascertainable road conditions required him to stop his vehicle at this location. His reason for doing so cannot be related to phone activity as his phone was disconnected from the network at that time. Having regard to the earlier movements and activities of the defendant that night, the only rational and sensible explanation is that the defendant stopped his vehicle to let a passenger off at this location. This conclusion is supported by the fact that an individual is seen on an otherwise deserted footpath in Pilot Street shortly after the vehicle was observed to be stationary at the junction and this individual is walking away from the location where the vehicle was stopped, and also to some limited extent by the observations set out in paragraph [177] above. After the vehicle moved off again and as it was travelling along Corporation Street or thereabouts, the defendant turned his mobile telephone on again and he then turned right onto Great Patrick Street before driving onto Frederick Street.

[192] Having regard to the matters set out in paragraph [187] to [189] above, it is clear that the defendant progressed along Fredrick Street at approximately 02:53 on the morning of 4 March 2016. It is likely that he then made his way up to the Clifton Street/Westlink junction and proceeded onto the Westlink towards the M1. He then progressed along the M1 countrywards to the Black's Road exit and then made his way home by what seems to be a detour up to the Pembroke Loop Road area. He was back in his house at 03:15:50 when his mobile accessed the internet, using the Wi-Fi connection. The utilisation of the azimuth 90⁰ transceiver of the "Poleglass South" mobile base transceiver station when calling his brother at 03:24:47 would indicate that the defendant was in his home when he made that call. No record of that call was found in the memory of the defendant's mobile phone. The record of this call must have been deleted.

[193] The defendant appears to have been away from his house between approximately 20:00 on 3 March 2016 and approximately 03:15 on 4 March 2016, a period of over 7 hours, during which time he made two journeys to the docks. These events are of a very different nature to a short trip to the local shops or some similar destination which could easily be forgotten about or overlooked. I reiterate that the defendant's pre-prepared statement referred to in paragraphs [104], [105] and [118] above contains a blatant and obvious lie about the defendant's movements during the night in question. Bearing in mind that the defendant was being questioned about the placing of a bomb under Mr Ismay's vehicle when he made that statement, I conclude that this lie was deliberately told for one reason and one reason only and that was to attempt to divert suspicion of involvement in this attack away from the defendant.

[194] At the close of the Crown case, the court was informed by Senior Counsel for the defendant that the effect of the provisions of Article 4 of the Criminal Evidence (Northern Ireland) Order 1988 had been explained to him and that the defendant

was aware that the stage has been reached at which evidence could be given for the defence and that he could, if he wished, give evidence and that, if he chose not to give evidence, or having been sworn, without good cause refused to answer any question, it would be permissible for the court to draw such inferences as appeared proper from his failure to give evidence or his refusal, without good cause, to answer any question. The court was informed that the defendant did not intend to give evidence and the only evidence would be adduced on his behalf was the medical report prepared by Dr Loughrey, following an examination of the defendant on 19 September 2018, exhibit "D2" which I have referred to above, the premises search record for 16 Aspen Park, exhibit "D3", and a letter from the Very Reverend Martin Graham, the Administrator of the Cathedral parish of Saint Peter, dated 21 January 2020, exhibit "D1". The question for the court to consider is what if any inferences is it proper to draw from the defendant's decision not to give evidence in his defence in this case.

[195] The report of Dr Loughrey is clearly relevant to the determination of this issue. The defendant has a considerable history of mental health problems. Dr Loughrey was requested to advise in the case and to address the defendant's ability to give evidence on his own behalf during the trial on the basis that the defendant is prone to impulsive outbursts without proper consequential thinking. There was a history of severe childhood sexual abuse giving rise to a complex post-traumatic stress disorder and during the course of his evaluation by Dr Loughrey, the defendant volunteered at some length and with great feeling allegations about the sexual transgressions of others in circumstances which left Dr Loughrey firmly convinced that the circumstances of the trial could well bring such matters to light and this would constitute a risk factor for emotional instability and loss of emotional control. Dr Loughrey stated that his "experience of evaluating this man on two occasions indicates to me that there is a risk that this man will blurt out allegations and false statements that will be irrelevant to his defence, and may be to the detriment of his defence."

