

*Judgment: approved by the Court for handing down
(subject to editorial corrections)*

Delivered: **24/11/2005**

IN THE CROWN COURT AT BELFAST

THE QUEEN

-v-

ABBAS BOUTRAB

**(also known as YOCEF DJAFARI,
also known as ABBAS FAWWAZ,
also known as BRAHMIN ABAOUI)**

WEATHERUP J

The charges.

[1] The defendant Abbas Boutrab faces five charges.

On the first count he is charged with possession of articles for a purpose connected with terrorism, contrary to Section 57(1) of the Terrorism Act 2000. The particulars of offences are that on 14 April 2003 he had 25 computer discs which contained text, photographs and diagrams in his possession in circumstances giving rise to a reasonable suspicion that the items were in his possession for a purpose connected with the commission, preparation or instigation of an act of terrorism.

On the second count he is charged with collecting information likely to be useful to terrorists contrary to Section 58(1)(a) of the Terrorism Act 2000. The particulars of offences are that between 7 October 2002 and 15 April 2003 he collected or made a record of information namely the 25 computer discs which was of a kind likely to be useful to a person committing or preparing an act of terrorism.

On the third count he is charged with handling stolen goods, contrary to Section 21(1) of the Theft Act (Northern Ireland) 1969. The particulars of offence are that on 14 April 2003 he dishonestly undertook or assisted in the

retention, removal, disposal or realisation of a Nokia mobile phone by or for the benefit of another or arranged to do so knowing or believing the same to be stolen goods.

On the fourth count he is charged with using a false instrument contrary to Section 3 of the Forgery and Counterfeiting Act 1981. The particulars of offence are that between 16 July 2002 and 24 September 2002 he used a passport in the name of Fabio Parenti with the intention of inducing an employee of Lynn Recruitment to accept it in discharge of the duty imposed by Section 8 of the Asylum and Immigration Act 1996 (the duty on an employer of an immigrant to require the production of a specified identity document).

On the fifth count he is charged with having custody or control of a false instrument contrary to Section 5(2) of the Forgery and Counterfeiting Act 1981. The particulars of offence are that on 14 April 2003 he had in his custody or under his control without lawful authority and excuse the passport in the name of Fabio Parenti which he knew or believed to be false.

The detection and arrest of the defendant.

[2] On 8 April 2003 members of the Police Service of Northern Ireland attached to the Foreign National Unit attended a flat at Whitehouse Court, Newtownabbey, County Antrim as a result of an incident involving an attack on a foreign national by an unknown person. Detective Sergeant Hawthorne and Detective Constables Thompson, Brown and Ritchie spoke to the occupier of Flat 2E who identified himself as Abbas Boutrab, an Algerian national who was seeking asylum in the United Kingdom. Police were suspicious of the identity of the person identifying himself as Abbas Boutrab and on return to base further enquiries led police to believe that he was wanted by police in the Republic of Ireland under the name of Yocef Djafari, an Algerian national who had applied for asylum in the Republic of Ireland. A search warrant was obtained under the Immigration Act 1971 and on 14 April 2003 the same four members of the Foreign National Unit together with Immigration Officers Harkin and McCusker and uniformed police officers conducted a search of the flat occupied by the defendant. Detective Constable Ritchie arrested the defendant under Section 24 of the Immigration Act 1971 as he had reasonable cause to suspect that the defendant was illegally in the United Kingdom. The defendant was taken to Antrim Road Police Station.

[3] The search of the defendant's flat on 14 April 2003 led to the seizure of a number of items. Detective Sergeant Hawthorne seized items that included 20 floppy discs and 5 compact discs which were in a chest of drawers beside the bed. These items were labelled RH2 and are the articles that found the

first and second charges against the defendant. Detective Constable Thompson seized items that included 19 audio cassette tapes and then as a separate item 18 audio cassette tapes. Detective Constable Brown seized items that included 3 mobile phones and a mobile phone charger. One Nokia mobile phone and one Trium mobile phone together became one item. One Trium mobile phone and the charger together became another item. The Nokia mobile phone founds the third charge against the defendant. Documents were seized that were in the name of Fabio Parenti, namely a passport, an identification card that included a photograph, an Italian cash card and Inland Revenue documents. The passport in the name of Fabio Parenti founds the fourth and fifth charges against the defendant. In addition, assorted documents were seized that included a Belfast City library card in the name of Abbas Boutrab, two notebooks and various handwritten notes, a London underground ticket and three passport sized photographs.

[4] On 11 June 2003 a further search was undertaken at the defendant's flat by Detective Sergeant Ennis and Detective Constables Kennedy and Stone. Detective Constable Stone seized items that included a vehicle and engine manual in English, a Jiu-jitsu combat manual in English, various handwritten notes, a personal cassette player and various items of tools and equipment.

[5] On 3 November 2003 at HMP Maghaberry Detective Constable Robinson arrested the defendant under Section 41 of the Terrorism Act 2000. From 3 November 2003 to 9 November 2003 the defendant was interviewed by Detective Sergeant Ennis in the presence of his solicitor and an interpreter Mr Djelloul Hamaz. On 9 November 2003 Detective Sergeant Ennis charged the defendant with the present charges and after caution and in reply to each charge he stated "I am not guilty".

[6] The essence of the matters relied on by the prosecution on the first and second charges was that the contents of the floppy discs had been downloaded by the defendant from a computer in Belfast Central library and contained information in connection with the making and use of explosives for attacks on aircraft and the manufacture of silencers for firearms, which on the prosecution case indicated a terrorist purpose in all the circumstances; on the third charge that the defendant was in possession of a stolen Nokia phone; on the fourth and fifth charges that the defendant was in possession of a false passport and had produced the passport to an employment agency, Lynn Recruitment, in order to obtain employment.

The defendant's challenge to the continuity and integrity of the items seized.

[7] The defendant made a fundamental challenge to the continuity and integrity of the items seized from the defendant's flat. The challenge related to

the recovery, storage, transporting and examination of the items. The prosecution acknowledged shortcomings in the recovery, storage, transporting and examination of items, as having been undertaken in a manner that was contrary to best practice. It is necessary to consider separately the continuity and integrity of the discs, the cassette tapes, the mobile phones, the documents and finally, all the other items.

[8] The defendant made a particular challenge to the continuity and integrity of the floppy discs and their contents. The prosecution, while accepting the shortcomings in the recovery, storage, transporting and viewing of the floppy discs, relied on the evidence of the police and Security Service officers to account for the movement of the discs and further relied on the evidence of examination of the contents of the discs to confirm the integrity of the contents. At this stage I propose to consider whether the prosecution has established beyond reasonable doubt that the discs produced to the Court were those recovered from the defendant's flat, and if so, whether the documents produced to the Court as being the contents of the discs represented the contents when the discs were recovered from the defendant's flat.

Examination of the discs.

[9] Item RH2 seized by Detective Sergeant Hawthorne on 14 April 2003 comprised 20 floppy disks and 5 compact discs. On 21 May 2003 Mark Stephens of the Metropolitan Police Service, Anti-Terrorist Branch, forensic computer examiner commenced an examination of RH2, from which he made forensic images of 20 floppy discs and 2 compact discs. He then examined these images using "encase" which is a software product which he described as the primary forensic analysis tool which can be used to make a copy of all the data on a computer disc without altering it in any way, and it can then be used to examine the data without altering the copy. Mr Stephens then extracted as many as possible of the live and previously deleted files from the discs and compiled a compact disc which contained the extracted files. On 5 June 2003 he printed from the extracted files a number of documents in Arabic. Six of the documents had the file extension ".doc" and were numbered MAS2 to MAS7. One file was called "dawra.pdf" and was password protected. Using password recovery software it was established that the password was "khadija". The printed copy in Arabic was identified as MAS8.

[10] Mr Magdy Abbas an Arabic interpreter/translator at the Metropolitan Police Service received the compilation compact disc prepared by Mr Stephens. From this he obtained the documents known as MAS2 to MAS7 and provided an English summary of the Arabic documents. Later Mr Abbas completed a full translation of the documents MAS2 to MAS8 and the English versions were identified as MA2 to MA8 respectively.

Mr Abbas's summary of MAS2 stated that it consisted of a document on how to make improvised detonators which can be admitted undetected on to an aircraft with the intention to blow it up. The English text in MA2 bears the title "In the Name of God the Merciful the Compassionate" and under the heading "Making Detonators" sets out a number of photographs with related instructions. The first photograph appears to show the inner parts of a camera, with a component known as a capacitor removed from its housing. As the evidence was to establish, a capacitor is an electrical component that stores energy. The text refers to the capacitor as an item found within the flash circuit of photographic cameras. The text states that such an instrument, which can be utilised to make an electric blasting detonator, can be accessed on to aircraft without suspicion. There then follows photographs and text which describe the removal of the capacitor from the circuit using a soldering iron, the removal of the paper filling from the capacitor, the filling of the capacitor with three substances required to make a detonator (booster - initiator - igniter) and the resealing of the capacitor. There then follows detailed notes and instructions relating to a team of people carrying items on to an aircraft, with the items to be assembled and detonated by one of their number in the toilet of the aircraft. The document concludes "This operation is to be carried out in African airports or poor countries who do not care or where there are no modern explosive detectors and it is God who grants success."

