

IN THE CENTRAL CRIMINAL COURT

THE KING

V

JACK KAVANAGH

&

PETER KEATING

SENTENCING REMARKS

1. In 2016-2017, Thomas Kavanagh, was involved with others in smuggling large quantities of cocaine and cannabis into UK. The police investigation into that drug smuggling was known as Operation Hornstay.
2. He was arrested for those offences on 12 January 2019.
3. On 12 March 2020 he was charged with, and on 19 March 2020 remanded in custody for, the Operation Hornstay offences.
4. During that month his then solicitor approached the NCA with an offer to provide information, including about firearms. That initial approach went nowhere, not least because the Operation Hornstay case remained contested. However, even if – with the benefit hindsight – anyone was cynical about the motive for that offer, it did concern information about firearms.
5. It is clear, from the 3 months' worth of evidence derived from EncroChat phones, that by 3 April 2020 there were already in existence criminal conspiracies to put together a cache of as many prohibited firearms as possible (and live ammunition for them). The plan was to hide the items and then reveal their whereabouts to the NCA in order to help Thomas Kavanagh get a reduced

sentence for his drug smuggling. Those criminal conspiracies were investigated as Operation Briered.

6. The conspiracies to possess firearms and ammunition (to be acquired from inside and outside UK) are now charged as Counts 1-4 on the Indictment.
7. Count 5 is the conspiracy to pervert the course of justice in relation to Thomas Kavanagh's sentence. The reality is that you were both involved in that criminal agreement. The only reason you, Jack Kavanagh are not charged as a Defendant in Count 5, is because you were extradited from Spain and the specialty rule applied to you.
8. I propose to deal with this case, as I did when I passed sentence on the other Defendants, as one, overarching, criminal plan. It was all designed to help Thomas Kavanagh with his sentence. In my judgment, the "lead offence" is the conspiracy to pervert in Count 5, which all parties to all the indicted conspiracies knew was the whole point of the exercise. The means chosen to achieve the purpose, was to put together a cache of firearms to fool the NCA into supplying a "text" and, in due course, to fool the judge. This was not a case of criminals acquiring an arsenal of guns for general criminal purposes and then deciding to use some for this purpose. The Crown conceded this position some time ago.
9. Indeed, Counts 1-4 are all charged as conspiracies to possess, rather than to possess with any specific intent. Count 5 spells out the overarching plan.
10. The Crown's case is that all the conspiracies were orchestrated from prison by Thomas Kavanagh. The co-conspirators were on the outside, trying to help him. They included you both. That picture is borne out by the evidence deriving from EncroChat.

11. EncroChat , which had become a private telephone network for criminals, was dismantled on or about 13 June 2020. It is obvious that the conspiracies in this case did not end at the same time.
12. On or around 22 December 2020, Thomas Kavanagh's new solicitor informed the Operation Hornstay officers that he wished to impart information to the NCA. By 24 December 2020 it was clarified that the information concerned an existing cache of firearms.
13. At that stage, the NCA were still reluctant to engage. Firstly, there remained the possibility of a "Newton" hearing in the Op Hornstay case. Secondly, the evidence gradually coming to light from EncroChat, showed that people on the outside were trying to help Thomas Kavanagh get a reduced sentence. However, the information being talked about was now more specific and raised issues of public safety.
14. Ultimately, on 19 April 2021, NCA officers conducted an initial interview with Thomas Kavanagh. He said he had been told 15-16 months previously that there was a cache of 10-20 firearms which had been moved to N Ireland from Holland.
15. The precise location of the cache was confirmed on 19 May 2021 when Thomas Kavanagh's solicitor emailed to the NCA a map marked with an X, and instructions.
16. The next day police went to the marked location in Newry, Co Down with metal detectors. Two holdalls were found about 3" below the surface of a field. Inside were 11 fearsome guns. There were 3 Skorpion machine guns, an assault rifle, 3 Heckler and Koch self-loading pistols, a PPS43 sub-machine gun, a POF PK1 sub-machine gun, an Intratec DC9 sub-machine gun and an Uzi machine gun.

There was live ammunition for all of them. Some had been deactivated and then reactivated. The Intratec gun had been modified to fire in fully automatic mode only. All were prohibited weapons and successfully test fired.

17. Possession of any one of those guns would have attracted a minimum term of 5 years' imprisonment and a maximum of 10 years.

18. At an earlier stage of the sentencing process I was asked to consider whether a "Newton" hearing was required to resolve contested issues raised by Thomas Kavanagh's Basis of Plea: see DCS **C p1-2**. The principal issue was whether the sentence would be affected in any material way by a decision as to whether the guns found in the ground on 20 May 2021 were already there at the time of Thomas Kavanagh's first offer of information in March 2020. Having received written and oral submissions, my judgment was that sentence would not be materially affected by a factual finding on that point. The conspiracy to pervert justice in this case involved the collection of as many highly dangerous prohibited weapons as possible before Thomas Kavanagh was sentenced.

