

Judicial Communications Office

4 July 2025

COURT FINDS DAMIAN DUFFY AND SHEA REYNOLDS GUILTY OF TERRORISM RELATED OFFENCES

Summary of Judgment

Her Honour Judge Smyth, the Recorder of Belfast, sitting in a non-jury trial in Belfast Crown Court today found Damian Duffy and Shea Reynolds guilty of engaging in conduct in preparation for terrorist acts, possession of articles for use in terrorism and making a record of information likely to be useful to a terrorist.

The offences relate to two incidents in September 2016. The first was the placement and retrieval of a wildlife camera at Annaghone Road, Coalisland between 4 and 8 September 2016. The second was on 14 September 2016 when the same camera was placed in the garden of a retired police officer ("Mr X") in Drumnabreeze, Magheralin. The camera was found by Mr X on 15 September who contacted the police. It was replaced with a dummy replica which was monitored until it was retrieved by two men, alleged to be the defendants, on 20 September 2016. The prosecution case was that the camera was deployed with a view to gathering information which could be used by terrorists to carry out an act of terrorism. It was not disputed that others were likely to have been involved in the criminal activity and that other persons and vehicles were of interest to police.

The case against each defendant was circumstantial in nature. The prosecution relied on evidence of various events leading up to and subsequent to the deployment of the camera and submitted that when all these circumstances are taken together, they establish an overwhelming case against each defendant. The prosecution case was that, taken as a whole, the evidence proved that the acts alleged are connected and form part of a strategy by the defendants to target individuals and to collate information which could be used to assist terrorists. The prosecution also submitted that the ultimate purpose was to assassinate a person regarded as a "legitimate target" such as Mr X.

The defendants were arrested on 21 September 2016. In the course of police interviews they declined to answer questions. They were charged on 26 September 2016. Duffy made no reply to the charge. Reynolds replied: "I have no knowledge whatsoever that the camera was to be used for the acts of terrorism." In their defence statements, they challenged every aspect of the prosecution but made no positive case to explain the evidence against them. It was submitted that the evidence was insufficient to justify conviction and even if the court were able to place weight on the prosecution evidence, it was consistent with myriad other possible scenarios, including that the defendants were not the persons involved in the criminal activity and that others, who were not before the court are guilty. It was also submitted that the court should not convict because it could not be sure that the evidence was full, accurate and truthful. This submission was based on the alleged unreliability of the surveillance evidence but also on allegations that the crime scene at Mr X's home may have been interfered with in order to implicate the defendants. Finally, it was submitted that the trial was so materially unfair to the defence that it should be stayed as either an abuse of process or a trial process where the defendants' fair trial rights have not been respected contrary to article 6 of the European Convention on Human Rights (ECHR) and section 6 of the Human Rights Act 1998.

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Core legal principles

The judge outlined the core legal principles relating to criminal trials without a jury and the approach to be taken by a court where the case against a defendant depends on circumstantial evidence in paras [21] – [27] of her judgment.

The evidence

The prosecution relied on a number of strands of evidence:

- The movements of a VW Golf which was owned by Ciaran Magee (a co-accused who was not before the court) but was frequently driven by Reynolds who was a named insured driver and others. The evidence comprised ANPR captures and observations by surveillance officers.
- Mobile phone data from phones attributed to both defendants and Ciaran Magee, including cell site analysis and evidence of data transmissions or the absence thereof during relevant periods.

The prosecution case was that on 4 September 2016, Reynolds and Duffy were involved in deploying the wildlife camera on the Annaghone Road. The SD card subsequently retrieved from the camera, contained a number of AVI clips which the judge was satisfied, when compared with photographs of the scene, confirmed the positioning of the camera. The AVI clips are date stamped, but because they were located in unallocated space on the SD card, the accuracy of the clips could not be forensically proved. The prosecution contended that both defendants returned to the Annaghone Road on 8 September to retrieve the camera. They relied on similar surveillance observations, supported by ANPR evidence and images recorded on the camera. One of the AVI clips was alleged to show Reynolds' face in Duffy's kitchen. There was no dispute that the camera clips did record Duffy's kitchen, and the judge accepted that there was a notable resemblance to Reynolds and afforded weight to the clip.

