

## **Paul Page**

### **Sentencing Remarks**

I have to sentence you for the following offences:

Counts 1 and 2, possession of an explosive substance (GP at PTPH);

Counts 3 and 4, possession of a prohibited firearm (GP to count 3 at the PTPH , but to count 4 on the day of trial);

Counts 6 and 7, possession of a firearm without a certificate (GP at the PTPH);

Counts 8 and 9, possession of a document likely to be useful to a person committing or preparing an act of terrorism (GP to count 8 at the PTPH but to count 9 on the day of trial);

Count 10, possession of prohibited ammunition; (GP on the day of trial)

Counts 13 and 14, possession of a firearm without a certificate (GP on the day of trial);

Count 15, possession of ammunition without a certificate (GP on the day of trial).

I order the remaining counts, 5, 11, 12, 17-19 to lie on file on the usual terms.

#### **The Facts**

The facts giving rise to these offences are as follows.

On 16th May 2023 police officers attended at your address in Littleport where they discovered a large wooden outbuilding which contained a significant collection of militaria displayed on the wall, the ceiling and in display cabinets including Nazi flags and memorabilia.

They later recovered a large number of exhibits including explosives, chemicals, firearms, ammunition, bladed articles and tools. Examination of your digital devices revealed that you had actively researched and saved documents about making firearms, explosives and ammunition.

Amongst items that were on your laptop were The Anarchy Cookbook Version 2000, the subject matter of count 8 of the indictment. This document consisted of a collection of information which amongst other things related to the manufacture of explosives and improvised explosive devices.

Also on your laptop was the DIY Sten Gun Manual, the subject matter of count 9 which offers a step by step guide with instructions, templates and illustrations of how to build a submachine gun.

8 other publications were also on your laptop, relating to guns, homemade ammunition, homemade firearms, black powder and gunsmithing.

Your internet search history revealed searches by you for related items.

Items recovered included the following:

62 g of the low explosive, black powder (count 1);

The ingredients for black powder , i.e. 923 g of potassium nitrate, 969 g of sulphur and 382 g of very fine charcoal powder (count 2);

An ivory handle single shot pistol (count 3);

A slide and barrel for a 9 mm Luger calibre Walther model P38 semi-automatic pistol (count 4).

A Lee Enfield 1901 rifle (count 6);

A Lee Enfield action with functional bolt and trigger mechanism (count 7);

Seven 9mm PAK Calibre cartridges containing CS powder (Count 10);

A Mauser Gewehr 98 bolt action rifle (count 13);

A Mauser K98 rifle (count 14);

Twenty one 9 mm short .380 Auto calibre cartridges (count 15).

In interview you accepted possession of all of the above items. You stated that you did not have knowledge of all the digital items discovered in that you had downloaded lots of material from torrents and were not always aware of the full contents.

You described the wooden outbuilding from which the items the subject matter of the indictment had been recovered, as your workshop, your man cave. You stated you had built it as a woodworking or general repair workshop and as being like your personal museum.

You said that you kept many of the items because you had a deep abiding fascination with anything military and that your interests related to all conflicts, mostly the Second World War. You also stated that you were a bit of a hoarder.

You said you had a small amount of black powder for use in fireworks and that kind of stuff. Assisted by a recipe in the Anarchist's cookbook, you had made the black powder which you then used to make a firework about two years ago, and had kept the rest of it in case you wanted to make another one, which you were not aware was unlawful. As to the firearms and related items you said that you did not realise that you needed to have a certificate or other authority for any of the weapons or parts recovered by the police. You added in relation to parts that your understanding was that an item would need to be in a condition to discharge a round to be classified as a firearm.

You talked about creating a functioning weapon and then deactivating it and having it proofed as such to make it a more saleable item.

You denied intending to make any live ammunition.

### **Basis of Pleas**

You have submitted a basis of plea in relation to 6 of the counts in the indictment.

On **count 4** it is stated on your behalf that you bought this item believing it to be a relic or antique and not useable. You intended for it to be a display item.

