

Judicial Communications Office

21 December 2021

COURT DISMISSES APPEAL AGAINST CONVICTION BY CHRISTOPHER ROBINSON FOR MURDER OF ADRIAN ISMAY

Summary of Judgment

The Court of Appeal today dismissed an appeal by Christopher Robinson against his conviction of the murder of Adrian Ismay and causing an explosion with intent to endanger life.

Adrian Ismay died on 15 March 2016, eleven days after an improvised device exploded under his car. Christopher Robinson (“the appellant”) was convicted on 6 March 2020 and later sentenced to 22 years imprisonment. The prosecution was based on circumstantial evidence which was set out in the trial judge’s [judgment](#).

The appellant did not dispute many of the essential strands of evidence in the case:

- He accepted that the Citroen C3 belonging to his brother was the car used to transport the improvised explosive device and the individual who planted that device to Mr Ismay’s home;
- No issue was taken as to the prosecution description of the journey of the appellant’s car or the Citroen C3 or the timings laid out in the CCTV and ANPR evidence;
- No issue was taken as to the description of the device data records (“DDR”) showing the appellant’s mobile telephone connecting to transceivers in a way that would coincide with the journeys of the Skoda;
- It was accepted that the Skoda travelled to Dock Street, stopped short of the traffic lights and at the same time a figure crossed the road and there were visible movements close to the car;
- It was accepted that the appellant attended Ardmoulin Hostel at a time which coincided with his brother disabling the CCTV and that the appellant had therefore lied in his prepared statement to police when he denied leaving his home on that evening save to visit his mother.

The appellant, however, disputed:

- The extent of the evidence relating to the poppy appeal sticker and its importance in the wider context of the case;
- Whether the evidence was sufficient to show that an individual was picked up and dropped off at Dock Street by the appellant’s Skoda;
- The extent of the inferences that should be drawn from: Facebook material, scientific internet searches; searches relating to Mr Ismay prior to the murder; searches relating to the explosion after the fact; and the possession of balaclavas and improvised balaclavas found during the search of the appellant’s home.

The core contention advanced by counsel for the appellant was that the trial judge made impermissible inferences on the basis of a circumstantial case.

Grounds of Appeal

Ground 1: the poppy appeal sticker

Judicial Communications Office

Counsel for the appellant submitted that the poppy appeal sticker could not be used to link the appellant to the crimes and that the trial judge had drawn an improper inference due to the presence of the DNA evidence. He contended that this polluted the judge's consideration of the entire case.

At paragraphs [25], [26] and [32] of the trial judge's judgment he set out the evidence in relation to the poppy appeal sticker which came from a number of sources namely stills of the Citroen C3 on the road where Mr Ismay lived, the DNA evidence and the expert evidence. Then at paragraph [215] the trial judge recorded his conclusion as follows: "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 in the context of it being attached to the windscreen of the Citroen C3 motor vehicle in furtherance of this planned attack."

In defending this ground of appeal counsel for the prosecution observed that in itself this piece of evidence would be insufficient to establish guilt but that the evidence assumed more significance when viewed in the light of other features of the case. The court examined this submission in some detail during the hearing and, having done so, said it was persuaded that it was correct. It noted that the trial judge viewed all of the evidence in the round and made an assessment of the poppy sticker taking into account the following factors:

- The Citroen C3 was plainly the one seen at Hillsborough Drive as the device was planted;
- It was driven by Peter Robinson to and from his work at Ardmoulin hostel;
- The car had something on its windscreen in Hillsborough Drive which was not there when seized;
- A poppy appeal sticker was found in the Robinsons' bin a few days later, suggesting it had been recently deposited;
- Such a sticker would not have been displayed on a car in the community where the Robinsons lived but would have allowed a car to fit in the community where Mr Ismay lived;
- There was DNA on the sticker matching that of the appellant; and
- There was other circumstantial evidence linking the appellant to the use of the Citroen not least that the appellant visited Peter Robinson at his work and was tracked in his own vehicle and by virtue of mobile phone records.

The court said the trial judge was entitled to make the inferences that he did. It rejected the argument made by counsel for the appellant that his consideration of this evidence polluted his overall consideration of this case. The court said that, to the contrary, this evidence was one part in a chain of evidence which the trial judge considered as a whole. Therefore, it said that this ground of appeal must fail.

Ground 2: The evidence in relation to the Skoda

The trial judge dealt with the issue of the appellant's movements in the Skoda involving ANPR, CCTV and cell phone records. Counsel for the appellant made two core points:

- There was a gap in the evidence for about 30 minutes after the Skoda was captured by ANPR at 20:23 at Clifton Street;

Judicial Communications Office

- The footage from the docks involving the movements of the car and the figure or figures walking in the area was not enough to establish that he was picking up and dropping off a person there.

The trial judge's conclusion on this issue was found at paragraphs [136] - 151] of the judgment. The court viewed some of the CCTV footage, the schedule of sightings of the car including cell site analysis and maps showing where the appellant's car and mobile phone was located across Belfast during the relevant time when the bomb was transported and planted under Mr Ismay's car. The prosecution made the case that the appellant picked up and dropped off a man at the docks. The court considered that the trial judge was justified in drawing an inference in relation to this for the following reasons:

- On the first visit to the docks the appellant's car stopped well short of the stop line at the traffic lights;
- The man walked back on himself after crossing the road, towards the car, suggesting that the car was his intended destination;
- Having stopped, the Skoda performed a U-turn and made its way back in the direction it had come and had no more business in the docks;
- The Skoda returned to the docks later that night, after the Citroen C3 had been to Hillsborough Drive and appeared to drop someone off;
- The defendant lied in his prepared statement about his whereabouts that night.