19. It was obviously agreed that the weapons would be sourced and paid for through networks of serious criminals. In general terms, the 11 guns found in Newry were the kind of weapons being talked about on EncroChat. There is evidence in the chat which suggests that some items were purchased during that period of April – June 2020. Brand names were mentioned. But it was never the Crown's case that there was a precise match between the items mentioned in the chat and those found in Newry. In my judgment, it does not matter when the weapons found in Newry were put there. Further, since I regard Count 5 as spelling out the underlying agreement, the offences in Counts 1-4 aggravate Count 5 rather than vice versa.

20. The offences were complete when the relevant Defendant became party to the relevant agreements. Based on the EncroChat evidence that was no later than 3 April 2020.
21. In my judgment, for the purposes of the Sentencing Council's guideline for offences of perverting the course of justice, this was a case of high culpability and Category 1 harm. The risk of harm was to the administration of justice. No-one has argued otherwise. Accordingly the starting point is 4 years' imprisonment with a range of 2-7 years.
22. This case is pushed above that range by virtue of the means chosen to further the conspiracy to pervert, namely the agreements to purchase highly dangerous firearms and compatible ammunition. Counts 1-4 aggravate Count 5.
23. The limited nature of the plan in this case, must be taken into account. The case is not about the public being exposed to the danger of guns being fired and I am not prepared to ignore completely the fact that 11 serious firearms are now off the street. Taking account of this fact is not to give the Defendants the benefit of their criminality.
24. Following the principles set out in the Totality Guideline, and taking each Defendant's criminality overall, I have assessed the appropriate sentence, before personal mitigation and credit for pleas of guilty, on an individual basis.
25. Jack Kavanagh, although I accept that you became involved out of misguided loyalty to your father from whom you were under a degree of pressure, you went into this with your eyes open. I am prepared to accept that you were lower down in the chain of command than Kent and Byrne. On the other hand, even if you were more of an enthusiastic messenger than an organiser, you knew

perfectly well that you were helping to obtain real firearms and ammunition for a notorious and leading member of an organised crime group. In your case, the starting point for your overall criminality is 7 years.

26. It is a major mitigating factor that you were only 20 years old at the time of the offending. Furthermore, you are of previous good character. Indeed, you had a promising future as a qualified accountant which you have now disfigured. You will now have to lead your life with a record for serious criminal offences. There is an impressive amount of positive good character evidence in your case. Those mitigating factors enable me to reduce sentence, before credit for pleas, to 5 years.

27. You were charged by warrant in August 2022, at a time when were not in UK. In due course you were extradited from Spain. I am not persuaded that the delay provides you with any mitigation. I expect that you, like others, were waiting to see what happened to your co-Defendants.

28. Your PTPH took place on 1 November 2024, when you pleaded Guilty to the 4 charges you faced. In fact, you had given prior notice of your intention to plead guilty and I shall give you full credit. That full credit for plea would normally reduce your sentence to 40 months.

29. Peter Keating, the evidence reveals that you were not entirely enthusiastic about helping this plan move ahead and you may have felt under a degree of pressure. Once you joined the conspiracies, I assess your role as marginally lower than Byrne and Kent. However, despite your age experience, you went along with this outrageous scheme and did your best. Like the other conspirators, and other career criminals across the world, you put your faith in Encrochat to prevent detection. You took a chance, with your eyes open to the

seriousness of what you had agreed to do. My starting point for your sentence is 7 years.

30. You are not a man of good character. Indeed, you are currently serving a 12 year sentence for involvement in serious, organised crime in The Republic of Ireland in 2016 - 2017. That is an aggravating factor and it balances out the personal mitigation advanced on your behalf today.

31. After extradition, your PTPH took place yesterday, 11 December 2024. You also pleaded guilty and I shall give you full credit for those guilty pleas.

32. Jack Kavanagh, I am told that you have already served the equivalent of 37 months. As an act of mercy in your case, I shall pass a sentence which should enable you to be released straight away, or in the very near future. The sentence on Counts 1 & 3 is 37 months, concurrent. There will be concurrent sentences of 12 months on Counts 2 & 4. The total is 37 months.

33. For the purposes of s327 of the Sentencing Act 2020, and in order to achieve my stated purpose, the 493 days spent awaiting extradition should count against the sentence I have passed.

34. Peter Keating, the least sentence I can impose on you is one of 56 months imprisonment, on Counts 1, 3 & 5 concurrent. There will be concurrent sentences of 12 months on Counts 2 & 4. The total is 56 months. I am told that you have spent 15 days in custody which might not count against the Irish sentence. Since it would count against a sentence passed in UK, you should receive the credit for that 15 days against the sentence I have imposed.

35. Victim surcharge in each case.

