THE RECORDER OF SHEFFIELD

JUDGMENT

REASONS FOR SENTENCE

THE RECORDER OF SHEFFIELD
HIS HONOUR JUDGE JEREMY RICHARDSON KC

AT

THE CROWN COURT AT SHEFFIELD

ON

FRIDAY 11TH JULY 2025

REX

V

JOSEPH HAYTHORNE

Preamble

The defendant, Joseph Haythorne, was sentenced on Wednesday 2nd July 2025. He was sentenced to 15 months imprisonment. He was given a summary of the reasons for the imposition of that sentence. He, thus, understands my reasoning. I indicated the sentencing exercise was quite involved and full reasons would be given in a judgment. He was given the opportunity to be present today, but requested he be excused, as he could read this judgment. I agreed to that course of action.

Accordingly, I formally excuse the attendance of the defendant.

I direct a copy of this judgment be delivered to him in prison.

Although I cannot direct this, in the event of any application for leave to appeal against this sentence, I invite the single judge who considers this matter to extend time to allow the 28 days to run from today as opposed to the date upon which I passed sentence.

This judgment gives my definitive reasons for passing the sentence imposed 9 days ago.

This judgment is handed down in open court without the necessity of the attendance of counsel. They will each be sent a copy of this judgment and anyone may have a copy of this judgment upon request.

Introduction

1. The defendant is Jospeh Haythorne. He is aged 26 years. He was committed for sentence by Sheffield Magistrates Court.

2. On 2nd July 2025 the defendant was sentenced to 15 months imprisonment in respect of his guilty plea to the crime of Publishing Material which was Threatening, Abusive or Insulting with the Intention of Stirring-up Racial Hatred contrary to section 19(1) of the Public Order Act 1986. The necessary statutory charge was imposed.

3. The maximum sentence for that crime is 7 years imprisonment. It was accepted the case falls within category A1 of the Definitive Guideline of the Sentencing Council for this crime. There is, thus, a starting point of 3 years imprisonment and a range of 2 to 6 years.

4. There is no question: this case plainly crosses the threshold for a custodial sentence. My analysis is set out at paragraphs 5 and 60 (infra); and this was explained to the defendant last week

5. I make it plain I have increased the notional sentence to 3 ½ years from the starting point, following a trial, by reason of the serious aggravating feature of timing the post when there was heightened tension stemming from the Southport incident, and the crowds were gathering in Rotherham in the vicinity of the Holiday Inn Express Hotel. I have then reduced that to 3 years to take account of the mental health of the defendant – he has longstanding clinical depression – which served to explain his conduct and affects his culpability up to a point. I have further reduced the notional sentence to 2 ½ years by reason of the further personal mitigation. It is at that juncture I have reduced the notional sentence by one-third to reflect the guilty plea and the stage at which it was entered (the first reasonable opportunity). Ordinarily, in the event I imposed an immediate custodial sentence, I would have modestly reduced the sentence of 20 months to 18 months to take account of the difficulty facing those serving relatively short sentences in accordance with the usual practice (**R v Manning**). In this case I reduced the sentence to 15 months imprisonment to take account of that factor and the mental health of the defendant, given the opinion of

the consultant psychiatrist that prison will fall hard upon him. There was also a small element of that to reflect the "prosecution mistake" (as it was called) – see paragraphs 15 to 20 (infra).

6. The argument advanced on behalf of the defendant was to the effect a suspended sentence of imprisonment was justified in this case. I made it plain – and shall do so again in this judgment – that I carefully conducted the balancing exercise required by the Definitive Guideline of the Sentencing Council on the Imposition of Custodial Sentences and reached the unhesitating conclusion that the facts and circumstances of this case warranted the imposition of immediate custody. It was a case that was so serious that *only* an immediate sentence of custody can be justified. That was not a marginal decision and it is my judgment to suggest otherwise missed the mark by a country mile.

7. Put shortly – the correct sentence was 20 months imprisonment, but it was reduced further, for the above reasons, to 15 months. Had it been possible to suspend the sentence – and the balance fallen the other way – that is the sentence which would have been imposed. In the result the sentence was immediate custody; it was, accordingly, reduced further to secure justice and fairness.

8. I directed the psychiatric report and the GP letter should be sent to the prison so that the medical authorities there are fully apprised of the psychiatric condition of the defendant.

