R -v- Simon Parry
Southwark Crown Court
Judgment on appeal
10 July 2024

1. Freedom of speech means that politicians may be challenged, questioned, and criticised in ways that are loud, brash and even rude, but freedom of speech does not mean a freedom to put politicians in fear.

2. Parliament's way of managing those two important principles is through a number of statutes. One such is the Human Rights Act 1998 which enshrines what were often already common law rights, which would include the right to hold political views and to protest. Another is the Protection from Harassment Act 1997: Simon Parry, the Appellant, was convicted of an offence under that second act on 18 October 2023. He now seeks to have that conviction overturned in the appeal we have just heard. The Appellant has been represented by Ms Roxburgh, the Prosecution by Ms Summers: we express our gratitude for the skilled and focused way in which they have both carried out their professional duties in this hearing.

3. The appeal is by way of a rehearing, and we have to apply the criminal burden and standard of proof, in other words unless the Prosecution makes us sure of guilt, we must allow the appeal.

4. The facts are almost uncontroversial. On 24 May 2023 and 14 June 2023, the Appellant followed Sir Gavin Williamson MP [for economy of expression we will call him Sir Gavin in the remainder of this judgment]. On the evidence we have heard:

   (1) On 24 May, according to film taken from the Appellant's phone after his arrest in June, he followed Sir Gavin and asked him series of questions about topics about which he felt strongly. That pursuit lasted for a few minutes but ended when Sir Gavin entered a secure parliamentary area.

   (2) On 14 June Sir Gavin left the parliamentary estate at about 4.25pm. The Appellant followed him, filming him. Sir Gavin realised what was happening and took a different route, paused, and asked the Appellant to stop following him. The Appellant told Sir Gavin, he could arrest him and challenged him about the

government's policies about which he, the Appellant, has strong views. In total Sir Gavin was followed for something over 20 minutes on this day.

5. In his evidence Sir Gavin told us he is used to being approached and challenged by members of the public. In the May incident he was made to feel very uncomfortable, and he believed his pursuit would have continued had he not gone into a secure area where the Appellant could not follow. During the June events he felt harassed and intimidated about being followed by a man who was as tall and solidly built as the Appellant. As he said towards the end of his evidence in chief, "*I was getting a rising sense of panic. At this stage you get increasingly nervous about what is going to happen*". Since this incident he has felt obliged to vary his routine and avoid the so called "*protest pen*" in the hope of avoiding a repetition of such incidents.

6. The Appellant gave evidence by video link due to his difficulties in travelling to Court, leading us to grant his application for a link under section 51 of the Criminal Justice Act 2003. In his evidence the Appellant referred to his strongly held beliefs that the then-government had behaved deplorably [to put it at its lowest] in a number of its policies including the covid lockdown. He accepted he followed and filmed Sir Gavin on the two occasions set out above but felt he was doing nothing wrong.

7. We have the great advantage of being able to view the films of both days, as the Appellant filmed them with a view to putting them on the internet. To extract but a few elements of what the films show:
   (1) The Appellant's manner varies from the casual or almost, in his choice of word at least, friendly: He ends one event with the words, "*Have a good day, mate*", the other with "*See you later, mate, take care*". Much of the Appellant's running commentary, however, is less amiable. He used phrases such as, "*Most MPs know they are on borrowed time*", "*the British Government makes Harold Shipman look like an amateur*", and "*I can make a citizen's arrest on any MP any time I fucking want*".
   (2) There is an exchange towards the end of the June incident in which Sir Gavin tells the Appellant to "*stop harassing*" him, leading the later to reply that he is not harassing him [an obvious statement of their respective views on the Appellant's

conduct].

(3) At one stage well into the June incident Sir Gavin waited until the Appellant had moved ahead of him then took a right turn in the hope of losing him. The Appellant looped back to find where Sir Gavin had gone and commented, "*he thinks he has outsmarted me*". It is perfectly obvious that the Appellant realised that Sir Gavin did not want him to carry on following him, yet carried on doing so for many minutes afterwards.

8. In his interview after arrest the Appellant set out his defence on the same lines as advanced in this appeal. At one stage he commented, "*It's my size that makes me look intimidating*". In his evidence before us the Appellant conceded that during the June incident, "*I did realise he was uncomfortable with my presence*".

9. The offence under appeal is a conviction under section 2A(1) and (4) of the Protection from Harassment Act, of stalking. That offence is committed if a person pursues a course of conduct that amounts to harassment of a person, by way of acts or omissions associated with stalking [which can include following someone], *and* that person knows or ought to know that the course of conduct amounts to harassment of the other person. The act adds that the "*ought to have known*" test is met if a reasonable person in possession of the same information would think the course of conduct amounted to harassment of the other. There is also a defence if the conduct complained of was reasonable.

10. In the case of *Jones v Director of Public Prosecutions* [2010] EWHC 523 (Admin) Mr Justice Ouseley held that in considering whether a course of conduct crossed the threshold to reach criminality, the court could look at the combined effect of more than one incident.

11. Section 1(3)(a) of the Act sets out a defence that conduct is outwith the offence if it is done "*for the purpose of preventing or detecting crime*". We say at once that the stream of recrimination that is the essence of the Appellant's words on both days does not come close to placing his conduct within that defence.

12. Before proceeding to our decision, we would stress two points. First, the nature of the Appellant's beliefs are not our concern: there is not one law for views a court agrees with and another for those a court dislikes. Second, although an accused's motives and belief about his actions can be relevant, they are not determinative: in other words, a defendant can still be guilty of this offence even if he honestly and genuinely believed his actions were lawful and reasonable.

13. We accept that the Appellant did not think he was harassing Sir Gavin, but that is not the end of it. We look at the prolonged following in June, the fact it was the repetition of the following in May, the distance of the pursuit, the aggressive tone of the comments being made for much of the time, and the fact it was quite clear Sir Gavin did not want to be followed. We add in the concessions made by the Appellant in interview, "*It's my size that makes me look intimidating*", and in his evidence that, "*I did realise he was uncomfortable with my presence*". We have to ask whether those incidents amount to the offence under section 2 *and* would a reasonable person realise at the time that they did so? We unhesitatingly answer both questions "*yes*". We ask ourselves whether we find the conduct may have been reasonable, we answer that question, "*no*".

14. We live in a time where members of parliament face virulent criticism, threats of attack, attacks, and even on two occasions within the last 10 years, being murdered. Of course, we do not blame the Appellant for any of those actions, but a reasonable person would appreciate that an MP or other public figure would know that such attacks have occurred and could occur again.

15. In our view the combined effect of the Appellant's actions on the two days undoubtedly amounts to the offence of stalking. We therefore dismiss this appeal.

Mrs E Fergus JP
Ms J Jeet JP
Mr Justice Bennathan
10 July 2024