

R -v- O'Hagan and others

Sentencing Remarks

Introduction

All five of you, Brendon O'Hagan, Amanda Kelly, Hmeera Atiqnisar, Mohammed Malik and Alma Yaniv, were convicted of one count of criminal damage following a trial before HHJ Parry. The convictions were returned on 15 June 2026.

The matter is before me for sentence because, following conviction, an issue arose as to whether section 69 of the Sentencing Act 2020 applied. HHJ Parry is not authorised to hear terrorism cases. The matter was therefore referred to me and, following consultation with the Presiding Judge, it was determined that I should deal with the section 69 issue. At an earlier hearing I determined that the damage, although undoubtedly significant, did not amount to "serious damage" within section 1 of the Terrorism Act 2000 and that section 69 of the Sentencing Act 2020 therefore did not apply. The case has remained with me for sentence.

The facts

This was a coordinated attack upon the Burnley branch of Barclays Bank in the early hours of 5 August 2024. You five acted pursuant to a common plan. You four, Mr O'Hagan, Ms Kelly, Ms Atiqnisar and Mr Malik, attended the premises wearing face coverings and equipped with hammers, paint and other items. Multiple windows were smashed and substantial quantities of red paint were thrown and sprayed over the building. You four then left in a waiting vehicle. The repair cost was £212,805.14.

The evidence at trial established that you, Mr O'Hagan, Ms Kelly, Ms Atiqnisar and Mr Malik, had attended a Palestine Action training day before the attack. You, Ms Atiqnisar, created a group chat involving you four in which the action was discussed and planned. You selected the Burnley branch because it was close to where you lived and recruited you, Ms Yaniv, to act as driver. You, Ms Atiqnisar, also supplied two of the hammers used. Shortly after 2.00 am you, Ms Yaniv, drove the other four to Coal Street beside the bank. At about 2.07 am you four left the car in dark clothing and face coverings carrying the equipment. You, Ms Yaniv, remained with the vehicle, turned it around and positioned it ready for their return.

You, Mr Malik, were principally responsible for smashing the windows, striking windows at the front and side repeatedly with a hammer. You, Ms Kelly and Ms Atiqnisar, also actively caused damage and applied red paint; you, Ms Kelly, spray-painted the front of the bank and you, Ms Atiqnisar,

smashed windows with a hammer. You, Mr O'Hagan, filmed the attack throughout so that the footage could be disseminated and publicised online.

The bank was occupied. Daniyaal Fareed, a security guard, was on the ground floor. He saw you four, shouted at you to stop and retreated upstairs for assistance. You continued the attack notwithstanding his presence. It was also witnessed by members of the public. Multiple windows were smashed, red paint was applied to the building, and material relating to the Israel-Palestine conflict was affixed to or left outside the premises.

Having completed the attack, you four returned to the waiting car and you, Ms Yaniv, drove away. Within seconds a police van obstructed your path at a red light. You drove around it and through the red light after the police vehicle activated its emergency equipment. You later drove through a second red light within sight of a police vehicle. The car was stopped shortly afterwards. No driving offences were charged.

All five of you were arrested and police recovered hammers, spray-paint canisters, face coverings and material relating to the Israel-Palestine conflict. Red paint was found on your clothing, Ms Atiqnisar.

At trial, you four, Mr O'Hagan, Ms Kelly, Ms Atiqnisar and Mr Malik, said that you were members of, or affiliated with, Palestine Action, had attended Palestine Action training, and that this offending formed part of a wider campaign directed against Barclays. You, Mr O'Hagan and Ms Atiqnisar, said that concealing your identities was intended to facilitate participation in similar attacks in the future. You, Mr Malik and Ms Kelly, said that you would not participate in a similar attack again. All five of you are of previous good character – indeed of positive good character.

Victim personal statements

I have read the evidence about the impacts upon others in relation to this case. I particularly take into account your disregard for the Security Guard who was trapped in a building while you four, masked, were apparently trying to smash it with hammers. As it has been pointed out to me in mitigation, the security guard appreciated that you were not trying to gain entry. Notwithstanding he said that he was very distressed. That was entirely predictable.

Your circumstances and the pre-sentence reports

I have pre-sentence reports for all five of you.

Brendon O'Hagan

You, Mr O'Hagan, are 28. You filmed the action for subsequent publicity. A written note on sentence has been served on your behalf. I have read the reference at O38. You accept responsibility for your

offending. You told Probation that, although at trial you maintained that you believed your conduct was protected as lawful protest, you now accept that belief was mistaken and take full responsibility for what you did. You continue to hold your views about the conflict, but have expressed genuine remorse for the consequences of your actions, described yourself as disappointed in your conduct, and demonstrated an understanding of the financial cost, disruption and distress caused, including to your family. The report records that you have reflected upon your behaviour and can identify lawful ways of expressing your views in the future. The material therefore indicates that, while your political beliefs remain, you now recognise the unlawfulness of this method of advancing them and do not intend to repeat this offending.

A Probation Requirement is not suggested but, as an alternative to custody, unpaid work is.