The prosecution submitted that the same camera was deployed by both defendants in the driveway of Mr X's home, at Magheralin on 14 September 2016, positioned in such a way as to capture the movements of vehicles to and from the home. The surveillance evidence for this date was assisted by images from the PSNI helicopter which tracked the Golf using thermal imaging. The Golf was seen to make four loops of the area around Mr X's home. There was no direct evidence of the defendants deploying the camera but the prosecution submitted that if the court was sure it was the Golf doing the loops, it could infer that the purpose was to enable those involved in the deployment to be dropped and collected. Reynolds was later observed on CCTV exiting the Golf at Lough View Maxol Filling Station at 23:25 hrs. Ciaran Magee was alleged to be buying items in the shop. This was after the prosecution say the camera was deployed at Mr X's home and Duffy dropped back to his home.

On 15 September 2016, Mr X described noticing a glint as he was walking out of his garden at around 09:00 hrs. He saw a small box shaped item, sitting between two trees which he realised on closer inspection was a camera which would have a view of any vehicles or persons entering or leaving his driveway. Mr X had not noticed the camera when he had been working in the lane the previous evening. He used his phone to take photographs of the camera and did not touch or move it in any way. He contacted police who came to retrieve the camera later that day for

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examination and replaced it with a dummy replica. The scene was then monitored remotely by police with a live video feed. On 20 September 2016, at 21:14 hrs, two individuals, alleged to be the defendants entered Mr X's property and removed the dummy replica. One, alleged to be Duffy was wearing a pair of gloves and climbed over the gate into the field before going back over the gate after retrieving it and walking towards the Drumnabreeze Road with the other person. The judge noted that the individuals did not appear to have had any difficulty locating the dummy replica, which suggested that it was left at the same spot where Mr X had found it. There was no evidence before the court that Mr X or anyone else interfered with the crime scene. The judge was not satisfied that a positive identification of either Duffy or Reynolds could be made to the criminal standard from the video feed.

Internet searches on the phone attributed to Duffy on 20 September 2016 between 22:26 hrs and 22:41 hrs included queries why a SD card was not working, and clips could not be played. The prosecution case was that the searches demonstrated Duffy's attempts to activate the dummy replica that had been replaced by police and monitored at Mr X's home. The judge said these were clearly relevant both in time and content and attached significant weight to them.

A fingerprint sample from Reynolds was compared to an imprint that was located on the camera retrieved by police from Mr X's home. The mark on the camera had already been compared against the fingerprint of Duffy and two others with a negative result. The PSNI fingerprint expert concluded that she was sure of a match to Reynolds. The defence engaged a fingerprint expert who gave evidence challenging the findings. The Judge set out the details of this evidence in paras [129] – [154]. Mindful that fingerprint evidence is not infallible and that this was only one piece of evidence, she attached some weight to this evidence.

At the conclusion of the prosecution case the judge refused applications on behalf of each defendant that they had no case to answer. She also refused an application on behalf of Duffy that proceedings should be stayed as an abuse of process on grounds of delay in bringing the proceedings to trial, the police failure to operate a digital recording system for surveillance observations and initial failures in the disclosure process. The judge rejected an application to exclude the identification/recognition evidence from surveillance officers on the ground that the prosecution had allegedly failed to use a digital recording system in order to manipulate the evidence. The judge also refused an application to reconsider a ruling admitting Duffy's previous conviction for a terrorist offence as bad character evidence and refused to reconsider hearsay rulings relating to Mr X and other officers who attended the scene on grounds of fear or ill health¹.

