

R

v.

ROSS McGINN (aged 33 b 7/5/91)

ANDREW ROBERTS (aged 42 b 8/7/82)

GRAHAM ROBERTS (aged 47 b 27/3/77)

GREG BLACK (aged 28 b 29/2/96)

LEWIN CHARLES (aged 22 b 19/8/02)

AIDEN DORAN (aged 27 b 1/10/1996)

JACK SHERRY (aged 20 b 10/7/04)

COLIN WHITE (aged 62 b 16/8/62)

#### SENTENCING REMARKS

1. In respect of the Defendants Ross McGinn, Andrew Roberts, Graham Roberts, Greg Black and Colin White, I adjourn the determination of their benefit from criminal conduct upon the timetable already agreed, with a further mention on 31<sup>st</sup> October 2025.
2. In the cases of Lewin Charles, Aiden Doran and Jack Sherry, the surcharge provisions apply, and collection orders will be issued.
3. All 8 defendants for sentence today have pleaded guilty.
4. All defendants, except Colin White, pleaded guilty to Count 1 (encouraging or assisting in the production of cannabis and Count 2 (conspiracy to abstract electricity). Ross McGinn, Andrew Roberts and Colin White have all pleaded guilty to Count 4: conspiracy to steal. Finally, Colin White pleaded guilty to a count of encouraging or assisting the abstraction of electricity.
5. Ross McGinn and Lewin Charles indicated guilty pleas at the first opportunity and will therefore receive maximum reduction in their sentence.
6. All the others to be sentenced today, with the exception of Colin White, pleaded guilty at PTPH and will receive a reduction in their sentences of 25%.
7. Colin White pleaded not guilty at PTPH and his case was adjourned for trial. He pleaded guilty to counts 4 and 5 just over a fortnight before his trial. His reduction in sentence will be slightly above 15%.

8. All the Defendants are to be sentenced for their part in the unlawful and dishonest abstraction of electricity organised by Andrew Roberts and Ross McGinn under cover of their company Elev8 Civils and Utilities Limited. All other defendants for sentence, with the exception of Colin White, worked at one time or another for Elev8. Graham Roberts was the electrical engineer. The others were groundsmen. Colin White worked at the time for Scottish Power Energy Network (SPEN) and had access to specialist materials needed to undertake the illegal electrical work. He conspired with Ross McGinn and Andrew Roberts to steal substantial quantities of SPEN equipment and materials to order for Elev8.
9. In every one of the 54 events that comprise the sequence of events to Operation Spark, the Defendants were involved in the unlawful joining onto the mains supply of cables which were then run into disused or vacant premises for the sole purpose of abstracting electricity to power commercial cannabis factories. They did so often in broad daylight and in plain sight. They used the cover of liveried vehicles, signage, barriers and high visibility clothing to appear as though they were carrying out legitimate street works. When challenged, they were to claim on occasions that they were merely undertaking some ducting work. The work they did was paid for in cash. Graham Roberts was prolific in his jointing of cables; indeed, he was arrested twice during the operational period of the conspiracy and, both times, returned to undertaking the same work day in and day out.
10. Most (but not all) of the workers were organised by a WhatsApp group which Greg Black set up and administered. To this group family members were recruited, including Greg Black's father, a man of hitherto impeccable character, who had the indignity of facing a crown court trial before he was acquitted by the jury.
11. All the defendants knew or came to know the purpose of their work. They were each driven by greed to continue this illegal trade. By their organised criminal actions, they encouraged or assisted other organised criminals to grow, harvest and distribute a massive quantity of cannabis. Each cannabis factory was capable of growing thousands of plants. They were set up for rolling harvests every 80 days or so. Every cycle of 2000 cannabis plants would require about £250,000 worth of electricity. Every kilo produced had a wholesale value of £3,500. From the 54 cannabis factories the police know about, it has been conservatively

estimated that one crop from each would generate street value cannabis sales of between £7 m and £22 m.

