

A

**IN THE CROWN COURT  
AT CANTERBURY**

**S20170102**

B

Canterbury Crown Court,  
The Law Courts,  
Chaucer Road,  
Canterbury,  
Kent, CT1 1ZA

**Monday 22<sup>nd</sup> May 2017**

C

Before:

**HER HONOUR JUDGE NORTON**  
**(Honorary Recorder of Canterbury)**

D

-----

REGINA

-v-

E

**STEPHEN YAXLEY-LENNON**

-----

F

The PROSECUTION were not represented

MR. R. KOVALEVSKY and MR. A. KING appeared on behalf of the DEFENDANT

G

-----

**JUDGE'S RULING AND SENTENCING REMARKS**

-----

H

*Transcript of the DARTS recording by Marten Walsh Cherer, 1<sup>st</sup> Floor, Quality House, 6-9  
Quality Court, Chancery Lane, London, WC2A 1HP.  
Telephone 020 7067 2900. Fax: 020 7831 6864*

A

Monday 22nd May 2017

(At 4.30 p.m.)

**RULING AND SENTENCING REMARKS**

B

JUDGE NORTON: Mr. Yaxley-Lennon, you can remain seated.

C

Thank you very much. Mr. Yaxley-Lennon, on 8th May of this year in the course of ongoing proceedings for allegations of rape faced by four defendants at this court, that trial still in fact being in progress, you attended, together with another, and carried out some filming. That filming was firstly on the steps at the front of this court building and, secondly, inside this court building, although of course I readily accept there was no filming or attempt to film inside a courtroom. The only person who was filmed was effectively yourself. It was, as Mr. Kovalevsky has described it, a to-camera piece in both instances.

D

E

F

Both of those to-camera pieces, however, were then subsequently published on the internet, in various forms as I understand it, but under the heading: "Tommy Robinson in Canterbury exposing Muslim child rapists, Police help them escape".

G

H

Your intention in being at this court and in carrying out the actions that you did was, on your own account, to film the defendants. You were not able to

A do so because it had come to my attention, via the  
good offices of my security staff, that you were  
present and what you were doing, and as a consequence  
B I gave directions in order to ensure that both the  
jury, and in due course the defendants, were escorted  
from court by different routes in order to avoid there  
C being any kind of confrontation or interference. That  
was not a decision that I took lightly, because, of  
course, diverting the jury from anything other than  
their usual route may have given rise to questions in  
D their mind about what was going on and why.

When you were outside the court you were within  
the precincts of the court. When you were in the  
E court building you were, of course, self-evidently in  
the court building. There are notices all over the  
court building making it clear that filming or the  
F taking of photographs is an offence and may be a  
contempt of court. You were told very clearly by  
security staff at this court that you were to stop  
G filming and that if you were to film then you would be  
potentially committing an offence and may be held in  
contempt of court.

H I have been told, and Mr. Kovalevsky places  
great emphasis on this point, that at a previous court  
building you were told the opposite by members of

A court staff and by the police. I have seen evidence  
of that and of course I accept that. It is his  
assertion, therefore, that you would not have known or  
B not had reason to know that what you were being told  
on this occasion was correct as opposed to the last.  
I am also told that it was not your intention to  
frustrate the court process, in fact it was the  
C opposite of that.

The starting point, as we have discussed in the  
course of this case, has been section 41 of the  
D Criminal Justice Act 1925, which makes it an offence  
to take any photograph in court. There has been much  
discussion of that provision. It is perhaps  
E unhelpful, and I say this really for the lawyers'  
benefit, or anyone in future rather than yours, that  
where that particular section is reproduced in some of  
F the more commonly used practitioner books such as  
Archbold or Blackstones, that commas are variously  
moved around and, therefore, depending on which book  
G one reads it may state that "no person shall take or  
attempt to take in any court any photograph, or with a  
view to publication make or attempt to make in any  
H court any portrait or sketch of any person, being a  
judge, juror or witness or party to the proceedings",  
or it could be read as "take or attempt to take in any

A court any photograph or with a view to publication  
make or attempt to make any portrait or sketch of any  
person being a judge in the court, juror or witness or  
party to the proceedings".