The summary of MAS3 stated that it consisted of a document showing a diagram of a silencer with details on how it operated. The English text in MA3 contains an explanatory figure for the internal components of a silencer involving an outer tube, an inner tube, the use of freeze plugs fixed by screws and rubber pieces obtained from rubber door stoppers.

The summary of MAS4 stated that it consisted of Part I of a document on how to make improvised firearm silencers illustrated by a diagram. The English text in MA4 is headed "The Manufacturer of Silencers Part I" and sets out in photographs and text an aluminium tube fixed to a vice, the measuring and marking and drilling of holes in the tube and the use of freeze plugs and rubber parts from doorstoppers.

The summary of MAS5 stated that it consisted of Part II of a document on how to make improvised firearm silencers illustrated by diagrams. The English text in MA5 has the heading "This is Part II of the Manufacture of Silencers, which is Supplementary to Part I" and shows the fitting of the rubber pieces from the doorstoppers and the use of the freeze plugs. This includes the advice that as plugs must be bored carefully in the middle and this can only be done with a lathe to determine the middle of the plug, three plugs should be taken to a turner with the excuse that the user had a data press that was being repaired. Further, it was advised that a number of

turners should be visited so as not to arouse suspicion and lying was permissible as there was a state of war. The comment is added that those who do not like what the author is saying should be hit over the head with the silencer to wake them up, and as Colin Powell had called the army invading Iraq the occupying army "what are you waiting for."

The summary of MAS6 stated that it consisted of a document on how to make improvised silencers for M16 and Kalashnikov rifles illustrated by diagrams. The English text in MA6 contains diagrams and text illustrating the fitting of a silencer to an M16 or a Kalashnikov.

The summary of MAS7 stated that it consisted of a document containing a continuation on how to make improvised silencers. The English text in MA7 contains further directions on the use of freeze plugs in the making of a silencer.

The summary of MAS8 stated that it consisted of a document containing what seemed to be a course or manual on the manufacture of explosives, which included mercury fulminate, lead azide, silver azide, peric acid, tetryl, cyclonite, RDX, TNT, C4, C5, hexolite, TNT plus tetryl, a plastic explosive, a number of explosive mixtures, fuses and electric and non-electric detonators. The English text in MA8 states that it contains "A Course in the Manufacture of Explosives. For the Fighter Group Champions of Truth. Until the Will of God be Done. Prepared by Ibnul-Islam Seeking God's Forgiveness". The cover sheet states "In the name of the God the Merciful the Compassionate. May blessing and peace be upon the leader of Mujahideen. The Islamic Information Centre presents Equipment Of Those Longing For The Lord of the Worlds". The text sets out methods of preparation for initiating substances and boosting substances and explosive substances and notes on fuses and detonators.

Handling of items by the police

[11] Detective Constable Thompson was the log keeper at the search of the defendant's flat on 14 April 2003. He collected the 19 cassettes and the 18 cassettes and a jacket and knife and gave them 3 separate identification marks. Detective Constable Brown collected items which were given 9 separate identification marks and handed them over to the log keeper. Detective Sergeant Hawthorn collected items that were given 2 separate identification marks and he handed them over to the log keeper. Detective Constable Thompson as log keeper recorded each item in his log by identification mark and put the articles included under each identification mark in a separate brown evidence bag which was folded over but not sealed and not marked. All the items were then taken back to the Foreign National Unit office and placed in a secure cabinet. At a later date each items was

transferred into a separate plastic evidence bag where details could be marked on the plastic and police labels could be attached to each plastic bag.

[12] On 15 April 2003 Detective Sergeant Hawthorn and Detective Constable Ritchie travelled to the offices of the Security Service in London with three of the items, the 25 computer discs, the 19 cassette tapes and the 18 cassette tapes. The police evidence was that the items were taken in three unsealed, unmarked brown bags and carried in a briefcase and the bags were handed to a member of the Security Service. The two police officers returned to the Security Service offices the following morning and retrieved three brown bags and were informed that the cassette tapes had been examined and contained extreme Islamic material and the computer discs had not been examined. Detective Sergeant Hawthorne returned the three brown bags to the Foreign National Unit security cabinet. While Detective Constable Ritchie accompanied Detective Sergeant Hawthorne to London he did not have any dealings with the brown bags and did not see the contents of the brown bags.

[13] On 21 April 2003 Detective Sergeant Hawthorne and Detective Constable Brown examined the 25 floppy discs and CDs on the office computer at the Foreign National Unit and printed information contained on the discs. The printed documents were then sent to the Security Service for translation and analysis. The investigation of the defendant moved from the Foreign National Unit to the Serious Crime Squad. Access to the floppy discs ought to have been undertaken by officers from the forensic unit with the application of proper forensic procedures. The examination of the discs in the office of the Foreign National Unit was undertaken without precautions to prevent contamination of the contents, a matter considered below.

[14] The available exhibits records indicate that on the plastic bag containing the discs was an entry noting receipt of the 25 computer discs on the 14 April 2003 from Detective Sergeant Hawthorn from the defendant's flat and the examination of the discs on 21 April 2003. A paper exhibit form was attached to the plastic bag noting the continuity of the exhibit with an entry on 14 April 2003 and no further record until 15 May 2003. Accordingly there was no record of the transfer of the item to the Security Service on 15 April 2003 or a return to the Foreign National Unit on 16 April 2003.

[15] Similarly the two items containing the 19 audio cassette tapes and the 18 audio cassette tapes respectively were transferred to plastic bags by Detective Constable Brown who made similar entries in relation to the 14 April 2003 and the 15 May 2003. There was no record of the transfer of the items to London on 15 April 2003 or their return to the Foreign National Unit on 16 April 2003.

Handling of items by the Security Service

[16] The prosecution applied for the protection of the identities of officers in the Security Service by the provision of screening and anonymity. A Certificate of the Secretary of State for the Home Department was produced claiming public interest immunity on the basis that disclosure of the identity or appearance of Security Service witnesses would cause real harm to the work of the Security Service by endangering or risking endangering the witnesses and impairing or risking impairment of their ability to operate effectively as members of the service or the ability of the service to recruit and retain staff in the future. The application was not opposed by the defendant. Having balanced the requirements for the administration of justice and the requirements outlined in the Certificate of the Secretary of State I ordered the screening of Security Service witnesses from the view of the public, the press and the defendant for the duration of their evidence. Further it was ordered that the Security Service witnesses be granted anonymity and that they be known by a service number. As the defendant was questioning the continuity and integrity of items handed into the possession of members of the Security Service it was ordered that the names of anonymous witnesses be recorded and retained securely by the office of the Public Prosecution Service. The Security Service witnesses are therefore described by personal identification numbers.

[17] Officer 3244 was a desk officer employed by the Security Service in London and on 15 April 2003 he received a number of items from Detective Sergeant Hawthorn. His evidence was that the items were contained in brown bags or envelopes. He passed the items to Officer 9505. On 16 April 2003 he was present with Officer 9505 when the items were returned to Detective Sergeant Hawthorn. However an audio cassette had been overlooked and later on 16 April 2003 Officer 3244 received an audio cassette which he retained until 16 September 2005.

[18] Officer 9505 and Officer 3211 had joint responsibility for the material received. Officer 9505's memory was that the materials were delivered in a large envelope. Officer 3211 was new to the job and junior to Officer 9505. He believed the items had been received in unsealed manila envelopes. The audio cassettes were passed to the linguistic department. No action was taken on the discs as there was insufficient time to undertake a meaningful analysis. At some time after the cassettes were delivered to the linguistic department the contents of an envelope were emptied onto a desk and a mobile phone and some sheets of paper were found to be included. The officers then suspected that they were dealing with original material and not copy material as had originally been believed. The decision was taken that no further action should be taken with respect to the cassettes or the discs. When not on the desks of the officers the material was stored in secure containers.

[19] There were no records kept by the officers in relation to the receipt handling or disposal of the items received. Concern for the forensic integrity of the materials led to the involvement of the Security Service legal advisor some weeks later.

