



JUDICIARY OF
ENGLAND AND WALES

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-V-

EDWARD DEVENNEY

CENTRAL CRIMINAL COURT

SENTENCING REMARKS OF MR JUSTICE SAUNDERS

12 DECEMBER 2012

Between 17th November 2011 and his arrest on 6th March 2012, this Defendant made determined efforts to enter into an agreement to supply secret information to representatives of another country. The reason he later gave for his actions was that he wished to get his own back on the Royal Navy who he considered had treated him badly. In the absence of any other evidence, I accept that this was his motivation although the objective evidence is that the Royal Navy treated him well.

I also accept that his behaviour generally had been adversely affected by his trial for a serious offence in 2010. He was acquitted of that charge, but the pressures caused by the allegation and the trial led to him drinking too much and becoming depressed. However by the time of the meeting on 28th January, I am satisfied that the Defendant was completely in control of himself. I have watched the video of the meeting between Mr. Devenney and the two men who he believed to be representatives of the Russian Secret Service. He appears relaxed and in full control of himself. There were no signs that he had been drinking and he was behaving rationally. While I am not attempting to assess the Defendant's mental health by viewing a video, there are no obvious signs that he was other than a man who was acting in a considered and rational way, and was prepared to pass any information that he was in a position to obtain to the agents.

The Defendant was in a position, by virtue of his job, to access top secret information that could be of use to another country. He had taken and downloaded onto his computer photographs of part of the Crypto code system to which he should not have had access. Those photos were taken two days after he had first contacted the Russian embassy. It is an inevitable inference that the call to the Russian Embassy and the taking of the photographs were linked. The photographs could, with other information, have led to the breaking of the code. I am satisfied that the Defendant's intention at the time that he took the photographs was to be in a position to supply that information to representatives of another country

either as part of an agreement to do so or to demonstrate the value of the information that he could obtain. In order to take those photos he had to obtain access to a locked safe. This suggests that he was prepared to take risks to obtain secret information and had the ability to get away with it.

The meeting on 28th January was intended by the Defendant to be a meeting at which he could satisfy himself that the people who he was talking to were working for Russia. He was clearly alert to the possibility that MI5 could become aware of what he was doing and he was seeking reassurance that the men he was meeting were who they said they were. The Defendant had time to change his mind about what he was doing after that initial contact but he continued to ring the men who he believed to be Russians to obtain from them sufficient proof to satisfy him that they were who they said they were.

The Defendant made it clear, at the meeting on 28th January, that he was not able to supply secret information on that occasion. In fact he did. It may be that he did not do it deliberately but he did supply details of movements and operations carried out and to be carried out by nuclear submarines. While part of that information might be accessible to those with the knowledge and ability to find it, it was information that was regarded as secret by the navy and the Defendant knew that. He himself told the police that he should not have made part of those disclosures. I am satisfied that in the wrong hands it was capable of affecting the operational effectiveness of nuclear submarines even if only because it came from a person who was actually serving on a submarine rather than from an uninformed source. It also demonstrated how easy it was for skilled interrogators to get the Defendant to supply secret information. He was talking freely to people who he believed might work for a foreign country about things that he knew were secret.

When arrested and interviewed the Defendant did not tell the entire truth. At the end of the interviews he was shown the videos of the meeting. It provided incontrovertible evidence of what was said during the meeting.

This is a very serious case. The Defendant was prepared to betray his country and his colleagues. It would have been more serious if information had been supplied to representatives of a foreign country. Consequences are always a significant factor in arriving at any sentence and while this is not attributable to the Defendant no actual damage to the national interest was caused. I also accept that there is no evidence that the Defendants motive was financial gain. I shall deal with him on the basis that he wished to harm the Royal Navy because of his complaints about their treatment of him.

I accept that the Defendant's actions between November 2011 and March 2012 were out of character with his normal conduct both during his service in the Royal Navy and the rest of his life. I base that, not only on the fact that he has no previous convictions but also because of the references that I have read which speak highly and movingly of him. They also detail the significant effect that the Defendant's troubles in 2010 had on him. I have considerable sympathy for those close to him who have been and will continue to be affected by his behaviour.

The Defendant's plea of guilty will reduce the sentence significantly. It was not entered at the first opportunity but it was always made clear to me that his lawyers needed time to carry out

detailed investigations before they were able to give the Defendant comprehensive advice. The evidence was in my judgement overwhelming but a great deal has been saved by the avoidance of a trial. The reduction in the sentence that I will give will reflect all those factors.

I have been assisted by detailed submissions on sentence both by the prosecution and the defence. One of the matters those submissions has focussed on was whether it is appropriate to pass consecutive sentences on Counts 1 and 3. That has happened in some of the Official Secrets Act cases to which I have been referred. Where that has happened it has normally been to reflect the fact that the offences went on for a very long time. That does not apply here. I regard the facts of both counts as being part of the same course of conduct and accordingly I pass concurrent sentences. It should however be clearly understood that the sentences I pass are intended to cover the totality of the offending of the Defendant. Had he only been convicted of one of the offences the sentence on that count would have been shorter. In this case the sentences can be better understood if they are expressed as concurrent sentences. It is the total sentence which is significant.

I have been referred to a number of different cases. They are not guideline cases but they do indicate the factors which should affect the length of any sentence. I have considered them all with care and I have applied the principles that they establish. I do not think it helpful for me to enter into a detailed comparison of the facts. Some are much more serious and others are factually dissimilar. Each case is distinguishable from this one. One principle established in the cases is that it is appropriate in cases like this to pass deterrent sentences. While it can properly be said that the Defendant achieved nothing and is unlikely to be in a position even if he had the inclination to pass on secret information in the future, others must be discouraged from behaving in a similar way. It needs to be understood by those who may be tempted to pass on secrets that long prison sentences must follow even unsuccessful attempts. For those reasons I reject the Defence submission that a deterrent sentence is not appropriate. A consequence of that is that while I take into account the Defendant's good character, it is of less significance than it would have in other cases. The Court also has to mark the Defendant's attempted betrayal of not only his country but also his colleagues who must feel great anger at his behaviour. Those who serve their country loyally must know that those who don't will receive proper punishment.

If you had been convicted of both counts after a trial, a sentence of 12 years would have been appropriate. I give you full credit for your plea of guilty and accordingly I reduce the sentence to 8 years imprisonment on each count concurrently.