[196] The court has no hesitation in concluding that the various strands of circumstantial evidence adduced by the prosecution in this case in respect of the actions of defendant clearly call for answers from the defendant. The question is whether the only sensible explanation for his silence is that he has no answers or none that would bear examination. In the light of Dr Loughrey's report, can the court legitimately and fairly conclude that any evidence given by the defendant at the trial would not have borne examination and that this explains his failure to give evidence?

[197] The issue raised by Dr Loughrey in his report is one which might readily explain why a defendant would not wish to give evidence on his own behalf if this matter were being tried before a jury. However, this matter is not being tried before a jury and when the judge is forewarned about the potential for impulsive outbursts without proper consequential thinking, displays of emotional instability and loss of emotional control, this forewarning would ensure that no unjustified or

inappropriate weight would be attached to allegations and false statements made by the defendant in his oral evidence which were irrelevant to the defendant's defence. However, it is all well and good for the court to be able to provide that assurance; it is another matter altogether as to whether such an assurance is understood and appreciated by a defendant so that the court can be sure that the matters raised in Dr Loughrey's report do not form the basis for the defendant's decision not to give evidence on his own behalf. Having regard to the diagnoses made by Dr Loughrey in this case (complex post-traumatic stress disorder and alcoholism), the court cannot be sure that the matters raised in Dr Loughrey's report do not form the basis for the defendant's decision not to give evidence on his own behalf and, therefore, out of an abundance of caution, the court will not in this case draw any adverse inferences from defendant's failure to give evidence in his defence.

[198] The evidence contained in the defence Exhibit "D1" is in the form of a character reference from the Very Reverend Martin Graham. This reference reveals that the defendant previously sang in the Folk Group Mass on a Sunday evening in Saint Peter's Parish. He is described as an individual who was faithful in his choir attendances, who interacted well with other members, particularly older members, and who was always willing to help others, being friendly, patient, understanding, calm and respectful in his manner. This description is somewhat at odds with the issues described in Dr Loughrey's report but taken at face value just serves to demonstrate how an individual can display different personae at different times and in different circumstances.

[199] The evidence contained in the defence Exhibit "D3" has been tangentially commented upon in paragraph [103] above. The search record demonstrates that when the defendant's house was searched, a Balmoral Hotel security badge was found as was an amateur radio licence in the name of the defendant with an address 19d Divis Tower. I have already indicated that the self defence gloves also found during the search could theoretically be linked to the finding of a Balmoral Hotel security badge during the search on the basis that a security man working at this establishment might feel the need to be in possession of such a pair of gloves. Similarly, the possession of walkie talkie radios may have a connection with the defendant's interest in emergency rescue and first aid and the existence of an amateur radio licence indirectly supports such a connection. For the avoidance of doubt, I do not consider that the finding of the self defence gloves and the walkie talkie radios during the search of the defendant's home can be considered as being in any way germane to the issues that the court has to decide.

[200] The Crown accepts that the case against the defendant is comprised of a number of strands of evidence, no one of which proves his involvement in the attack on Mr Ismay to the criminal standard. The Crown argues that it is for the court as the tribunal of fact to consider the entirety of the evidence in the round in order to make a determination in this case. It is argued that this is a classic circumstantial case and that any temptation to isolate one strand of the case and discard it if it does not reach the criminal standard must be studiously resisted.

[201] The defence in this case relies upon the judgment of Lord Morris in *McGreevy v DPP* [1973] 1 All ER 503 at 510 where the Noble and Learned Lord stated:

“In my view, the basic necessity before guilt of a criminal charge can be pronounced is that the jury are satisfied of guilt beyond all reasonable doubt. This is a conception that a jury can readily understand and by clear exposition can readily be made to understand. So also can a jury readily understand that from one piece of evidence which they accept various inferences might be drawn. It requires no more than ordinary common sense for a jury to understand that if one suggested inference from an accepted piece of evidence leads to a conclusion of guilt and another suggested inference to a conclusion of innocence a jury could not on that piece of evidence alone be satisfied of guilt beyond all reasonable doubt unless they wholly rejected and excluded the latter suggestion. Furthermore, a jury can fully understand that if the facts which they accept are consistent with guilt but also consistent with innocence they could not say that they were satisfied of guilt beyond all reasonable doubt. Equally a jury can fully understand that if a fact which they accept is inconsistent with guilt or may be so they could not say that they were satisfied of guilt beyond all reasonable doubt.