[20] I accept the evidence of the police officers and the Security Service officers as to their handling of the items. Security Service officers described the inclusion of a phone in a plastic bag and some sheets of paper with the material received from Detective Sergeant Hawthorn. These items have not been identified. The items recovered from the defendant's flat included two mobile phones, treated as one item and one mobile phone with a charger treated as another item. It is assumed that the mobile phone included in the material furnished to the Security Service came from one or other of the items recovered from the defendant's flat. In any case one or other of the items must have been divided so as to remove one of the phones from one item or the charger from the other item. Detective Constable Thompson's evidence was that the items placed in brown bags in the defendant's flat were taken back to the Foreign National Unit Office and later transferred into plastic evidence bags. The items that were taken to the Security Service were returned to the Foreign National Unit on 16 April 2003. The movement of a mobile phone and some sheets of paper have not been accounted for by the police.

The contents of the floppy discs

[21] There were a number of significant departures from standard practice in relation to maintaining the forensic integrity of exhibits. Contrary to best practice the items seized were not properly handled so as to establish their continuity and secure their integrity. The prosecution accepted the shortcomings in practice but sought to maintain the continuity and integrity of the discs by establishing that the images downloaded by the defendant at Belfast Central Library were the same images as were present on the discs recovered from the defendant's flat and that they had not been corrupted by access to the discs on the office computer of the Foreign National Unit on 21 April 2003 and were the same images that were downloaded from the discs and presented to the Court with English text as exhibits MA2 to MA8.

[22] As outlined above Mr Stephens of the Metropolitan Police Service made forensic images of the 20 floppy discs and 2 compact discs and on the 5 June 2003 printed seven documents identified as MAS2 to MAS8. Mr Abbas of the Metropolitan Police Service translated MAS2 to MAS8 as MA2 to MA8 respectively.

[23] An Assistant Librarian at Belfast Central Library gave evidence that a membership card for Belfast Library had been issued to one Abbas Boutrab.

Library members were given free internet use. A check of the log-in sheets for 28 January 2003 identified the user of a computer terminal at 2.30pm as "Abbas, Donegall Ct." The Defendant had lived at Donegall Street for a time. The entry was on the user sheet allocated to library members. While access was limited to one hour the user may log on again if the facilities were not required by other users. The terminal operated with a printer or by transfer to floppy disc. Three computer terminals at Belfast Central Library were later seized for examination.

[24] Detective Constable Edgeworth is attached to Headquarters, Serious Crime Squad, Computer Crime Unit. On 22 July 2003 he examined evidence files produced from a computer obtained from Belfast City Library. He found five files in Microsoft word documents that corresponded with MAS3 to MAS7 and a sixth document named "machari.doc" corresponding to MAS2. Files MAS3 to 7 were found to have been created between 11.00am and 6.00pm on 28 January 2003 and last accessed on the afternoon of 30 January 2003. MAS2 had been created on 16 July 2002 and last accessed on 7 October 2002.

[25] On 27 August 2003 Detective Constable Edgeworth received the 20 floppy discs and acquired an evidence file from each floppy disc. He found five zip files on one floppy disc, and when extracted each contained a Microsoft word document which corresponded with MAS3 to MAS7. On another floppy disc he found a zip file named "machari1.zip" which when extracted contained a Microsoft word document named "machari.doc" corresponding to MAS2. Having examined the properties of the six files Detective Sergeant Edgeworth found that it appeared that they were the same files as the six found on the Belfast Library computer. However the file names were different between the images recovered from the library computer and the floppy discs. This may have been accounted for by the computer changing the name because it did not know the language of the file name or by the user changing the file name. The names were in each case a series of symbols. In any event Detective Constable Edgeworth's exercise was to establish whether there was computer confirmation of the identity of the library computer images and the floppy disc images known as an MD5 value. This was described by Detective Constable Edgeworth as a digital fingerprint and in the case of each of the six files the MD5 value was identical.

[26] Professor Sammes is Professor of Computing Science and Director for the Centre for Forensic Computing at Cranfield University. On 20 May 2005 Professor Sammes received copies of MAS2 to MAS8 and the 25 floppy discs and computer discs comprising exhibit RH2 and the materials produced by Detective Constable Edgeworth with the instructions that the floppy discs had been accessed by police on 21 April 2003 and the hard disc drive of the workstation used by police to access the floppy disc had been imaged forensically on 7 October 2003. Professor Sammes was requested to examine

the floppy discs and the workstation image with a view to determining, first of all what if any contamination of the floppy discs occurred as a result of the access made on 21 April 2003, and secondly, whether or not any of the relevant files had been modified at that time, and thirdly whether or not any of the relevant files might have been placed on the floppy discs at that time.

[27] As a result of his investigations Professor Sammes concluded that the files that produced the images MAS2 to MAS8 had not been modified by the police workstation and had not been affected by any contamination that might have occurred on 21 April 2003. He agreed that best practice for the handling of computer exhibits included the bagging, sealing and labelling of the items and their transfer to the computer unit for expert examination. It was his conclusion that the floppy discs had been virus checked without proper forensic precautions being taken on 21 April 2003 but the direct contamination that resulted had not changed in any way the contents of the relevant files and no other replacement of, or addition to, the relevant files occurred at the time of contamination. Professor Sammes agreed that it would have been possible to change the discs and make detection of the change unlikely and that although considerable forensic skills would be required to effect such intervention most law enforcement agencies would have the required skills. Professor Sammes investigations were concerned with police access to the discs on 21 April 2003 and he was not aware that images from the Belfast Library computer were available. He expressed the opinion that if the images from the Belfast Library computer were identical with the images from the police computer it would formally undermine any suggestion of tampering with the contents. In addition he was of the opinion that it would require five to seven working days to effect changes to the discs that could not be traced and that it would be very difficult to achieve this in one day.

[28] The discs recovered from the defendant's flat were not dealt with in accordance with good practice and the continuity and integrity of the items was put at risk. However, in the light of the matters referred to above I am satisfied beyond reasonable doubt that the discs produced to the Court are the discs recovered from the defendant's flat, and that the documents produced to the Court as being the contents of the discs represent the contents of the discs when removed from the defendant's flat.

[29] The remaining items in respect of which there is an issue as to continuity and integrity are the cassette tapes, the mobile phones, the documents and finally all the other items. All items were recovered and stored in the same manner, namely placed in unmarked brown bags and moved to the secure cabinet in the Foreign National Unit and eventually placed in plastic evidence bags, sealed and labelled. In addition, specific items have been shown to have been removed from the secure cabinet before they were bagged, sealed and labelled and some other items may have been so

removed. I am satisfied, subject to the qualifications that follow, that the process that was adopted in relation to the items recovered from the defendant's flat was not in accordance with good practice, but did not result in the contamination of any of the items. The cassette tapes were included in the items transported to the Security Service in London and were listened to by the linguistic department and the police, but for the purposes of this prosecution do not add to the material recovered from the discs. The mobile phones have not been accounted for as one of the seized mobile phones was probably sent to the Security Service, and the effect will be considered below. The documents have not been accounted for as some sheets of paper may have been sent to the Security Service, and the effect will be considered below.

The circumstances relied on by the prosecution

[30] In presenting the evidence in relation to the charges under the Terrorism Act the prosecution relied on the contents of the discs, the viability of the information contained in the documents, the tools and equipment recovered from the defendant's flat, the aliases adopted by the defendant, the contents of the other documents recovered from the defendant's flat, the information contained in the mobile phones recovered from the defendant's flat and the contents of the interviews of the defendant.

Testing of the contents of the documents relating to explosives.

[31] In relation to the documents dealing with explosives, on 22 October 2003 copies of MA2 and MA8 were forwarded to Dr Murray, a Principal Scientific Officer at Forensic Science Northern Ireland. He was asked to examine and comment on the items and he concluded that the information contained in the sheets was clear, understandable, easy to follow and viable. Using the information a range of explosives could be produced from relatively readily available materials and some of the more sensitive explosives could be used in the construction of improvised detonators.

[32] On 14 December 2004 Dr Sachtleben, an explosives and hazardous devices examiner in the Explosives Unit of the Federal Bureau of Investigation received a copy of MA2. Dr Sachtleben had previously received a copy of MA8. With the use of the document he conducted a series of tests at the FBI explosives range in Virginia, USA. Robert R Keller a senior forensic examiner at the Audio, Video and Image Analysis Unit of the Operational Technology Division of the FBI videotaped the explosives tests in Virginia. Dr Sachtleben followed the instructions in the documents and purchased a Kodak disposable camera and he detached the capacitor from the circuit. He then prepared four batches of improvised explosive and used the first in what was described as a "line shot" with a baby powder bottle suspended from a line

with a blasting cap inserted into the mixture through the top of the bottle. The second was a similar "line shot", the third was described as an "automobile shot" with the baby powder bottle placed on the back seat of a vehicle and the fourth was described as a "fuselage shot" with the baby powder bottle placed between a mock up of a pair of airline seats and section of aircraft fuselage cut from a DC10 aircraft. Dr Sachtleben's conclusion was that the improvised explosive material was an extremely volatile mixture which when properly mixed and initiated could produce significant damage to the area immediately surrounding the blast. A person in close proximity to the explosion could be seriously injured or killed by the initial blast or any resulting fire. It was his opinion that the initiation of the device on an aircraft would be likely to result in damage to the aircraft and injury and/or death to passengers on board. It was stated to be his experience that explosions in a fully pressurised aircraft flying at cruising altitude was more likely to cause catastrophic failure than a similar explosion in an aircraft flying at low altitude or against a section of aircraft fuselage.

