



JUDICIARY OF
ENGLAND AND WALES

The Queen -v- Ciaran Maxwell

In the Central Criminal Court

Sentencing remarks of Mr Justice Sweeney

31 July 2017

Ciaran Maxwell, you are now aged 31 and have no previous convictions.

You have pleaded guilty to 3 offences, each of which was committed whilst you were a serving Royal Marine Commando, latterly in the rank of Lance Corporal – having enlisted in September 2010.

Over the years between January 2011 and your arrest in August 2016, in flagrant breach of trust and in betrayal of your position in the Armed Forces, you took part in the preparation of terrorist acts (Count 1). As the Particulars of that offence make clear, with the intention of assisting another to commit acts of terrorism, you engaged in conduct in preparation for giving effect to that intention namely:

- (1) Research resulting in the creation of a library of documents providing information of a kind likely to be useful to a person committing or preparing an act of terrorism – specifically information regarding the manufacture of explosive substances, the construction of explosive devices, and tactics used by terrorist organisations.
- (2) Research resulting in the creation of a library of documents providing information of a kind likely to be useful to a person committing or preparing an act of terrorism – specifically, maps, plans, and lists of potential targets for a terrorist attack.
- (3) Purchasing or otherwise obtaining articles for a terrorist purpose connected with the commission, preparation or instigation of an act of terrorism – specifically chemicals and components to be used in the manufacture of explosive substances and the construction of explosive devices; an image of an adapted PSNI card; and items of PSNI uniform.
- (4) Manufacturing explosive substances.
- (5) Constructing explosive devices
- (6) Creating and maintaining hides in England and Northern Ireland to store explosive substances, explosive devices, components for explosive devices, ammunition, weapons, tools and resources used during the construction of explosive devices and assorted other items linked to the preparation of an act of terrorism.

The acts of terrorism were to be carried out by the dissident Republican group the Continuity IRA, including attacks on police officers and police stations and on others – with the intention to kill and seriously injure.

There were some 43 hides in all – 24 in and around Larne in Northern Ireland (where you were brought up) and 19 in Powderham New Plantation near Exminster in Devon (where you were living with your partner and young son when you were arrested).

You had in your possession, or had constructed, 14 pipe bombs (2 of which were deployed before your arrest and 2 afterwards), two anti-personnel directional mines (known as Claymores), two Explosively Formed Projectiles (one with explosive fill), 29 complete firing systems, 33 initiators (including 2 military initiators), 13 military “Igniter Safety Fuze Electric” initiators, 3 fully constructed improvised detonators, and other component parts for Improvised Explosive Devices, together with a non-firing replica handgun, 397 rounds of ammunition subject to licensing conditions, 137 blank rounds of ammunition, 4 British Army magazines, 29.27 metres of detonating cord, 5.26 metres of green burning fuse, and 10 Time and Power Units.

You also had sufficient materials to make a further 19 pipe bombs, 2 anti-personnel directional mines, one Explosively Formed Projectile, 3 victim-operated torch Improvised Explosive Devices, 34 firing systems and 76 initiators.

The purpose of a pipe bomb is to maim or kill a potential victim whether or not used with low explosive (as appears to be the position in this case) or high explosive. The pipe bursts turning it into shrapnel which can be supplemented, as clearly intended in this case, by ball bearings.

Further, you had assembled large quantities of chemicals for use in manufacturing explosives and Improvised Explosive Devices.

Ammonium nitrate recovered in Northern Ireland could have been used, with the addition of further sufficient fuel, to make in the order of 100kg of high explosive composition (said to be larger than, for example, the notorious Enniskillen bomb); and other precursor chemicals could have been mixed to form 0.5kg of low explosive black powder and 1kg of low explosive pyrotechnic composition.

The precursor chemicals stored in England could have been used, with the addition of another ingredient, to manufacture in the order of 1kg of potassium chlorate-based low explosive pyrotechnic composition; in the order of low tens of kilograms of an ammonium nitrate-based high explosive composition; and in the order of 100-200g of the primary high explosive HMTD (which is typically used in detonators).

As to the possession of cannabis with intent to supply (Count 2), at the time of your arrest in August 2016 you were cultivating 15 cannabis plants, and a further six cuttings, in the Powderham New Plantation where you also had paraphernalia indicating that you had planned the production of cannabis and an ongoing supply. The fifteen plants would have produced around 810gms of cannabis with a wholesale value of £4,860 and a street value of £8,100. Your intention was to sell the cannabis in Northern Ireland when you went home.