12. Of course, the Court recognises that none of the Defendants here for sentence – not even the organisers – had the expectation of the sorts of financial rewards that those who operated and managed the farms would expect to yield. Yet the work these defendants did was pivotal to the success of each cannabis farm for, without a successful connection or repair to an already compromised connection, the farm could not operate.
13. It was hazardous work. Those who work legitimately on the network must obtain qualifications and detailed planning goes into electrical work before utility work can commence. Elev8, by contrast, pitched up, used a scanner to find a suitable cable, commenced digging, cut into the mains and spliced the other end to an unmetered cut-out distribution board, then poured resin onto the joint, filled the hole, tidied up and left. Little or no regards was had to safety. On one occasion a neighbour filmed electrical explosions occurring within a hole in which Graham Roberts was attempting to splice onto the mains cable. He and the others simply left the site.
14. This organised criminal activity went on for a protracted time. I have no doubt it was in full swing by the time Graham Roberts was first arrested in Liverpool outside a cannabis farm on 19/11/2020. I am sure it carried on in the year between November 2020 and when data started to be collected by the police in November 2021. I am sure that after Greg's phone was seized in 2022, the group activity went on well into 2023.
15. It follows that anyone who participates, in any way, in this unlawful and organised activity contributes to the weight of numbers and to the common unlawful purpose, thereby offering support to other members of the group. In those circumstances, it is wholly unrealistic to view the actions of any particular defendant in isolation from the actions of others.
16. That said, culpability and harm must be assessed separately in the case of each defendant because clearly some are leaders, others played a subordinate role and others still for a lesser time and on many fewer jobs. In that regard, there is a

role for individual mitigation flowing from each defendant's involvement and personal circumstances.

17. In sentencing the Defendants I have to have regard to sentencing guidelines. It is accepted by all Counsel that the appropriate guideline for Count 1 is the guideline for the production of cannabis, the underlying offence for which all defendants, except Colin White, assisted or encouraged.
18. In applying those guidelines, it is clearly a category 1 case, given the amount of cannabis that was grown in the farms to which these defendants supplied the electricity abstracted from the network.
19. As for Role, I am sure that Ross McGinn, Andrew Roberts and, sitting slightly below them, Graham Roberts, occupied leading roles in this organised criminal activity.
20. As regards the others, I am not persuaded that any of the "workers" can properly and fully be described as occupying a "lesser" role. An individual may have worked for less time, and on fewer jobs than others, and having been recruited by more sophisticated criminals who appealed to the naivety of the younger members of the team. But each defendant for sentence today was clearly motivated by significant financial gain and were aware of the scale of the operation by attending on multiple jobs.
21. Colin White's position is made more serious by the gross breach of trust reposed in him by his employers, SPEN. Whilst he is not to be sentenced for assisting or encouraging the production of cannabis, he was fully aware that the materials and equipment he was supplying to Elev8 were to be used for the unlawful abstraction of electricity. The scale of his theft is revealed by the fact that on the day of arrest he had over £5,000 of SPEN materials at his home address or at elev8 premises in Wigan.
22. I have considered whether any defendant's case may be distinguished from the general principle as outlined in the case of *Hall* [2014] 2 Cr App R (S) in which the Court of Appeal said,

"It is important to emphasise what was involved in the offences of which these appellants were convicted: the doing of an act which was capable of assisting in the supply of Class A drugs, and the belief that one or more

such offences would be committed and that the act would assist in its commission. When those ingredients of the section 46 offence are proved or admitted, it seems to us that the appropriate sentence generally will not differ significantly, and may perhaps not differ at all, from the sentence which would have been appropriate for the anticipated offence or for conspiracy to commit the anticipated offence.”

23. Mr. Dillon for McGinn and Mr. Jim Smith for Andrew Roberts submit that the Defendants actions in organising the connection to a cannabis farm of a mains cable to unlawfully abstract electricity to power that farm is one step removed from the actual production, harvesting and distribution of cannabis. By contrast to *Hall*, in which the importation of large quantities of benzocaine could only have led those involved to know that similarly large amounts of cocaine were going to be adulterated, it is said that these defendants may not necessarily have known the scale of the production to which they were lending assistance.
24. I do not agree. The range of premises to which Elev8 were commissioned ranged from houses to a former hotel, shops, a nightclub, a pub and – in one instance – a vacant department store on the High Street in Bangor. No defendant arranging or working on any of these premises could have failed to appreciate the scale of the production to take place within and all played a pivotal role the electrical connection, without which the farm could not operate.
25. A Leading Role at Category 1 has a starting point of 8 years with a range 7 – 10 years’ imprisonment.
26. A Significant Role at Category 1 has a starting point of 5 ½ years’ imprisonment with a range of 5 – 7 years’ imprisonment.
27. Conspiracy to steal: this was a category 2A offence with a starting point of 2 years’ and a range between 1 and 3 ½ years’ imprisonment.
28. In the cases of Ross McGinn, Andrew Roberts and Greg Black, their positions are aggravated by their previous convictions:
  - a. On 16<sup>th</sup> May 2014: Ross McGinn received 40 months’ imprisonment for possession of cocaine and cannabis with intent to supply.