In my view, it would be undesirable to lay it down as a rule which would bind judges that a direction to a jury in cases where circumstantial evidence is the basis of the prosecution case must be given in some special form provided always that in suitable terms it is made plain to a jury that they must not convict unless they are satisfied of guilt beyond all reasonable doubt.”

[202] The defence rightly argues that in every criminal trial the ultimate standard of proof is proof beyond a reasonable doubt and leading on from this the defence further argues that all the strands of evidence upon which the Crown relies to discharge the burden of proof must be examined in terms of their significance and reliability both independently and collectively.

[203] The Crown relies upon the Northern Ireland Court of Appeal decision *R v Courtney* [2007] NICA 6, at para 31, in which Kerr LCJ provided the following valuable guidance:

“[31] We can quite understand how the judge came to focus on the evidence of the McCulloughs and Mr Hagan since the claim that they made was the centrepiece of the Crown case. But we consider that he was wrong to isolate this evidence from the remainder of the Crown case. In a case depending on circumstantial evidence, it is essential that the evidence be dealt with as a whole because it is the overall strength or weakness of the complete case rather than the frailties or potency of individual elements by which it must be judged. A globalised approach is required not only to test the overall strength of the case but also to obtain an appropriate insight into the interdependence of the various elements of the prosecution case.”

[204] The Crown also relies upon the Northern Ireland Court of Appeal decision *R v Kincaid* [2009] NICA 67 in which the court considered the case law upon which the principle was based:

“[22] The case against the appellant depended on circumstantial evidence. While that evidence is different from direct or expert evidence it can be no less compelling and often more so. The classic approach to circumstantial evidence is to be found in the well know passage from the judgment of Pollock CB in *R v Exall* (1866) 4 F& F:

“What the jury has to consider in each case is, what is the fair inference to be drawn from all the circumstances before them, and whether they believe the account given by the prisoner is, under the circumstances, reasonable and probable or otherwise ... Thus, it is that all the circumstances must be considered together. It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength. Thus it may be in circumstantial evidence - there may be a combination of circumstances, no one of which would raise a reasonable conviction, or more than a mere suspicion; but the whole, taken together, may create a strong conclusion of guilt, that is,

with as much certainty as human affairs can require or admit of. Consider, therefore, here all the circumstances clearly proved."

[205] This theme is echoed in the case of *R v Meehan & others* (unreported) Belfast Crown Court, 21 March 1988, where Carswell J referred to circumstantial evidence as "a multi-stranded skein of facts". In the appeal from that decision the Court of Appeal [1991] 6 NIJB 1, rejected the contention that the court must scrutinise each individual piece of evidence and reject those of insufficient weight. At pages 31-32, Hutton LCJ said:

"Mr Weir QC criticised the approach of the trial judge as set out in this passage and submitted that each strand of the Crown case must be tested individually, and that if it is not of sufficient strength it should not be incorporated into the rope... We reject this submission. It is, of course, clear that each piece of evidence in the Crown case must be carefully considered by the trial judge but it is also clear law, as stated by Pollock CB, that a piece of evidence can constitute a strand in the Crown case, even if as an individual strand it may lack strength, and that, when woven together with other strands, it may constitute a case of great strength."

[206] The Crown also relies on *The Queen v Hillier* (2007) 233 ALR 634, in which the High Court of Australia provided the following valuable analysis. Gleeson CJ, at paras [46] to [49] said:

"[46] The case against Mr Hillier was a circumstantial case. It has often been said that a jury cannot be satisfied beyond reasonable doubt on circumstantial evidence unless no other explanation than guilt is reasonably compatible with the circumstances⁵⁵. It is of critical importance to recognise, however, that in considering a circumstantial case, all of the circumstances established by the evidence are to be considered and weighed in deciding whether there is an inference consistent with innocence reasonably open on the evidence⁵⁶.

[47] The force of that proposition is well illustrated by the decision in *Plomp v The Queen*⁵⁷. There, this court held

⁵⁵ See, for example, *Martin v Osborne* (1936) 55 CLR 367 at 375; *Plomp v The Queen* (1963) 110 CLR 234 at 243 per Dixon CJ.

⁵⁶ *Shepherd v The Queen* (1990) 170 CLR 573 at 579 per Dawson J.