[33] Dr Sachtleben described how the small battery in a camera would feed power into the capacitor and the paper and metal coil inside the capacitor would hold the power and then discharge the current to the flash. He agreed that the explosive ingredients had to be properly mixed. While the documents did not give specific instructions on mixing it was necessary that the ingredients be sifted together. The different colours of the ingredients would be a good indicator of proper mixing but there was no such instruction in the documents. The different consistency of the ingredients should also be mixed but again there was no such instruction in the documents. Safety considerations required that the ingredients be kept away from heat or from impact or from friction but again there were no such instructions in the document.

Testing the contents of the documents relating to silencers

[34] In relation to the documents dealing with the silencer, on 22 October 2003 MA3 to MA6 were submitted to Leo Rossi, Senior Scientific Officer at Forensic Science Northern Ireland. The method of copying the documents meant that Mr Rossi received 19 pages, which I am satisfied corresponded to MA3 to MA6. Mr Rossi stated that in general the instructions were capable of being followed without difficulty, except for slight changes in the methodology and materials, the meaning of which had probably been corrupted in translation. Using the documents a home-made silencer was produced at the laboratory. On 7 April 2004 in the presence of police and Dr Mike Lower and representatives of the defendant the laboratory silencer was tested on a colt M16 which discharged a total of six cartridges. Three cartridges were discharged without the silencer and a further three were discharged with the silencer fitted. After each shot a reading was taken from

sound recording equipment. Mr Rossi, from his experience of the use of firearms in Northern Ireland, agreed that there was limited use of the M16 in Northern Ireland and no evidence of the use of Kalashnikov rifles in Northern Ireland by any terrorist group.

[35] Dr Lower is a senior consultant with ISVR Consultancy Services who attended the test firing on 7 April 2005 and made measurements of the sound levels of each shot and tape recorded the sounds. The sound level meter was set to hold and display the peak sound levels of each shot and the tape recordings admitted further analysis of the gun shot sounds to be carried out in the laboratory. Dr Lower researched the literature on sound suppressor trials and found that most suppressors reduce peak sound levels by between 20 dB and 30 dB as measured at one metre from the muzzle. In the test conducted on 7 April 2005 the average reduction in peak sound level resulting from the use of the silencer was approximately 25 dB. Dr Lower described this as a significant noise reduction and concluded that the silencer tested gave a noise reduction similar to that expected from a commercially available silencer.

The tools and equipment recovered.

[36] The equipment seized from the defendant's flat was examined by Walter James McCorkell, Senior Scientific Officer, at Forensic Science Northern Ireland. He was asked to examine the cassette player to determine if there was any association with certain tools, namely magnetic holders, circlip pliers, a tyre pressure gauge, a circuit tester pen, a tool roll of small files, a plastic holder containing screwdriver heads and dies, a bench vice, an adjustable jubilee clip, a clutch plate puller and an adjustable bolt. His examination did not provide an association between the cassette player and the equipment. The exhibit form for the items recorded receipt on 14 October 2003 but the signature of the member of clerical staff was dated 14 March 2003. The investigation officer signed the record sheet on 14 October 2003 and I am satisfied that the items were received on that date and examined by Mr McCorkell on 17 February 2004. The equipment furnished comprised tools which are commonly available in stores for general DIY or mechanical work.

[37] The cassette player was examined by Ian William Fulton, a Senior Scientific Officer at Forensic Science Northern Ireland. The purpose was to identify the nature of the damage to the cassette player. It was in a partially disassembled state, having been opened and the back plastic casing separated from the front plastic casing and the electronic circuit board had been removed. The electronic circuit board was broken into four pieces held together by some of the components mounted on the circuit board. Four components had been removed from the circuit board, namely radial type

capacitors which were probably electrolyte capacitors. The capacitors had either been forcibly removed from the circuit board or had been cut from the board. Of the four missing capacitors two had the value of 220 micro-farads, one of 100 micro-farads and one of 47 micro-farads. The capacitors were cylindrical and approximately 5 to 15 millimetres in length and 4 to 10 millimetres diameter with two leads protruding from the base. Mr Fulton described the capacitors as being the same type of capacitor referred to in MA2. Mr Fulton had examined the same type of cassette player on previous occasions but not the particular model and he did not purchase an identical model for comparison purposes. He did know the type of capacitor used in camera flashes but had not purchased a camera to obtain comparable capacitors. He would have expected the capacity of a camera capacitor to be 400 micro-farads and that it would be electrolytic.

Aliases used by the defendant

[38] The defendant used a number of aliases. As well as Abbas Boutrab, he used the names Yocef Djafari, Fabio Parenti, Abbas Fawwaz and Brahmin Abaoui. The defendant presented to the immigration authorities in Northern Ireland as Abbas Boutrab. He made his application for asylum in the UK on 16 July 2002 and completed a screening form on 29 July 2002. He was recorded as Abbas Boutrab, date of birth 1.2.1978, a motor mechanic born in Algeria. He recorded his journey from his country of origin to the United Kingdom as having occurred 20 days earlier from Algeria to Morocco by car, from Morocco to Ireland by ship and from Ireland to Northern Ireland by train. He reported that he had not made any previous claim for asylum either in the United Kingdom or elsewhere and had never had his fingerprints taken. The account of his departure from Algeria was false. He was photographed and finger-printed and the reports noted that his right thumb was injured, which he stated had been cut with a knife and it was covered with a plaster. There was scarring on the remaining thumb and fingers which the applicant stated had been caused by his work as a mechanic and this prevented clear impressions being taken. He was interviewed on 6 September 2002 where he described himself as a Berber who had been involved in party politics in Algeria which had led to him first having problems in Algeria some six months previously. He claimed to have a fear of persecution arising from enquiries he had made about a massacre in a village in Algeria and that two of his friends had disappeared and he had escaped. The application for asylum was refused and on 25 September 2002 he was granted limited leave to enter the United Kingdom while he appealed that decision.

[39] After his arrest on 14 April 2003 the defendant was interviewed by Immigration Officers Harkin and McCusker. At interview the defendant stated that he had left the south of Ireland on the same day as his arrival from

Morocco, that he had not claimed asylum in the Republic of Ireland, that the passport in the name of Fabio Parenti produced to him contained his photograph, that the Italian ID card of Fabio Parenti was forged, that the passport was forged, that he had paid someone £400 to produce the forgeries, that he had used the ID and passport for work purposes, that he had never used the identify Yocef Djafari, that he had never claimed asylum in the name of Yocef Djafari, that he had never had his finger-prints taken in the name of Yocef Djafari, that he had never claimed asylum in another country. All of the denials were false. On 16 April 2003 Immigration Officer Davies obtained the defendant's fingerprints. Detective Chief Inspector Adair also obtained the defendant's fingerprints when he was arrested on 9 November 2003. At the police interviews it was alleged that the defendant had used the name David Pellegrini in the Republic of Ireland, which the defendant denied. No evidence was adduced in relation to the use of that name.

: Yocef Djafari

[40] After police and the Foreign National Unit visited the defendant in his flat on 8 April 2003 enquiries were made that led the police to believe that the defendant had been using the name Yocef Djafari in the Republic of Ireland. A fogra tora issued by the Commissioner of An Garda Síochána was received by police indicating that a Yocef Djafari, born 1.2.1978, was being sought for interview in connection with a serious stabbing incident in Lucan on 12 July 2002. Further papers were obtained which indicated that a Yocef Djafari had applied for asylum in the Republic of Ireland on 12 May 2000. The clerk who processed the asylum application took the applicant's photograph and produced the application form and the photograph. Yocef Djafari was described as an Algerian who had left his country of origin on 4 May 2000 by boat from Algiers to France and from France to Dublin by lorry. His application for asylum was refused and a Deportation Order was made on 30 April 2002. Yocef Djafari was to have presented himself for deportation at Cork on 10 May 2002 and had failed to attend.

