

THE KING

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JENNIFER KOWALSKI and COLE MACDONALD

SENTENCING REMARKS

1. Jennifer Kowalski and Cole MacDonald I have to sentence you today for the criminal damage that each of you caused to two Gulfstream jets at Stansted Airport on 20th June 2024.

FACTS

2. Your actions were quite deliberate. You travelled to what each of you described as a safehouse the night before. You were briefed on how to operate the fire extinguishers filled with paint. You had a plan of the airport. You had matching backpacks and T shirts and both wore dark jackets over them. Each of you had received what was described as “non-violent direct action training”. Jennifer Kowalski you described it as training in “how to handle airport security and airport staff non-violently”. Jennifer Kowalski, you had also received training on how to use an angle grinder. This was self-evidently a well-planned and highly orchestrated plan by both of you and others to draw attention to Just Stop Oil’s cause.
3. You travelled to the airport in the early hours of 20th June, where you spent some time using an angle grinder to cut through the airport perimeter fence. That fence was very clearly marked as the airport perimeter fence, with signs indicating that it was a security controlled zone and that it was an offence to enter the area without the permission of the Airport Managing Director or other lawful authority and that offenders may be prosecuted or fined. A number of blades were used in your efforts to get through that fence.

4. It was contended that you had gone to the airport with the intention of covering Taylor Swift's private jet in paint. Jennifer Kowalski you suggested that you did this out of love for Taylor Swift, wanting to highlight to her the damage that she was doing to the climate and to her fans through the use of private jets. Having heard the evidence I do not accept that this was the case at all. Whilst you used to idolise Taylor Swift that had fallen away. You were well aware of the publicity that would attach to anything relating to Taylor Swift. Jennifer Kowalski you told the court that "*she is one of the most famous people on the planet and she is talked about a lot in the media*". You talked about how much money her recent tour grossed and her being named Time Magazine's person of the year in 2023. You said that Taylor Swift has "*unparalleled influence and as such media do talk about her...I wanted to offset the energies spent on gossiping about famous persons and talk about an issue affecting people's lives, destroying their lives and killing people*". Cole MacDonald, you told the court that Taylor Swift "*was very famous and that her public jet usage has been very publicly criticised and the idea was to get as much publicity as possible, get the punchiest headlines. I guess to them it kind of made sense for it to be that plane [that we targeted]*".
5. The actions of the two of you were all about publicity, both for Just Stop Oil and for yourselves. I have no doubt that you wished for your names to be associated with your action. Ms Kowalski you told the court that one of the reasons that you sat waiting for the police to arrive was because a "huge element" of what you were doing was to get media attention. You said that such attention "is almost the main purpose" and that it helps that attention if your names and faces are known.
6. You both told the court that what you did was in an effort to gather material for Just Stop Oil's social media output. Both of you were wearing matching outfits and carrying matching backpacks, with matching fire extinguishers painted in matching colours with Just Stop Oil emblazoned in matching fashion. This was all for one reason alone, for the visual impact that you were seeking to create. When you did ultimately spray orange paint from the fire extinguishers one of you sprayed whilst the other filmed. Whilst you were waiting for the authorities to arrive you filmed social media content again. You were intent on generating publicity and what greater publicity could there be than anything related to Taylor Swift. That is what you hoped to achieve and that is why, in my judgement, you were attempting to target her jet.

7. Ms Kowalski, you told the court that you were determined to get to Taylor Swift's jet. You could not see where it was but you presumed that it was on the other side of the hangar given that it had arrived less than 24 hours earlier. Ms MacDonald you said that you could see the area where her jet was but you thought that it was too close to the runway and you did not want to disrupt "regular people". There was ample time for you to have sprayed Taylor Swift's plane before the first aircraft movement was due. I have no doubt that you knew the time of that first take-off or landing because of all of the research and preparation that had been undertaken. I have no doubt that had you been able to get to it, you would have sprayed her jet. Having heard the evidence I have no doubt that the reason that you switched to the other jets was because you had been spotted. We heard from the aircraft refueller Robert Careless that he received a call about your presence and he got into his lorry and drove within 50 yards of you. He honked his horn at you and it was at that point that he described you seemingly being "triggered into action, running across the airside roads of Harrods Aviation" towards the parked jets.
8. Having changed your plan you chose to target two private jets that were on the tarmac. You each took it in turns to spray the jet, whilst the other filmed. The jury quite properly rejected your assertions that you did not know or suspect that the paint inside those fire extinguishers would cause any damage. Cole MacDonald, you told the court that you thought that the paint would simply slide off in the same way that a cup of tea would had it been poured over the jet, because jets are intended to be weatherproof and you had been assured that the paint was a water soluble children's paint. Jennifer Kowalski, you told the court that having seen Ms MacDonald spray the paint you thought its consistency was such that it would just run off.
9. Having heard all of the evidence and heard from you I do not accept your assertions about that. This was a well-planned and quite deliberate act on the part of you both. I do not repeat what I have already said about the preparation that had gone into this. you were determined to maximise the impact of your actions. You were determined to make your mark in a way that generated the most publicity possible. You had no regard for the perimeter fencing at the airport and breaking into a restricted area. You yourselves talked about how long that took you and the various blades that you had to use to do it. Whilst you say that you went to the airport at this time of day and far away from the runway or airside used by ordinary tourists and travellers, you had little hesitation in targeting private

