



Courts and Tribunals Judiciary

At Southwark Crown Court

10 October 2024

Before:

HHJ Perrins

Between:

R

-v-

Riley Ings

Louis McKechnie

Claire Smith

Rachel Steele

and

Christopher Bennett

SENTENCING REMARKS

1. You have each been convicted of damaging the Queen Victoria Memorial which stands in front of Buckingham Palace.

FACTS

2. On the 26.8.21 the environmental pressure group, Extinction Rebellion, were carrying out a series of protests and demonstrations in central London. You were each a party to those protests, albeit your particular protest focused more on animal rights than on climate change.

3. What you did was captured clearly on CCTV. Shortly before 2.00 pm you all entered the fountain surrounding the memorial. You were each then a party to red dye being poured into the water from multiple containers. You each then helped disperse the dye so that it changed the colour of the water in the fountain to a deep red. Not content with simply changing the colour of the water some of you then poured the dyed water over the marble stone work and marked it with your dye stained hands while others stood posing for photographs with home-made placards protesting your cause. Not only did you change the colour of the water you also stained the stonework a deep red. This was your intention.
4. The police were on the scene quickly but you refused to leave the fountain. Officers had to enter the water. You were each then arrested and forcefully removed.
5. Although each of you played slightly different roles you were all part of the plan to dye the fountain red and stain the stonework. Having heard the evidence at trial I am not persuaded that there is any proper basis to distinguish between the roles played by each of you. You were all acting together and you are all equally responsible.
6. Mr TURNER, an assistant park manager with the Royal Parks attended the scene whilst you were still in the water. He gave evidence that he realised straightaway how important it was to clean the stonework as quickly as possible. He described how the porous nature of the stonework meant that there was a very real risk of permanent staining. Specialist cleaners were therefore called to the memorial and set about trying to clean the fountain and prevent any long term damage.
7. At your trial each of you sought to argue that your actions did not amount to criminal damage. This was a facile argument completely lacking in merit. The specialist cleaning team needed to attend the memorial on three separate occasions. Mr COOPER, a member of that team, described how the red dye had soaked deeply into the marble and therefore multiple treatments of the stonework were necessary. He also described how the fountain had to be drained and the

stone bowls cleaned. This was a time consuming task given the Victorian drainage system that remains in place to this day. In total some 64 man hours were spent removing all traces of the red dye that you used.

8. The total cost of the clean-up was in excess of £7,000, a figure it might be thought to be low bearing in mind the amount of time it took to restore the memorial to its former state. It has been suggested that this was not serious criminal damage and that it was in some way a proportionate exercise of your rights to freedom of expression. That is an argument I reject without hesitation.
9. On any view this was a serious act of criminal damage. Had it not been cleaned quickly and efficiently there was a very real risk that the marble stonework would have been permanently damaged. Having heard the evidence that each of you gave at trial I am satisfied that none of you took this risk seriously or frankly, even cared. You were concerned only about promoting your cause and thought nothing of the consequences of your actions. You each thought that your actions were entirely justified. Each of you displayed an high degree of arrogance that you were completely in the right, that your views were all that mattered and that the consequences of your actions were a price worth paying for the promotion of your cause.

SENTENCING GUIDELINES

10. In considering the appropriate sentence in your case I am bound to have regard to the Definitive Sentencing Guidelines for offences of criminal damage as well as the overarching guidelines on the imposition of community and custodial sentences. I have also considered the comments of the LCJ in the case of *R v Trowland & Decker [2023] EWCA Crim 919* as well as much older authority referred to me by counsel.
11. On the basis of the evidence presented at trial I am satisfied your culpability was high. There was plainly a high degree of planning. This was not a spur of the moment decision. It was well planned in advance. Research was done into dye. That dye was then sourced and purchased in sufficient quantities to stain the

entire contents of the fountain. You created placards. You each liaised with one another to ensure that enough of you were present to make a significant impact. You ensured that a photographer was present with the intention that the full extent of your actions would be published on social media. You obviously also decided upon a time that would cause maximum impact for your cause.

