

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

-v-

TURLOUGH ROBERT McALLISTER

**HART J**

[1] The defendant has pleaded guilty to four counts relating to the seizure of various explosive substances, and a further count of possession of a handbook containing information on improvised munitions.

[2] These charges relate to events on the night of Sunday 14 September 2008. At approximately 7.21 pm a number of police officers forced entry to a house at 31 The Square, Crossmaglen, County Armagh and discovered the defendant in an upstairs bedroom. In that bedroom there was an industrial coffee grinder positioned above a black bin bag, and the coffee grinder was being used to grind the fertiliser into a compact white powder. There were several black bin bags containing a substantial quantity of fertiliser to judge by their appearance. Mr Kerr QC (who appears for the prosecution with Mr Russell) stated that although the bags were not formally weighed, it was thought that they contained some tens of kilograms of both ground and unground fertiliser.

[3] When the remainder of the house was searched 21 x 12 bore shotgun cartridges and 25 x .22 cartridges were found. There were also various pieces of metal pipe, wiring, metallic strips and other items recovered which indicate that the intention was to construct explosive devices in the form of pipe bombs.

[4] At approximately the same time a search was carried out of his girlfriend's home at 20B Lissaraw Road, Crossmaglen. During that search the police discovered the improvised munitions handbook which is the subject of the remaining count of possession of an item likely to be of use to terrorists.

Forensic examination of the handbook revealed that the defendant's fingerprints were on many of the pages inside.

[5] When the defendant was questioned he made no reply to any of the questions put to him by police. However, upon arraignment he pleaded guilty to a number of the counts: Count 1, making explosive substances with intent to endanger life or cause serious injury to property, contrary to Section 3(1) (b) of the Explosive Substances Act; Count 3, possession of explosive substances with intent; Count 5, possession of the shotgun ammunition with intent; Count 7, possession of the .22 ammunition with intent, and Count 9 relating to the possession of the handbook.

[6] The defendant was born on 22 October 1974 and is therefore now 36 years of age. He has a number of previous convictions for relatively minor motoring offences and I do not regard these as aggravating the present charges, although they do mean that he cannot be given credit for having a clear record. However, he does have a previous conviction at Belfast Crown Court for throwing a petrol bomb, and on 2 March 2004 was sentenced to a total of 12 months imprisonment suspended for two years. Mr Magee (who appears on behalf of the defendant with Mr Kevin Magill) stated without contradiction that the defendant was drunk when he lit a can half full of petrol and then kicked it at the front of Crossmaglen police station, setting fire to his clothing in the process. He was caught on CCTV and arrested the next day. Inept though that offence undoubtedly was, projecting such a device and the associated charge of arson are plainly terrorist offences, and I regard these convictions as an aggravating feature of the case.

[7] The defendant was plainly caught red-handed in the course of preparing material for pipe bombs. Mr Magee stated that his client had been prevailed upon by others to take part in this exercise. Whether he was the initiator of this or not, he was clearly deeply involved in an effort to construct viable pipe bombs, as may be seen by his fingerprints being on the instruction manual. It may be that, despite his efforts, he had not fully mastered the technique of making them properly, because Mr Kerr conceded that the devices that had been constructed had not functioned effectively. Nevertheless the defendant has to be sentenced upon the basis that he was caught red handed whilst intimately involved in the construction of explosive devices. The courts have made it clear again and again that such offences will result in substantial sentences. In R v Connolly [1994] NIJB at p. 228 MacDermott LJ observed that bomb makers "obviously play a major role and upon conviction their sentences are bound to be extremely lengthy." Regrettably sixteen years later the continuation of serious terrorist violence renders it necessary to re-emphasise that a deterrent element must be a factor in sentencing in such cases.

[8] The only mitigating factor which can be advanced on behalf of the defendant by Mr Magee is that the defendant pleaded guilty. It is well established that in order to obtain the maximum reduction in sentence an accused has not only to plead guilty, but has to co-operate fully with, and admit his offence to, the police during interview. The defendant did not do so. Nevertheless, in R v Pollock [2005] NICA 43 the Court of Appeal stated that in this jurisdiction, notwithstanding that a defendant was caught red-handed, some allowance should be made for his plea of guilty at the first opportunity. I therefore propose to give the defendant the appropriate credit for his plea of guilty, although that credit will be reduced by the fact that he did not admit his guilt to or co-operate with the police during interview, and by his being caught red-handed.

[9] The pre-sentence report refers to his background and upbringing, but does not throw any light upon his motivation for becoming involved in terrorist activity. Mr Magee explained that his client had been prevailed upon by others to become involved in this activity and now felt that he had been used and betrayed. References have been handed in, but the personal circumstances of an accused can play little part in cases of this gravity. Because of the date upon which this offence was committed I am obliged to consider whether a custody probation order would be appropriate, but I can see no basis upon which I could properly make such an order and I decline to do so.

[10] Whilst pipe bombs always represent a danger to life and limb if they function properly, the devices which the defendant was attempting to construct were not fully functional, and they were not as significant as the huge haul of highly sophisticated bombs, bomb components and weapons which resulted in a sentence of 20 years imprisonment upon conviction after a plea of not guilty in R v Connolly. Nor were these devices as potentially dangerous to life and property as the substantial incendiary bomb in Belfast city centre in R v McCafferty [2005] NICC 27, where the sentence on a plea of guilty was one of twelve years imprisonment. Nor were they as sophisticated, or as dangerous to others, as the horizontal mortar in R v McKenna and Others [2009] NCC 55 where Treacy J reviewed the relevant authorities in this field. In that case the sentence on a plea of guilty was one of fifteen years imprisonment, although it has to be remembered that in Treacy J took into account that the plea of guilty, albeit at the beginning of the trial, relieved the prosecution of difficulties with witnesses.

[11] Nevertheless, it is an aggravating feature of the present case that the defendant was not merely in possession of the components of pipe bombs, but was attempting to make them, and the sentence must reflect that. In all the circumstances I consider the appropriate sentence in the present case is one of twelve years imprisonment on Counts 1, 3, 5 and 7, and five years

imprisonment on Count 9 in relation to the improvised munitions handbook.  
The sentences will be concurrent.