: Abbas Fawwaz

[41] On 25 May 2002 Garda Gerard Kelly stationed at Carrick on Shannon Garda Station in the Republic of Ireland investigated a road traffic accident involving a person who produced a passport to identify himself as Abbas Fawwaz. Mr Fawwaz was charged with dangerous driving and was to appear at Roscommon District Court on 4 June 2002 but he failed to attend and a bench warrant was issued for his arrest. Abbas Fawwaz had been interviewed by Garda Kelly and gave a local address and stated that he had originally come from the Netherlands. Garda Kelly produced the passport containing the photograph of the person who identified himself as Abbas Fawwaz.

[42] Prosecuting Counsel asked Garda Kelly if the person who had identified himself as Abbas Fawwaz was present in the courtroom. Mr O'Donoghue QC for the defendant objected to any dock identification of the defendant. Garda Kelly was permitted to answer the question, with the circumstances of any identification going to the weight to be attributed to the evidence. Garda Kelly identified the defendant in the dock as the person he had arrested on 25 February 2002 identifying himself as Abbas Fawwaz. He also produced the police custody record relating to the arrest of Abbas Fawwaz which included a description of that person as having "blue eyes". This entry would have been completed by the custody officer and not by Garda Kelly. The prosecution did not contradict defence counsel's assertion that the defendant did not have blue eyes. In the circumstances I consider the dock identification to have negligible weight. Given the entry in the custody record relating to the eye colour I am not satisfied on the evidence of Garda Kelly that the person arrested on 25 February was the defendant. I shall return to the issue of the identity of the person whose photograph was contained in the passport of Abbas Fawwaz seized by Garda Kelly on 25 February 2002.

[43] The passport of Abbas Fawwaz had been reported stolen at Stadskanaal, Netherlands on 14 June 2001. Aldert van der Heide received the report from Mr Fawwaz of the loss of his passport. He had known Mr Fawwaz for seven or eight years and confirmed that that person was not the defendant. The Dutch passport of Abbas Fawwaz was produced and the photograph contained in the passport was not that of the person known to Mr van der Heide as Abbas Fawwaz.

: Brahmin Abaoui

[44] Yohanna Antonia Cornelia Nuijten worked at the application centre for asylum seekers at Rijsbergen, Netherlands in 1999 as a records clerk dealing with immigration matters. She produced a form that she had completed on 7 April 1999 in relation to an application by Brahmin Abaoui, born 24 February 1977. The information on the form indicated that the person had first made an application for asylum in the Netherlands on 3 June 1995. Ms Nuijten obtained the finger-prints of Brahmin Abaoui in the course of processing the application.

[45] Linda Cahoun, Finger-print Officer with the Police Service of Northern Ireland Finger-print Bureau, received a photocopy of the finger-print impressions of Brahmin Abaoui dated 7 April 1999 and made comparisons with finger-print impressions taken by Detective Chief Inspector Adair from Abbas Boutrab on 9 November 2003 and with the finger print impressions taken in the name of Abbas Boutrab by the United Kingdom immigration on

29 July 2002. She was certain that the impressions were made by the same person.

: Fabio Parenti

[46] The search of the defendant's flat yielded a passport and identity card in the name of Fabio Parenti. At the immigration interview the defendant stated that he had purchased the false documents for £400 and had used them for work purposes. The police visited the offices of Lynn Recruitment, an employment agency in Belfast, and recovered an employment history of Fabio Parenti. The Personnel and Training Manager of Lynn Recruitment produced a Temporary Worker Contract for Fabio Parenti. The defendant had registered with Lynn Recruitment as a temporary worker in the name of Fabio Parenti on 28 August 2002 at which time he was required to produce identification. A photocopy of the passport of Fabio Parenti containing the defendant's photograph appearing in the Lynn Recruitment file indicated that he had produced the passport for identification purposes. These matters relating to the Fabio Parenti passport give rise to the fourth charge of using a false instrument and the fifth charge of having custody and control of a false instrument and using it to gain employment.

[47] Payments in respect of temporary work were made by Lynn Recruitment and the first payments were made to the defendant on 1 September 2002 by cheque to Fabio Parenti collected by the defendant. On 18 March 2003 the defendant arranged for future payments to be made to a building society in the name of Abbas Boutrab. Lynn Recruitment secured for the defendant temporary employment as a housekeeper in a hotel known as the Holiday Inn, Belfast. The sales executive from Lynn Recruitment who paid the cheque to the person known as Fabio Parenti identified that person as the defendant. The housekeeping manager at the Holiday Inn identified the person named as Fabio Parenti working as a housekeeper as being the defendant.

Photographic connection between the different identities

[48] Andrew Philip Laws is a Senior Forensic Imaginary Analyst with Calagate Imaginary Bureau. He was provided with seven photographs for the purpose of carrying out facial comparison for the purposes of identification. The photographs were first, the immigration photograph taken in the Republic of Ireland of Yocef Djafari, second a copy of the Dutch passport of Abbas Fawwaz, third the original Dutch passport of Abbas Fawwaz, fourth, three passport sized photographs seized from the defendant's flat, fifth the United Kingdom immigration photograph of Abbas Boutrab, sixth the Italian passport of Fabio Parenti and seventh the Italian identity card of Fabio Parenti. Three processes were applied to the

photographs to establish identification. First of all photogrammetry which considers the proportionality of facial features, secondly, morphological interpretation involving comparisons feature by feature and thirdly, superimposition involving a computer or optic comparisons. The United Kingdom immigration photograph of Abbas Boutrab was used as a base for the comparisons. The highest level of comparison is described as “powerful support” for the images being the same. The analysis established powerful support that the Fabio Parenti passport and identification card were the same as the United Kingdom immigration photograph. Of the three photographs seized from the defendant’s flat one was black and white and two were coloured and one of the coloured photographs had a beard drawn on the image. Comparisons were made between the unmarked coloured photograph, the black and white photograph and the United Kingdom immigration photograph and it was found that there was powerful support that the images were the same. Comparisons were made between the United Kingdom photograph and the copy Dutch passport of Abbas Fawwaz and the original Dutch passport of Abbas Fawwaz and there was powerful support that the images were the same. Finally comparison was made with the immigration photograph of Yocef Djafari and there was powerful support that it was the same image as the United Kingdom immigration photograph of the defendant.

[49] In summary the comparison exercise established powerful support that all photographs in the seven samples were of the same person, save that the photograph recovered from the defendant’s flat that had been marked with a beard was not the subject of any comparison. At police interviews the defendant contended that some of the photographs were of his brother. Mr Laws accepted that without comparison with a photograph known to be that of the defendant’s brother it could not be said that it was impossible for the photograph to be that of the brother. Mr Laws had been unaware of the issue about the defendant’s brother but he expressed the conclusion that it did not cause him to change his view of the analysis he had conducted. Accordingly he maintained that there was powerful support that the images were of the same person although this form of analysis could only result in a definite conclusion in cases where the photographs were not of the same person.

Documents recovered

[50] Brian William Craythorne is a Questioned Document Examiner at Forensic Science Northern Ireland. On 4 June 2003 he received two items recovered from the search of the defendant’s flat, namely a green notepad and a Converse notebook which he examined for evidence of indented writing. The green notepad contained Roman and Arabic script and diagrams and indentations of numbers, names, address, websites and Arabic script. The

Converse notebook contained indentations that included the name Abaoui Br[o]him. The defendant accepted that his handwriting was in the notebooks.

Mobile phones recovered

[51] The mobile phones recovered at the search of the defendant's flat were examined by Mr Fulton of Forensic Science Northern Ireland. One item comprised two mobile phones, namely a Nokia phone and a Trium phone. The other item comprised a Trium mobile phone and a phone charger. The purpose of the examination was to retrieve any information stored in the memory of each of the mobile phones. The Nokia phone was stolen in a club known as Thompson's Garage in 2002 and had not been reported stolen prior to it being recovered by the police in the defendant's flat. The sim card was present when the Nokia phone was recovered but the last owner could not confirm that the Nokia handset was the one that was stolen. The previous owner, who was a friend of and had given the mobile phone to the last owner, remembered the number of the phone but could not identify the handset. Mr Fulton recovered certain names and numbers from the memory of the sim card in the Nokia phone. Included in the memory were three personal dialling numbers named as "my number" "my home" "Bucky". The previous owner of the mobile phone stolen in Thompson's Garage in 2002 gave evidence that those three numbers represented her own mobile number, her mother's home number and the number of a friend known to her as "Bucky". Mr Fulton also recovered certain dialled calls and received calls from the sim card memory and the phone memory together with the message history. The recovery of this Nokia phone gave rise to the third charge of handling stolen goods.

[52] The Trium mobile phone contained a Vodaphone Eircell Limited sim card indicating its origin in the Republic of Ireland. Mr Fulton recovered names and numbers from the phone memory together with the call history from the phone memory and the message history. The mobile phone with charger was a Trium phone with no sim card and therefore no further information was available.

