



JUDICIARY OF
ENGLAND AND WALES

The Queen

-v-

Joshua Bonehill-Paine

Central Criminal Court

8th December 2016

Sentencing remarks of Mr Justice Spencer

1. Joshua Bonehill-Paine, I have to sentence you for a very serious offence of racially aggravated harassment. Over a period of three months from October 2014 to January 2015 you engaged in a cruel campaign of vile racist abuse on the Internet against a Jewish Labour Member of Parliament, Luciana Berger, simply because she is Jewish. At the age of only 24 you have amassed a formidable record of offences of hate crime using the Internet. You are currently serving a sentence of 40 months imprisonment, imposed on 17th December 2015 for stirring up racial hatred against the Jewish community in Golders Green. That offence was committed whilst you were on bail for the present offence, which in turn was committed whilst you were on bail for other offences of sending malicious communications over the internet and harassment.
2. You were convicted by the jury of the present offence after a trial. Although you did not give evidence you sought to argue that you were legitimately exercising your right of free speech in what you said about Ms Berger. Nothing could be further from the truth. It was deliberate unlawful harassment. In the summer of 2014 she had been the victim of a malicious racist tweet by a man called Garron Helm, which attacked her for being Jewish, said Hitler was right, and doctored a

picture of her to show a yellow Star of David on her forehead and the word “Jude”, images redolent of the Holocaust. For sending that malicious communication, having pleaded guilty to the offence, he was sentenced by magistrates on 20th October 2014 to 4 weeks imprisonment.

3. A week later, on 27th October, professing outrage at this supposed interference with Garron Helm’s right of free speech, you cynically embarked on a racist hate campaign against Ms Berger, through your obnoxious online newspaper. The first article was headed “Racist Anti-White Jewish Labour MP Luciana Berger exposed”. There was an image of Ms Berger’s face superimposed on the body of a rat. You described her as a racist and a fascist who hated all white British people, a vile Jewish middle class anti-British pro-genocide rodent and a very evil woman who supported anything other than Britain. In the article you doctored photographs of Ms Berger and political colleagues into sexualised images.
4. Next day, 28th October, you appeared in court at Yeovil, your home town, and pleaded guilty to six offences of sending malicious communications and an offence of harassment, all arising from false and hateful allegations against innocent members of the public that they were paedophiles. Sentence was adjourned, and your bail was renewed.
5. Next day, 29th October, you posted a video on YouTube in support of your “Free Garron Helm” campaign, claiming that he had done no more than tell the truth, and urging people to get behind the campaign on Twitter.
6. On 4th November you posted a second article headed “Is the Labour Party a Jewish party?”, which purported to debate why there was an overrepresentation of Jewish Labour MPs and peers, but was in fact no more than a racist rant. There was the same image of Ms Berger’s face superimposed on the body of a rat.
7. On 18th November you posted a third article headed “ZOG attacks Daily Stormer in retaliation to successful Berger campaign”. ZOG, in your language, stands for Zionist Occupied Government. The Daily Stormer is an American website which had taken up your odious campaign. You boasted that the Daily Stormer had

“coordinated a fantastically successful campaign against Jewess and Labour Party MP, Luciana Berger”.

8. On 20th November you posted a fourth article, headed “Joshua Bonehill: On the eve of battle.” You were due to appear in court again the following day for the malicious paedophile offences, and expected to be sent to prison. This article made no direct mention of Ms Berger but there were racist references to Jews. It was militaristic in tone, with the image of your photograph in uniform holding the union flag. It demonstrated your willingness to pursue a cause at all costs. You said you were prepared to die in order to defend your race and your nation from “the tyrannical claw of the Judeo Marxist enemy.” Next day you were not sent to prison. The case was adjourned and you were bailed again.
9. On 24th January you posted a fifth and final article, headed “The Legacy of Operation Filthy Jew Bitch”. This was the title of the American campaign, which you eagerly adopted. You boasted that the offensive against Luciana Berger “and her Jewry” had been a massive success in that she had received over 2,500 anti-semitic tweets. You urged veterans of the campaign to be on standby for future operations. In that article there was another doctored image of Ms Berger holding a placard saying she had had a man jailed for a non-violent online tweet “and if I don’t like your tweets, you’ll be next!”. There was a kosher symbol under her name.
10. As if all this were not enough, a flood of light was cast on your true motivation and intent towards Ms Berger by an appallingly racist video posted on the Internet during the indictment period, described by your own counsel as indefensible. In it you provided the voice-over to the photographs and images. It did not refer to Ms Berger, but the theme was the occupation of a white district in London by “the foreign Jewish enemy”, with a call to “wake up to the terrible reality of white genocide.” It was so offensive that I do not propose to describe it any further. It showed beyond any doubt the depth of your hatred of Jewish people, including Ms Berger.
11. Finally, on 1st February in an American online radio interview you boasted again of the great victory you had achieved in the campaign against Ms Berger.