- b. On 5th September 2012, Andrew Roberts received 42 months' imprisonment for conspiracy to supply cocaine. And on 9<sup>th</sup> February 2016, he received 54 months for conspiracy to supply heroin.
  - c. On 24<sup>th</sup> February 2014, Greg Black received 3 years youth detention for importing drugs into Jersey. In September 2023 he was convicted of possessing cannabis with intent to supply and received a suspended sentence.
29. Colin White, now aged 62 has previous convictions but they were a very long time ago and for nothing as serious as these matters.
30. Aiden Doran, aged 27, is effectively of good character, but has a youth caution for producing cannabis. It makes his position no worse.
31. Lewin Charles (aged 22) and Jack Sherry (the youngest at aged 20) each have no previous convictions. They are still young men, and their offending took place before they were fully mature. That will be reflected in a reduction from the starting point for Count 1. They have each been on EMC since 9<sup>th</sup> February 2024 – 393 days (equivalent of 196 days in custody).
32. I have read each of the PSRs in this case and I have read every one of the letters, reports, testimonials and references. I have taken into account everything that has been said about each defendant both in documents and in submissions from their Learned Counsel.
33. The Court notes that all those Defendants who have been remanded in custody since their arrest on 9<sup>th</sup> February 2024 have used their time constructively and, in the case of Ross McGinn, he has been a model and indeed brave prisoner. To that end, those who have been remanded have found the time to reflect on their behaviour and the position in which they find themselves, but more significantly, their families. Their expressions of remorse in the personal letters and to the authors of the pre-sentence reports are all – I am sure – genuinely felt and expressed.
34. All the defendants come from supportive families who are already suffering the loss of a loved one who has been remanded into custody for well over a year. Defendants have missed significant life events such as the birth of a child or have been absent at times of loss, such as the recent death of Andrew Roberts' father.

They have not been there to support children who need much support; an example being Greg Black's son who has ASD. The financial burden of their incarceration places a huge strain on families that had come to rely on their financial and emotional support; those families have had to adapt to a new way of life that has interrupted their own employment opportunities.

35. I appreciate it has been an anxious wait for all those who have pleaded guilty at early stages of this case whilst a trial had to be conducted.

36. Whether young or older, all the Defendants have demonstrated their willingness to engage in legitimate gainful employment, some of which will await their eventual release. All are assessed as at low risk of reconviction.

37. Colin White has a child at university. Mr White plays an important role to support his son.

38. I consider the offending at Counts 1 and 2 to be two sides of the same coin. Likewise Count 4 in respect of Ross McGinn and Andrew Roberts. No uplift to the sentence on one Count is therefore necessary to reflect the totality of offending. All sentences will be concurrent.

39. The Sentencing Act sets out the purposes of sentencing: they are

- a. The Punishment of offenders
- b. The Rehabilitation of offenders
- c. The Reduction of crime, by the use where appropriate of deterrent sentences
- d. The Protection of the Public, and
- e. The making of Reparation.

40. These offences are so serious that only custodial sentences are appropriate, for no other type of sentence will mark the seriousness of the offences and the need to deter others tempted to engage in serious organised crime as a way towards easy cash.

41. Each defendant facing sentence on Count 1 has chosen to ignore the damage done by the trade in illegal drugs. As the author of Jack Sherry's PSR put it,

"Mr Sherry has engaged himself with a criminal enterprise that is fundamentally predatory. Cannabis is not a benign substance and its production could be seen to effectively prey on the weakness of others. The

Court will have routine exposure to the negative impact that cannabis consumption has at a societal level.”

