



JUDICIARY OF
ENGLAND AND WALES

SUMMARY OF THE FULL JUDGMENT

The Queen on the application of David Miranda -v- Secretary of State for the Home Department

This summary does not form part of the judgment.

The full judgment is the definitive judgment and this summary is provided simply for the convenience of the parties and the public.

Mr Miranda was stopped and detained by the Metropolitan Police at Heathrow Airport on 18 August 2013 purportedly under paragraph 2(1) of Schedule 7 of the Terrorism Act 2000. He was questioned and items in his possession were taken from him. He is the spouse of Mr Greenwald, a journalist who at the time was working for the Guardian newspaper. What was taken included encrypted material derived from data which had been stolen by Mr Edward Snowden from the National Security Agency of the United States. This data included US intelligence material, some of which formed the basis of articles that appeared in the Guardian on 6 and 7 June 2013. Mr Miranda was carrying the material in order to assist Mr Greenwald in his journalistic activity.

In these proceedings, Mr Miranda contends that the acts of the police were unlawful because the stop power was exercised for a purpose not permitted by the statute; its use was in breach of the European Convention on Human Rights, in particular the right to freedom of expression conferred by article 10; and the use of the power is incompatible with article 10, at any rate in relation to journalistic material.

The court holds that the publication of material can amount to an act of terrorism if the material endangers life and the person publishing the material intends it to have that effect, provided that it is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public and it is for the purpose of advancing inter alia a political or ideological cause. (paras 38 to 56).

Mr Miranda's appeal against the use of the power in his case is dismissed. The police exercised the power for a permitted purpose. They were entitled to consider that material in his possession might be released in circumstances falling within the definition of terrorism. There was sufficient justification for the exercise of the power (paras 25 to 37 and 57 and 58).

The court rejects Mr Miranda's argument that the use of the stop power against him was an unjustified and disproportionate interference with his right to freedom of expression despite the fact that this was a case involving an interference with press freedom. On the facts of this case, the compelling national security interests outweighed Mr Miranda's article 10 rights (paras 59 to 93).

For the reasons given at paras 94 to 117, the court holds that the stop power, if used in respect of journalistic information or material is incompatible with article 10 of the Convention because it is not "prescribed by law" as required by article 10(2). The power is not subject to sufficient legal safeguards to avoid the risk that it will be exercised arbitrarily. The court therefore grants a certificate of incompatibility. It will be a matter for Parliament to decide how to provide such a safeguard. The most obvious safeguard would be some form of judicial or other independent and impartial scrutiny conducted in such a way as to protect the confidentiality in the material.

-ENDS-