jet owners or users. Jennifer Kowalski, you told the court that *“people who are on private jets... are very, very different to people who are going to an airport to take a flight to another country”*. Cole MacDonald you told the court that

“It was kind of the only Just Stop Oil action that I couldn’t really dispute. It didn’t target regular people. It targeted the rich and wealthy and one of the most direct causes of climate change and would have no impact on anything else other than those companies and people who are most responsible”.

10. I reject the assertion that you leaving the angle grinders at the airport perimeter indicated that you had no intention to cause damage. The damage that you wished to inflict specifically involved damage that was calculated to attract the most attention on social media. The most instantly visible damage that could be caused was the spraying of significant quantities of paint on to the jets rather than that which could be inflicted by an angle grinder. Furthermore, you yourselves talked about the difficulties that you had in using the angle grinder and how long it took to achieve anything. Having broken into the airport perimeter your actions needed to be rapid before you were intercepted by the authorities.
11. In my judgement you had no issue at all with causing damage to the private jets. You disagreed fundamentally with their use and hold firm views about the consequences of their use. You were both clearly satisfied with the damage you had caused, because we saw the footage in which you both sat smiling at the camera and stated that you had just “sprayed the shit” out of the jets. Against all of that background I do not accept that this was reckless on your part. Your actions were clearly intentional.
12. Cole MacDonald, you stated that you did not put the nozzle of the fire extinguisher into the jet engines themselves. I do not accept that you sought to avoid ‘sensitive’ parts of the jets in an effort to avoid damage. First, I have seen the photographs of the damage that was caused. We know from the evidence that was read to the court that damage was caused to various parts of the jets, and I will return to that shortly. Second, irrespective of which of you sprayed that particular part of the jet you needed the damage to be to the exterior of the jet and along as much of it as possible. That is what would create the social media impact that you sought. Spraying the paint into the engine itself would be unlikely to have that same impact.

13. As to airport operations themselves, the runway was closed for safety reasons at 05:05, three minutes after the alert that you had breached the airport perimeter. Two airport rangers were despatched to the location in the airport where the alert had been triggered. At 5:09 the police were alerted and at 05:18 you were arrested. At 05:25 operations continued as 'business as usual' with regards to security & check in desks. Given the breach of the perimeter fence a security sweep was carried out for other protesters. At 05:48 the runway was re-opened after safety sweeps were completed and patrols of the perimeter of the airport were increased. The first flight departed at 06:01. It was the swift action of police and airfield operations that prevented any further impact on the airport.

14. Marlon Osbourne, the Security Change Director at Stansted Airport said this about the impact of actions such as this. He stated that such actions

damage the airport's reputation both in the UK and internationally. These events attract widespread media coverage and customer reaction. Despite the incident taking place away from the passenger terminal and all the incident response processes working as designed, anecdotally we have had customers question whether the airport is safe for passengers if the protesters are able to gain access in the way they did. Private aviation customers who contribute financially to the airport and the economy will feel less comfortable bringing their businesses to Stansted and the UK for fear their aircraft will be targeted.

15. As to the jets themselves, they were sprayed with water in order to remove as much paint as possible. However, they remained stained. Given the nature of the safety checks that take place on aircraft, specialist engineers had to be consulted. Specialist cleaners had to carry out the cleaning of both aircraft. The orange substance could only be removed with an aviation approved aircraft cleaning chemical and clean dry micro fibre cloths to accord with both aircraft manufacturing procedures and regulatory requirements. The process of removing and cleaning off the orange substance took a professional team of cleaners a total of 45 hours. Zoe Varzi, the director of the specialist cleaning company, wrote that:

We found the port side of the aircraft to be contaminated with an orange substance. This was all over the body, windows, leading edge, wing top and engine in-take; plus crown and on the starboard side was splattering and drip marks running down the body into the windows, window rubbers and onto the wing top and part of the leading edge.