Amanda Kelly

You, Ms Kelly, are 32. You participated directly, principally by applying paint. I have read the character references which have been served in good time. You are of positive good character. You accept responsibility for your actions and accept the evidence as outlined by the Crown. You continue to regard your original motivation as morally driven, but accept that your conduct caused criminal damage and acknowledge its consequences. You have said that you would not engage in similar behaviour in the future. The report describes developing insight and a greater awareness of the consequences of allowing strongly held beliefs to justify unlawful action. You have identified lawful alternatives for expressing your views. On the material before me, therefore, you accept the offending and do not propose to repeat unlawful conduct in support of your political beliefs. The report does not use the language of remorse as clearly as the reports for some of your co-defendants, and I would not put the matter higher than that. However, today you apologise through your counsel to the security guard.

A probation requirement is suggested as is, as an alternative to custody, unpaid work.

Hmeera Atiqnisar

You, Ms Atiqnisar, are 31. You played the principal organisational role alleged by the Crown and also smashed windows.

A written defence sentence note has been served on your behalf. I have read the character references. You accept the facts of the offending and the jury's finding. You have expressed remorse for your actions. Although your political views remain unchanged, you told Probation that reflection upon the proceedings has altered your view of how those beliefs should be expressed. You now recognise the importance of lawful and non-criminal means, consider your actions on this occasion to have been inappropriate and ineffective, and have indicated that you do not intend to engage in further offending of this kind. In that sense, while you have not abandoned the beliefs

which motivated you, the material before me indicates that you recognise the error in using criminal damage to advance them. You express concern for the staff present within the bank in your Pre-Sentence Report.

You have caring responsibilities.

A Probation Requirement is not suggested but, as an alternative to custody, unpaid work is.

Mohammed Malik

You, Mr Malik, are 28. I have read the character references served on your behalf. You were principally responsible for smashing the windows. A written note on sentence has been served on your behalf. You accept responsibility for your actions. You accept that your conduct was unlawful and that strongly held beliefs did not justify causing criminal damage. You have reflected in particular upon the fear and distress likely to have been caused to the security staff and others, as well as the wider disruption, and have expressed genuine regret for those consequences. Your political convictions remain strongly held, but you say that you have returned to lawful forms of activism and have no intention of engaging in similar offending again. You therefore both accept the offending and demonstrate insight into why this method of protest was wrong. You have caring responsibilities.

A probation requirement is suggested as is, as an alternative to custody, unpaid work.

Alma Yaniv

You, Ms Yaniv, are 70. I have resolved the trial of issue against you today. I will not sentence you today for reasons I have already set out. I adjourn your sentence to 8th December.

Conscientious or protest motivation

The defence submissions rely heavily upon your conscientious motivation. The central submission is that offending committed as an act of direct political protest, motivated by conscience rather than personal gain or ordinary criminality, is to be treated more leniently. It is put in two related ways: either that conscientious motivation should materially reduce culpability and therefore the starting point, or that it should operate as a significant mitigating feature after the guideline category has been identified.

I have well in mind the principles concerning Articles 10 and 11 identified by the Court of Appeal in *Cuadrilla Bowland Ltd v Persons Unknown* [2020] EWCA Civ 9. Though a Civil matter, the principles apply to this case. Conduct undertaken as part of a protest may remain within the scope of the rights to freedom of expression and peaceful assembly even where it intentionally disrupts the lawful activities of others. The conscientious motivation of an offender is relevant to the assessment of

culpability and punishment, and may justify a more benign approach to sentence than would otherwise be appropriate. That does not provide immunity from punishment, particularly where the conduct causes excessive damage or inconvenience. I shall therefore ensure that the sentence I impose gives proper weight to your conscientious motives and to your Convention rights, while also reflecting the nature and extent of the criminal damage caused.

These same points are made in *R v Roberts (Richard)* [2018] EWCA Crim 2739. From that case it is clear that being a protester who acts on conscience provides no immunity from imprisonment even where the protest is non-violent. However, the court did indicate that the sentence must be proportionate when dealing with crime committed during peaceful protest.

Roles

You, Ms Atiqnisar, were clearly the organiser and are the most culpable of you five. You other three being sentenced today took different roles but there is no real distinction between you.

The Guidelines

The Crown submits that, subject to the separate factual issue concerning you, Ms Yaniv, the offence falls within culpability A. It relies upon the high degree of planning and premeditation: the target was selected in advance, you communicated in a group chat, equipment was obtained, roles were allocated, face coverings were used, transport was arranged and extensive damage was deliberately caused. The Crown further submits that the level and nature of violence against property went beyond your stated objectives, and invites the court to consider whether the attack was motivated by revenge against Barclays as well as an intention to bring about change.

The Crown submits that harm is Category 1. It relies upon the repair cost of £212,805.14, which it says places the financial loss substantially above the Category 1 starting-point figure, upon the alleged serious distress caused particularly to Mr Fareed, and upon the inconvenience caused to Barclays employees and customers while the branch was unavailable. On that approach the Crown identifies a starting point of 1 year 6 months' custody with a range of 6 months to 4 years' custody.