The case against and for each defendant

The judge accepted that the only reasonable inference to be drawn from the deployment of the wildlife camera in the driveway of a retired police officer's home was that whoever was responsible intended that it should be preparatory to acts of terrorism. She said that whatever the precise purpose of deploying it was, it was reasonable to infer that the events were connected and the content of the clips confirming the positioning of the camera so as to record registration numbers supported that inference.

The surveillance evidence was the core of the prosecution case:

¹ The details of these rulings are set out in paras [161] – [180].

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“It was not by chance that multiple undercover officers were positioned at the relevant points after briefings which included photographs of interested persons and vehicles, including the Golf car or that the police heli-camera was in operation, tasked with tracking the Golf on the night before Mr X located the camera in his driveway.”

The judge considered the points made by the defence including that the existence of previous statements by surveillance officers was only uncovered in cross-examination; witness statements contained additional information relevant to the credibility of sightings which was not recorded on the surveillance log by the log keeper; in some instances, officers recorded “unconfirmed sightings” or did not purport to identify an occupant of the car; the occupancy of the Golf varied, and others who were not before the court, were also identified in it on the relevant dates; and in some instances, evidence from officers about the position of the vehicle or how many persons were seen near the Golf conflicted.

The judge bore in mind the circumstances in which identifications/recognitions were made which made it inevitable that some errors might have occurred. She said the officers were in vehicles, sometimes in the dusk or darkness, trained not to stare or draw attention to themselves. Some identifications were no doubt not much more than fleeting and the judge reminded herself of the warnings relevant to such cases:

“Whilst recognitions by numerous trained surveillance officers, pre-briefed, are likely to be more reliable than ordinary witnesses I do of course bear in mind that even a number of professional witnesses may be mistaken. The possibility of confirmation bias leading to error must also be borne in mind. I do, however, consider it highly unlikely that all or most of them were mistaken and Mr Murphy candidly told the court that the ability of the human eye to perceive detail is superior to any camera or artificial attempt to replicate a scenario. I also take into account that where officers were not sure of an identification, they said so and whilst criticism has been levied at the content of the surveillance log, unconfirmed sightings and no identification made at all in certain instances, those weaknesses are laid bare. If the purpose of the log had been to allow for manipulation, it would not have been difficult to remove any trace of uncertainty.”

The judge commented that a digital system of recording contemporaneous surveillance communications would have provided absolute accuracy but added that in a fastmoving situation, where surveillance officers were on a planned operation, full details of each identification may not have been capable of being relayed or recorded manually with complete accuracy. For that reason, additions or corrections were permitted during the de-briefing, signed by the relevant officer and there was no basis for inferring a deliberate decision not to employ a digital system for improper reasons.

The defence queried what appeared to be a different ink in part of the log and suggested it was evidence of alteration of evidence. The prosecution provided an explanation, nevertheless, the defence submitted that the judge should doubt the reliability of the log, or the evidence based upon it because of the appearance of the ink but she declined to draw such an inference. However, the judge did accept that information in statements which were not recorded in the contemporaneous log was unlikely to be accurate when the statements were created weeks or months afterwards. In light of these issues, along with some conflicting evidence, the judge

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accepted that the weight to be attached to the surveillance evidence depended on what other evidence there was to support it.

The judge held that the ANPR evidence was clearly supportive because it conclusively confirmed the surveillance evidence of sightings of the Golf at the relevant locations and at the relevant times. Whilst it related only to the Golf and not its occupants, it was relevant to the veracity and reliability of the surveillance evidence generally. As well as the ANPR, the surveillance evidence was supported by mobile data evidence, date stamps on the AVI clips from the SD card of the camera, the content of the clips and in the case of Duffy, relevant internet searches. The judge said that whilst the date stamps could not be forensically proved, they were consistent with the other strands of evidence and that was unlikely to be a coincidence. She was satisfied from the combination of evidential strands that the date stamps were accurate and attached weight to them. However, in light of the evidence that there may be innocent reasons for the presence of Reynolds in Duffy's kitchen and the fact that the camera's presence in both Reynolds' and Duffy's kitchens was not conclusive of guilt of any of these charges, the weight to be attached and the conclusions reached with regard to this aspect of the evidence would depend on and have to be assessed in the light of all the surrounding circumstances to see whether it is strengthened or reduced.