⁵⁷ (1963) 110 CLR 234.

that the motive of the accused to murder his wife (he having proposed marriage to another woman on the representation of his being a widower) was one circumstance to be taken into account in deciding whether he had killed his wife while they were surfing alone together, at dusk, in apparently good conditions. His application for special leave to appeal against conviction was refused upon the basis that it was open to the jury to be satisfied beyond reasonable doubt that he had murdered his wife.

[48] Often enough, in a circumstantial case, there will be evidence of matters which, looked at in isolation from other evidence, would yield an inference compatible with the innocence of the accused. But neither at trial, nor on appeal, is a circumstantial case to be considered piecemeal. As Gibbs CJ and Mason J said in *Chamberlain [No 2]*⁵⁸:

"At the end of the trial the jury must consider all the evidence, and in doing so they may find that one piece of evidence resolves their doubts as to another. For example, the jury, considering the evidence of one witness by itself, may doubt whether it is truthful, but other evidence may provide corroboration, and when the jury considers the evidence as a whole they may decide that the witness should be believed. Again, the quality of evidence of identification may be poor, but other evidence may support its correctness; in such a case the jury should not be told to look at the evidence of each witness 'separately in, so to speak, a hermetically sealed compartment'; they should consider the accumulation of the evidence: cf *Weeder v The Queen*⁵⁹.

Similarly, in a case depending on circumstantial evidence, the jury should not reject one circumstance because, considered alone, no inference of guilt can be drawn from it. It is well established that the jury must consider 'the weight which is to be given to the united force of

⁵⁸ (1984) 153 CLR 521 at 535.

⁵⁹ (1980) 71 Cr App R 228 at 231.

all the circumstances put together': per Lord Cairns, in *Belhaven and Stenton Peerage*⁶⁰, cited in *Reg v Van Beelen*⁶¹; and see *Thomas v The Queen*⁶² and cases there cited."

And as Dixon CJ said⁶³ in *Plomp*:

"All the circumstances of the case must be weighed in judging whether there is evidence upon which a jury may reasonably be satisfied beyond reasonable doubt of the commission of the crime charged. There may be many cases where it is extremely dangerous to rely heavily on the existence of a motive, where an unexplained death or disappearance of a person is not otherwise proved to be attributable to the accused; but all such considerations must be dealt with on the facts of the particular case. *I cannot think, however, that in a case where the prosecution is based on circumstantial evidence any part of the circumstances can be put on one side as relating to motive only and therefore not to be weighed as part of the proofs of what was done.*" (emphasis added)

[49] In the present case, there was evidence (such as the evidence of unidentified DNA on the pyjama top) which was consistent with Mr Hillier's innocence. But the question for the Court of Appeal was whether, on the *whole* of the evidence, it was open to the jury to be persuaded beyond reasonable doubt that he was guilty."

[207] Applying these principles to the various strands of evidence set out above, it is clear that the court must adopt a holistic approach and assess the whole of the evidence in this case in order to determine whether the evidence seen in its entirety establishes beyond a reasonable doubt that the defendant is guilty of any of the offences with which he is charged. At the same time, the court has to examine the individual strands of evidence to rigorously test them for any signs of lack of integrity and to ascertain whether any of those strands which survive that scrutiny are linked by cross strands which would contribute to the integrity of the whole structure.

⁶⁰ (1875) 1 App Cas 278 at 279.

⁶¹ (1973) 4 SASR 353 at 373.

⁶² [1972] NZLR 34 at 37-38, 40.

⁶³ (1963) 110 CLR 234 at 242.

[208] A key issue in this case which now requires specific consideration by the court is the issue set out in paragraph [167] above. The question which was posed in that paragraph can be restated in the following terms. Was the return of the Citroen C3 from Hillsborough Drive, as evidenced by its last capture on CCTV progressing along Eglantine Avenue towards the Lisburn Road at 02:31, linked to the sending by the defendant to his brother of a text message: "Hey bro, how's work?? Couldn't sleep." at 02:39:37 when the former was in the vicinity of Divis Street and the latter was in the Ardmoulin Hostel, and was this communication, in turn, linked to the disabling by the defendant's brother of the hostel's CCTV system between 02:40 and 02:47:42?