12. In her evidence to the jury Ms Berger described in restrained, dignified and moderate terms the enormous distress and upset you caused her and her family, and her Parliamentary team. Not surprisingly, she feared for her personal safety. As she put it, "I knew that what happened online did not always stay online." Subsequent tragic events this year in relation to her fellow Member of Parliament, Jo Cox, illustrate this truth. When she saw the articles she felt sick. They came at the same time as thousands of messages, as the result of your inspiring others to get involved in the campaign against her. At its worst she received 2,500 anti-Semitic messages in a three-day period. She was more concerned for her personal safety than she had ever been before. She required police protection at home and in her Liverpool constituency. She felt under attack. It was all consuming. I have also read Ms Berger's victim personal statement in which she expands upon the devastating impact of this campaign against her, and how it has invaded every part of her personal and working life, causing her and her family enormous upset and inconvenience.
13. I am satisfied that this was gravely oppressive racially aggravated harassment of the worst kind, intended to cause her alarm and distress.
14. You were arrested for this offence in February 2015, interviewed and bailed. It was whilst you were on bail that you committed the offence of stirring up racial hatred in June 2015, for which you are currently serving a prison sentence. You published on your internet site a post encouraging people to attend a demonstration planned for 4th July 2015 in Golders Green which you described as an "anti-Jewification event" to "liberate" Golders Green as part of a "Summer of Hate". Within the article there were two posters which readers were encouraged to print and distribute. They were thoroughly offensive and included a cartoon image of Adolf Hitler and a suggestion that the demonstration promised to be "an absolute gas". In sentencing you the judge said the material was about as inflammatory a document as he had ever seen. The post attracted hundreds of comments on Twitter. On 4th July you duly attended the demonstration you had planned. It required very extensive policing and had to be re-routed because of concern for public order. You were sentenced to 40 months imprisonment. That

sentence was upheld on appeal. That offence was committed not only whilst you were on bail for the present offence but whilst you were subject to the suspended sentence for the malicious paedophile offences. The suspended sentence of 3 months imprisonment was activated in August 2015.

15. You have a bad criminal record generally, with convictions as a young man for violence and criminal damage, and a public order offence in 2010 which involved racial abuse. In August 2013 you committed the first of your offences under the Malicious Communications Act 1988. You posted an article on the Internet claiming falsely that the owners of a public house in Leicester had banned members of the armed services from their premises out of respect for the Islamic community. The article prompted a flood of abuse and threats of arson and violence towards the public house which led to the premises being closed.
16. The maximum sentence for racially aggravated harassment is 2 years imprisonment. Often the proper approach in sentencing for a racially aggravated offence is to determine what the sentence would have been for the basic offence and apply an appropriate uplift for the racial aggravation. But in some cases, as the Court of Appeal has made clear, the racial aggravation is so inherent and integral to the offence itself that it is not possible sensibly to assess the overall criminality in that way. This is just such a case.
17. I find that in this case there are the following aggravating features, by reference to the guidance laid down by the Court of Appeal *R v Kelly* [2001] 2 Cr. App. R. (S) 73.
 1. This was extreme racial hostility over a prolonged period, 3 months.
 2. There was careful planning.
 3. The offence was part of a pattern of racist offending.
 4. You were acting, in effect, as a member of a group promoting racist activity.
 5. The impact on Ms Berger was very considerable.
 6. As a Member of Parliament she was providing a service to the public.
 7. The offence was committed whilst you were on bail and awaiting sentence for other offences of hate crime committed over the Internet.