The substance was extremely difficult to remove... This was a very tricky operation as the orange substance was all over "critical" areas of the aircraft, especially on the leading edge and wing top and had to be removed very carefully to avoid damaging the aircraft surface and paint which could have caused uneven surface texture to the aircraft if not removed correctly. This is a very sensitive area for air boundary movement across the wing top and any interference can create abnormal air movements which is very dangerous.

It was also of great concern to us not knowing what the substance was as to how the approved products would react and how we approached the task safely. Whatever it was, as the day progressed and the longer the substance remained, the harder it was to remove and the higher the risk of damage to the aircraft surface. The substance had penetrated screw holes, windows rubbers and seals and slat joints.

16. I will turn to the specific impact in connection with the jets when looking at the Sentencing Council's guideline that I must apply.

GUIDANCE TO BE APPLIED

17. In sentencing you I must apply the sentencing council's guideline on criminal damage. I have also considered the sentencing council's overarching guideline and the guideline on the imposition of community and custodial sentences, as well as the guideline on sentencing offenders with mental disorders, developmental disorders, or neurological impairments.
18. I also bear in mind that you were engaged in what you considered to be a protest at the time of the offence and exercising freedom of expression. Guidance was given to the correct approach to sentencing in such cases in *R v Trowland* [2023] EWCA Crim 919 (which was itself a just stop oil case). This guidance was endorsed and referred to as 'authoritative' in the case of *R v Hallam* [2025] EWCA Crim 199. That guidance is essentially that:
- (1) The qualified rights to freedom of expression and assembly under Articles 10 and 11 are relevant to sentence in cases of non-violent protest, even where they did not provide a basis for a defence at trial. As the Crown rightly observes, pursuant to the judgment in *R v Hallam*, whilst your conduct may be described as shocking, it cannot be said to have been violent.

- (2) I must consider with care whether to impose any custodial sentence upon you. The determination of the proportionality of an interference with ECHR rights is a fact-specific enquiry which requires the evaluation of the circumstances in the individual case. It is a flexible notion, which depends on fair and objective judicial assessment. Ultimately, whether or not a sentence of immediate custody for this type of offending is warranted, and if so what length of sentence is appropriate, will be highly fact-sensitive, set in the context of the relevant legislative and sentencing regime.
- (3) In undertaking that evaluation, the case law makes clear that it is no part of the judicial function to evaluate (or comment on) the validity or merit of the cause in support of which a protest is made.
- (4) I am not obliged to attribute specific percentage values or figures to any individual factor which has been taken into account in this (or indeed most) sentencing exercises. That includes any reduction to reflect what the case law refers to as ‘conscientious motivation’.

19. I have listened to all of what has been said by the Crown and on behalf of you both. I have read the sentencing notes that were provided and the pre-sentence reports prepared by the Probation Service. I have also read the psychological and psychiatric reports that have been prepared.

APPLICATION OF THE SENTENCING GUIDELINE FOR CRIMINAL DAMAGE

CULPABILITY:

20. As to culpability, I have considered issues of planning, premeditation and sophistication. I have also considered the nature of your actions, your motive and issues of neurodivergence.

PLANNING, PREMEDITATION AND SOPHISTICATION

21. The prosecution submits that on the face of the sentencing guideline you fall into category A, or high culpability because of a high degree of planning and premeditation. Counsel on behalf of each of you submits that this falls into category B, or medium culpability. It is suggested that whilst there was some planning and premeditation it was not to a high degree and was not sophisticated.
22. Both of you gave evidence of a carefully planned action. You had intended to target a particular private jet (that of Taylor Swift), in order to maximise publicity even if ultimately it was not her jet that was damaged. On the basis of Ms Kowalski's evidence, that planning was taking place a number of months in advance. Ms Macdonald could not recall when it began. The day prior to the incident involved transport to a safe house. At least one of you had training in the use of the angle grinder to gain access to the airfield. You had both considered maps and access points. Both of you had received training on non-violent direct action. You both arrived at the airport knowing precisely what you intended to do and what you wanted to achieve that day. You were dressed identically and had identical packs of equipment. Even if you were not responsible for every decision the degree of planning and premeditation on each of your parts is self-evidently high.
23. As to sophistication, it is difficult to accept the submission that your actions were "in many ways an unsophisticated action". Whilst the ultimate act involved throwing of paint is an unsophisticated one, the wider picture must be considered. You came equipped to cut your way into an airport. Studied maps of the airfield. Knew where you wanted to go. You were equipped in identical clothing, with fire extinguishers that must have been doctored to contain orange paint and which were clearly marked as relating to "Just Stop Oil". You were equipped to film your actions. Knew precisely what you wanted to do and why.