[209] This key issue referred to above can only meaningfully be addressed by looking carefully at all that we know about these three events. The Citroen C3 was on its way back from Hillsborough Drive, ferrying the person who attached the device to the underside of Mr Ismay's vehicle away from the scene. This vehicle had been parked in front of the Ardmoulin Hostel before it began its journey to Hillsborough Drive with the bomb and bomber on board and the defendant's brother must have had the keys of the vehicle until they were obtained from him by one or more of those responsible for transporting the bomb. This vehicle must have made its way back to a location where the defendant's brother was able to gain access to it and use the keys to drive it during the morning of 4 March 2016 because it is captured at 08:45 in the general area of Mr Robinson's home and it was subsequently seized by the Police outside his house on 6 March 2016. At no time between the night of 3/4 March and the time of seizure of the vehicle by the Police did the defendant's brother make any report of his vehicle being taken by anyone without his permission. The vehicle could not have been driven without the keys and no report was made by the defendant's brother of any keys being taken.

[210] The SMS message "Hey bro, how's work?? Couldn't sleep." sent at 02:39:37 on the morning of 4 March 2016 cannot on any rational or sensible basis be regarded as a genuine enquiry by the defendant about how his brother was getting on at work at that time or as a genuine expression by the defendant of his sleeping difficulties. The message was sent from the vicinity of Divis Street. The defendant by that time had been out of his house since shortly after 20:00 the previous evening. He was nowhere near his house or bed at the time. It wasn't the case that he was at home until shortly before sending the text and not being able to sleep he had left his bed and his home to go to see his brother. His mobile phone had been attached without interruption to a mobile base transceiver station in the area of Divis Street in the vicinity of the hostel since shortly before 21:30 the previous night.

[211] For the defendant to send such a text informing his brother that he could not sleep when the defendant had been out and about and away from his home and bed for six and a half hours can only be seen as an attempt by the sender to mislead either the recipient and/or someone else who might gain access to the contents of that SMS message. If the defendant was that interested in what his brother was doing at work, why did he not simply call in to see his brother as he was in the

vicinity? If his brother had considered this message to be a genuine enquiry about what he was doing, why did he not respond, then or later? Looking at the entirety of the evidence, the only rational and sensible explanation for this unacknowledged and unanswered message being sent at this time is that it was a coded signal sent by the defendant to his brother about the return of the Citroen C3 to the vicinity of the hostel.

[212] The only rational and sensible explanation for the temporary disabling of the CCTV system at the hostel is that the defendant's brother was present in the office of the hostel at or about 02:40 on the morning of 4 March 2016 and deliberately disabled the system for a period of some seven minutes. It has been convincingly established that he had disabled the CCTV system at the hostel five and a half hours earlier as a direct response to information received from his brother. I am convinced that the provision of the coded signal by the defendant to his brother precipitated the disabling of the hostel's CCTV system by the defendant's brother at or around 02:40 and that this was a deliberate attempt to prevent any visual record of events surrounding the return of the Citroen C3 motor vehicle being created. A belt and braces approach for the purpose of ensuring that there was no such visual record is demonstrated by the defendant's brother changing the CCTV system settings during his next night shift at the hostel.

[213] The answer to the question posed in paragraph [167] as reformulated in paragraph [208] above is that these three events or strands of evidence are definitely linked and, having made that finding, the court must now anxiously and carefully scrutinise the entirety of the evidence in order to determine whether the Crown has established the defendant's guilt in respect of any or all of the charges faced by him.

[214] Such anxious and careful scrutiny of the whole of the evidence in this case compels the court to conclude that the defendant deliberately engaged and assisted in the targeting of Mr Ismay as the intended victim of this bomb attack. The defendant knew that this bomb attack, if successful, would result in the death of Mr Ismay or the infliction of serious injury upon Mr Ismay and this was the intended outcome of his actions. The defendant repeatedly checked out Mr Ismay's online profile and went so far as to check up on the opening times of a large supermarket located opposite one end of Hillsborough Drive. The defendant knew in advance what type of attack was going to be carried out. His concerns about the fixation of the improvised explosive device to the underside of Mr Ismay's vehicle prompted him to search the internet for information relating to the magnetic permeability of aluminium.