18. In my judgment it is difficult to envisage a worse case than this of racially aggravated harassment of this kind. You do not have the mitigation of a guilty plea, nor have you expressed any remorse. On the contrary you sat in the dock smirking throughout the trial and I noted your demeanour whilst Ms Berger was giving evidence. You plainly enjoyed her discomfort. The message needs to go out loud and clear that racial hate crime, where the intention is to harass the victim, will be dealt with very severely, and deterrence must be an important element of the sentence.
19. It is timely to repeat the observations of Lord Justice Rose giving judgment in the Court of Appeal in 1999 in one of the first cases where sentencing for racially aggravated offences was considered, *R v Saunders* [2000] 2 Cr. App. R. (S) 72. He said: “One of the most important lessons of this century, as it nears its end, is that racism must not be allowed to flourish. The message must be received and understood in every corner of our society, in our streets and prisons, in the services, in the work place, on public transport, in our hospitals, public houses and clubs, that racism is evil. It cannot co-exist with fairness and justice. It is incompatible with democratic civilisation. The courts must do all they can, in accordance with Parliament’s recently expressed intention, to convey that message clearly, by the sentences they pass in relation to racially aggravated offences.”
20. In my judgment this offence, committed against a background of similar offending, calls for the maximum sentence of 2 years imprisonment. The remaining question is whether that sentence should run from today, or whether it should be consecutive to the sentence you are already serving. I am told that your earliest release date from your current sentence is 28th April 2017.
21. I am satisfied that in principle a consecutive sentence is fully justified. The offence of stirring up racial hatred was committed whilst you were on bail for this offence. As it turns out, that case was tried first, but had you been sentenced for both offences at the same time there would inevitably have been consecutive sentences. I bear in mind the guideline from the Sentencing Council on totality. The recommended approach is to consider what the length of the sentence would

have been if the court had dealt with the offences at the same time. and to ensure that the totality of the sentence is just and proportionate in all the circumstances. That total sentence would have had to reflect the overall criminality of your offending in both cases, and the fact that each offence separately was committed whilst on bail.

22. I have considered carefully whether, in order to observe the principle of totality, your sentence of 2 years for this offence should be made concurrent or reduced. I bear in mind your young age, but that is offset by the extent and sophistication of your offending. I bear in mind the delay in bringing this offence to trial, but that has caused no injustice, not least because the judge who sentenced you last year did not take into account as an aggravating feature the fact that you committed that offence whilst on bail for this matter. As the guideline makes clear, an adjustment for totality need be made only if the overall sentence would otherwise not be just and proportionate.
23. I am satisfied that in the circumstances of this case, for the reasons I have outlined, a consecutive sentence of 2 years is just and proportionate, representing a total sentence of 5 years 4 months for these two quite separate and distinct episodes of racial hate crime.
24. In addition, I am satisfied that it is appropriate to make a criminal behaviour order pursuant to s.22 of the Anti-Social Behaviour, Crime and Policing Act 2014. I am satisfied, beyond reasonable doubt, that you have engaged in behaviour that caused harassment, alarm and distress to a number of people, including Ms Berger and the victims of the malicious paedophile offences to which you pleaded guilty in October 2014. I consider that making the order will help in preventing you from engaging in such behaviour in the future. The order will run for 5 years from today. I have already dealt this morning with the precise terms of the order, the making of which has not been opposed by your counsel. In essence it provides that you must not possess devices capable of accessing the internet and making or storing digital information without notifying the police and making the equipment available for examination on request. You must not have more than two laptops, phones or other mobile devices capable of accessing the internet. You must

provide the police with access to any encrypted material. You must not delete the internet history on any of the devices. Quite separately, you must not contact directly or indirectly by any means Luciana Berger, her former parliamentary assistant Eve Byrne, or any named victim of the previous behaviour I have outlined arising from the earlier offences. That includes publishing any material about any of those persons which may be viewed by the public on any website or social media application. If you breach any term of this order you will commit a further offence for which you will be liable to imprisonment for up to 5 years.

Stand up please

25. Joshua Bonehill-Paine, for this offence of racially aggravated harassment I sentence you to 2 years imprisonment. That sentence will run consecutively to the sentence you are currently serving. The usual release provisions will apply, and when you are released you will remain on licence for the rest of the sentence, and at risk of being recalled to prison should you breach the terms of your licence or offend again.