Police interviews of defendant

[53] The police undertook 32 interviews of the defendant between 3 and 9 November 2003 in the presence of his solicitor and an interpreter. The interpreter was also Algerian and spoke to the defendant for a time in formal Arabic and also used the Algerian dialect. I am satisfied that the defendant had a limited command of English but that with the aid of the interpreter he understood the questions that were asked by the police at interview. During the hearing in Court the Court interpreter was able to listen to the tape

recordings of the interviews. In addition the interpreter engaged to assist the defence during the Court hearing had the opportunity to listen to the taped interviews outside the Court hearing and during the hearing in Court. A transcript of the English spoken during the police interviews was produced. There were instances where words and phrases set out in the English translation were misunderstood or mistranslated. However I am satisfied that there was no unfairness or disadvantage to the defendant in the manner in which the contents of the police interviews were compiled or presented to the Court.

[54] In the course of the interviews Detective Sergeant Ennis produced to the defendant the items recovered from the defendant's flat and sought an explanation for the Defendant's possession of each item. In addition the information collected from the examination of the items recovered, and from the investigation of the aliases used by the defendant, was put to the defendant for explanation. Further a computer was installed in the interview room and the discs were put on screen to be viewed by those present during the questioning. The defendant provided careful answers to the police questions. There were matters in respect of which the defendant agreed or disagreed with the questioner, matters in respect of which explanations were offered and matters where he exercised his right not to answer.

[55] In relation to the discs, there was questioning about what was described by the interviewer as the different religious or political or terrorist related contents. While the defendant did not admit that the documents produced by police were the same as the contents of those discs recovered from the defendant's flat, he did agree that he had downloaded such material from the internet and stated that this had occurred in an internet café in Dublin. The material had been downloaded because he had been unable to open the items when first accessed. The material had attracted his curiosity and this was the stated purpose of his possession of the discs. He denied any terrorist purpose or any connection with Islamic terrorism, al Quieda or any Islamic group.

[56] In relation to the Belfast Library a ticket in the name of Abbas Boutrab was produced and the defendant agreed that it was his library ticket. He confirmed his use of the Belfast library when referred to a record of entries to the Belfast library that was produced for the date of 8 April, and the year was not stated, and recorded as Abbas at Donegall Street. He agreed that he had used the internet facilities but did not answer when asked whether he had downloaded anything from internet sites visited in Belfast.

[57] In relation to the tools and equipment the interviewing officer compared the items referred to in the documents produced from the floppy discs and the tools and equipment recovered in the defendant's flat. The items produced at the interviews included a drill, vice, oil can, ear defenders,

stethoscope, unspecified tools, attachments to a screwdriver, files, magnet, a device for measuring air pressure, a pair of clippers, and an extractor for ball bearings. The defendant said that it was by coincidence that there was any comparison between the items produced and the items referred to in the documents.

The equipment recovered from the defendant's flat included a drill which the defendant stated he had acquired and used to fit a boxing bag and a pull-ups bar in his flat. The presence of these fixtures was confirmed in photographs taken by the police. The remaining equipment was related to work as a motor mechanic. He claimed to have worked on cars but refused to identify the owners.

The broken cassette player, described as a "Walkman," was produced and the defendant said he had been it found outside in a broken condition and he had kept as he needed it for parts. He had not taken any parts out of the Walkman and he did not answer the question as to what parts he needed.

In relation to the mobile phones the defendant said that they had been bought by him.

[58] In relation to the aliases he was asked about the use of the name Abbas Fawwaz in the Republic of Ireland and whether he was aware of the name but replied that he did not know. When first asked by police about aliases the defendant agreed that he had used one name in Northern Ireland for work purposes, namely Fabio Parenti. The Fabio Parenti documents were said to contain the defendant's younger brother's photograph and the documents had been bought in order to gain employment. The defendant agreed that when he bought them he thought they were stolen. He agreed that he had registered with Lynn Recruitment in the name of Fabio Parenti. When asked about the aliases in the Republic of Ireland he said he was not answering and when asked specifically about the use of the name Abbas Fawwaz and whether he was aware of that name he replied that he did not know. When told by the police officer that it was believed that he had been using aliases throughout Europe he replied there is no truth to it. When the name Brahmin Abaoui was put to him he agreed that he had applied for asylum in Holland under that name. When asked about Yosef Djafari he replied no. When asked if his real name was Abbas Boutrab he said he was not answering that question.

At interview 24 the defendant's solicitor intervened to offer a general explanation for the aliases as a result of his consultation with the defendant. It was stated that the aliases were used simply to facilitate his drifter lifestyle throughout Europe as he was in breach of immigration laws and the aliases were to survive for food to live and not for any terrorist purpose.

Application for a direction

[59] At the conclusion of the prosecution case the defendant applied for a direction of no case to answer in respect of four of the charges, namely the first count of possession of articles for a purpose connected with terrorism, the second count of collecting information likely to be useful for terrorists, the third count of handling stolen goods, namely the Nokia phone and the fourth count of using a false instrument, namely the Fabio Parenti passport. No application was made in respect of the fifth count of having custody or control of a false instrument, namely the passport of Fabio Parenti.

[60] The defendant relied on the second limb of R v Galbraith 73 CAR 124 which indicates that a direction should be given where “there is some evidence but it is of a tenuous character, for example, because of inherent weaknesses or vagueness or because it is inconsistent with other evidence.” The Galbraith approach provides that the case against a defendant should continue where -

“...the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness’s reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence on which the jury could properly come to the conclusion that the defendant is guilty,” per Lord Lane CJ at page 127.

[61] Following the above approach and taking account of the totality of the evidence the defendant’s application was dismissed in respect of the first three counts.

The charge of using a false instrument.

[62] The defendant’s application was upheld in respect of the fourth count for the following reasons. The charge under section 3 of the Forgery and Counterfeiting Act 1981 was using a false instrument, namely the Fabio Parenti passport. It is necessary to set out the exact particulars of the fourth count in that they charge the defendant with the use of the Fabio Parenti passport “which was and which he knew or believed to be false, with the intention of inducing an employee of Lynn Recruitment to accept it as genuine, and by reason of so accepting it to do some act to his own or some other person’s prejudice, namely, accept that document in discharge of the duty imposed by section 8 of the Asylum and Immigration Act 1996”.

[63] Section 3 of the Forgery and Counterfeiting Act 1981 provides -

“It is an offence for a person to use an instrument which is, and which he knows or believes to be, false, with the intention of inducing somebody to accept it as genuine and by reason of so accepting it to do or not to do some act to his own or any other person’s prejudice.”

Section 8 of the Asylum and Immigration Act 1996 provides –

“(1) Subject to sub-section (2) below, if any person (“the employer”) employs a person subject to immigration control (“the employee”) who has attained the age of 16, the employer should be guilty of an offence if –

- (a) the employee has not been granted leave to enter or remain in the United Kingdom;
- (b) the employee’s leave is not valid or subsisting, or is subject to a condition precluding him from taking up the employment, and (in either case) the employee does not satisfy such conditions as maybe specified in the order made by the Secretary of State.

(2) in proceedings under this section, it shall be a defence to prove that –

- (a) before the employment began, there was produced to the employer a document which appeared to him to relate to the employee and to be of a description specified in an order made by the Secretary of State.

(8) In this section –

“Contract of employment” means a contract of service or apprenticeship, whether express or implied, and (if it is express) whether it is oral or in writing;

“Employ” means employ under a contract of employment and “employment” shall be construed accordingly.”

[64] The Immigration (Restriction on Employment) Order 1996 made by the Secretary of State in exercise of the powers conferred upon him by Section 8 of the 1996 Act came into force on 27 January 1997 to specify the documents which may be relied on under Section 8(2)(a) of the 1996 Act (defence for an employee to show that a specified document was produced before employment began). Part II of the Schedule to the 1996 Order at paragraph 6 specified –

“A passport or national identity card issued by a State which is a party to the European Economic Area Agreement, which describes the holder as a national of a State which is a party to that Agreement.”

[65] For the purposes of securing employment through Lynn Recruitment I am satisfied that the defendant produced to Lynn Recruitment a false instrument, namely the Fabio Parenti passport, with the intention of inducing an employee of Lynn Recruitment to accept it as genuine and for the purpose of establishing that he was entitled to employment on production of the passport of a State that is a party to the European Economic Area Agreement, namely Italy.

[66] The offence charged is that Lynn Recruitment were induced to accept the false passport in discharge of the duty imposed by Section 8 of the 1996 Act to confirm, in the specified manner, the identity of a person subject to immigration control who had not been granted leave to enter or remain in the United Kingdom. The duty under the 1996 Act applies to an “employer” who employs the immigrant under a “contract of employment”. The defendant contends that there is no contract of employment between the defendant and Lynn Recruitment. The contract containing the terms of engagement of temporary workers entered into between Lynn Recruitment and Fabio Parenti states that the terms constitute a contract for services between the introductory agent and the temporary worker and further states that for the avoidance of doubt the terms will not give rise to a contract of employment between the introductory agent and the temporary worker.