9. It has been my misfortune – as well as my duty – to have sentenced most of the cases arising from the major public disorder in Rotherham on 4th August 2024. I am extremely familiar with the events and the CCTV footage. This is the first case of its kind to come before this Crown Court of an individual who published material on the internet designed to stir-up racial hatred at the specific site of the hotel in Rotherham.

10. Racism and racially motivated violence suffused the events at Rotherham from first to last. It also infected this defendant who was filled with racialist hatred at least for a time. To suggest he was not, given what he posted and when, was a submission without merit.

11. There are four key facts which affect sentence in this case:

    (1) The relevant publication was "*Go on Rotherham, burn any hotels wi them scruffy bastards in it*". Associated to it was a link to a far right activist – who I forbear to name.

    (2) That was posted at 12.26pm on 4th August 2024 just as the major incident was commencing in the vicinity of the Holiday Inn Express Hotel. The fire outside the emergency exits of the hotel was ignited

at some stage after approximately 2pm and was stoked repeatedly thereafter.

(3) The post was online for 17 minutes until it was taken down by the defendant.

(4) It was seen by 1100 people in that time and it is unknown how many times it was further distributed.

12. Those four key facts are the basis of the sentence imposed in this case. It has to be stated that what he suggested in his online post – seen by 1100 people in the 17 minutes it was published – eventuated about an hour and a half after the post. There was a fire adjacent to the hotel and other fires ignited around and about – including at an electricity generator, on grassed banking near houses, and in the road.

13. The incident at Manvers in Rotherham was exceptionally serious.

14. Very substantial sentences of imprisonment have been imposed on those who were involved in the incidents of arson and violent disorder. This includes extended sentences. Those who participated in the violent disorder have been – and continue to be – sentenced to appropriate terms of custody. It is invariably immediate custody.

The Prosecution Mistake

15. This case was the subject of a "prosecution mistake" as I shall call it in this judgment. It was a most unfortunate mistake and it was discovered at a point before sentence, such that it could be conveniently corrected. It has caused a slight delay, but it could have been much worse.

16. The mistake was simply that the consent of HM Attorney General was not sought before the institution of the prosecution as required by statute. The case proceeded without anyone spotting that error. The defendant pleaded guilty, he was committed for sentence, the case was opened, and mitigation advanced.

17. Fortunately, I took the view I needed time for reflection as the case was unusual. I adjourned for a short while. It was during this time the prosecution realised the error. The case was immediately restored, and I declared all that had occurred in the Crown Court to be a nullity. The case was remitted to the magistrates court where the defendant was permitted to vacate his plea, and those proceedings were dismissed due to the absence of the consent of the Attorney General. In the meanwhile the consent of the Attorney General was sought. It was given. The proceedings started afresh. This was all achieved within a week.

18. The defendant pleaded guilty in the newly instituted regular proceedings and he was again committed for sentence. The case was

re-heard – this time correctly – and I passed sentence on 2nd July 2025.

19. It was very unfortunate and I have received a letter of apology from the Chief Crown Prosecutor.

20. Had I passed sentence on the first occasion, the matter would have had to be un-ravelled in the Court of Appeal. That was mercifully avoided.

Other Cases

21. I had drawn to my attention other cases where judges in the Crown Court have passed sentence in similar factual circumstances. These are not authorities of the Court of Appeal, but they are very useful to enable me to gauge how other Crown Courts have approached this form of criminality.

22. I have considered the sentencing remarks of The Recorder of Brimingham (His Honour Judge Melbourne Inman KC) in the case of R v Lucy Connolly. That case went to the Court of Appeal and the sentence was upheld. I have also considered the sentencing remarks of Her Honour Judge Adrienne Lucking KC at Northampton in the case of R v Tyler Kay.

23. Whilst these case have been of great interest and use, I make it abundantly clear that every case is different and I have approached my task in this case on an individual basis.

The Backdrop Facts

24. On Sunday 4th August 2024 there was major civil disorder in the Manvers area of Rotherham. It was an incident which may have started peaceably enough, but it soon developed into criminality on the grand scale where several hundred people were intent on mob rule.