As to the possession of articles for use in fraud (Count 3), in the period between November 2015 and your arrest in August 2016, you were in possession of the military identity card of one Royal Marine you had worked with and, on an SD card within your laptop computer, of images that you had made of the bank cards and driving licences of seven other Royal Marines with whom you had worked – principally at the Commando Training Centre in Lymington in Devon, where on each occasion (again in breach of trust) you took advantage of the fact that, whilst out on exercise, they had left their

valuables in an office. In interview, you said that you had researched online how to commit fraud using their details, but had eventually decided not to do so because it was too difficult.

I do not propose to rehearse every detail of the Prosecution Opening, or of the mitigation ably advanced on your behalf, or of the two files of mitigation materials with which I have been provided – all of which I have considered with care.

It suffices to record that you were born in December 1985 and brought up a Catholic in Larne in Northern Ireland – which is predominantly a Protestant loyalist town. You were aged 12 at the time of the Good Friday Agreement in 1998.

You did well at school but, in July 2002, aged 16, you were the victim of a sectarian attack during which you suffered, in particular, a depressed fracture of the skull. No operation was, however, necessary and you made a good physical recovery. Unsurprisingly, however, you became depressed and, in early 2003, you were diagnosed as suffering from PTSD – for which you received treatment until 2004 – when it was noted that you had remained well for a substantial period. In the meanwhile, you had continued to do well at school, and gained a place at Newcastle University. However, you had difficulties there and returned to Northern Ireland where, in 2006, you were diagnosed as having had an acute reaction to the stress of what had happened. You then remained living in Northern Ireland where, amongst other things, you grew and sold cannabis for a time to help make ends meet.

It was in November 2009 that you applied to join the Royal Marines. You indicated on your application form that you had “no beliefs”, and it was concluded that your motivation appeared to be genuine. At all events, there is, in my view, insufficient evidence to be sure that you had any sinister motivation – whether at that stage or when (aged 24) you enlisted in September 2010.

On the face of it, you performed well throughout your service in the Marines, albeit that you did not see active service as such – with good annual reports, promotion to Lance Corporal in September 2014, and the strong likelihood of further promotion.

However, unbeknown to the Marines, from 2011 onwards you were also involved in the preparation of terrorist acts to be carried out by one or more others.

In Larne, you knew Niall Lehd, who was 3 years younger than you and not as bright as you, but who was associated with the dissident Republican group the Continuity IRA. It was in conjunction with him that your terrorist activities began.

I reject the assertion made in your letters to me that your involvement in such conduct was all down to PTSD which made you susceptible to engaging in risky, compulsive and irrational behaviour and vulnerable to exploitation. That assertion is not, for example, supported by the comprehensive report from the Consultant Psychiatrist Dr Tamsin Peachey which is included in one of your mitigation files. Rather, I am sure that the Prosecution are correct when they assert that you were motivated by Dissident Republican sympathies and a hostility to the United Kingdom as demonstrated by the subjects of your admitted attack planning with Naill Lehd and the materials found on your media devices. In addition, as you admitted during interview, you had defensive training in relation to Improvised Explosive Devices as a Marine, in consequence of which you developed an interest in explosive devices and setting them off.

It is clear that you were meticulous in the planning and execution of the work that you did (as illustrated, for example, by the ‘to-do’ lists recovered after your arrests) and some of it was innovative in Northern Ireland – such as the creation of the primary high explosive DDNP and the

obtaining of a particular type of non-mercury tilt switch. Items bought over the internet were largely delivered to your grandmother's address in Larne.

You made extensive admissions in interview as to attack planning that you had undertaken with Niall Lehd. Amongst the documents recovered after your arrest were a number containing targeting details. One, headed 'Operations', listed key government and military defence locations, names of military staff, and names of Security Service and Police Personnel with their addresses (as well as including pipe bomb grenade mixes and a section identifying areas of risk or evidence which could be utilised against you – such as intercepted phone calls, facial recognition, handwriting analysis etc). Another document, headed 'Intel', detailed multiple government departments, employees in those departments and what was asserted to be Security Service personnel – including details that appeared to arise from observing those individuals. Another was a list of nine individuals who had previously been jailed for the murder of a Catholic, and their general addresses. Also recovered were plans and photographs relating to prospective attacks on police stations, police officers (including the use of Explosively Formed Projectiles against armoured police vehicles) and a TA Barracks.

