

REX V. PIOTR KUCHARSKI

SENTENCING REMARKS

1. On 16<sup>th</sup> August 2024, you pleaded guilty to an offence contrary to s.11(1) of the Terrorism Act 2000, that between 15<sup>th</sup> September and 28<sup>th</sup> October 2023, you professed to be a member of the proscribed terrorist organisation, the ‘Wagner Group’. Sentence was adjourned to today’s date, and I must now pass sentence on you.
2. On Saturday 28<sup>th</sup> October 2023, you attended a combat re-enactment event at a site called Stonham Barns, Stonham Aspal, in Suffolk. Whilst there you were observed to be intoxicated and brandishing a dagger towards other attendees. At that stage you were arrested for a public order offence. The combat fatigues you were wearing had badges for the ‘Wagner Group’, a group that had been proscribed as a terrorist organisation on 15<sup>th</sup> September 2023.
3. One of those present at the re-enactment event on 28<sup>th</sup> October 2023, who had known you for a number of years, says that before the event, he and others had seen from your Facebook page that you were saying you had travelled to Belarus and joined the ‘Wagner Group’. As a result you were expelled from the re-enactment group and told not to attend the event. Despite being expelled, you were seen going into the event wearing a jacket with ‘Wagner Group’ badges. When challenged if you had joined the ‘Wagner Group’, you said you had. When asked if you had fought in Ukraine, you replied that you had. It was soon after this that the police were called.
4. One of the others present at the re-enactment acted as a translator for the group of people that had convened to speak with you. You and the translator spoke in Polish. The translator says you had been removed from the re-enactment group’s Facebook page due to your right-wing views and that you had been banned from attending the event. When asked if you had joined “a terrorist group” and you replied you had. You are described as becoming very

aggressive following this conversation, brandished a weapon, made threats, and also a throat slitting gesture.

5. Police officers attended in response to reports that a male was brandishing a knife or sword. You were arrested at the scene and were cooperative. When police officers spoke with some other attendees they were also told that you had been excluded from the group because of your affiliations with fighting groups in Ukraine and Russia, and that you had said you had joined the ‘Wagner Group’ and fought in Ukraine.
6. Photographs of the badges on your clothing are included in the materials before me. Two badges are the emblems of the 5<sup>th</sup> Assault Group of the ‘Wagner Group’. Another has “PMC Wagner Group” on it. A fourth badge sewn onto your combat jacket, is one ascribed to a group called the Novorossiya Confederation, associated with the “Russification” of Eastern Ukraine.

### **Background and mindset**

7. A review of your social media activity provides some context to your conduct at the re-enactment event. Your Facebook profile page includes an image of the ‘Wagner Group’ badge, in the same form as one of the badges sewn onto your combat jacket, and also a knife. From September 2023 onwards, you told a number of your associates, via messaging on various platforms, that you were going to fight in Ukraine for the ‘Wagner Group’. Some messages had photographs showing men in combat clothing holding automatic rifles, with the implication being that you were one of them. On 16<sup>th</sup> September 2023, you sent one of your contacts a video of candles burning around a badge with “PMC Wagner Group” written on it. This appears to be the same badge sewn on the shoulder of the combat jacket seized from you by police at the event. Your contact responded to say the video was ‘beautiful’. On 23<sup>rd</sup> September, you messaged that same contact telling them you were in Ukraine. This message was accompanied by a photograph showing three men with guns in military uniform.
8. On 17<sup>th</sup> September 2023, you messaged a contact through Facebook stating you were travelling to Belarus. On 18<sup>th</sup> September 2023, you messaged another contact and stating that you were going to Belarus and then Ukraine to fight. You claimed you would be sent to Bakhmut (a city in Eastern Ukraine where there had been heavy fighting between Russian and Ukrainian forces). It is clear from the messaging that this contact believed what you were saying. You also sent an image containing a ‘Wagner Group’ badge on a bag of equipment

you said you were taking with you, that includes a large knife, and a badge on a cord referring to ‘*Valknut Odin Power*’, a symbol associated with ‘White Power’.