ACTIONS

24. I have already set out why I do not accept that you sought to avoid ‘sensitive’ parts of the jets in an effort to avoid damage. Through their verdicts the jury rejected your assertions that you did not intend to cause damage. You are intelligent individuals and I do not accept for a moment that you did not consider that acting as you did would cause the sort of damage that occurred. You knew that these were aircraft, and as such were sensitive pieces of equipment that have to operate at the highest of safety standards for self-evident reasons. Each of you told the court about the damage that you considered was caused by the users of private jets and how you had little hesitation in targeting them compared to the broader public. Ultimately, in my judgement you were at best indifferent about the extent of damage that would be caused. I do not accept that you set out to cause minimal damage. Taking everything together, your culpability is, on the face of it, high.

MOTIVE

25. The cases of *Trowland* and *Hallam* make it clear that conscientious motive falls most logically to be factored into the assessment of culpability. As those cases make clear, the further away from a core right a protestor is, the less those rights merit an assessment of lower culpability. It is apparent that both of you drifted away from the core right to express yourselves and make yourselves heard. You did so by cutting your way into a restricted airfield, ignoring the signs that told you clearly that it was a security controlled zone and that it was an offence to enter the area without the permission of the Airport Managing Director or other lawful authority and that offenders may be prosecuted or fined. You then deliberately made your way to the area in which private jets were parked with the intention of spraying at least one with paint. That is precisely what you did. In doing so you caused a significant degree of damage (I will return to this in due course). Whilst you sought to minimise disruption to the general travelling public in your choice of area of the airport and time, the runway was nevertheless closed for 43 minutes, during which time it could not accept emergency divers. Thankfully it does not appear that there were any.

26. To adopt the language of paragraph 42 of the judgment in *Hallam*, whilst article 10 is engaged, its application is significantly weakened. In my judgment your culpability remains high, but I am prepared to make some downward adjustment in that category to reflect what the case law terms ‘conscientious motivation’.

NEURODIVERGENCE

27. I have also considered the issue of neurodivergence. According to the Sentencing Council I must consider whether your culpability should be reduced by reason of any impairment or disorder. I must consider whether your ability to exercise appropriate judgement, to make rational choices or to understand the nature and consequences of your actions were impaired.
28. I do consider that both of you were able to evaluate the consequences of your actions. Ms Kowalski you very clearly knew and understood what you were doing and what impact you thought that it would have. Ms MacDonald, you were at university undertaking a degree in philosophy, politics and ethics at the time that you became involved with this protest. You told the court that you learned about and discussed different types of protest, who should be targeted and why. You had an intimate understanding of what you wanted to do and why you wanted to do it from practical, philosophical and academic context. You told the jury that your planned actions were:
- “the only Just Stop Oil action that I couldn’t really dispute. It didn’t target regular people. It targeted the rich and wealthy and one of the most direct causes of climate change and would have no impact on anything else other than those companies and people who are most responsible”.*
29. Irrespective of any issue connected with your background and neurodivergence, it is very difficult to conclude that you were unable to evaluate the consequences of your actions. You decided to take a risk knowing and understanding what the consequences would be. You had specific training in what those consequences may be and in how to deal with them.
30. As to exercising appropriate judgment I turn to what is said on behalf of each of you. As to you, Ms Kowalski, the pre-sentence report writer refers to the conclusions reached by Consultant Psychiatrist Dr Suleman in May of this year. He concluded that your Autism Spectrum Condition has significantly influenced your actions because it causes you to develop intense, focussed interests and climate change had become one of your predominant fixations and that you struggled to remain within the boundaries of typical social norms as a result.