In February 2013, one of the pipe bombs that you had made was recovered by the police in a rucksack outside an address in Larne. Niall Lehd approached the police and admitted that everything in the rucksack was his. The pipe bomb included a quantity of the primary high explosive DDNP and other chemicals, along with 542 ball bearings. A bin bag also found in the rucksack had your fingerprints on, but that was not discovered until much later. A search of Mr Lehd's address in Larne revealed, amongst other things, the presence of TNT throughout the house, another metal cylinder and ball bearings, and equipment that could be used to manufacture explosives. In May 2014, Mr Lehd pleaded guilty to various offences in the Crown Court at Belfast and was sentenced to six years' imprisonment.

I have no doubt, however, that you carried on with your activities – as illustrated, by way of example, by the Notes that you made in the spring of 2015 setting out your 'Easter Leave Tasks' – which included finalising electrical Time and Power Units and testing pipe bombs; dividing caches into long-term caches, operational caches, and mission specific caches; and setting out a timetable of activities from April 2015 until May 2016.

In March 2016, a member of the public found and reported to the police one of your hides, consisting of two buried barrels and their contents, in Carnfunnock Country Park near Larne.

In May 2016, another member of the public found and reported to the police another of your hides, again consisting of two buried barrels and their contents – this time in Capanagh Forest.

DNA examination eventually led to you.

In the meanwhile, on 12 July 2016, an attempt was made in Larne to use one of the pipe bombs that you had made, but it did not explode.

On 24 August 2016, following a number of days of surveillance in Devon, during the course of which you were seen to visit Powderham New Plantation, you were arrested.

In your initial interviews, you said nothing. However, after a change of solicitor, you made admissions (including as to the various items of ammunition and other equipment that you had stolen from the Marines) and helped the police to find a number of hides that they would not otherwise have done. In the result, a total of 43 were found and their contents recovered and examined.

In the meanwhile, on 25 August 2016, another of the pipe bombs that you had made was thrown into a house in Larne – but no attempt had been made to light it.

Finally, on 15 December 2016, a pipe bomb that you had made was exploded by the side of a house in Larne, but no injury was caused.

You are no longer a Royal Marine.

On your behalf, it is accepted, albeit that it is said that a small number of the hides were Lehd's and that others drove you to it, that you were a bomb maker and a quarter master for bomb making products. It is, however, urged that Lehd was the instigator of, and the driving force behind, your crime – albeit by his persuasion and your acquiescence rather than conduct amounting to duress. The two of you worked together with Lehd in the senior role.

It is underlined that whilst some of the pipe bombs had fuses and were ready to go, the majority did not. Nor were the other devices ready to use, and it is said that that was because you took steps to keep the necessary components apart – in particular, bringing components back to England. This is therefore not a case, it is said, in which others were about to unleash a wave of bombs. The attack planning and the notes that you made when Lehd was in custody were part of a show of remaining useful in order to keep the Continuity IRA happy. Some of the tasks recorded in your notes were accomplished, others were not. You kept an electronic copy of the notes because you are an inveterate record keeper with OCD traits, and all of the attack planning and list making was in contrast with the devices that were actually ready to be used.

It is asserted that, as a signaller in the Marines, you did not reveal sensitive codes as you could have done, and that the various items that you did take had been abandoned on ranges or the like. A contrast is drawn between your case and that of another former Marine Martin Shannon.

It is recognised that you should have got out of the situation and accepted that you made bad decisions in not doing so. It is said that because of the co-operation that you gave during your interviews, which resulted in the safe recovery of a mass of property, both you and your family are in danger of reprisal.

Guidance on sentence for offences of preparation of terrorist acts (which carry a maximum penalty of life imprisonment) was provided by the Court of Appeal in *R v Kahar*.

The Court made clear, amongst other things, that conduct threatening the democratic government and the security of the state has a seriousness all of its own; that the purpose of sentence in such cases is to punish, deter and incapacitate (albeit that care must be taken that sentences are not disproportionate); that s.143 of the Criminal Justice Act 2003 requires the sentencing court to consider culpability (which in most terrorist cases will be extremely high) and the harm that was caused, intended or foreseeable; and that the starting point is to identify the notional sentence that would have been imposed if the intended act or acts of terrorism had actually been carried out – with the offence generally being more serious the closer the offender was to the completion of the intended act(s).

It is necessary to consider the number, nature and gravity of the intended terrorist acts; the degree of planning research and complexity and sophistication involved together with the extent of the defendant's commitment; the period of time involved, and the depth and extent of the offender's commitment to the cause.