12. The harm caused falls within category 1. That is because of the serious social impact of your offence. You deliberately targeted a culturally significant memorial in one of the most prominent positions in the capital, directly in front of Buckingham Palace and you did so on a Summer's day when hundreds of tourists were present. You did that deliberately in a calculated attempt to ensure the maximum publication for your cause.
13. The starting point in the case of each of you is therefore 1.5 years in prison with a range of between 6 months and 4 years. As I have explained already I sentence you on the basis that you were in this together and that there is no sensible basis for me to distinguish between your individual actions on the day.
14. Although I take into account the fact that your offence was committed in the course of a protest that does not, in my judgement, provide you with significant mitigation. As was said by the CACD in the case of *R v Trowland*, "... *the more disproportionate or extreme the action taken by the protester, the less obvious is the justification for reduced culpability and more lenient sentencing*". The right to protest does not include a right to commit crime.
15. None of you have shown any remorse. None of you pleaded guilty nor accepted responsibility for what you did, even when it was clear that you had no tenable defence to the charge. I am quite satisfied that each of you insisted on a trial in this misguided belief that it would allow you a further platform from which to proclaim your beliefs. Whilst I, of course, do not increase your sentence because you contested this matter it is directly relevant to my assessment of whether you have shown any genuine remorse for what you did.

16. I also make the point that the sheer number of cases coming before this court involving individuals committing serious crime in the name of purported protest also illustrates the need for an element of deterrence in the sentencing such crimes.

17. I turn now to your individual cases.

INDIVIDUAL CASES

RILEY INGS

18. You are now 27 years old. You have no previous convictions although you do have a caution from 2020 for possessing an article with intent to damage property. That caution did not deter you from committing this offence 10 months later.

19. I have read the PSR prepared in your case. You accept your role in the protest and say that it is a cause that you feel passionately about. I accept that to be the case. However, as I have already noted, that does not excuse or mitigate what you did. It is said that this offence was committed at a difficult stage in your life when you were homeless and vulnerable. You told the probation officer that you suffer with anxiety and depression. You are now more settled, living in a hostel. Although you are plainly intelligent, having attended University, you are unemployed and, it seems, not even looking for work. You are someone who appears to lack any real focus or direction in your life.

20. You told the probation service that you intend to continue lawfully protesting in the future but that you do not intend to engage in criminal activity. I note that since this offence in 2021 you have not committed any further offences at all. If you have engaged in protests over the last 3 years you have therefore done so lawfully. I also note that the probation service assess you as having a low risk of re-offending in the future.

LOUIS McKECHNIE

21. You are 23 years old. You are in a different position to your co-defendants. You have 9 convictions for 10 offences, all of which arise from your involvement in protests. These offences include trespass, obstructing the highway, invading a football pitch, causing a public nuisance and criminal damage. You are now a seasoned protester who has in the past has thought nothing of breaking the law when you deem it appropriate to do so, regardless of the consequences to others.

22. I have read the PSR prepared in your case. You have attended protests on behalf of XR and more recently for JSO. You say that you have no intention of committing any further offences in the future. Your previous convictions were all committed over a relatively short period of time between 2021 and 2022. You have not committed any further offences over the last 2 years. You have been made the subject of 2 separate SSOs and you appear to be broadly complying with them.

23. You also claim to have struggled with your mental health and reference is made in the report to a previous diagnosis of depression. Whilst I of course take that into account it does not make what you did any less serious and is not a factor that contributed to your decision to behave in the way that you did. Even though you are plainly intelligent and studied for a while at University you are currently unemployed and rely upon family and friends to finance your lifestyle. I also note that you have struggled with addiction to Class A drugs although you are seeking help for that now. It remains to be seen which direction your life will take from here.