25. That will never be tolerated in this country. It should never be countenanced in any civilised country.

26. The hotel was used to house those seeking refuge in the United Kingdom. There is no doubt the issue of immigration is a legitimate matter for public and political debate. Public protest is capable of being a lawful form of expression. We live in a free and democratic country where public debate and freedom of expression is entirely acceptable.

27. What took place in Rotherham that day had nothing whatever to do with legitimate public protest. It was a desire to perpetrate mob rule and commit very serious criminal offences in the process.

28. The incident was part of wider national civil unrest fostered by a form of malignancy in society spread by malevolent users of social media. This is the role the defendant took. It is right to observe that he read ignorant and inaccurate reports online and was unable to see them as that. He spread the venomous message. That message – and it was a message directed at the occupants of the hotel in Rotherham – was an encouragement to set fire to the hotel in which they were housed by the authorities. The message was acted upon by others. What the defendant suggested and encouraged – eventuated. That is why this post by the defendant was a serious criminal act warranting condign punishment. He was not the only online post encouraging this. He made a contribution to what occurred.

29. The disorder that eventuated was racist and extremely frightening for anyone who was there. It was perpetrated by an ignorant and extremely violent mob. There was serious violence and extremely threatening conduct towards two groups:

    (1) Those in the Holiday Inn Hotel which included residents, staff and some police officers who were inside the hotel.

    (2) Police officers on foot, on mounted duty, with police dogs, and in police vehicles.

30. It was not only officers from the South Yorkshire Police, but other police forces too who came to assist. All of those officers are deserving of the highest praise for the way in which they resisted provocation and handled an immensely challenging situation with bravery, professionalism and skill. Each one of the officers was doing his or her duty to maintain order and quell disorder in very difficult circumstances.

31. As a measure of how serious the incident became; 64 police officers were injured, several seriously; 3 police horses were injured; and 1 police dog was also injured. They required veterinary care.

32. Those in the hotel were terrified by what occurred outside and inside the hotel when the building was entered. When the fires were deliberately set, they thought they were about to die. They could not leave the hotel for fear of what would happen to them. They had to remain and were therefore in acute danger by reason of the fire.

33. There were 22 members of staff in the hotel. There were approximately 200 hundred residents in their rooms on the upper floors. They could not comply with the automated emergency recorded messages and fire alarms instructing them to leave the premises at once. None were physically injured, but many have all been mentally scarred. They were all in peril of being killed or seriously injured. Immense damage was caused to the hotel and the surrounding area.

34. I have deliberately set out those details to indicate the seriousness of what eventuated.

The Facts

35. The defendant has no previous convictions.

36. It appears he harboured a racialist mindset at that time. I am told the defendant was angry at what he perceived had occurred in Southport.

37. He is entitled to hold whatever irrational and toxic views he wishes, providing he does not act or behave unlawfully.

38. I have absolutely no doubt he was encouraged to do as he did by other malicious and ignorant posts on social media.

39. At 12.26pm, having seen other malicious online posts, the defendant placed the following on his X (formerly Twitter) open online account page:

"*Go on Rotherham, burn any hotels wi them scruffy bastards in it*".

40. There can be no doubt whatever that online post was published for these purposes:

(a) To encourage those at the Rotherham protest to set fire to the hotel with the occupants inside.
(b) It was plainly racialist as it was well-known the hotel housed those seeking refuse.
(c) It was abusive
(d) It plainly was designed to inflame racial hatred.

41. The post was visible for 17 minutes. It also included a link to a far right activist.

42. During those 17 minutes 1100 people viewed the post. It is not known whether they published it further. I will not make an assumption, for the purposes of sentencing, that happened, although it is highly likely it did.

43. After those 17 minutes elapsed the defendant realised the stupidity of what he had done and removed the message. The damage had already been done.

44. There is no evidence to suggest that there is a direct corelation between that post and what the mob did at the hotel. Several defendants in other cases – not all – have indicated they saw online posts. I am satisfied that this post by this defendant had an impact on what occurred, but his post was not the only one and he was encouraged to do as he did by previous online malignancy connected

to the proposed Rotherham disorder. As I have explained he contributed to what occurred.

Sentencing Guidelines

45. It has not been disputed the case falls with category A1 of the definitive guideline of the Sentencing Council where there is a starting point of 3 years and range of 2 to 6 years.