9. On 28<sup>th</sup> October 2023, the day of the event, you messaged a Facebook contact stating you were currently fighting in Ukraine.
10. One exchange which pre-dates the formal proscription of the ‘Wagner Group’ is significant. There is an exchange of messages and voice notes between you and one of your contacts. On 6<sup>th</sup> September 2023, your contact messaged you a link to a BBC news article about the ‘Wagner Group’s’ pending proscription and asked: “*Are you getting ready?*”. I note that one of your associates thought to message you when he learned of the proscription. Your voice note reply unambiguously demonstrated your views regarding the war in Ukraine, that you regarded all Ukrainians as terrorists, that you were going to Poland on 2<sup>nd</sup> November, your support for the ‘Wagner Group’, and the fact that you shared those views with associates.
11. In September and October 2023, you used your Facebook account to post images and videos showing soldiers engaged in combat or ready for combat in what appears to be Ukraine. Some images contain ‘Wagner Group’ badges. On 19<sup>th</sup> September 2023, you posted an image of a ‘Wagner Group’ badge alongside a knife. The day before the event in Suffolk in October 2023, you posted images, purporting to be you, in combat clothing in what appears to be a war zone. This messaging and Facebook activity show you informed a range of people that you were leaving the UK to join the ‘Wagner Group’ in September 2023 and that you would return in late October 2023. During the intervening period, you did not engage in social media activity on Facebook but did respond to people who messaged, telling them you were abroad and engaged in conflict.
12. Other material demonstrating your mindset includes a photograph taken by one of those at the re-enactment event where you are revealing a tattoo on your right arm of an ‘SS’ symbol. Secondly, images from your attendance at this Court on 16<sup>th</sup> August 2024, when you posed for the press and can be seen to be wearing as a pendant a symbol known as ‘The Kolovrat’, a variant of the Swastika created in 1990, adopted by the modern Slavic neopagan religion Rodnovery. This religion is nationalist, ethno-specific and racially exclusive, stating that only persons of white, Slavic ethnicity can practice it. It is not common in the United Kingdom, appearing almost exclusively in the extreme right-wing element of Pagan communities. Also, the symbol on the left breast of your t-shirt is known as ‘The Othala (or Odal) Rune’, which is typically represented as a diamond with ‘feet’. Extreme right-wing terrorist groups favour a version in which the feet (known as ‘serifs’) are upturned at the ends,

as popularised by the Volksdeutsche 7<sup>th</sup> SS Division. Thirdly, ‘SS’, imagery of Adolf Hitler and Fascist memorabilia was found at your home.

13. When interviewed after arrest you admitted buying ‘Wagner Group’ badges and attaching them to a combat jacket in order to provoke a reaction from the people at the combat re-enactment event. You admitted telling one person at the event you had joined the ‘Wagner Group’. You also stated you had made a series of Facebook posts which were intended to make people think you had joined the ‘Wagner Group’ and fought with them in Ukraine. In relation to the items found at your home, you said you were interested in 2<sup>nd</sup> World War memorabilia, that you had purchased ‘Mein Kampf’ because you thought it to be a sound financial investment, and the painting of Hitler was on display to prevent it from becoming damaged by mould in storage.

**Sentencing guidelines.**

14. Offences contrary to s.11 of the Terrorism Act 2000 carry a maximum sentence of 14 years’ imprisonment. The offence is a specified offence for the purposes of s. 279 of the Sentencing Act 2020, and it is one of those offences listed in Sch. 13 for the purposes of s.278 of the same Act. As such the offence requires consideration of the issue of dangerousness, and the imposition of a special custodial sentence for offenders of particular concern.
15. A decision on sentencing has been brought to my attention, but as it dates back to 2011 (*R v. Ahmed [2011] EWCA Crim 184*), is of little if any assistance other than to highlight how few cases of this type have been brought. There have been some very significant changes to sentencing on terrorism offences since this decision and within the last five years.
16. The guidelines, as a first stage, require determination as to the offence category and culpability. Culpability A covers those who are prominent members of an organisation, B those active, (but not prominent) members of an organisation and C, all other cases. This case is within category C. The guidelines provide a start point for sentence of 3 years’ custody and a range of sentence of between a high level community order and 4 years’ custody.
17. The prosecution have suggested a number of features of the case that amount to factors aggravating the seriousness of this offence. Firstly, previous convictions. They say of particular concern are convictions for violence. You are now aged 49, a Polish national living here in the UK. There is a single drink driving conviction here, but of note in 2001 and 2008 you were arrested for armed robberies in Poland and spent 15 years in prison.

18. Secondly, it is said this offence appears to have been motivated by, and demonstrated, hostility to the Ukrainian people, as set out in your own response to the warning you received that the ‘Wagner Group’ was about to be proscribed. Thirdly, the period of time over which you maintained the pretence of being a member of the ‘Wagner Group’ from early September to later October 2023. Fourthly, the sophistication with which you professed membership, including the creation and promulgation of a fictional narrative which included you travelled abroad to fight for the group at Bakhmut. Fifthly, there is the prevailing political climate, when the ‘Wagner Group’ were seen as a highly prominent organisation, freely publicising atrocities committed by its members in an effort to intimidate those it fought in Ukraine and elsewhere, albeit that the group’s profile had declined since the death of its founder, Yevgeny Prigozhin in late August 2023. Finally, they say there is your apparently entrenched mindset, that appears unaffected by these proceedings.
19. On your behalf it is submitted that these identified points do not amount to significant aggravating features in this case. Whilst the convictions are accepted, it is submitted that they are for unrelated offences. It is also said that anti-Ukrainian opinion is not in and of itself unlawful. Thirdly, it is said the length of time your activity covered was comparatively short.
20. In my judgment the identified factors increasing seriousness are relevant. The key question for me is the extent to which they impact on the level of sentence, particularly in a case where it might otherwise be said that absent those features and the mindset points in particular, that the case would otherwise be towards the lower end of the bracket for sentence.
21. I also agree with the observation that this was very far from a transitory and / or impulsive profession to being a member of a terrorist organisation. As the Crown highlight, it has the hallmarks of a committed and relatively sophisticated attempt to convince a number of people over a number of months that you were a member of the ‘Wagner Group’ and were actively assisting in that group’s activities.
22. There is a detailed pre-sentence report compiled by a senior probation officer based at this Court. In interview with the officer for the report you say that your actions at the re-enactment event and the wearing of insignia for the ‘Wagner Group’ were as a payback for the feeling you had of being ostracised from the re-enactment group, and that so far as you are concerned, you were unaware the ‘Wagner Group’ had been proscribed. You also say that you had not travelled to Belarus to engage in conflict and had simply added the photos to create a backstory and to add some credence to it. I note the assessment of the probation