On **count 9** you stated that you had a deactivated Sten gun and that you wanted to display it with the manual although you discovered this was not an original operating manual and therefore put it in a drawer. You never intended to use the manual to build any type of Sten gun.

On **count 10** you said that you purchased a job lot of blank cartridges and that these were in amongst the purchase and that you put them in a drawer with no intention of ever using them.

On **count 13** you stated that you believed this to be a ground dug relic either from World War One or certainly pre World War Two.

On **count 14** you stated you believed this to be an antique firearm.

On **count 15** you stated that these cartridges came within a collection that you bought and you believed them to be inert.

Although the prosecution do not accept these bases of plea, they have indicated that they do not contend for a Newton hearing and are content for me to sentence in accordance with your account as to these offences.

This is of course a matter for me, but having considered it, I am content to do so, since, looking at the totality of the case, I do not consider that it would make a material difference to the overall outcome.

### **Aggravating Factors**

I find these to be as follows

1. you had an obsession with weapons and tools as well as equipment capable of repairing and making firearms, live ammunition and functional explosives, and you had actively researched and saved extensive documentation in connection with the making of such items; although I note that there is no evidence that you made any ammunition or explosives that could cause significant damage, injury or loss of life.
2. all of the items with which the court is dealing were stored by you in a residential area; although it is your case that you kept it locked, it is not impossible that your children, aged 6 and 18 months, may at some time have had access, unless you were at all times 100% vigilant. And had you been the subject of a burglary and any of these items had fallen into the wrong hands, it goes without saying that the consequences could have been extremely serious. There was some risk of harm albeit I accept it was minimal.

### **Mitigating features**

1. No intent to injure or frighten or indeed to use any of the firearms or ammunition;
2. You have throughout accepted possession of all these items;
3. PTSD from your time in the army and you have addressed this whilst in custody.

### **Dangerousness**

I have considered whether you fall to be dealt with as a dangerous offender within the meaning of the Sentencing Act, which would be the case if there is a significant risk to members of the public of serious harm occasioned by the commission by you of further specified offences.

In addressing this aspect of your case I have taken into account the factual background to these offences as well as the contents of the pre-sentence report.

That report does not make especially happy reading so far as you are concerned, in terms of your apparent attitude to these offences.

Reference is also made in the report to your concerning history of sexual offences involving young children, although I remind myself that I am not dealing with any such offences.

In the event, I have concluded that the dangerous provisions are not engaged.

### **Personal Circumstances**

Turning to matters personal to you, you are now aged 52.

You have serious convictions in 2006 in America for matters that are different and entirely unrelated to the matters with which I have to deal.

As a result of the police raid at your home address to which I have already referred and which revealed the offences with which I am dealing, other offences came to light, involving 3 offences of making IIOC, possession of a prohibited weapon, i.e. an item for the discharge of a noxious liquid gas, and 6 offences of possession of offensive weapons in a private place in respect of which you were sentenced on 30<sup>th</sup> August 2023 at the Crown Court at Cambridge to a total of 20 months imprisonment.

You were released on licence from that sentence but re-arrested 5 weeks later in May 2024 as a result of being found in possession of an inert hand grenade, inert small arms ammunition

and mixed brass, which is a matter of concern in that it is indicative of your obsession with weaponry to which I have already referred. This resulted in your licence being revoked and your recall to prison, your licence expiring on 28/1/25. Since that date you have remained in custody and are therefore due to be credited with 462 days against the sentences that I impose on you.

I will return shortly to the relevance of that sentence in so far as the present sentencing exercise is concerned.

### **Sentencing Guidelines**

#### **Counts 1 and 2 (Possession of an Explosive Substance)**

Turning to the individual offences and dealing firstly with Counts 1 and 2, possession of an explosive substance, there are no guidelines, but my attention is drawn by the prosecution to the case of Harvey 2018 EWCA Crim 755 in which the court emphasised the potential for harm posed by the explosive substance as well as the strong need for deterrence, and where, with appropriate caution, it was stated that some analogy may be drawn with the sentencing guidelines for firearms offences.