31. As to you, Ms MacDonald, I take into account the psychological report prepared by Dr Connor and the careful observations made about it in the pre-sentence report. It states that in your home, schooling and intimate relationships you have experienced abuse, bullying and unkindness. It also refers to your recent diagnosis of an Autism Spectrum Condition. It describes how the combination of these factors has led to you masking your feelings and assimilating behaviours that you believe are correct in any given situation, as well as making it more difficult for you to navigate your social world. It seems that through aligning yourself with Just Stop Oil you felt accepted and empowered and you were drawn in by your partner and by friendships in a way that contrasted very significantly with that which had come before in your life. The pre-sentence report writer's assessment is that you were susceptible to persuasion.

32. In those circumstances I accept that there was a degree to which your culpability is reduced by reason of your neurodivergence. That is a lesser culpability, or culpability C factor. In the circumstances I consider that this case properly falls into culpability B, or medium culpability given that there are both higher and lower culpability factors present.

HARM:

33. There were a number of costs incurred as a result of your actions. The most direct cost was that of cleaning the two aircraft. As was set out in the witness statement of Paul Norton (the Managing Director of Harrods Aviation)

Cleaning an aircraft is not like cleaning your car i.e. A quick jet wash and off you go these aircraft are designed to fly at 40 thousand foot plus altitude and at over 500 miles an hour, they are precision-built, very expensive, machines with every nut, bolt and component designed, built and fitted by experts for efficiency but more importantly safety.

34. I have already outlined the painstaking process involved in cleaning the aircraft and the 45 hours that it took for a professional and highly trained team of detailers to rectify your damage. That alone cost £12,576.

35. The process of selecting the correct dry chemical had to be done under discussion and approval and supervision of a Gulfstream Engineer. The cost of inspection and consultation by engineers came to approximately £24,000. There were other staff costs in inspecting the damage, which amounted to over £3,900.
36. The fence that you had quite deliberately and painstakingly cut through to inflict your criminal damage inevitably had to be repaired. The cost paid by the airport was £19,234. Further and very significant costs were incurred by the airport in project management and perimeter detection, amounting to over £213,000.
37. All of these costs amount to a very significant sum. I must consider carefully how much of that can properly be taken into account when quantifying harm for the purpose of sentencing. The Crown suggest that as a minimum the level of harm that can properly be taken into account in the guideline is roughly £32,000.
38. There can be little dispute that it is necessary to take account of the costs in cleaning the jets. I have already set out that such cleaning required the specialist input of Gulfstream engineers. I repeat that the director of the specialist cleaning company described how the operation was ‘very tricky’ because the orange substance was *all over "critical" areas of the aircraft, especially on the leading edge and wing top*”. She discussed how sensitive that area is and how the paintwork must remain intact. The paint was also on the engine in-take and had *“penetrated screw holes, windows rubbers and seals and slat joints”*. Furthermore, the paint was an evolving nuisance because *“as the day progressed and the longer the substance remained, the harder it was to remove and the higher the risk of damage to the aircraft surface”*. Against the background that I have set out the requirement for an expert consultation incurred a cost that was necessarily and inextricably linked to the cleaning. It is difficult to separate the two. The market price to repair the damage was the price of the cleaning as informed by the necessary specialist oversight.

39. The specific cost of repairing the fence is also inextricably linked to your actions. I do not accept that it should form no part of my considerations because was not subject to a separate charge. The cutting of the fence was integral to your actions and the cost of repairing it had to be incurred in putting your actions right. I also do not accept that it should form no part of my considerations because the Crown offered no evidence on the count of interfering with the use or operation of key national infrastructure. Irrespective of whether the very specific elements of that offence were made out, each of you accepted that in order to access to the aircraft you cut a hole in the perimeter fence. It is not clear why the relatively small hole in what appears to be quite simple fencing cost a sum as high as £19,000 to replace. It begs the question as to whether this was a simple repair or replacement or whether was upgraded. On the face of the evidence that I have seen I do not consider that simple repair costs could be anything approaching £19,000. In the absence of specific evidence of quantification I would simply be plucking a figure from the air as to how much it would in fact have cost to undertake a simple repair or replacement and I do not consider that to be a just approach. I will therefore make a modest upward adjustment to any quantified harm to reflect that some cost must have been incurred in replacing the fence.
40. The bulk of the wider costs incurred were by way of project management and perimeter detection. The fact that these costs were both incurred at all and incurred to such an extent suggests that a wider programme of work was undertaken to improve security after this incident. The Crown does not seek to suggest that I should include these sums in the calculation of harm. In any event I would not do so. Ultimately, this goes beyond the costs in rectifying the damage into more general security improvement. In other words, the costs were not integral to putting right that which you did. In any event, the necessity for improvements goes more readily to the charge of interfering with key national infrastructure, which was not pursued by the Crown.
41. I will therefore take the figure of £34,576 as reflecting the level of harm, comprising the repairs to the aircraft and the Gulfstream consultation. I will apply a modest uplift to that to reflect the damage to the fence.

