

R v Diana Warner

Leeds Crown Court

25 March 2025

Diana Warner– 66 years of age.

You have 5 other convictions for 3 offences of wilful obstruction of the highway, failing to comply with conditions imposed on public assembly and criminal damage.

On 3 occasions, in 2019, and 2021 you were conditionally discharged.

In 2022 you were sent to prison for 12 weeks and later the same year you were fined.

You are not in breach of the conditional discharges since this offence occurred on the 14th December. On 3 occasions you were convicted after a trial and on 4 occasions you were ordered to pay the costs of the litigation.

On 14th December 2021 by a prearranged act, you trespassed on the railway line close to the Drax power station in order to disrupt the train service delivering bio mass wood pellets to the power station. Your actions were filmed by another person in order to create a wider distribution circle for your actions and greater publicity.

You obtained and wore high visibility clothing and armed yourself with an orange flag. As a train approached you stood in the centre of the track between the rails and waved the flag in order to stop the train.

The train did stop since the driver believed that the train would otherwise strike you or that there was a hazard ahead.

Shortly thereafter the driver continued on his journey and you continued with your filming.

When you returned to the level crossing, you waited for the authorities to arrive in order, once again, to give greater prominence to your actions.

In sentencing you I must take into account your culpability and the harm caused as a result of your actions when determining the seriousness of the offence.

There are no sentence in guidelines for this offence which carries a maximum penalty of two years imprisonment.

I have been referred to a number of cases as set out in the prosecution sentencing note. The latest is the case of Hallam and Others 2025 EWCA Crim 199.

Although the facts of those cases is very different to the current matter, I apply the sentencing principles set out and summarised in para 7 of the judgement of the Lady Chief Justice.

In particular, I sentence you on the basis that:

- sentencing in cases of non-violent protests is to be carried out in accordance with normal sentencing principles;
- The correct approach to sentencing in cases of nonviolent protests, such as conscientious motivation and deterrence, was considered in R v Trowland which is to be applied and therefore the seriousness of the offence is to be assessed by considering the culpability of the offender and the harm caused by the offending; The court must also consider which of the five purposes of sentencing, namely punishment, reduction of crime (including its reduction by

deterrence), reform and rehabilitation, public protection and the making of reparation, it is seeking to achieve through the sentence that is to be imposed. Once a provisional sentence is arrived at, the court takes into account relevant aggravating and mitigating features.

- The sentencing exercise in cases of non-violent protest should not be overcomplicated because of the engagement of the European Convention of Human Rights (ECHR). If the common law principles in *Trowland* are applied properly, the defendant's ECHR rights should be observed. The qualified rights to freedom of expression and assembly under Articles 10 and 11 are relevant to sentence. It is no part of the judicial function to evaluate the validity or merit of the cause in support of which a protest is made. However, a conscientious motive on the part of protesters may be a relevant consideration, in particular where the offender is a law-abiding citizen apart from their protest activities. In such cases, a lesser sanction may be appropriate: a sense of proportion on the part of the offender in avoiding excessive damage or inconvenience may be matched by a relatively benign approach to sentencing. The court may temper the sanction imposed because there is a realistic prospect that it will deter further law-breaking and encourage the offender to appreciate why in a democratic society it is the duty of responsible citizens to obey the law and respect the rights of others, even where the law is contrary to the protesters' own moral convictions. However, the more disproportionate or extreme the action taken by the protester, the less obvious is the justification for reduced culpability and more lenient sentencing
- References to the sentencing outcomes in different cases are unlikely to be helpful, since each case will turn on its own facts.

Accordingly I will deal with this case upon its particular merits.

In terms of culpability, this was a deliberate, planned and targeted disruption to the rail service committed in order to try to raise awareness of the activities and effects, as you see them, at Drax Power Station concerning the use of biomass pellets as a fuel. You travelled from Bristol in order to commit this offence on a day when you were due to appear before the High Court in London, having identified that date in order to bring further publicity to your cause.

You attended with at least one other and had acquired high visibility clothing for the purpose of the disruption.

I turned to the harm caused:

The Harm was a short delay to the train and rail personnel were dispatched to the scene.

Mitigation:

In mitigation you receive no credit for a guilty plea since you ran this case as a trial in the Crown Court. It could have been heard in the Magistrates' Court.

I do note that you do not propose you continue to protest beyond September 2024

As you told the jury you have a good employment record. As disclosed in the PSR you worked as an General Practitioner for 33 years before retiring in 2019. You now live in a house which you own, and have both state and NHS pensions. You have no financial concerns.

You do not pose a direct risk of harm to others.

I accept that you are deeply committed to the cause that you support and that your motive is conscientious.

You did not cause disruption to the passenger lines Since the railway line lead only to Drax power station.

You did not cause any direct damage either to the train or the premises of Network Rail.

Your motive was to seek greater publicity for your cause.

I have taken into account the contents of the PSR and the character references submitted both at trial and for this hearing.

Since your sentence of imprisonment you have desisted from direct action such as this although you continue to hold your views, which you are perfectly entitled to hold and express, lawfully. You continue to work for a thinktank producing reports on a variety of aspects of daily life including the environmental impact on public health.

You are assessed to be a low risk of reconviction or causing serious harm to the public. I agree with those assessments.

You are both a mother and a grandmother and have caring responsibilities for your mother as well as your grandchild.

In passing sentence upon you I have considered the aims of sentencing as set out above.

Given that no damage was either planned or inflicted, that your protest was carefully targeted and short-lived and avoided direct disruption to the

wider public, I am prepared to adopt the approach taken by the Supreme Court and the Court of Appeal criminal division in both 2006 cases of Jones.

You will not be penalised for running a trial, at least not in terms of the nature of the sentence to be imposed.

You will be conditionally discharged for two years from today's date. That means that you must not engage in similar behaviour over the course of the next two years. If you do then you will be in breach of a court order and the penalty may be different.

You have also caused expense to the public purse by electing to be tried before the Crown Court and a jury.

I note your financial circumstances to be good and that you own your house. You could have had this matter determined in the Magistrates' Court but chose to elect trial to the Crown Court thereby incurring greater cost to the public purse and you have taken up valuable court time.

You are not being punished for electing trial however that is the reason why the costs are increased as you are aware from your other convictions.

Accordingly I will make an order for costs in the sum of £4,380.00 to be paid at a rate of £200.00 per month. I find that it is just and reasonable to order you to pay the entirety of the costs.

The victim surcharge will apply and will be collected administratively.

His Honour Judge Guy Kearn KC

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25/03/2025