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Judgment: approved by the Court for handing down | *Delivered:* **05/06/2009**
*(subject to editorial corrections)**

IN THE CROWN COURT OF NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

v

MANMOHAN SANDHU

Sentencing Remarks

DEENY J

[1] The accused was re-arraigned on 26 May 2009. He pleaded guilty to the common law offence of incitement to murder on the first count on the indictment. It relates to dates between 18 and 26 August 2005 when he incited other persons to murder Jonathan Hillier.

[2] He also pleaded guilty to three counts of doing an act intended to pervert the course of public justice contrary to common law. The particulars of the third count are that he used information garnered as the solicitor to a suspect being interviewed by the police in Antrim Serious Crime Suite in his interviews with the prisoner to learn that the possession of mobile phones might be of assistance to the police in their investigation. He then took steps by his own mobile phone to alert persons outside the police station to prevent those mobile phones falling into the hands of the police. Indeed the covert surveillance on him records him boasting on 24 August 2005 (page 894) that he had "taken care of that yesterday". However, Mr Arthur Harvey Q.C., in his helpful plea, points out that the police did recover these phones and that they yielded no useful evidence, as Sandhu's own client had indeed expected.

[3] On 4 July 2005, again while purporting to act as solicitor to a suspect, he formed the view that the police were likely to arrest a man called Mark Sewell who was providing an alibi to his client and that interviews of him by

the police at that stage would be unhelpful to his client and to other persons. The police at that time were investigating the murder of Jameson Lockhart on 1 July 2005. The accused then made a number of phone calls telling persons outside the police station to "take Sewell offside". In that context this did not mean something more sinister than getting him to remove himself so the police could not locate and interview him; or removing him, if for any reason he was unwilling to go to some other place. Again this was clearly intended to and tending to pervert the course of justice by interfering with the investigation into the murder of Mr Lockhart. However, the court was informed that the alibi was separately proved by CCTV footage and that Sewell was never, in fact, interviewed by the police at any later stage.

[4] By a fifth count he was charged with an offence committed on 15 November 2005. I note the fact that this is months after the earlier instances. It is not the case that all these offences were committed on a single occasion. They show a pattern on the part of the accused. The police investigation had lead them to return Christopher Dinsmore to custody for interview on that date, again about the murder of Jameson Lockhart. Here the accused went to considerable lengths with his client to concoct an explanation for the presence of gloves seized at the home of Christopher Dinsmore which contained traces of cartridge discharge residue implicating him in the shooting. This was not a chance remark but an ongoing process of invention. Again, counsel points out that this was of no effect as the gloves were not, apparently, tied to Dinsmore.

[5] Under a sixth count the accused has pleaded guilty to conspiracy to pervert the course of public justice contrary to common law and Article 9(1) of the Criminal Attempts and Conspiracy (NI) Order 1983. Frequently during these interviews he is recorded keeping persons who are clearly members of a terrorist organisation, the Ulster Volunteer Force, informed of the progress of police investigations into very serious crimes. In doing so he is of course assisting them in tending to inhibit the effective investigation and solution of such offences.

[6] The needs of an orderly and civilised society demand that persons charged with serious criminal offences should be able to avail of legal advice. The public have an interest in the acquittal of the innocent as well as the conviction of the guilty. On foot of such a need the legislature and the courts have enshrined the right of suspects to consult with their solicitors in these circumstances. It is a pernicious and dangerous abuse of that right for a solicitor to go beyond the role of legal advisor in the way that this accused has done. It is a grave breach of trust. Reading the interviews the picture is not that of an officer of the court discharging his duty to his client but of an enthusiastic gang member.

[7] Serious as these charges are, however, they are dwarfed by the first count on the indictment relating to the incitement to other persons to murder Jonathan Hillier. The unfortunate Mr Hillier had already been shot and wounded in what seems to have been an attempt on his life. On 24 August Sandhu was present as a solicitor, again in the Antrim Serious Crime Suite consulting with two men then charged with the attempted murder of Jonathan Hillier. I quote of some of the remarks he made in the course of his discussions with his then client which appear in the edited transcript which has been provided to the court. At 13.22 on that day he says:

> "Like Mr Hillier might never give evidence.
>
> Suspect: He shouldn't have been able to.
>
> Sandhu: At least if he was dead he wouldn't have been able to tell them there was a phone call made from the *obscenity* taxi."

A little later he says:

> "How the *obscenity* did they miss him".

At 17.34 he says:

> "Dead men can't talk."

Later he again says:

> "At least dead men don't talk, this dead man has made two statements to the police basically telling them `you's boys coming up'."
>
> "I have never seen an operation go pear shaped like this before", conveys the flavour of somebody who is a gang member rather than a legal advisor.

At page 928 on the transcript he is told by his client that someone has spoken critically of the injured party. The solicitor comments:

> "That's alright - we didn't do a wrong target anyway."

