



JUDICIARY OF
ENGLAND AND WALES

In the Central Criminal Court

1 August 2012

SENTENCING REMARKS OF MR JUSTICE FULFORD

BETWEEN:

REGINA

-V-

MOHAMMED SHABIR ALI

AND

MOHYAMMED SHAKIF ALI

This case concerns the financial help that these defendants, Mohammed Shabir Ali and Mohammed Shafik Ali, provided to their brother, Mohammed Shamim Ali, between August 2008 and, in reality, October 2010 (when the first arrest that is relevant to this case occurred). That financial assistance took place at a time when both defendants suspected their older brother was involved in terrorist training activities in Somalia. It is accepted by the prosecution that they sent the funds primarily out of concern for their brother's physical and mental health, but it is important to note this was in the context of his planned involvement in terrorism. They were in contact with Shamim during the relevant period and they provided funding to him on a continuing basis, although they undoubtedly would have encountered difficulties in transferring the funds. It is clear that they knew their brother needed financial assistance and why: this was all explained by Shamim over the telephone once he had arrived in Somalia, and additionally both defendants understood the need for their activities to remain undetected.

They pleaded guilty yesterday to one count of fundraising contrary to section 15 (3) (a) and (b) Terrorism Act 2000, accepting by their plea that they sent approximately £3000 from England to the Horn of Africa during the period just set out. Offences under section 15 carry a maximum term of imprisonment of 14 years.

In order to put this case in its relevant context, it is to be noted at the outset that a further defendant, Shabaaz Hussain, was sentenced by Calvert Smith J on 9 March 2012 to 5 years 3 months imprisonment for 7 counts of fundraising contrary to the same section of the Terrorism Act 2000. In essence the case against Shabaaz Hussain

was that he transferred approximately US\$14,000 to Shamim Ali (the present defendants' brother), Tufail Ahmed and Muhammad Jahangir who he accepted were all engaged, or were intending to engage, in acts of terrorism. It is undisputed that those three men had travelled to Somalia in August 2008 to join a large number of foreign fighters in that country dedicated to creating an "Islamic Emirate of Somalia". In that year the number of foreign fighters had dropped sharply leading to appeals from Al-Shabaab (the Muslim Youth Movement) for volunteers to join the Somali Jihad.

The £3000 sent by these defendants to Shamim Ali was transferred to Somalia, either entirely or in the main, by Shabaaz Hussain.

Given the strong link (as regards the timing and the nature of this offending) between Shabaaz Hussain and Shabir and Shafik Ali, inevitably this sentencing exercise has involved a detailed comparison of the respective positions of the two brothers, on the one hand, and Mr Hussain, on the other. It is argued on behalf of these defendants that in determining the right sentence, I should, amongst other things, reflect the favourable factors that distinguish them from Shabaaz Hussain.

As it seems to me, the following factors are of particular relevance in reaching the right sentence in this case:

- Shabaaz Hussain, on the basis of the material found at the time of his arrest, is a man undoubtedly committed to a fundamentalist and extreme ideology that provided the motivation for his involvement in funding terrorism. Put simply, the flat where he lived was full of violent jihadist material and the prosecution inevitably invited the court to assess his criminality against the background of his knowledge and, particularly, sympathies. In taped conversations Mr Hussain made clear his support for the mujahedeen and his sympathies for the difficulties faced by the fighters in Somalia. He was significantly involved in this offending, over a protracted period of time.
- These defendants had read certainly parts of "44 Ways to Support Jihad" which is an undoubtedly inflammatory jihadist publication, which contains a wealth of practical instruction (in the context of this case, Ways 3, 4 and 5 have particular resonance in that they deal with financing and fundraising). Furthermore, at the time of this offence they expressed, by reference to someone called Brother Hamza, an interest in militant struggle. Therefore, although they have not committed any other relevant offences and they are not suggested to have held the most extreme leanings or views, they nonetheless did have a degree of what I am going to describe as relevant ideological interest at the time of this offence. But that said, I accept that their principal concern in committing this offence was to ensure that money reached their brother in order to help him in very difficult circumstances. There are indications that, certainly at one stage whilst he was in Somalia, these two accused believed Shamim Ali was unwell. And there are some indicators that in the past he had suffered from psychiatric instability. These

two defendants were clearly involved to a markedly lesser extent than Mr Hussain and essentially for different reasons, and the sum of money they provided to their brother was significantly smaller than the overall amounts Shabaaz Hussain transferred to the Horn of Africa. I accept that if Shamim had not travelled to Somalia they would not have committed this offence.

- Both men are married and I have carefully read the various letters that have been handed in and I have taken them into account.
- Shabir Ali has three children. He was studying for an NVQ TA course at the time of his arrest, with a view, so I am told, to working in education. His family are undoubtedly suffering as a result of his absence, and in particular his wife has to care for three children alone.
- Shafik Ali's wife is pregnant with their first child. She has found her husband's imprisonment particularly onerous, given her dependence on him. I am told he had been employed before this case by Transport for London.
- Their mother is unwell (she suffers from depression and has been diagnosed with schizophrenia) and they are both closely involved with her care. They have a large extended family and strong community ties.
- Apart from Shabir's essentially irrelevant minor previous convictions they are both of good character and they are still young men.
- They have shown a strong element of social responsibility by giving evidence for the prosecution at this court in a recent murder trial which resulted in the convictions of four defendants. Their role in that case, I am told, and particularly the evidence they gave was significant.

Notwithstanding all of those matters, I must not forget that over a reasonably protracted period of time they worked to help somebody who was contributing, or intending to contribute, to terrorist activities in a war-torn country in Africa, whether or not he was a member of their family.

The courts must reflect the seriousness of offences of this kind in the sentences that are handed down given they are intended to support terrorism, and in this case notwithstanding the powerful mitigation that I have considered as to the circumstances of the offence and the defendants' respective domestic situations.

Calvert Smith J adopted a starting point of 7 years for Shabaaz Hussain, deducting close to 1/3 for his guilty plea.

Although the domestic circumstances and mitigation of these defendants are not entirely identical, I do not consider that the differences that have been brought to my attention merit distinguishing between them. Their culpability is the same, and

the mitigation advanced on their behalf has many common themes. There is no sustainable basis for passing sentences of different lengths on these two accused.

(Please stand up)

I accept that your sentences undoubtedly ought to be linked to that passed on Shabaaz Hussain. Bearing in mind his significantly greater involvement in funding terrorist activities in Somalia and his extremist motivation, and reflecting the overall differences between his position and yours, the starting point for you is 5 years. From that I deduct 1/3 for your plea (taking the sentence down to 3 years 4 months) and I have additionally reflected your responsible approach, apart from this offence, to your family and our society.

Bearing in mind all those matters, the sentence on you both is 3 years, from which is to be deducted 119 days which you have served on remand.

The relevant notification period is 10 years.