42. As to where this fits within the guideline, category 1 harm requires the level of damage to be 'high'. In the case of *R v Greaves* [2021] EWCA Crim 1114 the Court of Appeal noted that the minimum level of damage under this guideline is £5,000 and that the guideline is "*intended to cover damage from that level up to many tens, in some cases hundreds, of thousands of pounds*". In that case £12,500 was not held to fall into 'high value', but into "medium value" based on the objective value of the damage alone.
43. The literature, in particular '*Sentencing Principles, Procedure and Practice*' by Harris and Walker, suggests that cases involving damage at around £50,000 would fall at the cusp of a 'high' level of damage and the court would face a "difficult determination" as to whether to classify the case as category 1 or category 2 harm.
44. If, as the Court of Appeal has held, £12,500 falls into category 2 and category 1 is intended to deal with the highest value of harm and if, as the literature suggests, the threshold is likely to be somewhere at around the £50,000 mark then I will place the damage of around £35,000 into category 2. However, upward adjustment will be required from the starting point to reflect the amount of damage.
45. The starting point for a category 2B offence is a High Level Community Order. The starting point for a category 1B offence is 6 months custody. I make an upward adjustment from the starting point to 4 months before I consider other aggravating and mitigating factors.
46. Having arrived at a figure of 4 months' imprisonment before further adjustment I now turn to adjustments that are required in each of your cases.

JENNIFER KOWALSKI

47. You are currently 29 years old. You were 28 at the time of this offence.

UPWARD ADJUSTMENT

48. I must make an upward adjustment to reflect the fact that you have previous convictions. Those convictions were in Scotland. In 2022 you were convicted of breaching the peace and failing to comply with an undertaking. That involved you and others throwing paint on to a government building in Edinburgh.

49. In 2023 you were convicted of failing to leave when directed by a senior officer. You told the jury that this involved you occupying an oil terminal and refusing to leave so that you could disrupt the flow of oil from that site for as long as possible.

50. These convictions show that, year on year, you had taken deliberate and determined action (including one similar action in throwing paint) knowing full well that it is against the law. That continued into 2024 with this action.

DOWNWARD ADJUSTMENT

51. As I set out earlier, I make a downward adjustment to reflect what has been described by the Court of Appeal as your ‘conscientious motivation’.

52. I also make a downward reduction to reflect the impact that the period spent in custody and on stringent bail conditions has had upon you.

53. I have already taken into account issues of neurodivergence when it comes to the appropriate level of culpability and therefore I do not make any further reduction at this stage.

SENTENCE

54. In the circumstances the least sentence that I could impose on you would be one of five months imprisonment. I have considered whether I can suspend that sentence. In doing so I have considered the factors in the Sentencing Council's Imposition Guideline.
55. As to whether adequate punishment can only be met by way of immediate custody, this offending was serious. Broke into an airport. Caused damage to aircraft, which are sensitive pieces of machinery. However, you did not seek to disrupt the public at large at the airport and did not seek to resist the authorities in any way. Your actions were to an extent influenced by your neurodivergence. Whilst you have offended in the past there is no suggestion that you have sought to offend whilst awaiting trial irrespective of any views that you continue to hold. The suggestion of the probation service is that the best way to ensure that something like this does not happen again is for you to be subject to therapeutic interventions in the community to address rigid thinking. I have seen that rigid thinking exemplified in the letter that you have submitted to me. A suspended sentence will hang over you for a considerable period of time. I can impose a fine upon you. In addition, you have already served a period of 11 days in custody, the equivalent to a 22 day custodial sentence. Whilst you have not been on any qualifying bail conditions, I acknowledge the impact that those bail conditions have had upon you.
56. As to any risk of harm to the public, you are assessed as posing a medium risk to the public if you continue to be involved in protest. This a risk because of your continued 'special interest' in climate change and protest. It is suggested that with appropriate support and intervention as set out in the psychiatric report that any risk will reduce. That can only be accessed in the community. A suspended sentence would serve to keep such risk in check, as your bail conditions have done.
57. As to any realistic prospect of rehabilitation, I note that your previous interactions with the courts in Scotland did not result in any form of intervention or support. You have said that you are willing to engage with therapeutic support. I also note the particular effects on your mental health that prison has had and would be likely to have again.