B Most of the cases that come before the higher  
courts do involve the taking of photographs of jurors  
or of defendants, but in my limited researches not all  
C of them have done, and there appears to me to be at  
least grounds for supposing that it is correct that it  
is an offence under section 41 "to take or attempt to  
D take in any court" by which that means not only the  
courtroom but also the building and the precincts, any  
E photograph, irrespective of who that is a photograph  
of, and I refer in that regard to the case of the **HM**  
**Solicitor General v. Cox** (2016) EWHC 1241, where it  
would appear that at least one of the defendants in  
F that particular case had been taking photographs in  
court but not of a particular party.

G It seems to me, therefore, that on a reading of  
section 41 that you have committed an offence under  
that section. But, whether you have or have not, and  
even if I am wrong that you have, there are the wider  
H summary powers of the court to deal with contempts  
which are in the face of the court as that has been  
defined in its wider sense.

A

These were deliberate actions on your part.

B

They were deliberate actions intending to take photographs of the defendants; they were actions which you continued to take, despite having been told that you should not do it, and I find, as a clear logical

C

inference, that your intention on coming into the court building was to seek out the defendants, who you referred to in the way in which we have all seen and heard. That is one reason why it seems to me that

D

this situation is rather different from that situation in Luton Magistrates' Court to which I have been referred. You made it abundantly clear, indeed it is abundantly clear that your mission and purpose was to

E

try and film the defendants. The fact that you failed to do that was because we were able to take avoiding action. You then continued to film in the court

F

building, even though you had been told not to, and these matters were then published on the media with, as I am aware, a very wide viewing rate, referring to

G

the defendants by their religion and referring to them as "Muslim child rapists" or "Muslim paedophiles", depending on whether I am reading what it is that you

H

have written or what it is that you have been saying; indeed on the video footage from inside the court building we can hear you say that the paedophiles are

**A** hiding, that the police have asked you not to expose  
them as paedophiles but you say "we will"; and when  
you discover that they have been taken out of the back  
**B** door you talk about 'going round to their house', and  
again, the intention of getting them on camera.

**C** This contempt hearing is not about free speech.  
This is not about the freedom of the press. This is  
not about legitimate journalism; this is not about  
political correctness; this is not about whether one  
**D** political viewpoint is right or another. It is about  
justice, and it is about ensuring that a trial can be  
carried out justly and fairly. It is about ensuring  
that a jury are not in any way inhibited from carrying  
**E** out their important function. It is about being  
innocent until proven guilty. It is not about people  
prejudging a situation and going round to that court  
**F** and publishing material, whether in print or online,  
referring to defendants as "Muslim paedophile  
**G** rapists". A legitimate journalist would not be able  
to do that and under the strict liability rule there  
would be no defence to publication in those terms. It  
is pejorative language which prejudices the case, and  
**H** it is language and reporting - if reporting indeed is  
what it is - that could have had the effect of  
substantially derailing the trial. As I have already

A indicated, because of what I knew was going on I had  
to take avoiding action in order to make sure that the  
integrity of this trial was preserved, that justice  
B was preserved and that the trial could continue to  
completion without people being intimidated into  
reaching conclusions about it, or into being affected  
C by "irresponsible and inaccurate reporting". If  
something of the nature of that which you put out on  
social media had been put into the mainstream press I  
would have been faced with applications from the  
D advocates concerned, I have no doubt, to either say  
something specific to the jury, or worse, to abandon  
the trial and to start again. That is the kind of  
E thing that actions such as these can and do have, and  
that is why you have been dealt with in the way in  
which you have and why I am dealing with this case  
F with the seriousness which I am.