The court said that the cell site evidence was also vitally important in this case as it highlighted a pattern of movement combined with attempts to prevent detection at various significant times;

"In our view it cannot simply be coincidence that the CCTV at the hostel is turned off to coincide with the appellant's initial visit ... and a time after the bomb was planted when the car must have been returned It cannot simply be coincidence that the appellant's mobile phone is on at significant times namely before the visit to the hostel ... when he texts his brother and ... after the bomb is planted when he texts again and calls his brother. It cannot simply be coincidence that the mobile is switched off at significant times and when he is visiting the docks."

The court did not accept that the gap of time of around 30 minutes from 20:23 that counsel for the applicant pointed to was material when viewed in light of all of the other evidence. It said there was more than enough evidence through the car sightings, CCTV and phone records to establish that the appellant travelled to Ardmoulin hostel and then to the docks. The court considered that there was ample evidence to justify the trial judge's conclusion as to the appellant's movements on the night and thereby his involvement in the crimes that were committed. Therefore, the court dismissed this ground of appeal.

Ground 3: Inferences drawn from other material

There were a number of elements of the third ground of appeal. First, counsel for the appellant focussed on the Facebook material, in particular the imagery of the appellant which he said was from a Halloween party and therefore light hearted. Second, he referred to the appellant's support for Republican prisoners and said that too much was read into that. Third, he attempted to dilute the internet searches by suggesting that the appellant had an innocent interest in Mr Ismay, that he was researching Tesco's opening in a general sense and that the search relating to the magnetic qualities

Judicial Communications Office

of aluminium was benign. Finally, counsel argued that materials found at the home were not determinative of anything and so inferences could not be drawn from those items being present.

The evidence of bad character was held to be admissible by the trial judge in a ruling of 2 October 2019. He dealt with this evidence between paragraphs [91] and [111] of his judgment and his conclusion is at paragraphs [214] - [218] which is expressly framed on the basis that he conducted anxious and careful scrutiny “of the whole of the evidence” in reaching his conclusions. The court said the trial judge could not be criticised for that. It said it was obvious that the trial judge would draw inferences from this category of evidence because it could not be seen in anything other than a sinister light. The court agreed that the evidence pointed only to the conclusion that the appellant was checking out the area where Mr Ismay lived.

On 1 and 2 March 2016, a couple of days before the device was planted, the appellant searched websites for magnetic qualities of aluminium, electromagnetism and materials for use in electrical components. He further viewed a page entitled “why iron is chosen as the material for the core of the transformer. Why don’t we use aluminium?” The court said that counsel for the appellant’s valiant attempts to minimise this search were unsustainable as it clearly related to the magnetic qualities of aluminium and that coincided with the fact that the bomb was planted under the car by magnet. The court also held that the trial judge was entitled to take into account the appellant’s “intense and enduring interest in the internet news coverage of the attack” and agreed that “this can only be explained by the defendant’s prior knowledge or an intimate involvement in the attack.”

The court said the appellant’s social media activities demonstrated a clear support for violent Irish Republicanism and support for Irish republican prisoners. It accepted counsel for the appellant’s point that the court should not read too much into the Facebook images and considered that the items found in the appellant’s house were not enough in themselves to establish guilt nor was the appellant’s support for militant Irish Republicanism:

“However, in our view the trial judge was correct in his conclusion that this was relevant evidence and part of the overall picture. The issue is really the inferences that can be drawn from this evidence. It is understandable that [counsel for the appellant] isolates a few pieces of evidence and critiques how the judge dealt with them individually. However, this category of evidence must be considered alongside all of the other evidence in this case. When that exercise is undertaken, there are very compelling strands of circumstantial evidence to consider particularly those associated with the internet searches relating to Mr Ismay, the search relating to Tesco Castlereagh opening hours and the search regarding the magnetic qualities of aluminium. We consider that the other material from Facebook is less convincing on its own but it forms part of a picture as does the appellant’s sympathies with militant Irish republicanism and the items found in the house. We accept that when looked at in the round these strands gain more significance because this was a terrorist attack.”

The court commented that the trial judge may have placed a little too much emphasis on the appellant’s Facebook pictures and his political support however said this did not affect the overall result in this case given the overwhelming amount of other evidence about the appellant’s motivations and interests in the run up to Mr Ismay’s murder:

“The appellant’s own actions amply demonstrate a sinister and evil purpose. Therefore, this ground of appeal is dismissed.”

Judicial Communications Office

Conclusion

The court concluded that none of the grounds of appeal in this case were sustainable. It agreed that the trial judge was entitled to reach the conclusion that he did on the basis of all of the strands of evidence taken together. In reaching this conclusion the court particularly noted that the appellant lied about his whereabouts in his prepared statement. Also, that the CCTV was turned off at Ardmoulin hostel at highly relevant times given that the car which transported the bomb was located there. The court noted that the appellant's mobile phone was also turned off at significant intervals and when his property was searched his sim card and battery were removed. The court said the movements of the appellant's own car and phone activity at relevant times was significant and that, added to this evidence, was the evidence of the appellant's interest in Mr Ismay and where he lived:

“In our view it is simply beyond credulity that all of this evidence can be explained by coincidence. In truth, the numerous strands collectively point to only one conclusion in this case. In our view the judge was correct to conclude that the evidence establishes beyond a reasonable doubt that the appellant was intimately and inextricably involved in the facilitation and execution of a terrorist operation which involved the attachment of a viable improvised 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. Having assessed the evidence as a whole the judge was entitled to make the inferences that he did. Accordingly, the elements of the offences of which the appellant was convicted namely murder and causing an explosion with intent to endanger life were established.”

The court concluded that it did not have any concern about the safety of this conviction and therefore dismissed the appeal.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available on the Judiciary NI website (<https://judiciaryni.uk>).

ENDS

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