



JUDICIARY OF  
ENGLAND AND WALES

**SENTENCING REMARKS**

**HH JUDGE MILMO QC**

**R**

**V**

**AHMED PELLE**

**25 AUGUST 2011**

**AT NOTTINGHAM CROWN COURT**

**1. PRELIMINARY**

2. Before dealing with the specifics of the offence I think it appropriate to make some general comments.

**3. GENERAL PRINCIPLES**

4. I have read the Sentencing Remarks of HH Judge Gilbert, QC, the Honorary Recorder of Manchester in **Carter & Others** delivered on 16<sup>th</sup> August 2011. He helpfully made a number of general remarks about the principles of sentencing to be applied in what are generally described as “Riot Cases”. I entirely agree with what he said. His comments are available for the press and anyone interested on the judiciary website.

**5. Criminal Justice Act 2003**

6. First, unless and until Parliament alters them, the principles of sentencing laid down in Sections 142-144 of the Criminal Justice Act 2003 apply.
7. Section 142 establishes 5 principles to be applied in sentencing offenders over 18:
  - a. The punishment of offenders,
  - b. The reduction of crime (including its reduction by deterrence),
  - c. The reform and rehabilitation of offenders,
  - d. The protection of the public, and
  - e. The making of reparation by offenders to persons affected by their offences.

8. I draw particular attention to Section 143(1) which requires the Court to consider the offender's culpability in committing the offence and any harm which the offence caused or was intended to cause or (and I emphasise) might foreseeably have caused. As Lord Judge CJ pointed out in **Appleby** [2010] 2 Cr App R 46 at para 14 (albeit in a different context):

“This statutory provision was new. It expressly required that both the offender's culpability and the consequences, actual or potential, intended or foreseen, of the crime should be expressly addressed in the sentencing decision.”

9. Finally, the requirement that a Court must take account of an early plea of guilty is based on Section 144. It is a requirement laid down by Parliament not by judges.

10. None of the individual offence Guidelines apply to this case. I accept that the reduction for early plea Guideline applies because of the statutory provision which I have just mentioned. I also agree that the Seriousness Guideline will generally be relevant.

11. I see no reason why Pre Sentence Reports should not be called for in these cases: it is clear that in Manchester both Judge Gilbert and Judge Atherton had PSR's in all the cases in which they recently sentenced. I have made local arrangements for their preparation on the morning of the hearing if no report has been prepared previously. But I would invite Justices and District Judges committing for sentence to direct their preparation: that will ease the burden on Crown Court Reporting Officers. I would simply add that I am particularly grateful to the Crown Court Reporting Officers for preparing a report in this case at short notice.

12. From earlier cases in the CACD I derive a number of proposition:

- a. An element of deterrence is called for in cases like this.
- b. A clear signal needs to be sent out that criminal conduct of the kind demonstrated in these cases is out of order and will not be brushed under the carpet
- c. Good character must be considered in the overall context but may be of less significance than in some other categories of case.
- d. In all cases an early indication of a guilty plea will constitute significant mitigation. Those who string it out and plead guilty at the last minute cannot expect any substantial discount, still less, those who are convicted after trial.

**13. Specific remarks in relation to this case:**

14. In order to get sufficient numbers to ensure that a group's violent intentions can be carried into effect, it is necessary for the group to assemble enough volunteers (a) to achieve their object and (b) to ensure that they can do so with impunity.

15. This case involves the misuse of Facebook to entice those minded to engage in public disorder to assemble in just such numbers as would achieve their object and frustrate the forces of law and order in seeking to prevent them from doing so. Gone are the days when one hour after the Magistrate read out the Riot Act to the mob, all who remained committed an offence.