I note that explosive substances were in fact made and used by you on only one occasion although that you had the materials to make significant quantities of black powder, albeit there is no evidence that you had done so other than in relation to the quantity found.

I also note that there is no evidence of any completed ammunition or functional explosives having been made by you.

Your counsel realistically accepts that I would be fully justified in passing sentences for these offences that were consecutive to the sentences to be imposed for the firearms offences.

I shall return in due course to the issue of whether concurrent or consecutive sentences should be imposed for all of these offences.

**Counts 3, 4 and 10 (possession of a prohibited weapon and prohibited ammunition)**

Absent exceptional circumstances, these offences involve a mandatory minimum sentence of five years imprisonment which does not attract any discount for a guilty plea.

I shall return to this aspect of the case later in these sentencing remarks.

There is a divergence of view as between your counsel and the prosecution as to how these offences should be categorised in so far as the sentencing guidelines are concerned.

As to counts 3 and 4, it is agreed that it is culpability B. So far as harm is concerned, the prosecution say it is level 2 whereas your counsel submits that it is level 3, in that, having regard to components and condition of these items, there was minimal risk of death, harm or serious disorder.

I am prepared to accept those submissions which gives a SP of 5 ½ years and a range of 5-7 years .

Regarding count 10, the prosecution say that it is 2C, whereas your counsel submits that it is 3C, on the basis of minimal risk of harm, which I accept. This gives a SP of 5 years and a range of 5-6 years.

**Counts 6, 7, 13, 14 and 15 (possession of firearms and ammunition without a certificate)**

Here too there are similar divergences between the categorisation contended for by the prosecution and by your counsel, but I am prepared to deal with you on the basis advanced on your behalf, i.e. that there was a minimal risk of harm and that you did not intend to use any of these items.

In any event, the most serious offences are the possession of prohibited firearms and ammunition, such that the sentence for possession of the various items without a certificate, which on the SG carry much lesser sentences, will clearly be subsumed within the sentence imposed for those offences.

### **Counts 8 and 9 (section 58 offences)**

The prosecution say that count 8 is C2 (SP 18 months, range 6 months to 3 years) and that count 9 is C3 (SP 1 year, range, high level CO to 2 years). Your counsel does not take issue with this categorisation.

These offences are entirely different in nature to the other offences on this indictment and as a matter of principle would justify consecutive sentences. I shall return to that issue shortly.

### **Credit For Plea**

At the outset of these remarks I set out the different stages at which guilty pleas were tendered to these various offences, some at the PTPH and others on the day of trial, in respect of certain counts that had then been added to the indictment.

The prosecution position is that counts 1, 2, 3, 6, 7 and 8, in respect of which there were guilty pleas at the PTPH, should attract 25% discount.

Your counsel agrees save that in relation to counts 3,6 and 7, where expert evidence was needed to determine whether the items were antique and excluded from the Firearms legislation, she submits the discount should be between 25% and 1/3. I do not disagree.

Regarding the other counts, many of which were added on the day of trial, it is agreed that their should be 1/3 discount, save in relation to count 9 where it is agreed the discount should be 10%.

### **Totality**

There is agreement between the prosecution and the defence, with which I concur, that I should approach the sentencing exercise here on the basis of what the overall sentence would have been had the court been dealing with all the offences at one and the same time, i.e. the instant offences as well as those dealt with by Cambridge Crown Court.

That said, this is not a purely arithmetical exercise.

I also have to take into account 2 further factors.

Firstly, you received the 20 month sentence to which I have referred for wholly different criminality, namely, sexual offences. I do not accept the defence written submission that the sentence for those offences would have been subsumed by the sentence for all of the matters with which I am dealing. On the contrary, in my judgment consecutive sentences for these offences would have been inevitable.

Secondly, I am dealing today with 3 separate types of criminality, namely (1) possession of explosive substances; (2) possession of firearms and ammunition; and (3) possession of terrorist material.

As I have already indicated, this would justify consecutive sentences, but what I propose to do is to reflect that but nonetheless to pass concurrent sentences for all of these offences, treating counts 3,4 and 10 as the lead offences, whilst at the same time making allowances for totality.