42. Indeed this court does. Long term use of cannabis can wreak havoc on the physical and mental health of users. It causes them to get into debt with their dealers, who then exert pressure on them to commit crime to repay that which they owe. It fuels acquisitive crime. And the trade breeds and promotes violence – often extreme – to protect farms and distribution from other organised gangs.
43. As regards the economic cost of the defendants’ activities: the amount of electricity unlawfully abstracted runs well into the millions. The damage done to the network by the slipshod and often precarious cut-ins cost the DNOs significant amounts to rectify – the cost of which is ultimately borne by the consumer. Property owners unaware that their empty or vacant premises have been trashed in order to grow cannabis must pick up the costs of rectification.
44. Ross McGinn and Andrew Roberts. Taking into account the aggravating and mitigating factors, the appropriate sentence on Count 1 would, in each of your cases, have been a sentence of 8 years’ imprisonment.
45. Ross McGinn, your sentence is reduced by reason of your guilty plea to 5 years and 4 months’ imprisonment. There will be concurrent sentences of 2 years’ imprisonment for Count 2 and 2 years’ imprisonment on Count 4. The total sentence (of which you will serve 40% less the time you have already spent on remand in custody) is 5 years and 4 months’ imprisonment.
46. Andrew Roberts, your sentence is reduced by reason of your guilty plea to 6 years’ imprisonment. There will be concurrent sentences of 2 years’ 3 months’ imprisonment for Count 2 and 2 years’ 3 months’ imprisonment on Count 4. The total sentence (of which you will serve 40% less the time spent on remand) is therefore 6 years’ imprisonment.
47. You will both be subject to a Serious Crime Prevention Order for 3 years upon release from the custodial part of your sentence. The terms sought by the Prosecution are necessary and proportionate, The Court having reasonable cause to believe that an Order under section 19 of the Serious Crime Act 2007 would protect the public by preventing, restricting, or disrupting involvement by the



Offender in serious crime in England and Wales. Breach of a SCPO is itself a criminal offence punishable by up to 5 years' imprisonment.

48. Graham Roberts, the appropriate sentence on Count 1 is 7 years. That sentence is reduced by reason of your guilty plea to 5 years and 3 months' imprisonment. There will be a concurrent sentence of 2 years and 3 m on Count 2. The total sentence (of which you will serve 40% less the time spent on remand) is 5 years' and 3 months' imprisonment.
49. Greg Black, the appropriate sentence on Count 1 is 5 years. That is reduced by your guilty plea to 3 years 9 m. There will be a concurrent sentence of 2 years 3 m on Count 2. Total sentence 3 years and 9 months' imprisonment.
50. Lewin Charles, the appropriate sentence on Count 1, taking into account your age, lack of maturity and involvement in fewer of the actual events is 4 years'. I reduce that by reason of your guilty plea to 2 years and 8 m. 196 days will be deducted from your sentence to reflect the days spent on EMC. There will be a concurrent sentence of 2 years' imprisonment for Count 2.
51. Aiden Doran, the appropriate sentence would have been 4 years'. That is reduced by reason of your guilty plea to 3 years imprisonment. There will be a concurrent sentence on Count 2 of 2 years' imprisonment.
52. Colin White. For the count of conspiracy to steal (Count 4) the appropriate sentence is 3 years. That is reduced by reason of your guilty plea to 2 ½ years. I appreciate that is close to a sentence that could be suspended but even if it were, I consider the offence so serious that only immediate imprisonment would provide adequate punishment. There will be a concurrent sentence of 18 m for Count 5.
53. Jack Sherry, as the youngest, the most immature, naïve, with no previous convictions and having taken into consideration the relatively few jobs you undertook for Elev8, I consider there is strong personal mitigation to reduce your sentence to an appropriate sentence of 2 ½ years' detention in a YOI. That is reduced by reason of your guilty plea to a sentence of 22 m. That sentence is therefore capable of being suspended. You have been on EMC for nearly 400 days. I consider the prospects of rehabilitation are good and therefore the sentence will be suspended for 18 m. You will perform 120 hours of unpaid work within the first

12 m unless the Probation apply for further time to complete. No excuses. Commit an offence in the next 18 months and this sentence will be activated. If you don't do the hours of UPW, you'll be brought back to court and punished. If you have wilfully and deliberately breached the order by not doing the UPW then the sentence can be activated. There will be a concurrent sentence of 16 months' detention in a YOI, suspended for 18 months on Count 2.

Liverpool Crown Court

His honour Judge David Potter

7<sup>th</sup> March 2025