

R v FLOWERS AND JUBAIR

SENTENCING REMARKS

1. On 22 June this year, on what was to be the first day of your trial, you both pleaded guilty to the offence of conspiracy to commit unauthorised acts in relation to a computer causing or creating risk of serious damage. The base offence is that under section 3ZA of the Computer Misuse Act 1990.
2. You, Flowers, also pleaded guilty to two offences of conspiracy to commit unauthorised acts in relation to a computer with intent to impair under section 3 of the Computer Misuse Act 1990.
3. In broad outline, the circumstances are these.
4. In respect of count one, you were both engaged on a sophisticated intrusion upon, and violation of, the internal computer systems of Transport for London over the period 31 August to 3 September 2024. No purpose would be served by descending into unnecessary detail. The facts have been fully articulated on behalf of the prosecution in both written and oral submissions.
5. In broad terms you acted together, and with others unknown, to gain unauthorised access to TfL's systems at increasingly high levels. You, and those others, deployed a combination of techniques, which included social engineering and the use of sophisticated software, all of which were aimed at exploiting vulnerabilities in the TfL defences while at the same time covering your own tracks.
6. Although your activities did not ultimately have an impact upon the ability of TfL to deliver a safe and reliable network, the actual disruption caused, which was foreseeable and as to which you were reckless, was very serious indeed. The Dail-a-Ride booking service, the provision of concessionary travel cards, the digital

payments channel and roll-out of contactless ticketing were all adversely affected. No fewer than 27,000 users had to reset their passwords. You also downloaded a significant amount of personal data from the Oystercard database.

7. Your activities ceased only when TfL resorted to taking extreme and desperate measures which included severing the means by which all remote access to its systems could be achieved and disabling all its computer connectivity to the internet.
8. The remedial work required was in the region of £25,000,000 excluding the costs of taking steps to guard against similar attacks in the future.
9. Figures of up to £56 billion of potential damage have been mooted by the prosecution in the event that you had gone on effectively to close the transport network but this is a highly speculative exercise based upon consequences which neither occurred nor were intended.
10. I am satisfied that your actions were primarily motivated by selfish bravado heedless of the severe consequences to others.
11. Your hostile intrusions persisted over a period of four days between 31 August and 3 September 2024. During this period you were able to exfiltrate a large quantity of personal data concerning the owners of Oyster cards. Much of the information presented to me concerning the detail of your activities was derived from videos which you, Flowers, took and which were found on your computer upon your arrest. You were at the relevant time broadcasting the progress of your hacking activities to a small audience of like-minded enthusiasts.
12. You, Flowers, then embarked on two further malign projects involving intrusion into not-for-profit health systems in the United States: SSM Health and Sutter Health. They form the basis for counts five and six respectively. The base offence for each of these counts is performing unauthorised acts with intent to impair,

or with recklessness as to impairing the operation of a computer contrary to section 3 of the Computer Misuse Act 1990.

13. Your incursions into these systems were interrupted by your arrest when you were literally caught in the act at your home. You were thus deprived of the opportunity to cause substantive damage or to exfiltrate any sensitive data to which you may have gained access under these counts.
14. There are no bespoke sentencing guidelines in respect of offences under The Computer Misuse Act 1990. Nevertheless, I must take into account the more general guidance to be found in the guidelines on: overarching principles; reduction for guilty plea; sentencing children and young people; offenders with neurological impairments and totality.
15. I will note, at this stage, that, despite your relative youth and neurodiversity, your offending in this case is so serious that I have no alternative but to pass a sentence of immediate custody upon you both. The sentence I will pass is the lowest which is consistent with adequately reflecting your criminality.
16. I start with your case Flowers. I have the advantage of a number of documents relating to your educational and psychological history the contents of which I take fully into account.
17. On count one, I must first identify the statutory maximum for the offence under section 3ZA. In the circumstances of this case, it is fourteen years imprisonment.
18. There are no Court of Appeal authorities and no bespoke guidelines for analogous offences. However, I must take into account that the general aims of sentencing involve: the punishment of offenders; the reduction of crime (including its reduction by deterrence); the reform and rehabilitation of offenders; the protection of the public including victims of crime and the making of reparation by offenders to persons affected by their offences. The objects of reform and rehabilitation are of

particular significance where young people are involved as is detailed in the Guideline and authorities, to which I have been referred, relating to the sentencing of children and young people.