### **Exceptional Circumstances**

In so far as counts 3, 4 and 10 are concerned, it is submitted on your behalf that there are exceptional circumstances such that the 5 year minimum term for these offences should be avoided. This is based on the following:

- a) Following your arrest your wife arranged for a specialist military collector to attend the property and arrange for the sale of items of value found within the outbuilding and he stated that the overall impression was of someone's private space with militaria arranged and displayed for pleasure. Whilst there was some order to the displayed militaria, the contents were generally somewhat disorganised and were closer to a hoard than a sophisticated collection;
- b) You maintained in interview that you did not know nor think that the items the subject matter of counts 3, 4 and 10 would constitute prohibited and illegal firearms;
- c) With regard to count 3, the ivory handled single shot pistol, it had evidently not been in use and was not in a condition to be used;
- d) As to count 4, you bought this item believing it to be a relic/antique and not usable;
- e) Regarding count 10, these cartridges were ordered with other items and purchased in a lot. You did not know that they contained CS at the time of purchase and you did not intend to possess such ammunition, and when you received them you put them in a drawer with no intention of ever using them;
- f) Because you have been in custody since 26th May 2023 save for a period of about 5 weeks before you were recalled to prison, the imposition of the minimum term now will have an inappropriately harsh effect upon you;
- g) You never intended to use any of these items but rather to display them in your so called personal museum.

Turning to the guidelines in so far as this issue is concerned, I remind myself that I must have regard to the particular circumstances of the offence as well as to your particular circumstances, either of which may give rise to exceptional circumstances.

The principles to be applied are as follows.

‘Circumstances are exceptional if the imposition of the minimum term would result in an arbitrary and disproportionate sentence.

The circumstances must truly be exceptional. It is important that courts do not undermine the intention of Parliament and the deterrent purpose of the minimum term provisions by too readily accepting exceptional circumstances.

The court should look at all of the circumstances of the case taken together. A single striking factor may amount to exceptional circumstances or it may be the collective impact of all of the relevant circumstances.

The mere presence of one or more of the following should not in itself be regarded as exceptional, namely, one or more low culpability factors; the type of weapon or ammunition falling under type 2 or 3; one or more mitigating factors; a plea of guilty.’

I remind myself that you are a former soldier in the British Army and that you had significant familiarity with firearms and their restoration and operation.

Moreover, you had made no engagement with the authorities as to whether you could or should have authority to possess any of the items and had not applied for a firearms certificate.

Further, I agree with the prosecution that the purchasing of lots of ammunition demanded additional diligence and caution on your part and the ammunition subject of count 10 was clearly labelled and marked as containing CS.

I have considered the many authorities dealing with this issue which are set out at paragraph 38-038 of the current edition of the Crown Court Index. Although this issue is fact/case specific, these authorities are of assistance in giving examples of where findings as to exceptional circumstances have and have not been upheld.

Looking at the case in the round and taking account of the fact that I am dealing with not 1 but 3 relevant offences, I am unpersuaded that the matters relied upon by your counsel either individually or collectively amount to exceptional circumstances.

That said, if I am wrong in not finding exceptional circumstances, as I have already observed, I would in any event have taken counts 3, 4 and 10 as the lead offences and imposed concurrent sentences for all the other offences, such that my unwillingness to find exceptional circumstances will not on the facts of this case make any difference to the overall sentence that I intend to impose.

### **Sentences**

#### **All concurrent.**

Counts 1 and 2- 3 years

Counts 3 and 4 – 6 years

Count 6 - 3 months

Count 7- 1 day

Counts 8 and 9 – 12 months + 1 year extended licence (s. 278 S.A. 2020).

Count 10 – 5 years

Counts 13, 14, 15- 6 months

TOTAL 6 years impt.

### **Ancillary Orders**

1. Serious Crime Prevention Order in the terms that have been agreed;
2. 10 year notification requirement pursuant to s. 44 Counter Terrorism Act 2008;
3. Forfeiture order of seized items which feature in the counts in the indictment of which the defendant has been convicted;
4. Surcharge.