



JUDICIARY OF
ENGLAND AND WALES

JUDGE HOWARD RIDDLE, SENIOR DISTRICT JUDGE (CHIEF MAGISTRATE)

IN THE WESTMINSTER MAGISTRATES' COURT

THE QUEEN

-v-

JOHN RAYMOND NIMMO AND ISABELLA KATE SORLEY

24 JANUARY 2014

Sentencing Comments

On 7TH January 2014 you both pleaded guilty to separate offences of improper use of a public electronic communications network, contrary to s127 of the Communications Act 2003, namely that in July 2013 you sent network messages that were menacing in character. The case was adjourned until today for pre-sentence reports.

From April to July last year Caroline Criado Perez led an ultimately successful campaign to ensure that a female figure appears on a Bank of England note. Following the success of her campaign (by the announcement by the Bank that Jane Austen would appear on a bank note) she was congratulated publicly by, among others, Stella Creasy MP.

Isabella Sorley, you have admitted, on a full fact basis, posting 16 tweets as summarized by prosecuting counsel, Alison Morgan, in her opening note. Between 10.14 and 14.46 on 28TH July you posted 10 tweets in an account your own name and traceable to you. These are a background, and not the subject of the charge. Between 02.25 and 02.55 (so in the early hours) of 30TH July 2013 you posted six more tweets on another account, Ayekayess (presumably based on your initials). In summary these tweets said: "Fuck off and die...you should have jumped in front of horses, go die; I will find you and you don't want to know what I will do when I do... kill yourself before I do; rape is the last of your

worries; I've just got out of prison and would happily do more time to see you berried; seriously go kill yourself! I will get less time for that; rape?! I'd do a lot worse things than rape you.”

John Nimmo, you have admitted, also on a full fact basis, posting 20 tweets on the topic. They started on 27TH July at 22.31 and continued until 29TH July at 11.50. Five different accounts were used. Among the messages were: “ Ya not that gd looking to rape u be fine; I will find you; come to geordieland (Newcastle) bitch; just think it could be somebody that knows you personally; the police will do nothing; rape her nice ass; could I help with that lol; the things I cud do to u; dumb blond bitch.”

Some of the tweets were menacing Ms Criado Perez; others were directed at Stella Creasy. There were many other tweets from other accounts unconnected to these defendants. It is not said that the defendants in this case knew each other.

Victim statements and harm

Caroline Criado-Perez made a victim statement dated 6th January 2014. I am told she is content that I should read her statement rather than hear from her in person. That is entirely understandable. She describes how the effects of the harassment she has received have been life-changing. Her personality has changed long-term. She describes panic and fear and horror. She feared the abusers would find her and carry out the threats. She felt hunted. She remembers feeling terror every time the doorbell rang. She has had to spend substantial time and money ensuring she is as untrackable as possible. She gives a detailed and personal account of the physical effects of the fear on her. The emails from Sorley and Nimmo (she says) are imprinted on her mind – “I don't think I will ever be free of them”. It is a moving, detailed, and entirely understandable account of the effect of these crimes on her. These offences have caused serious and entirely predictable harm to her.

The effect on Stella Creasy has also been substantial. She became concerned for her safety to the extent that she had to alter her behaviour. She had a panic button installed in her home. She describes the effect of the crimes on her public duties, on her staff, and on her family. Again the offences have caused serious and entirely predictable harm to her.

Sentencing guidelines and appropriate starting point

The maximum sentence for sending a menacing message is a level 5 fine and or six months imprisonment. It is common ground that the facts of these offences puts them in the third, most serious, bracket of the Sentencing Guidelines. This has a starting point (for a first-time offender pleading not guilty) of six weeks custody and a range from high level community order to twelve weeks custody. The court can sentence outside the range if it gives reasons why it is in the interests of justice to do so. Previous convictions which aggravate the seriousness of the offence may take the sentence beyond the range, especially where there are significant other aggravating factors present (SG 174).

Aggravating features

Here there were a series of communications (not just a single one as referred to in the guideline) where extreme language was used and substantial fear was caused. Indeed it is hard to imagine more extreme threats (death, rape, and worse [Sorley]) and rape [Nimmo]. The harm is, and (despite what is said on your behalf) must have been intended to be, very high.

The fact that they were anonymous heightened the fear. The victims had no way of knowing how dangerous the people making the threats were, whether they had just come out of prison, or how to recognise and avoid them if they came across them in public.

Isabella Sorley, you admit you were drunk at least some of the time. That is a well recognised aggravating feature, consistently referred to in the generic sentencing guidelines.

The messages were posted on a number of different sites, and continued after being blocked and or warned. Neither of you showed concern about being reported to police, and gave the impression that you were immune. Some of the messages came in at night, again a common generic aggravating feature.

Isabella Sorley, you are not a first-time offender. You have 25 offences recorded against you since November 2010. The majority of those are for being drunk and disorderly.