Your individual defence positions differ to a limited extent. You, Mr O'Hagan, accept that the offence is likely to fall within category 1A, but dispute the Crown's case that you intended very serious damage and rely upon conscientious motivation in culpability or mitigation. You, Mr Malik, accept category 1A. You, Ms Atiqnisar, accept high-value damage but dispute the suggestion that you occupied a more prominent organisational role and rely upon protest rights and conscientious motivation when culpability is assessed. There is no written submission from you, Ms Kelly.

The sentence

This is a category 1A offence given the planning and premeditation. However, I do not accept the characterisation of this being an offence committed in “revenge”. That, in the context of a protest case, would ignore the clear steer from the Court of Appeal in relation to the place of nonviolent protest. Protest is not the same as revenge.

I agree with the Crown that a number of factors mean that I must move up considerably from the SP. These factors include the high value of the damage (even within category 1), the high level of planning (even within category A) and the distress caused to the security guard.

However, I also agree that the motivation for this offending is a mitigating factor as is your lack of previous convictions. I note the remorse expressed in your PSR's. However, you each ran a trial. I regard this remorse as measured mitigation.

Importantly I take into account the mitigating effect of this being an offence committed during a protest. That reduces the sentence. Of course, I would have to consider in due course whether any sentence of custody ought to be suspended. But before I even reached that point, I am bound to consider whether a sentence of custody, suspended or not, can be avoided.

I do not believe that it can. Whilst this was non-violent protest, it still involved the potentially shocking sight of masked people running through the streets of Burnley late at night armed with hammers and, without any regard at all for the security staff inside, taking those hammers to the windows of a building and causing significant damage. So intent were you on making your point that you all showed a complete disregard for the distress of any passers-by or of those in the building as well as setting out to cause considerable damage. That justifies the imposition of a custodial sentence in each case – albeit reduced to take account of the fact that this offence was committed in protest.

Brendon O'Hagan, Amanda Kelly, Hmeera Atiqnisar, Mohammed Malik please stand.

Your sentence, Ms Atiqnisar, is 2 years imprisonment. For you other three the sentence is 20 months imprisonment.

I then consider whether these sentences ought to be suspended. I have regard to the Imposition of Community and Custodial Sentences guidelines.

I have concluded that the custodial sentences I impose can properly be suspended. In reaching that conclusion I have considered the factors which indicate when it may, and may not, be appropriate to suspend a custodial sentence. There are realistic prospects of rehabilitation in the community; you four are of previous good character; the material before me does not suggest a high risk of further offending; there is substantial personal mitigation; and, in some cases, immediate custody would have a significant harmful effect upon others. Some of you have caring responsibilities.

There is, however, one consideration which I regard as decisive. Each of you was motivated by sincerely held beliefs. Nothing I say is intended to question the sincerity of those beliefs, still less to require any of you to abandon them. But in a democratic society there is a fundamental distinction between holding and expressing even the strongest political beliefs and deciding that the strength or morality of those beliefs entitles a person to break the criminal law in pursuit of them. The decisive factor which permits me to suspend these sentences is my conclusion that you four have now understood this distinction - that however sincerely a cause is held, that sincerity does not provide a licence to pursue it by unlawful means.

On that basis, I am satisfied that the factors in favour of suspension are present and that immediate custody is not necessary. Suspension also provides a powerful means of ensuring that the recognition which has been expressed to the court is translated into future conduct. All sentences will be suspended for 20 months.

I make this equally clear. The suspension of these sentences depends to a significant extent upon my accepting that this change of approach is genuine. If, during any period in which I retain power to vary or review the order, any of you makes public pronouncements or otherwise acts in a way which provides a proper basis for concluding that your professed recognition was not genuine, I will consider having the matter listed before me so that I can consider what, if any, consequence should follow, including whether your sentence should remain suspended. That does not mean that you are in any way restricted from lawful protest. It is no business of the court to restrict lawful protest. However, if your recognition that unlawful means cannot be pursued is feigned I would regard myself as having been materially misled.

In each case I attach requirements of unpaid work. A probation requirement is recommended for all but one of you. I consider them necessary for all. You all need to have reinforced the apparent beginnings of an understanding that protest must be lawful.

You will all be subject to a Probation Requirement. You, Ms Atiqnisar, will carry out 250 hours unpaid work within 12 months. It would have been higher but for your caring responsibilities. You other three being sentenced today will each carry out 240 hours of unpaid work within 12 months.

If any of you commits a further offence during the operational period of your suspended sentence, you should expect your custodial sentence to be activated in whole or in part, in addition to any sentence imposed for the new offence. Equally, these are court orders, not optional arrangements. A failure without reasonable excuse to comply with the requirements of your suspended sentence order will place you at very substantial risk of activation of your custodial sentence.

I reserve breaches to myself.

If the victim surcharge applies let the order be drawn up in the appropriate amount.

I make deprivation order in relation to items seized and listed T38.

HHJ Altham

30th October 2026