Here there was sophisticated offending on a substantial scale which took place over a period of more than five years. There was clearly the potential for the deployment of many bombs of varying types and sizes (including as to the explosive(s) used – some of which were novel) against multiple targets, with the ultimate intent of those planting the devices being to kill; there was considerable planning (including attack planning), research, and the acquiring of large amounts of materials (including Police items for use in disguise) etc.; and you were strongly committed to the cause – with, for example, your choice of wi-fi code at home providing a small but telling indication of that. To state the obvious, a skilled bomb maker is of considerable importance to a terrorist organisation like the Continuity IRA.

There were additional aggravating factors, as follows:

- (1) As a serving Royal Marine at the time, your actions involved a significant breach of trust and a betrayal of your position with the Armed Forces – including the use of items which belonged to them.
- (2) Your actions had the potential to threaten the political stability of Northern Ireland.
- (3) At least four devices that you had made were actually deployed.
- (4) The offending took place across borders

The mitigating factors are your previous good character; your eventual full co-operation with the investigation (including directing the police to hides which they would not otherwise have found); the fact that only a small number of the devices and a relatively small quantity of the explosives were ready for immediate use; and your plea (which followed earlier indications) at the Plea and Case Management Hearing – for which I propose to give a discount of 30%.

The first issue that I must consider is whether you are a dangerous offender – i.e. whether there is a significant risk that you will commit further specified offences, and a significant risk that you will thereby cause serious harm to members of the public. It is accepted that a Pre-Sentence Report to address that issue is not necessary, and that I must decide it based on the conclusions that I reach from all the material that has been placed before me.

On your behalf, it is submitted that your lack of previous convictions, your guilty pleas, the help that you gave after your arrest (including helping to take all the ordinance out of circulation), and the effect on your family were you to continue, are all strong indications that you will have no further involvement with Dissident Republican ideology, and thus will not commit further specified offences, let alone offences that will cause serious harm to members of the public.

Albeit that you have no previous convictions, I have no hesitation in concluding that you are dangerous. I reject the contention that you had taken steps to reduce the ability to turn the components into working devices. Notwithstanding the matters advanced on your behalf, I am sure that you were and will remain motivated by Dissident Republican sympathies and hostility to the United Kingdom, that you have considerable skills as a terrorist bomb maker, and that you enjoy the work involved. I reach that conclusion against the background of the considerable length of time that you were involved, your continuance throughout that period despite the depth of the betrayal that it involved, your admissions in interview, the fact that your previous PTSD was not an explanation for your involvement, and the fact that your activities were only brought to an end by the intervention of the authorities.

In accordance with *Attorney General's Reference No.27 of 2013 (Burinskas)* I must next consider whether a sentence of life imprisonment, which is a sentence of last resort, is justified.

Taking the relevant matters in turn.

For all the reasons that I have already explained, in my view the offence in Count 1 is, in itself, extremely serious – involving high culpability and both intended and foreseeable high harm (albeit, largely, not immediately, and albeit that no harm was actually caused), and further work was required in relation to most of the equipment. You have no previous convictions, but the level of danger that you pose is high for the immediately foreseeable future. I have also considered the imposition instead of a determinate sentence or an extended sentence.

It is not easy to fit your case into the guidance provided in *Kahar*, although it is clear that the ultimate intention was that others would kill – albeit not immediately, and albeit that no one was actually hurt. The starting point must therefore be life imprisonment. However, given that it is a sentence of last resort, and after anxious consideration, I have concluded that a sentence of life imprisonment is not appropriate, but that an extended sentence is.

On Count 1 I therefore propose to impose an extended sentence, and must now go on to fix the custodial term, which will also reflect your commission of the offences in Counts 2 & 3.

As to Count 2 it is not disputed that, applying the relevant Definitive Guideline, yours was a leading role in Category 4 – the starting point for which is one of 18 months' custody.

As to Count 3 it is not disputed that it was a particularly despicable offence involving both high culpability and greater harm, and thus also involving a starting point of 18 months' custody.

I bear in mind the principal of totality.

Taking all matters into account, the notional determinate sentence after trial that I would have imposed would have been one of 27 years' imprisonment. Less full discount for plea, the extended sentence will be for 23 years – made up of a custodial element of 18 years and an extended licence period of 5 years.

You will serve two thirds of the custodial term before you are eligible for parole.

I impose concurrent sentences of 18 months and two years on Counts 2 & 3 respectively.

I make all the ancillary orders sought by the prosecution, and the appropriate victim surcharge order must be drawn up.

31 July 2017