The judge carefully considered the repeated suggestions during police interview that the Golf was stationary for a period of six minutes and the defence submission that the absence of such an occurrence on the heli-tele footage suggested that it has been tampered with. However, she took into account the evidence of the experts who said they observed nothing to suggest that the footage was not authentic. The judge added that the timing of the indisputable observation of Reynolds on CCTV at the Maxol Filling Station, was also consistent with the heli-tele footage. She accepted the evidence, which was also supported by surveillance officers, that the Golf did four loops of the area around Drumnabreeze, that the footage played to the court was authentic: and it was reasonable to infer that the camera was placed in Mr X's driveway during these loops:

"Taking into account all of the surveillance evidence and the evidence that supports it, including the ANPR evidence, the mobile phone data, the AVI clips, and the unlikelihood of coincidence, I attach considerable weight to it."

In order to determine beyond reasonable doubt that the defendants had been correctly identified as the persons responsible for these offences, the judge had to consider all of the strands of evidence that she had given weight to and evaluate its combined strength. The judge said it was of particular importance that she took account of any circumstances which tended to establish innocence and more especially circumstances which were inconsistent with guilt: "I have to be satisfied that no explanation other than guilt is reasonably compatible with the circumstances."

The judge was satisfied that there was a strong *prima facie* case against both defendants in respect of all charges and that there were no facts or circumstances which were inconsistent with a conclusion of guilt. She said the following matters clearly cried out for an explanation or contradiction of the evidence that had been heard:

- The presence of the camera in both Reynolds' and Duffy's kitchens.
- The defendants' movements on the relevant dates.
- Whether Reynolds positively disputes that his image appeared on the clips at Annaghone and/or in Duffy's kitchen or that the fingerprint on the camera belongs to him.

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- An explanation is required by Duffy for the internet searches on the phone attributed to him.

The judge said that neither defendant gave any evidence to explain or contradict the evidence in this case. She bore in mind that even if she considered that it was proper to draw inferences from silence, she may take it into account only as some additional support from the prosecution's case but that she could not find either of the defendants guilty only, or mainly, because that defendant did not give evidence. It was submitted on behalf of Reynolds that she should not draw an adverse inference because the court can take into account whether the giving of evidence by the defendant would have served to have implicated a co-accused or some other person. Furthermore, it was submitted that the decision on whether to give evidence was likely to have been influenced by the approach taken by a solicitor at interview. It was suggested that the advice to remain silent during interview was proper advice until the evidence was in fact served upon the defendant. The judge said she had no evidence from Reynolds's solicitor about the reasons for his advice, nor had she any explanation from Reynolds as to why he chose to remain silent. The judge did not consider that a possible motive not to implicate another co-accused was a proper reason for remaining silent:

"In my view, the combination of circumstances present in this case is such that I am satisfied that the only sensible explanation for each defendant's silence is that neither of them has an answer or none that would stand up to examination. Absent such explanation I draw the inference that if there were an innocent explanation for this combination of circumstances they could and would have been well capable of providing it to the court, but they have chosen not to do so.

I have, therefore, concluded that each of them has been correctly identified as principal participants in each of the offences. The fact that there may have been others involved does not affect that conclusion.

In respect of Mr Duffy, that conclusion is inescapable even without considering his bad character. However, it is relevant that he has previously been convicted of using violence to extract information relating to police and UDR which would be of use to terrorists. It is relevant because what the defence put forward on his behalf is that this is a case of wrongful identification, based on unreliable surveillance and other evidence. Implicit in that defence is a submission that the strands of evidence amount to no more than a coincidence. I reject that submission.

I find both defendants guilty of all the counts on the indictment."

The defendants will be sentenced at a later date.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. The full judgment will be available shortly on the Judiciary NI website (<https://www.judiciaryni.uk/>).

ENDS

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