16. The background is simple. On Monday 8<sup>th</sup> August there was significant disorder in the St Ann's area of the City: cars were torched and damaged and the local police station was subjected to a petrol bomb attack. That followed the well publicised disorder in other major cities. Many hoped and prayed that Nottingham would be saved from further trouble, their hopes and prayers went unanswered.
17. On Tuesday 9<sup>th</sup> August the violence spread to the City Centre and to other areas. More vehicles were torched, commercial premises were damaged by fire and shops were looted. Several groups were involved. Many wore masks to obstruct identification; many were armed with weapons; missiles were thrown at police officers seeking to calm the situation.
18. In the result:
  - a. Over 20 cars were destroyed or damaged by fire;
  - b. Clarendon College was damaged by fire;
  - c. The roof of the Girls' High School was taken over by a group who used it to throw missiles from;
  - d. Two shops were looted;
  - e. Police officers were attacked with missiles;
  - f. Police stations were petrol bombed;
  - g. Significant police reinforcements had to be called in from other forces so that they were left under strength to deal with normal duties;
  - h. The additional police costs locally already exceed £1m so far: clearly that sum will increase over time.
19. Most significantly, and I cannot express it better than Chief Supt. Waterfield, "[Nottingham] is a hard working City, wonderfully diverse, where local people and agencies have worked hard to shake off previous reputations and to get the City to put its best foot forward." No doubt he remembers, as I do, earlier Nottingham Riots and all the subsequent efforts made to ensure that this City recovered its status as the "Queen of the Midlands" – all that now put at risk by gangs determined to cause mayhem to the consternation of right thinking members of the public.
20. It was against a similar background that the Recorder of Manchester imposed deterrent sentences. I propose to take a similar course.
21. **Amed PELLE** is 18. He has a Facebook account with 2000 friends. On 3 occasions between Saturday 6<sup>th</sup> and Wednesday 10<sup>th</sup> August he posted three:
  - a. First, "Kill one black youth; we'll kill a million Fedz: riot till we own the cities."
  - b. His second was "Notts riot: who's on it?"
  - c. The third was "Rioting tonight; anyone want something from Flannels?"
22. On arrest you suggested it was all a joke. In interview you frankly conceded:
  - a. You wanted the riots to continue as a demonstration by black youths against authority, Government and Police so "the police can't do nothing to us no more";
  - b. You wanted to follow "Shank" so that youth would take over the streets so that Government, Police and Society could do nothing; that is a recipe for anarchy;

- c. You wanted to encourage continued rioting in the major cities of this country and blowing up police stations and Government property and shutting them down;
  - d. You thought your posts might have encouraged people to do what they wanted to do anyway.
23. Interestingly a number of the comments posted confirm that they thought you were a stupid idiot. The problem is that others may have taken your comments seriously.
  24. You pleaded guilty to sending 3 messages on Facebook inciting contact to join in violent disorder, not, I emphasise, Riot. I understand the Chester cases involved inciting contact to join in Riot.
  25. I have read the Community Impact Statement by Supt Walker which evidences the extent of the public disorder on the streets of Nottingham over the 48 hours prior to 10<sup>th</sup> August. What is particularly significant is the emphasis he places on the cooperation which the local police have received from all the local communities.
  26. The seriousness of what you did was to encourage indiscriminately those who were minded to take part in the violence and those who were not but who on seeing your comments might have changed their minds. I am satisfied that that was your intention.
  27. What you encouraged was not an attack on an individual but attacks on the people of Nottingham as a whole and the people of other cities. Fortunately those living in this City were, for the most part, too sensible to follow your lead.
  28. You went to the extent of posting a profile picture of boxes of Vans, Lacoste, Fred Perry and Adidas trainers intending people to believe you had looted them. You said later, which I fully accept, that you had purchased them legitimately out of your Job Seekers Allowance.
  29. I pay particular regard to the harm this offence could foreseeably have caused: clearly it was designed to and could well have led to increased numbers on the street intent on violence to persons and property.
  30. I have read the PSR and your own letter to the Court. I note particularly your comment: "I owe a debt to my City and Country and would like to be seen repaying it." That has to be seen against the background that you came here from Cuba with your mum and your two brothers when you were only 3.
  31. I also pay particular regard to the fact that you indicated a guilty plea when the case was before the Magistrates: that requires me to allow a more than usual discount.
  32. After a trial the sentence, reflecting the need for deterrence, would have been one of 4½ years. The maximum sentence prescribed by Parliament for violent disorder and encouraging violent disorder is 5 years. I said I would reduce the sentence by more than 1/3; I do so. The sentence will be one of 2 years 9 months.
  33. You will serve one half of that term. You will then be released. I make it clear that has nothing whatsoever to do with the Court. Parliament has decreed that offenders will only serve one half of whatever term the Courts deem appropriate. Indeed the executive may

decide to release you before that one-half period. Again I have no influence on that: that is a matter entirely for the Ministry of Justice and whatever rules it sets at any particular time.

34. When you are released Licence Conditions will be set for rest of the sentence period, in other words the second half of the sentence. If you breach any of those conditions during that period you will be liable to recall.
35. The sentence effectively starts from when you were first remanded into custody. I direct, as I am required to, that you will receive full credit for the full period of time spent in custody on remand. On the information before me the total period is 13 days but if this period is mistaken, this Court will order an amendment of the record for the correct period to be recorded.