I am rightly reminded that everything else that  
has gone on in this trial by other groups or other  
G individuals in similar attempts to 'get at' (to put it  
in shorthand) the defendants is not something that I  
should take into account, and that of course is quite  
H right. There is no evidence at all to suggest that  
you were in any way involved in any of those other  
actions and I do not in any way hold you responsible



A for them. But it is part of the background, and it is  
part of the reason why I had to take the avoiding  
B action that I did take and why I had to move to take  
the action insofar as you are concerned of having you  
brought to this court.

C I find that this was the commission of an  
offence under section 41 of the Criminal Justice Act  
1925, but even if I am wrong about that I do find  
D clear evidence of contempt of court in this case, for  
the reasons that I have given.

E You have apologised for what it is that you have  
done. I am told by Mr. Kovalevsky, and indeed by Mr.  
King on an earlier occasion, that there was a degree  
F of naivety, if I can put it that way, about your  
actions and lack of understanding about the  
seriousness of those actions. I have to say I find  
that really rather difficult to accept at face value,  
given your background.

G I have been told, however, and accept, because I  
have seen video evidence of it, that you have  
previously been given different advice at a different  
court about what you could or could not do, although I  
H repeat again, the circumstances and context in which  
that other advice was given was wholly different to  
that which existed in this court and your intentions

A in respect of that other matter were wholly different  
B to your intentions here. Moreover, notwithstanding  
anything you may have been told elsewhere, at this  
court you were told in clear and uncertain terms on  
more than one occasion that you could not film.

C The question therefore comes down to what the  
appropriate disposal should be. In my judgment, an  
apology, although it is an apology which I accept and  
for which I thank you, is not sufficient. Neither do  
D I feel in this case that a financial penalty is  
appropriate. It seems to me that this does need to be  
met with a custodial sentence. The only question in  
E my mind is whether it might, in the circumstances and  
bearing in mind that which Mr. Kovalevsky has told me,  
and which I accept from him about the potential  
F dangers that you might face were I to send you into  
custody immediately, and bearing in mind the need to  
ensure that this trial is kept on track, and bearing  
G in mind the fact that, as he says, you will now be  
under no illusions whatsoever as to what you can and  
cannot do, whether it might be possible in your case  
H to suspend the sentence of imprisonment which I would  
otherwise have imposed.

Would you stand up, please. I take, as I hope  
has been made very clear by the comments that I have

**A** made, a very dim view indeed of your conduct which was  
in the face of repeated warnings that you should not  
do that which you did do. I accept what Mr.

**B** Kovalevsky tells me about the dangers that you might  
face were you to be sent into immediate custody. I  
have to say it is on a knife edge so far as I am

**C** concerned because a very large part of me thinks so  
what? you could be put into protective custody. But,  
my concern is to make sure that this trial keeps on

**D** track, and my concern is also to make sure that other  
courts with other trials in similar situations are  
kept on track without any danger of repetition of the

**E** kind of conduct that we have had visited upon us here.  
The sentence, therefore, that I pass upon you, taking  
into account all of those matters that have been

**F** placed before me and your admissions entered via Mr.  
Kovalevsky, is one of three months' imprisonment which  
will be suspended for a period of 18 months. That

**G** will be suspended. There will be no conditions that  
need to be attached to that suspended sentence, but  
you should be under no illusions that if you commit

**H** any further offence of any kind, and that would  
include, I would have thought a further contempt of  
court by similar actions, then that sentence of three  
months would be activated, and that would be on top of

A anything else that you were given by any other court.  
In short, Mr. Yaxley-Lennon, turn up at another court,  
B refer to people as "Muslim paedophiles, Muslim  
rapists" and so on and so forth while trials are  
ongoing and before there has been a finding by a jury  
C that that is what they are, and you will find yourself  
inside. Do you understand? Thank you very much.

MR. KOVALEVSKY: Your Honour, may we extend our thanks for  
the patience with which you have heard us this  
D afternoon.