officer that you are someone who does not recognise the seriousness of your offence and the remorse you have shown is self-serving. It is the view of the probation officer that you pose a high risk of serious harm to members of the public.

23. On your behalf it is submitted that this is really no more than foolish bravado on your part where you were seeking to provoke a reaction or response from a social group you had been a member of but had moved away from by reason of political differences. As such, it is submitted that immediate custody is not the only solution. With a realistic chance of rehabilitation it is submitted a community sentence or suspended sentence may well be the better option than immediate custody. As to the memorabilia it is said you have an interest in Viking history, second world war history and Slavic symbolism. It is accepted that you have a connection with Rodnovery, but it is not accepted it is racist religion. It is said that the 'SS' symbol on your arm is one that has its origins in Slavic pagan history and the god of the sun, and the same is said about pendant you wore: whilst they may have been adopted by far right groups, that is not an ideology you support or share, but are parts of your heritage. It is said that the copy of 'Mein Kampf' and the other memorabilia relating to Nazi Germany were for their resale value rather than supportive of the opinions espoused: you had bought and collected them, but your possession of them is not indicative of any belief you had in a far right ideology.
24. I note that your wife and young son have returned to live in Poland and I am told you intend also to return to live in Poland once you are able to do so and to reunite the family unit.
25. Mr Gledhill submits that on the facts here, this Court should be looking to a start point towards the lower end of the range, then the custodial sentence could be no more than a year or indeed could be a Community Order. As I set out in the course of his submissions there are some concerning passages about you in the PSR that run contrary to some of the submissions he makes. He says just because you hold a pro-Russian view of the conflict that should not aggravate the sentence. Whilst I accept the freedom of expression and of speech that is a benefit of living in the UK, what concerns me here is the lack of understanding on your part of the impact of some of what you were saying and doing.
26. In terms of sentence, you have pleaded guilty, although not at the earliest opportunity, but credit of at least 25% is appropriate. If not dangerous, and an extended sentence is not appropriate, then as set out above consideration as to a sentence under s.278 of the 2020 Act arises.

**Sentence.**

27. In my judgment the sentence before plea, making allowance for the aggravating features, is one of 3 years 6 months' imprisonment. I am afraid I do not agree with some of the points made on your behalf as to this being bravado, nor where it is submitted this case comes within culpability C. In my judgment there is a clear lack of awareness and understanding on your part of the seriousness of your actions as identified in the PSR. Having said that, I do not find the dangerousness test to be met. Whilst future risks where mindset has to be considered are difficult to assess, I do not find the very high test set out in the statute is met here. Allowing for your plea credit of a little over 25% will be given and so a custodial sentence of 2 years' 6 months' imprisonment.
28. As the offence is within s.278 of the Sentencing Act 2020, I am required by that section to impose on you a special custodial sentence for offenders of particular concern which will combine the custodial period I have referred to and an extended licence period of one year. This means that I impose a custodial term of 2 years' 6 months', together with a further licence period of one year, making 3 years' 6 months' in total. The effect of this is that you will become eligible for release only after serving two thirds of the custodial part of sentence, and entitled to release after serving the full sentence. At the end of the custodial term you will be released and there will then be an additional licence period of a year in the community on conditional licence and subject to supervision. You must abide by the conditions of your release – a failure to do so may result in further action being taken against you for breach of that licence.
29. I order the forfeiture of the cap and jacket [CP01A and B] seized , and the dagger [CL02]. If the statutory surcharge applies in this case, the appropriate order can be drawn up. There are notification requirements that apply as a result of the provisions of the Counter Terrorism Act 2008, and you will be subject to those requirements for a period of 10 years.

Recorder of London  
His Honour Judge Mark Lucraft KC,  
Central Criminal Court  
Old Bailey  
London EC4M 7EH  
November 1<sup>st</sup> 2024.