46. For the avoidance of doubt the analysis is as follows: in terms of culpability the case involves the defendant having an intention to incite serious violence – he was encouraging others to burn down a hotel in which those seeking refuge were housed. In terms of harm there was widespread dissemination (to 1100 people) of material which directly encouraged activity which threatened life.

47. There are the aggravating features of the timing of the post just as the disorder was getting under way and escalating; and it was in the midst of a sensitive period of time following the murder of the children in Southport coupled to the misinformation surrounding that by other malicious people on social media.

The PSR and Psychiatric Report

48. The PSR sets out how the defendant was – and remains – very remorseful for his actions. He described his conduct as a "moment of madness" and how he was in a rage when he posted the message. The probation officer makes the valid point the conduct of the defendant contributed to the harm caused at Rotherham. It appears the defendant left school at 16 without qualifications. Notwithstanding, he secured employment and was working for an air-conditioning company earning £40,000 per year.

49. I have read the psychiatric report prepared by Dr Shenoy. The report concludes the defendant had a depressive illness at the time of the offending and this has endured for a long time. Dr Shenoy states this at paragraphs 7.8 and 7.9 of the report:

> "(The defendant's) depressive symptoms are treatment resistant, and he has continued to suffer with these symptoms despite being compliant with treatment as prescribed. One of his symptoms is irritability and this can be exacerbated by negative life events. In my view he became increasingly distressed by news about the arrest of the Liverpool attacker and then got overtly emotional by thinking about his nieces and nephew is entirely plausible from a psychiatric perspective.
>
> His depressive symptoms would have meant that he viewed these events in a more negative light than others and the irritability/anger/distress he felt would have no doubt have been

exacerbated by his depressive symptoms. I am therefore of the opinion that his depressive symptoms have a direct impact on his behaviour at the time. However, the fact that he realised the folly of his ways and deleted the tweet within a few minutes is reflective of him being aware of his actions at the time."

50. I have well in mind the guidance of the Sentencing Council in respect of sentencing offender with a mental disorder. Pursuant to paragraph 2 of that guidance it is a matter which must always be considered, but may not always have an impact on sentencing. Culpability may be affected by a mental disorder. I have paid close attention to the section on culpability and draw attention to paragraphs 10 to 13:

> "10. The sentencer should make an initial assessment of culpability in accordance with any relevant offence-specific guideline, and should then consider whether culpability was reduced by reason of the impairment or disorder.
>
> 11. Culpability will only be reduced if there is sufficient connection between the offender's impairment or disorder and the offending behaviour.
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> 12. In some cases, the impairment or disorder may mean that culpability is significantly reduced. In other cases, the impairment or disorder may have no relevance to culpability. A careful analysis of all the circumstances of the case and all relevant materials is therefore required.
>
> 13. The sentencer, who will be in possession of all relevant information, is in the best position to make the assessment of culpability. Where relevant expert evidence is put forward, it must always be considered and will often be very valuable. However, it is the duty of the sentencer to make their own decision, and the court is not bound to follow expert opinion if there are compelling reasons to set it aside."

51. I adopted that approach when forming my assessment in this case.

Mitigation

52. The solicitor representing the defendant made a number of points in mitigation. I have read the sentencing note she presented. The main thrust of her argument was to the effect I should pass a sentence which was capable of suspension and then, applying my mind to the guideline on the imposition of custodial sentences, bring the balance firmly in favour of a suspended sentence order.

53. I will summarise the import of her submissions:

(1) The guilty plea was highlighted – the sentence must be reduced by one-third.

(2) The state of mind of the defendant at the time he posted the offending material.

(3) It was advanced that prison will have a disproportionately punitive effect on the defendant.

(4) This case is different to the other cases where judges have passed sentence. A number of sentencing remarks were called to my attention.

(5) Delay.

(6) The prosecution mistake.

(7) It was suggested the defendant was on "the cusp" of prison and therefore his mental health should militate in favour of a non-custodial disposal (see paragraph 22 of the mental health guideline).

(8) The character references. I have read them all.

(9) The remorse of the defendant.

(10) The fact the defendant is not affiliated to the far right – despite him offering a link to a well-known far right activist.

(11) The fact this was an isolated post and not part of a campaign.

(12) It was described in submissions the defendant had endured "11 months of Hell".