[67] I look behind the words contained in the written contract to determine whether there exists a “contract of employment” between Lynn Recruitment and the defendant for the purposes of the 1996 Act. In doing so it appears that there is an employment agency arrangement between the defendant, as a temporary employee, and Lynn Recruitment, as an employment agency, and that a further arrangement must exist between Lynn Recruitment and the Holiday Inn as the employer of the temporary worker. I am satisfied that

there was no contract of employment between the defendant and Lynn Recruitment and that the defendant was not employed by Lynn Recruitment for the purposes of the 1996 Act. While Lynn Recruitment may be an agent of the Holiday Inn for the purposes of its obligation as an employer under the 1996 Act to identify immigrant workers there is no evidence in respect of that arrangement. As the charge is formulated on the basis of the duty of Lynn Recruitment as employer I am satisfied that there is no such relationship between Lynn Recruitment and the defendant and the charge as formulated cannot be made out against the defendant. Accordingly, at the conclusion of the prosecution case, and upon the application by the defendant for a direction, a not guilty verdict was entered on the fourth count of using a false instrument, namely the Fabio Parenti passport.

The evidence for the defence

[68] The trial continued against the defendant on the first, second, third and fifth counts. Counsel for the defendant informed the Court that the defendant did not intend to give evidence. Enquiry was made of Counsel in the terms of the Practice Direction issued by the Lord Chief Justice dated 11 April 1997 as follows –

“Have you advised your client that the stage has now been reached at which he may give evidence and if he chooses not to do so, having been sworn, without good cause refuses to answer any question, the court may draw such inferences as appear proper from his failure to do so?”

Counsel for the defendant replied that the accused had been so advised and did not intend to give evidence.

[69] The defence called Natalie Caleyron, an Outreach Officer from the Multi-cultural Resource Centre in Belfast. Her group had arranged for visitors to the defendant while he was detained in prison and one of the volunteer visitors had been an Algerian national who had previously been housed in the same accommodation as the defendant. She confirmed that from her experience it was very common for immigrants to operate under one or more identity and in some cases that may be necessary when a party wishes to leave his country of origin. In some cases immigrants may adopt an anglicised form of their name. In some cases avoidance of immigration control would occasion the use of another identity and it was very common for people from North Africa to take on a European identity for work or social reasons.

The charge of handling stolen goods.

[70] In considering the four remaining charges below I refer to being satisfied as meaning that I am satisfied beyond reasonable doubt. The third charge of handling stolen goods relates to the Nokia phone. I am satisfied that it was stolen, that it was in the possession of the defendant, that he claimed to have purchased the phone, that he had added names and numbers to the memory and that the defendant had not acquired a new sim card but had used an existing sim card that was stolen from the owner. The defendant accepted that there was evidence of the handling of the sim card but not of the handset. I am satisfied that in the circumstances outlined above the defendant was handling a stolen mobile phone.

[71] However the defence raises a further issue in relation to the formulation of the particulars of offence, namely that the defendant “dishonestly undertook or assisted in the retention, removal, disposal or realisation of certain stolen goods”.

[72] Section 21(1) of the Theft Act (Northern Ireland) 1969 provides for the offence of handling stolen goods as follows -

“A person handles stolen goods if (otherwise than in the course of the stealing), knowing or believing them to be stolen goods, he dishonestly receives the goods, or dishonestly undertakes or assists in their retention, removal, disposal or realisation by or for the benefit of another person, or if he arranges to do so.”

There are in Section 21(1) two forms of the offence of handling. The first form is receiving and the second form is retention, removal, disposal or realisation. The main difference between the first form and the second form is that in the case of the latter it must be proved that the accused acted or assisted in the specified ways by or for the benefit of another person. Blackstone’s Criminal Practice 2005 at paragraph B 4.136 states that an indictment should indicate which of the two main forms of handling is alleged and a person cannot be accused of one and convicted on the basis of the other - referring to R v Licklin (1977) 1 WLR 403.

[73] In the present case the defendant has been charged with the second form of handling, namely retention etc. for the benefit of another. The defendant contends that if he has handled a stolen mobile phone it is the first form of handling, namely receiving, of which he is guilty, whereas he has been charged with the other form of the offence, namely retention etc. for the benefit of another. If the defendant purchased the mobile phone knowing or believing it to have been stolen is he guilty of the second form of handling as

charged? The defendant relies on R v Bloxham (1983) 1AC 109 where it was said in relation to the variants that involve the second form of the offence of handling that the offence may be committed by retention, removal, disposal or realisation in one of two ways. The offender may undertake the activity for the benefit of another person. Alternatively the offender may assist another person in the retention, removal, disposal or realisation. An accused who is a purchaser of stolen goods is not “another person” for the purposes of the offence.

[74] I am satisfied that the defendant was a receiver of the stolen Nokia phone but he is charged with the second form of handling namely retention etc for the benefit of another and I have not been satisfied that that form of the offence has been proved. Nor can the defendant be convicted of handling stolen goods by receiving when he is charged with the second form of the offence of handling, namely retention etc for the benefit of another. The prosecution contend that the defendant was retaining the stolen Nokia phone for the benefit of the thief. I have not been satisfied that that was the case. Accordingly on the third count of handling stolen goods, namely the Nokia phone, I find the defendant not guilty.

The charge of having custody or control of a false instrument.

[75] The fifth count is having custody or control of a false instrument, namely the Fabio Parenti passport. The passport was recovered from the defendant’s flat. The defendant admitted to the immigration officers at interview and to the police at interview that he was in possession of the passport and that he had purchased the passport along with other identification items in the name of Fabio Parenti. His stated purpose in acquiring the identification papers in the name of Fabio Parenti was to facilitate him in obtaining employment. The defendant’s Counsel made no submissions in respect of the charge of having custody or control of the Fabio Parenti passport. I am satisfied that the fifth count of having custody or control of a false instrument, namely the Fabio Parenti passport, which the defendant knew or believed to be false, has been established beyond reasonable doubt.

The legal and evidential burden under the Terrorism Act 2000

Section 57 of the 2000 Act.

[76] The first charge is that of possession for terrorist purposes under section 57 of the Terrorism Act 2000 which provides as follows –

“(1) A person commits an offence if he possesses an article in circumstances which give rise to a reasonable suspicion that his possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(2) It is a defence for a person charged with an offence under this section to prove that his possession of the article was not for a purpose connected with the commission, preparation or instigation of an act of terrorism.

(3) In proceedings for an offence under this section, if it is proved that an article –

(a) was on any premises at the same time as the accused, or

(b) was on premises of which the accused was the occupier or which he habitually used otherwise than as a member of the public,

the court may assume that the accused possessed the article, unless he proves that he did not know of its presence on the premises or that he had no control over it.”

The nature of the defences specified under section 57(2) in relation to the defendant’s purpose for possession of the article, and under section 57(3) in relation to the defendant’s knowledge or control of the article, are subject to section 118 as follows –

“(1) Sub-section (2) applies where in accordance with the provision mentioned in sub-section (5) it is a defence for a person charged with an offence to prove a particular matter.

(2) If the person adduces evidence which is sufficient to raise an issue with respect to the matter the court or jury shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(3) Sub-section (4) applies where in accordance with the provision mentioned in sub-section (5) a court –

(a) may make an assumption in relation to a person charged with an offence unless a particular matter is proved, or

(b) may accept a fact as sufficient evidence unless a particular matter is proved.

(4) If evidence is adduced which is sufficient to raise an issue with respect to the matter mentioned in sub-section (3)(a) or (b) the court shall treat it as proven unless the prosecution disproves it beyond reasonable doubt.

(5) The provisions in respect of which sub sections (2) and (4) apply [include sections 57 and 58 of the 2000 Act].

[77] The offence under section 57(1) involves first of all proof of possession of an article and secondly proof of circumstances which give rise to a reasonable suspicion that possession is for a specified purpose, namely connected with the commission, preparation or instigation of an act of terrorism, which I shall abbreviate to describe as a terrorist purpose. On the first issue of possession, section 57(1) requires proof beyond reasonable doubt of the possession of an article, in the present case the discs. Section 57(3) places an evidential burden on the defendant where the article is found on premises with the accused or of which he is the occupier or habitual user. By section 118(4) that evidential burden required the defendant to adduce sufficient evidence to raise an issue as to the defendant's knowledge or control. In the present case Counsel for the defendant admits possession of floppy discs, but not that they are necessarily the floppy discs produced to the Court or that the contents are necessarily those present on the discs in the defendant's possession. I have found that the floppy discs produced were those found in the defendant's flat and further that the contents of the discs produced to the Court were the contents that were present on the discs when they were found in the defendant's flat. Section 57(3) applies and the Court may assume the defendant's possession of the discs. The evidential burden in relation to lack of knowledge or control falls on the defendant. Counsel for the defendant accepted that in that event the defendant did not rely on any lack of knowledge or control.