Although this is not an imprisonable offence, the effect of such persistent disorderly behaviour should not be minimized. While on bail for this offence you committed two offences of assaulting a police officer. For those offences you were recently made a subject of a community order. You are also awaiting sentence after pleading guilty to another assault on New Year's Day. The current offence was committed within hours of an appearance at Newcastle Magistrates' Court, on 29th July 2010.

Pre-sentence reports

I have been very much assisted by the professional approach of the two probation officer, Jenny Hutchinson and Kerry Robinson, who have both addressed relevant aspects of this case. They have both confirmed that appropriate community penalties are available if the court decides that an immediate custodial sentence is not necessary. Ms Sorley, you were recently assessed as unsuitable for an Alcohol Treatment Requirement as you lack the necessary motivation. There is no reason to believe that the positions have changed.

Mr Nimmo, you were challenged about your attitude to the victims. You thought your actions justified given that a victim was responding. You minimize your actions on the basis that you was not alone in sending the abuse and did not consider you were causing the victim harm. You appear to blame the victim to some degree. Although the probation officer appeared to make some progress with this attitude, I am far from satisfied that your views would be changed by supervision.

Preliminary view

The aggravating features of this case take it to the higher end of the range. The fact that both factors referred to in the guideline (extreme language and substantial distress or fear, plus a series of communications) take the case beyond the range. Ms Sorley's convictions take your case towards the maximum penalty for this offence.

Offender mitigation

Ms Sorley, you are an intelligent and well educated woman. You have a 2(1) degree in Creative Advertising. To your credit you have mostly remained in work, even though you were unable to find employment in your chosen field. In addition you have real support

from your family, for whom this has been a very harrowing time. Mr Caulfield has emphasised to me the disconnect between the pleasant and articulate person he has seen, and the person your record demonstrates. He points out these offences occurred in a 30 minute window well after midnight when you must have been heavily under the influence of alcohol. I accept that. However you have offended so many times when drunk that it must have been obvious to you that you needed to deal with this problem if you were not to continue to cause harm to others. You admitted responsibility in interview and say you offered an apology before being arrested. That seems a hollow apology in context.

Mr Nimmo, you made no comment in interview. This was on advice and your reasons for doing so will be taken into account in considering discount for early guilty plea, but there is no doubt you did not take an early opportunity to show remorse. Any expression of regret must be seen against the background of continuing threats after being told clearly and firmly by the victims to stop. I also note the observations of the probation officers, referred to above. You have a moderate learning difficulty. You are right not to rely on that in mitigation. I cannot accept that you did not understand the effect of what you were doing. You continued after being told that the police would be informed. You used a degree of sophistication, including using different accounts, to continue your attack. The mitigating effect of such difficulty as you have is small. You are of previous good character. However it must be remembered that good character is not of itself a mitigating factor, as the guideline is based on a first-time offender.

Discount for early guilty plea

I must follow the guideline for early guilty plea [SG 4] as illuminated by case law. There are good reasons for the discount. Among other things a plea of guilty at the first available opportunity reassures victims and witnesses that they will not have to give evidence. In this case the discount is a third.

Sentence

- 1. John Nimmo - 8 weeks immediate custody**
- 2. Isabella Sorley - 12 weeks immediate custody**

In each case I have considered whether to suspend sentence. However the serious harm caused by the offending behaviour makes it inappropriate to impose anything other than an immediate custodial sentence. I have considered Mr Nimmo's lack of sympathy for the victim and the possible value of supervision. Mr Kennedy has argued with some force that both the public and yourself would benefit from supervision by a probation officer. I have also considered Ms Sorley's underlying drink problem and her apparent lack of motivation to deal with it. However, it is offence seriousness that determines my decision. The harm caused is very high and culpability is also high.

Ancillary order

I make a restraining order in the terms sought. I will not summarize the order here, but emphasize that if breached this is an offence in its own right, punishable with a fine or imprisonment, or both.

Compensation

The guideline for serious harm of the type suffered here is up to £1000. I recognise, as does the criminal justice system, that financial compensation is hard to assess and often incalculable. I am told that the victims here made not want compensation. Nevertheless there is a duty to consider compensation, which must of course be paid through the courts and not direct to the victims. Victims need not accept compensation for themselves, but can donate to a charity if they prefer. Bearing in mind the limited means of the defendants, and the fact that they will spend a short time in custody, the amount ordered is £400 each to each victim (that is a total of £800 per defendant). I recognize that may take three years to pay, and do not consider that disproportionate or unreasonable. I make a collection order.

Victim Surcharge

This is a fund for the victims of crime generally, and does not go to the victims of this crime. It does not apply in a magistrates' court for offenders sentenced to immediate custody.

Costs

I have given priority to compensation and judge, reluctantly, that the defendants are not in a position to pay costs.

Howard Riddle
Senior District Judge (Chief Magistrate)

24th January 2014