54. The basis of the submissions made to the court were to seek to minimise the gravity of what the defendant had perpetrated despite the fact he had written a letter to me expressing remorse and taking full responsibility for his actions. I also found the argument that because he did not attend the violent disorder, he was markedly different to those that did and was less culpable, to be unpersuasive.

Conclusion

55. The defendant undoubtedly suffers from a form of depression which is not amenable to treatment. It is a mental disorder which affected his culpability up to a point, and which served to reduce the sentence. I have well in mind the passage in the report of Dr Shenoy which I have already quoted (supra).

56. I am also conscious that prison will fall particularly hard upon the defendant.

57. I have already set out why I take the view this case falls into category 1A and there are the aggravating features I have identified.

58. The argument that the "prosecution mistake" should affect sentence is something I have considered and is part of my decision to reduce the sentence from what it would otherwise be having regard to the **Manning** principle. The fact the immediate sentence will fall hard on the defendant coupled to the prosecution mistake provides a justification for my decision to reduce the sentence further. Although, it has to be stated the defendant knew what would happen once the case was restarted following the mistake.

59. The defendant did not instigate the disorder, but he contributed to it and his post was viewed by 1100 people in the 17 minutes it was online until the defendant realised the enormity and stupidity of what he had done. What he encouraged – eventuated. That is the very serious aspect of this case.

60. My analysis in terms of sentencing is as follows:

- The starting point is 3 years as this is plainly an A1 crime for the reasons I have given (see paragraphs 45 and 46 supra).

- There are the aggravating features that I have identified – taking the notional sentence following a trial (and absent any mitigation) to 3 years and 6 months (see paragraph 47 supra).

- Applying my mind to the Mental Health guideline and the report of Dr Shenoy I accept the proposition that culpability is reduced by the depression. There is a connection between the mental illness and what he did – but only up to a point. He full well knew what he was doing and was annoyed. He also shared a link to a far right activist.

- That reduces the sentence to 3 years (see paragraphs 49 and 50 supra).

- There is personal mitigation (age/no previous convictions/very good references/employment/contents of the PSR). The defendant is also remorseful. I accept that as genuine. I do not accept the rather grandiloquent submission that the last 11 months have been " Hell" for him. He has had to wait for the case to be investigated and prosecuted like all other defendants and it has been brought to court reasonably swiftly. If there has been any misery caused to him by this prosecution – he is the author of his own misfortune (see paragraphs 48 and 53 supra).

- However, I reduced the sentence to 2 years and 6 months before applying the guilty plea reduction of one-third. This produced the appropriate sentence of 20 months.

61. A sentence of 20 months is entirely appropriate in this case. That meets the justice of the matter based on the factual circumstances and the matters I have mentioned.

62. It is at this stage I considered the guideline of the Sentencing Council on the Imposition of Custodial Sentences – in particular the section covering whether the court should suspend the sentence. I was required to undertake a balancing exercise. I fully accept there is personal mitigation and there is the mental health issue. I also accept that rehabilitation is feasible in the community. There are a number of important factors that favour a suspended sentence. I have them well in mind, but my judgment is, <u>the circumstances and facts of this case are so serious that only an immediate sentence of imprisonment can be justified.</u> The facts of this case are very serious. To encourage people to burn down a hotel housing those seeking refuge and post a link to a far right activist in the circumstances I have described is a matter which demands a condign response and warrants not just a custodial sentence, but it must be served immediately. I have sought to bring the sentence to a fair level reflective of the appropriate mitigation and culpability of the defendant.

63. As the sentence is to be immediate, I would ordinarily make a modest reduction to 18 months, but I decided to further reduce the sentence to 15 months because an immediate sentence of imprisonment will fall particularly hard of the defendant due to his mental health, and in a small way to reflect the prosecution mistake.

64. It is for these reasons I made the following orders on 2nd July 2025:

    (1) I imposed a term of imprisonment of 15 months.
    (2) The necessary statutory charge was imposed.
    (3) I directed the psychiatric report and the GP letter be sent to the prison for the attention of the prison authorities.

65. There was no application for a Criminal Behaviour Order in this case.

66. I direct this judgment be sent to the defendant as well as his defence lawyers. It gives my definitive reasons for the sentence I imposed upon him. This was explained to him in summary terms on 2nd July 2025 when the sentence was imposed.