58. In those circumstances I am willing to suspend your sentence. Your five month custodial sentence will be suspended for 12 months. I will explain what this means in due course.
59. Your suspended prison sentence will be subject to requirements, including
- (a) the equivalent of a Scottish Supervision Requirement, which can be used towards therapeutic intervention work including thinking skills and consequential awareness. This may also address risk-taking behaviour and support. I am told that Scotland does not recognise Rehabilitation Activity Requirements and so I will impose a Programme Requirement. For the avoidance of doubt I intend this to be treated by the Scottish Probation Authorities as the equivalent of a Supervision Requirement. I specify that the maximum number of days in which an activity is to be participated in is 30 days.
 - (b) An exclusion requirement, which will exclude you from entering Stansted Airport or any area bounded by its perimeter fence unless with a valid ticket for air travel. This will last for the duration of your order, namely 12 months.
60. Ordinarily I would have imposed unpaid work upon you. Despite you saying that you are ready and willing to undertake unpaid work I note that you have been signed off as unfit to work. This casts doubt on whether I would simply be making an order that would be doomed to fail from the outset. I consider that the appropriate punitive aspect to any sentence beyond the fact that I have imposed a custodial sentence upon you would be by way of a fine.
61. According to the Sentencing Council the relevant fine bands when the custodial threshold is passed are the highest fine brackets, brackets D to F. In my judgement, given the factors that I have outlined when assessing culpability and harm, I am prepared to consider a Band E fine. That is the equivalent of 400% of your relevant weekly income. According to the Sentencing Council when you are in receipt of benefits the relevant weekly income is deemed to be £120. The relevant fine would therefore amount to £480. I would set a period of 10 days in default of payment. Such a fine is due immediately. Ultimately, you have served the equivalent of that period in custody and so I will treat the default period as having been served and therefore any continuing liability to pay the fine is expunged.

COLE MACDONALD

UPWARD ADJUSTMENT

62. There are no upward adjustments needed in your case.

DOWNWARD ADJUSTMENT

63. As with Ms Kowalski I make a downward adjustment to reflect what has been described by the Court of Appeal as your ‘conscientious motivation’.

64. I must make downward adjustment to reflect the fact that you are a person of previous good character. I note that there has been no suggestion of offending since. In fact you have entered a new chapter of your life, having formed new and supportive relationships and friendships being in stable accommodation and learning about how your diagnosis with an Autism Spectrum Condition impacts upon your daily life.

65. Allied to any issue of your neurodivergence must be consideration of your age. You are 23 years old now and you were 22 years old at the time of this offence. The Sentencing Council makes clear that young adults (typically aged 18-25) are still developing neurologically and consequently may be less able to evaluate the consequences of their actions, limit impulsivity and limit risk taking. As to evaluation of the consequences of your actions, I do not repeat what I said in connection with your neurodivergence. You decided to take a risk knowing and understanding what the consequences would be. You had specific training in what those consequences may be and in how to deal with them. However, that is not the end of the matter. The guideline also states that “young adults are likely to be susceptible to peer pressure and are more likely to take risks or behave impulsively when in company with their peers”. Any inability to limit risk taking and taking risks as a result of being in the company of peers are relevant here and are particularly relevant against your background and neurodivergence. Your age is therefore of additional relevance when it comes to downward adjustments.

66. As with your co-defendant I make a downward adjustment to acknowledge the impact that your time in custody and subject to stringent bail conditions had upon you. I note in particular the circumstances surrounding you bring subject to numerous unsubstantiated allegations that you had breached your tagging requirement.
67. I do not accept that this is a case in which there has been any material delay that would merit further reduction. The trial was listed on the first available date and unlike many cases the trial was heard at that time. The defendants chose to plead Not Guilty and any delay in resolving the matter came simply as a result of the matter awaiting its first trial listing following the entering of those Not Guilty pleas.
68. In all of the circumstances the least sentence that I could impose upon would be six weeks' imprisonment.
69. As with your co-defendant I consider that I can suspend your sentence. I do not repeat what I said about whether adequate punishment other than by way of immediate custody. In your case I cannot impose unpaid work. However, you have already served 11 days in custody and what amounts to a further four and a half months on a qualifying curfew. The arguments as to a realistic prospect of rehabilitation arguably are greater in your case than in relation to Ms Kowalski.
70. Your six week sentence will be suspended for a period of 8 months.
71. Ordinarily I would have imposed unpaid work upon you as part of that sentence in order to punish you. However, you have already served the punitive aspect of any such sentence through the combination of the time that you have spent in custody and the time spent on qualifying curfew. I invited counsel to consider whether I could deal with you by way of imposing an immediate custodial sentence and time served, but the indication given to me is that you would benefit from the support through a rehabilitation activity requirement.
72. You will therefore be subject to a rehabilitation activity requirement as part of your suspended sentence order. That means you must meet your supervisor when and where you are told to and you must cooperate fully with any instructions that your supervisor gives you. That is intended to help you, and to provide you with guidance and support. You may be instructed to participate in activities for a maximum period of 20 days.