19. The seriousness of the offending must be assessed with reference to levels of harm and culpability respectively. It is at this stage that the court would normally identify a starting point within a bespoke guideline, had that been available.
20. I consider this to be a case involving a medium to high level of culpability bearing in mind: the highly sophisticated nature of the offending; the significant planning; the sustained period of time over which the offending took place and the large number of people who were predicably adversely affected. I accept, however, that the level of culpability is not in the very high category on the basis that the prosecution has accepted that your actions were reckless and not carried out with intention.
21. On the issue of harm, I also consider this to be a case involving a medium to high level of culpability. Very considerable disruption and economic harm was brought about but I must take into account that it is already an ingredient of the s3ZA offence that serious damage of a material kind is thereby caused or risked. Double counting must be avoided. In this case, the material risk was to human welfare involving the disruption of facilities for transport.
22. On this basis, I consider that the starting point should be a custodial sentence of six years. I must now proceed to consider the aggravating and mitigating features.
23. In your case, the aggravating features are that:
 - You acted as part of a group of conspirators;
 - Your corporate victim was providing a valuable public service with which you were seriously interfering;

- You were, at the time, on bail for ransomware attacks on United States companies and you remain under investigation.

(I have not included in this list any reference to planning or the means by which your activities were concealed because I have included consideration of these elements in my assessment of the starting point).

24. The mitigating features are that:

- You have no previous convictions. However, it is to be noted that in October 2023 you were visited at your home by police who served a cease and desist notice for making hoax calls to report serious crimes to emergency services. You were given the opportunity to co-operate in an intervention intended to steer you onto legal and ethical pathways but you declined to engage;
- You had recently turned 17 at the time of this offence. I accept that my sentence should be that which would have been appropriate had it been passed at that stage. I also accept that I must form an independent view of your level of responsibility. You clearly had, and have, a very sophisticated knowledge of the means by which hacking may be perpetrated to strongest effect but I am satisfied that your age did contribute in some part to the degree of reckless irresponsibility with which you acted.
- There is evidence that you have had a very unsettled childhood and adolescence full particulars of which I have been provided. I do not need to rehearse the details now.
- Your neurodivergence (taken in conjunction with your age to which I have already referred) accounts, in part, and in conjunction with your youth, for the attraction which this type of criminality holds for you. However, I am satisfied that your expertise was such that you fully understood the

potential consequences and serious criminality of your actions.

25. Balancing out these aggravating and mitigating features (with particular reference to your age), I move down from the starting point to five years and six months in custody.
26. I turn now to the discount for your guilty plea. Usually, a discount of 10% would be appropriate for a guilty plea entered on the first day of trial. However, I accept that a combination of features including difficulties in getting access to your legal advisors and late completion of expert reports on your behalf enable me to increase the discount to a little over 15%.
27. Your sentence on count one is therefore one of four years and eight months.
28. I now turn to counts 5 and 6. I have two options. One would be to make count 1 the lead offence and increase the sentence passed thereunder to reflect the additional criminality involved in counts 5 and 6. The other would be to impose consecutive sentences under counts 5 and 6 but mitigate their lengths having regard to the principle of totality. I prefer to take the latter course because these counts relate to separate victims in respect of a distinct time of offending. I stress, however, that the total sentence would have remained the same whichever route I had taken to get there.
29. The offences under section 3 of the 1990 Act are less serious than that under section 3ZA covered by count 1 of the indictment. The statutory maximum is ten years. Furthermore, your incursions were significantly less advanced than they had been against the TfL systems.
30. Having regard to the lower levels of harm and culpability involved, I take a starting point of two years which I reduce with reference to the balancing of aggravating and mitigating factors to one year and nine months.

31. This is further reduced by about 15% to reflect your guilty pleas to give a total of 18 months.
32. It is at this stage that I must factor in considerations of totality. I do this by directing that the total should be reduced to ten months on each count to run concurrently to each other and consecutively to the sentence of count 1.
33. This gives a total sentence of five years and six months.
34. The time you have already spent in custody will count towards this sentence. There will come a point during your sentence when you will be released on licence but if you commit any further offences or breach the terms of your licence you will be liable to be returned to be recalled to custody.
35. I turn now to you Jubair.
36. I consider that, for the reasons I have already given, the same starting point of six years should apply to you as applied to Flowers.
37. The aggravating and mitigating factors, albeit similar, are not the same. The main difference are as follows:
38. You are one year and four months older than Flowers which marks a potentially significant distinction in maturity in late adolescence. I continue to take into account your lack of maturity but not to the same extent as Flowers.
39. As with Flowers, I take into account your neurodiversity full details of which I have been provided with but the level of mitigation must also be reduced, as it was for him, to reflect the fact that you knew full well that your activities were seriously criminal throughout.
40. Furthermore, you lack the mitigating factor of an absence of previous convictions. In your case you committed this offence whilst you were still the subject of an 18 month Youth Rehabilitation Order. Your history of offending shows a level of

persistence undeterred by police involvement and court appearances. It is a seriously aggravating feature.

41. In your case, the balance of aggravating and mitigating features leads to an increase on the starting point to 6 years and 6 months. Applying the same level of discount of 15% for your guilty plea rounds down to a total of 5 years and 6 months.
42. The time you have already spent in custody will count towards this sentence. There will come a point during your sentence when you will be released on licence but if you commit any further offences or breach the terms of your licence you will be liable to be returned to be recalled to custody.