CLAIRE SMITH

24. You are 26 years old. In addition to the PSR I have also read a character reference submitted on your behalf this morning. You have 1 relevant conviction from 2023 for breaching the peace. Although I do not know the facts of that offence I am told it was committed in the context of a protest.

25. In your interview with the probation service you indicated that you accepted full responsibility for your actions before then minimising your conduct by saying that *'protests are not effective unless there is some disruption'*. It is clear that you are unrepentant and think that breaking the law is legitimate when you deem it appropriate to do so. Nevertheless you said that you recognise the need to be *'more cautious'* about causing harm in the future.
26. You also dropped out of higher education and appear to have struggled to adapt to life as an adult. You claim to suffer from anxiety, depression autism and borderline personality although I have seen no independent evidence of that. In an event it is not suggested that any such condition contributed to your decision to offend in the way that you did.
27. You have struggled to find work and rely upon benefits to live. You appear to have isolated yourself from those who have been close to you in the past. Nevertheless I note what is said in the report about the low risk that you present of further offending. I also note that this offence was 3 years ago and that you have not committed any offence on a similar scale since.

RACHEL STEELE

28. You are 48 years old and as such are older than your co-defendants. I have read a PSR as well as a bundle of documents served on your behalf this morning. You have 3 convictions for aggravated trespass and criminal damage committed over a 6 month period in 2022. Although you were an active supporter of Animal Rebellion it is suggested in the PSR that you have now distanced yourself from them and their actions. This is not because you consider committing criminal offences in the name of protest is wrong but because you are more concerned about the personal consequences of your actions.
29. Unlike your co-defendants you appear to live a relatively stable life. Although I note what is said about your mental health and your serious health issues in recent years you have your own accommodation. You work as a graphic designer. You have no financial concerns.

30. Although, as I have noted, you have previous convictions for protest related cases this offence was committed before those offences. You have not therefore committed any further such offences for the last two years. Nevertheless the risk of you committing further offences is assessed as medium.

CHRISTOPHER BENNETT

31. You are 33 years old. In addition to the PSR I have also read a character reference submitted on your behalf. You have a conviction for aggravated trespass which involved climbing on top of an oil tanker. You have been sentenced more recently to a term of imprisonment for conspiracy to cause public nuisance which involved tunnelling beneath a road.

32. I have read 2 reports in your case. The PSR prepared for your most recent appearance before Basildon Crown Court and a short addendum prepared for this case. You plainly believe that your actions are justified in the furtherance of your cause.

33. Prior to your imprisonment for causing a public nuisance you were living and working in Bristol. You are also intelligent. You have a number of qualifications and have been working in the care sector. However, I note that it is the view of the probation service that the lifestyle you were leading and people you chose to associate with is inextricably linked to your offending behaviour.

34. You told the probation service that you were confident that you will not reoffend. You pointed out that you have not been involved in any such activity for nearly 2 years. I note that you are also involved in mainstream politics and assist with the local Green Party. As such you are plainly someone who is capable of promoting your causes through legitimate means. Nevertheless you are still assessed as presenting a medium risk of re-offending in the future

35. As you are currently serving a sentence of imprisonment it follows that no sentence other than an immediate term of imprisonment is appropriate in your

case. I am not persuaded by submissions made on your behalf that a community order to take effect upon your release is appropriate.

SENTENCE

36. In passing sentence on each of you I accept that a distinction is to be drawn between protests which result in wanton damage to property, such as this case, and those that are calculated to disrupt the lives of ordinary people going about their daily business. However, in the case of each of you the custody threshold has been crossed and a custodial sentence is plainly merited for the reasons I have already given. The only question is whether there are grounds for suspending it in the case of each of you.

37. In considering whether to suspend a sentence of imprisonment I have to have regard to a number of factors. They include whether there is a realistic prospect of rehabilitation, whether there is strong personal mitigation and whether immediate imprisonment will result in significant harmful impact on others. Factors which suggest I should not suspend the sentence of imprisonment include whether you present a risk to the public, whether you have a poor history of compliance with court orders and, most significantly, whether appropriate punishment can only be achieved by immediate custody.