JUDGE NORTON: I am very sorry that we have gone on so  
E late. Thank you very much for bearing with this  
rather lengthy case. Thank you both very much indeed  
for your help. Finally, can I just say this to Mr. --  
I don't know whether it is Robertson or Robson who has  
F just left the court, or indeed to anybody in the  
public gallery: I hope they have heard what I have  
said. There are real risks in publication and there  
G are real risks in what is put online, and I hope that  
everybody will respect the judgment of this court and  
will not be tempted to do anything which might  
frankly, unwittingly or otherwise, either impede this  
H trial or might land Mr. Yaxley-Lennon, or indeed  
themselves, in even more trouble.

MR. KOVALEVSKY: Quite. Your Honour, there is no

A prosecutor and so your Honour is placed in a peculiar position, because, of course, normally the Crown would assist your Honour, but they are not here. Given the fact that the trial is in fact ongoing and I understand at a rather sensitive juncture.

JUDGE NORTON: It is.

C MR. KOVALEVSKY: I am just wondering as to whether the judgment which has been taken down so assiduously, including by the person who has sprinted from the court, whether the attention of the court has been drawn to the court's powers to postpone the publication of this judgment.

D JUDGE NORTON: Yes. Not only has it, but indeed on the last occasion when Mr. King was in front of me I put a prohibition in any event on the reporting of these matters---

E MR. KOVALEVSKY: Yes.

JUDGE NORTON: --- until the conclusion of the trial.

MR. KOVALEVSKY: And that stays in place.

G JUDGE NORTON: That stays in place, and certainly I have already had one member of the press coming to seek to clarify that with me, and that does include this gentleman. There was some question as to whether or not there could be some reporting if it was simply done in an anodyne way without reference to this

A particular trial. I cannot, I have to say, see that  
it would benefit the press to do that. I would have  
B thought that if they are going to report it they would  
want to report it fully, at which they are nodding.  
C So we are at a sensitive juncture, the jury are  
expected to retire tomorrow, so we will have verdicts  
later this week, so I do prohibit publication of any  
matter relating to these proceedings until the  
conclusion of the trial.

D MR. KOVALEVSKY: Your Honour, as I thought, your Honour  
didn't need any help at all.

JUDGE NORTON: No. But thank you very much indeed.

E MR. KOVALEVSKY: Thank you.

JUDGE NORTON: Mr. Yaxley-Lennon, you can step out, thank  
F you very much. If you want to step outside that is  
fine.

MR. KOVALEVSKY: Might he leave the court?

G JUDGE NORTON: Yes he can, although Mr. King may want to  
re-emphasise some of the things that I have said to  
him.

MR. KOVALEVSKY: Or he can sit at the side.

H JUDGE NORTON: Or sit at the side. If I can call them,  
and I don't mean to be disrespectful, I know that  
these days I am way behind the times when it comes to  
the media and we probably shouldn't refer to

A

mainstream and non-mainstream media, but the prohibition on publication (Mr. Hooper will be very helpful on this) does that prohibit the publication in any form of media?

B

MR. HOOPER: Yes, your Honour.

JUDGE NORTON: So that would include therefore web or TV, for example.

C

MR. KOVALEVSKY: Yes, and also tweets and the like.

JUDGE NORTON: And tweets and the like.

D

MR. KOVALEVSKY: It's blanket.

JUDGE NORTON: Blanket.

MR. KOVALEVSKY: Correct.

JUDGE NORTON: Thank you.

E

MR. KOVALEVSKY: Pleasure.

JUDGE NORTON: Let's close the court then, please, unless there are any other matters.

F

MR. KOVALEVSKY: No.

JUDGE NORTON: Thank you.

MR. KOVALEVSKY: Thank you.

G

(4.53 p.m.)

-----

H

**A**

I certify that I have faithfully transcribed this part of the proceedings in R v Yaxley-Lennon and that the said transcript is true and correct, to the best of my skill and ability.

**B**

Member, British Institute

Verbatim Reporters

**C**

**D**

**E**

**F**

**G**

**H**