[215] The defendant made a car journey to the area of the docks and he then transported an individual from Dock Street to the Divis Street area prior to the planting of the bomb and in doing so he knowingly facilitated the mounting of this attack. The defendant knowingly arranged for and facilitated the use of his sister-in-law's motor vehicle for the purpose of transporting the bomb and bomber to Hillsborough Drive and for the purpose of transporting the bomber away from

the scene again. The defendant is forensically linked to a cynical ploy to render the vehicle less conspicuous in the area where the attack was to take place. The DNA evidence described above by itself does not establish that the defendant had direct contact with the Poppy Appeal car sticker but the entirety of the evidence convinces me that he had contact with this sticker in the context of it being attached to the windscreen of the Citroen C3 motor vehicle in furtherance of this planned attack. Following the attack, the defendant undertook another car journey in his own vehicle to the docks, his second journey to this area on the night in question. During this second journey to the docks area, he stopped his vehicle at the mouth of Pilot Street, and in doing so he knowingly facilitated and assisted an individual involved in the attack on Mr Ismay to evade discovery and detection.

[216] The defendant knowingly took steps to minimise the chances of his intimate and inextricable involvement in the attack upon Mr Ismay being uncovered by turning off his mobile phone at particularly key stages of his journeys that night, by deleting entries from the memory of his mobile phone relating to voice call and SMS messages, by putting his SIM card and the battery of his phone beyond the reach of the Police, by arranging with his brother for the CCTV system of the Ardmoulin Hostel to be disconnected at key stages of the operation and the system settings of the CCTV system to be subsequently changed so as to dramatically reduce the period of retention of images, by sending a coded SMS message to his brother, and by the telling blatant and obvious lies (contained in a pre-prepared statement provided to the Police during interview under caution) about his movements on the night in question and about him not knowing that Mr Ismay was the victim of the attack until he was informed by the Police at the time of his arrest.

[217] Following the attack, the defendant showed an intense and enduring interest in the internet news coverage of the attack that can only be explained by the defendant's prior knowledge of and intimate involvement in the planned attack upon Mr Ismay, an individual whom the defendant had specifically targeted. This intense and enduring interest cannot be explained by the existence of a close and/or enduring relationship between the defendant and Mr Ismay nor can it be explained by innocent curiosity engendered by the defendant's pre-existing knowledge that a former work colleague, Mr Ismay, was a prison officer living in the area of the attack, because such a relationship and/or knowledge is denied.

[218] The defendant's social media activities demonstrate a clear support for violent Irish republicanism and strong support for Irish republican prisoners. His social media activities also demonstrate a strong disapproval of the Police Service for Northern Ireland, the Northern Ireland Prison Service and Sinn Fein and this clearly expressed disapproval of Sinn Fein flies in the face of his stated support for Sinn Fein as detailed in Dr Loughrey's report. The defendant's support for violent Irish republicanism and for Irish republican prisoners and his strong disapproval of the PSNI and the NIPS provide a cogent and compelling explanation for his intimate and inextricable involvement in this attack upon Mr Ismay, a serving prison officer, a fact that must have been within the knowledge to the defendant. The fact that the

defendant was in possession of homemade balaclavas, had purchased other balaclavas from Amazon and had posed with a realistic looking firearm for a photograph which he chose as his Facebook profile image, strongly supports the proposition that he had some sort of fixation with the trappings of paramilitarism which arose out of his support for militant Irish republicanism.

[219] Having examined and tested the individual strands of evidence in this case and the links between those strands and having carefully and anxiously scrutinised the entirety of the evidence in this case, I am compelled to conclude that the evidence establishes beyond a reasonable doubt that the defendant Christopher Robinson was intimately and inextricably involved in the facilitation and execution of the terrorist operation which involved the attachment of a viable improvised explosive device to the underside of Mr Ismay's vehicle with the intention of causing the death of Mr Ismay or causing him really serious injury. That device did explode when Mr Ismay was driving the vehicle and the injuries he suffered resulted in his death.

[220] I have carefully examined, taken into account and considered every piece of evidence in this case, every skilful submission made by Senior Counsel for the defendant, and every relevant matter brought to my attention by or with the specific agreement of the defence, looking anxiously for anything arising therein or therefrom that could give rise to a reasonable doubt in my mind as to the guilt of the defendant and I have found nothing. I, therefore, am compelled to find the defendant guilty of the murder of Mr Adrian Ismay and I find him guilty of causing an explosion with intent to endanger life. I make no finding in relation to the charge of providing property for the purpose of terrorism.