38. I have considered those factors in the case of each of you. In particular I take into account the fact that this was an offence committed over 3 years ago.

RILEY INGS

39. Having regard to your lack of previous convictions, the fact that you have committed no further offences since this offence and the fact that the probation service consider that you present a low risk of re-offending I am prepared to suspend the sentence in your case.

40. Sentence will be SSO of 18 months imprisonment suspended for 2 years. You will be required to perform 200 hours unpaid work. You will pay compensation of

£500 to the Royal Parks. I make no order as to costs although the victim surcharge provisions will apply.

41. If you commit any further offences over the next two years or if you fail to comply with the terms of this order you will be in breach of the sentence and you will be brought back before this court where the judge will have the power to activate the prison sentence in whole or in part as well as sentencing you for the new offence.

LOUIS MCKECHNIE

42. The decision in your case is less straight forward. You have committed multiple offences. However, they all post-date this offence. You have been extremely fortunate to have been dealt with relatively leniently by the courts in the past. However, it would seem that the sentences that have been imposed by the courts appear to have worked in that you have not committed any further offences in the last two years. It does therefore seem as though there is a realistic prospect of rehabilitation in your case and that you have come to appreciate that committing offences of this nature is only going to lead to lengthy prison sentences being imposed. In the circumstances I am therefore going to take the somewhat exceptional course of imposing a further SSO in your case.

43. Sentence will be SSO of 18 months suspended for 2 years. You will be required to perform 200 hours unpaid work. In your case I will also follow the recommendation in the PSR and impose 15 days RAR. You will pay compensation of £500 to the Royal Parks. I make no order as to costs although the victim surcharge provisions will apply.

44. You have heard what I have said to your co-defendant about the consequences of breaching this order. However, in your case I give you this additional warning. If you re-offend again, having regard to your previous convictions, any court will undoubtedly impose a severe prison sentence in addition to which the SSO will almost certainly be activated. This will mean you will spend many years in prison. You should therefore bear that well in mind when deciding how to act in the future.

CLAIRE SMITH

45. In your case having regard to your relative lack of previous convictions, the fact that you have remained out of trouble since this offence and the low risk of you committing further offences I am going to pass a similar sentence in your case.

46. Sentence will be SSO of 18 months suspended for 2 years. You will be required to perform 200 hours unpaid work. In your case I will also follow the recommendation in the PSR and impose 20 days RAR. You will also pay compensation of £500 to the Royal Parks. I make no order as to costs although the victim surcharge provisions will apply. You have heard what I have said about the consequences of breaching this order.

RACHEL STEELE

47. Whilst it is right that you have previous convictions for protest related cases I note that they were committed over a relatively short period of time in 2022 and that you have stayed out of trouble over the last two years. Taking into account the mitigation put forward on your behalf I am going to impose a SSO in your case as well.

48. Sentence will be SSO of 18 months suspended for 2 years. You will be required to perform 200 hours unpaid work. In your case I will also follow the recommendation in the PSR and impose 20 days RAR. In light of your greater means you will also pay compensation of £1000 to the Royal Parks. I make no order as to costs although the victim surcharge provisions will apply. You have heard what I have said about the consequences of breaching this order.

CHRISTOPHER BENNETT

49. In light of the fact that you are currently serving a sentence of imprisonment there is no basis upon which I can suspend the sentence in your case. The sentence is therefore one of 18 months imprisonment. You will serve up to half of that

sentence in custody at which point you will be released on licence. If you commit any further offence whilst on licence or fail to comply with the conditions that are imposed you are liable to be recalled to serve the rest of this sentence. That sentence is to be served concurrently to the sentence you are currently serving. In the circumstances I will make no order as to costs or compensation.

HHJ Perrins
Southwark Crown Court
18.10.24