At page 932 the suspect says: "Basically its our word against his, there is a few wee things he said to make us look guilty."

> Sandhu: "But the b- - [that is Mr Hillier] will never give evidence, that's the case out the window."

[8] On 25 August talking to one of his clients that man says, of the shooting of Mr Hillier:

> "Even if they ran out of shots I would have just *obscenity* ran after him and just beat him to death.
>
> Sandhu: I would have, I would have whacked him one in the head."

At page 974 the other suspect says that the gunmen:

> "Need to try and clip him again so he can't come to court. What would happen if that happened?
>
> Sandhu: I have already them he is at the Ulster Hospital, already told them that."
>
> A few sentences later he says: "He's got to be taken out. He hasn't made a statement yet."

The accused had apparently learned that in the course of acting as solicitor for these suspects.

[9] The prosecution has drawn the court's attention to six cases which they consider relevant to the issue of sentencing. Those are:

> R v Sagar Naveen (Unreported 2007);
> Attorney General's References No's 85, 86 and 87 of 2007 [2007] EWCA 3300;
> R v Kayani [1997] 2 CR App R(S) 313;
> Attorney General's Reference No 4 of 1996 [1996] NIJB 55;
> R v Tunney [2006] EWCA Crim 2066;
> R v Maguire & McGeogh (Unreported, Belfast Crown Court 2006).

There is no guideline case as such for these offences. The sentences imposed for incitement to or soliciting murder vary to a very considerable degree.

[10] In this case of Sandhu there are two aggravating features. Firstly, there was a very grave breach of trust by the accused as a solicitor to the Supreme Court of Northern Ireland given privileged access to his clients in a police station. Secondly, that abuse of trust took place not on a single occasion but on a number of occasions over a period of months in 2005, including the incitement to murder.

[11] There are a number of mitigating features in favour of the accused. Firstly, he has no previous criminal record. Secondly, and importantly, he has pleaded guilty to these offences. The pleas were not at the earliest opportunity, which I take into account but they were at an early stage of the trial itself. It is right that the sentence of the accused should be reduced from what it otherwise would be because of his pleas of guilty. By them he has released a significant number of police officers to discharge their duties in the prevention and detection of crime who would otherwise be detained in court. He has saved the public considerable expense. He has given up any chance he may have had of acquittal. (There was no expression of shame or remorse. I do not accept that what he said should be described as "empty, meaningless words".) Fourthly, as was acknowledged by our Court of Appeal in Attorney General's Reference No 4 of 1996 it is right to take into account his loss of employment. Following his plea of guilty, although not before, the Law Society of Northern Ireland suspended him from practice. They will have to consider his future membership of the profession in accordance with the procedures laid down but it seems to me quite unrealistic, as counsel submitted, to expect that a man who has offended in this way could possibly be allowed to practice as a solicitor again. I take into account that that is not going to happen in the future although some form of work may be available to him. Fifthly, it would appear that no attack was made on the potential prosecution witness despite the encouragement given by the accused. Mr Harvey lays stress on this and the lack of consequences arising from the other offences as one of a number of reasons for distinguishing this case from R v Sagar Naveen, although that solicitor did not face the same indictment as here. Sixthly, he suffered the loss of a daughter and other close relatives in 1995. He has provided for his wife, parents and two sons, one of whom has a serious illness. His imprisonment will bear heavily upon them. There were three references from reputable solicitors attesting to his hard work and courtesy.

[12] Finally, in this summary of mitigating factors, there is the issue of delay. It is now three and a half years since the Defendant was interviewed about and charged with these offences. This is clearly not satisfactory. I was informed that there have been two applications to stay the proceedings for abuse of procedure based largely on failures of disclosure and delay. I have now had the opportunity of reading the judgments of Mr Justice Hart. I am satisfied that Mr Harvey's submission is well founded and that although a number of factors operated to delay the trial, one of those was fault on the part of the state. The European Court of Human Rights has ruled that in such circumstances the sentencing court should reduce the sentence imposed to mitigate the effects of that delay which has left this hanging over the accused and his family for 3 and a half years. I will do so here.

[13] Manmohan Sandhu, it was a wicked thing to incite men of violence to murder an innocent man. This was all the more so when you were a solicitor

and he was already a victim and a potential witness in a forthcoming trial. Such conduct must be deserving of a severe sentence. Law and justice require that the length of that sentence must be reduced by reason of the factors outlined above, including your plea of guilty, delay and the fact that harm has not in fact resulted from your misconduct. Balancing these factors I have concluded that the proper sentence is one of 10 years' imprisonment on the first count of the indictment.

[14] On each of the other counts, three, four, five and six I impose a sentence of three years' imprisonment. In the light of the totality principle and the submissions of counsel I am persuaded that those sentences should run concurrently with each other and with the sentence on the first count.