73. I will also impose an exclusion order in the same terms as that which I imposed on Ms Kowalski.

PROPORTIONALITY

74. I have taken a step back and considered the proportionality of the sentence in the context of acting in exercise of rights in Articles 10 and 11. There is an interference, prescribed by statute, by a public authority with those rights; the interference is in pursuit of a legitimate aim, namely in the interests of the prevention of disorder or crime, and the protection of the rights of others. The final question is whether the interference is necessary in a democratic society to achieve that legitimate aim. The aims here are sufficiently important to justify interference, and there is a rational connection between the means chosen and the aims in view. I must then consider whether or not there are less restrictive alternative means to achieve those aims and whether that sentence strikes a fair balance between the rights of the protesters and the general interest of the community, including the rights of others.

75. I have also borne in mind the aims of sentencing which include punishment, rehabilitation and deterrence. Even bearing in mind issues of neurodivergence and any attempts to minimise disruption, given your deliberate, pre-planned actions at an airport and the damage caused in my judgment the suspended sentences framed as I have set out strike a fair balance and are not disproportionate. In reaching this conclusion I have taken into account your Article 10 and Article 11 rights and the motive in offending. Those rights fall to be balanced against the general interests of all to go about their daily lives without illegal interference and damage being caused to their property with all of the consequent impacts that such actions have.

IMPOSITION OF SENTENCES

76. Jennifer Kowalski and Cole MacDonald your offences are so serious that neither a community order nor a fine alone can be justified. I sentence each of you to terms of imprisonment. I have determined that I can suspend those terms of imprisonment.

JENNIFER KOWALSKI

77. Jennifer Kowalski I sentence you to 5 months' imprisonment, suspended for 12 months. This means that each of you must stay out of trouble and not commit any further offences. If you do so during the period of suspension then you will be brought back to court and the suspended sentence is very likely to be brought into effect.
78. Your order is subject to the following requirements
- (a) A programme requirement for up to 30 days. For the avoidance of doubt I intend to impose this as the equivalent to the Scottish supervision requirement.
 - (b) An exclusion requirement, which excludes you from entering Stansted Airport or any area bounded by its perimeter fence unless with a valid ticket for air travel. The order will last for the period of the suspended sentence order, namely 12 months.
79. I have already explained what these requirements mean. As I set out at the earlier, if you breach these requirements you are liable to be brought back to court where the suspended sentence is likely to be activated.
80. In addition to the custodial sentence that I have imposed I impose a fine upon you of £480. I set a period of 10 days in default of payment. You have served the equivalent of that period in custody and so I will treat the default period as having been served and therefore any continuing liability to pay the fine is expunged.

COLE MACDONALD

81. Cole MacDonald I sentence you to 6 weeks imprisonment, suspended for 8 months. This means that each of you must stay out of trouble and not commit any further offences.
82. Your order is subject to the following requirements:
- (a) A rehabilitation activity requirement for up to 20 days.
 - (b) An exclusion requirement, exclude you from entering Stansted Airport or any area bounded by its perimeter fence unless with a valid ticket for air travel. The order will last for the period of the suspended sentence order, namely 8 months.

83. As I have already said, if you breach these requirements you are liable to be brought back to court where the suspended sentence is likely to be activated.

BOTH DEFENDANTS

84. In both of your cases the victim surcharge applies and the orders will be drawn up in the appropriate amount.

85. I order forfeiture and destruction of all of the items that were seized from you both connected to the offence, including but not limited to the rucksacks, fire extinguishers and angle grinder and blades.

86. Given the absence of any income other than state support, in both of your cases I make no order for costs.

HHJ Alexander Mills

27 October 2025