[78] On the second issue under section 57(1), namely proof of terrorist purpose, section 57(2) provides a defence to prove that possession of the article was not for a terrorist purpose. By section 118(2) the burden on the defendant is an evidential burden to adduce evidence which is sufficient to raise an issue with respect to the matter, namely that possession is not for a purpose connected with the commission, preparation or instigation of an act of terrorism, which I shall abbreviate to describe as a non terrorist purpose. In that event the Court assumes that the defence of non terrorist purpose has been satisfied. Once the evidential burden has been satisfied then by section 118(2) the legal burden is on the prosecution to prove beyond reasonable doubt that “it”, that is the defence of non terrorist purpose, is not satisfied.

[79] The prosecution contends that once the defendant has satisfied the evidential burden the legal burden on the prosecution is to prove beyond reasonable doubt the offence specified in section 57(1), namely that the defendant possesses the article “in circumstances which give rise to a reasonable suspicion” that his possession is for a terrorist purpose. As outlined in the previous paragraph I am satisfied that the operation of section 118(2) is to require the prosecution to prove beyond reasonable doubt that the defence of non terrorist purpose has not been satisfied. It is not sufficient for the prosecution to prove beyond reasonable doubt that the circumstances give rise to a reasonable suspicion of terrorist purpose. Accordingly, once a defendant has satisfied the evidential burden to establish a defence of non terrorist purpose the ultimate legal burden is on the prosecution to prove beyond reasonable doubt first of all possession of the article and secondly, while expressed above as a double negative because of the structure of the statutory provisions, to prove in effect that possession of the article was for a terrorist purpose.

[80] For the purposes of section 57 it is considered that the defendant’s statement to police at interview in relation to his purpose in having possession of the discs is “evidence” for the purposes of section 118(2) and that the defendant’s statement to police at interview that his purpose was curiosity is sufficient to raise an issue with respect to non terrorist purpose so that the defendant has discharged the evidential burden. Accordingly the legal burden is on the prosecution to prove beyond reasonable doubt that the defendant’s possession of the discs was for a terrorist purpose.

Section 58 of the 2000 Act.

[81] Section 58 of the 2000 Act deals with the collection of information and provides that –

“(1) A person commits an offence if –

(a) he collects or makes a record of information of a kind likely to be useful to a person committing or preparing an act of terrorism, or

(b) he possesses a document or record containing information of that kind.

(2) In this section 'record' includes a photographic or electronic record.

(3) It is a defence for a person charged with an offence under this section to prove that he had a reasonable excuse for his action or possession."

[82] The defence under section 118 of the 2000 Act applies to section 58. Accordingly, section 58(3) places an evidential burden on the defendant to adduce sufficient evidence to raise an issue with respect to the defence of reasonable excuse. Once the evidential burden is satisfied the legal burden falls on the prosecution to prove beyond reasonable that the defence is not satisfied, that is that there is no reasonable excuse.

[83] The defendant is charged under section 58(1)(a) which comprises two parts, namely, that he (for the purposes of the present case) "collects" information and further that the information is of a kind likely to be useful to a person committing or preparing an act of terrorism, which I shall abbreviate to describe as a terrorist. I have found that the discs produced in Court were those found on the defendant's premises, and the contents appearing in the documents produced in Court were present on the discs when they were seized in the defendant's flat. Counsel for the defendant accepted that in that event the defendant collected the information and further that it was of a kind likely to be useful to a terrorist. I am satisfied that the defendant collected the information. For information to be of a kind likely to be useful to a terrorist it must be viable, in that it is capable of being used to advance an act of terrorism. I am satisfied that that the information was likely to be useful to a terrorist.

[84] The defendant relies on reasonable excuse under section 58(3). He offered to police an explanation for his action in collecting the information, namely curiosity. Under section 118(2) the defendant may adduce evidence which is sufficient to raise an issue with respect to reasonable excuse. I consider that the defendant's statement to police at interview amounts to "evidence" for this purpose and further that curiosity is capable of being a reasonable excuse under section 58(3), being an innocent purpose. Further I consider that the defendant's statement to police at interview was sufficient to

raise an issue with respect to reasonable excuse and accordingly the evidential burden has been satisfied by the defendant. The burden is on the prosecution to prove beyond reasonable doubt that the defendant did not have a reasonable excuse for collecting the information.

The charges under the Terrorism Act 2000

[85] For the purposes of the two offences under the Terrorism Act I am satisfied that the discs produced to the Court were those recovered from the defendant's flat and the contents of the discs produced to the Court represented the contents at the time the discs were recovered from the defendant's flat.

[86] For the purposes of the charge under section 57 I am satisfied on the first issue that the defendant was in possession of the discs. I proceed to consider whether I am satisfied on the second issue that the defendant was in possession for a terrorist purpose. The prosecution rely on the circumstances discussed above to establish the defendant's terrorist purpose, namely the contents of the documents produced from the discs, the viability of the contents, the possession of the tools and equipment, the use of aliases, the contents of the documents recovered from the defendant's flat, the contents of the mobile phones, and the contents of the interviews.

[87] The contents of the documents produced from the discs contained not merely a menu for the manufacture of explosives or silencers. Counsel for the defendant objected to the contents of the documents being treated as evidence of terrorist purpose. There are passages in the documents that provide a religious and political and terrorist context for the preparation and use of the explosives and the silencers. I am satisfied that the contents of the discs included material that would advance a terrorist purpose, namely the manufacture and use of an explosive device and the construction of a silencer for a firearm. I am satisfied from the contents of the discs that the material on the discs was intended by the authors to be used for terrorist purposes, and that it advocated such terrorism in the name of Islam, although I do not regard the evident purpose of the authors as evidence of the purpose of the reader. I do however regard the contents as evidence of terrorist purpose.

[88] Access to the contents was limited as the defendant did not have a computer in his flat. He stated that he had only skimmed the documents at the time of downloading and there was no evidence of the defendant having access to the documents at other times or of having printed copies of the documents. Further it is the case that the part of the contents of the documents dealing with explosives promotes suicide bombing and the part dealing with the use of silencers involves a means of attack that would contemplate the escape of the perpetrator. Terrorism may take many forms

and I do not find it to be a contraindication of terrorist purpose that there is possession of material that includes such different projects. In addition the contents relating to the explosives material give instructions that the attack be carried out in Africa or where there are no modern detectors at airports, but terrorist explosives attacks need not be limited to aircraft.

[89] I am satisfied as to the viability of the information contained in the documents produced from the discs. The tests carried out on the basis of the instructions establish that an explosive device can be created and that a workable silencer can be manufactured by following the instructions. That there were details not included in the instructions and that the inexperienced operative might not have completed the manufacture of the explosives and the silencer to the standard achieved in the forensic tests does not diminish the viability of the instructions. However viability is not evidence of terrorist purpose.

[90] The tools and equipment acquired by the defendant coincided in some respects with the equipment referred to in the instructions contained in the documents produced from the discs. Many items acquired by the defendant would have had a use for DIY, and some instances of DIY undertaken by the defendant were confirmed, or they would have had a use for a motor mechanic. I am not satisfied that the defendant's possession of the items recovered in itself is evidence of terrorist purpose.

[91] There were many items of equipment and ingredients required by the instructions that had not been acquired by the defendant, and there was no item recovered that demonstrated the completion of the preparatory stages in the construction of an explosive device or a silencer.

[92] The cassette player recovered from the defendant had four capacitors missing. The defendant denied that he had removed those parts and claimed that he had found the broken Walkman and retained it to use other unspecified parts. A capacitor is a key ingredient of the instructions on the manufacture of the explosive device. It is beyond the bounds of credibility that the defendant should have possession of instructions on the manufacture of an explosive device with the use of a capacitor from a camera and also that the defendant should find a cassette player from which capacitors had already been removed. I am satisfied that this cannot be coincidence and that the defendant acquired the cassette player and removed the capacitors.

[93] The defendant used a number of aliases. I am satisfied that he applied for asylum under different names in Holland and the Republic of Ireland and Northern Ireland. He acquired and made use of false identity documents in Holland and the Republic of Ireland and in Northern Ireland. I am satisfied that the defendant, known as Abbas Boutrab, used the four aliases discussed above. He claimed through his solicitor that he used the false identity

documents in order to facilitate a drifter lifestyle. I am not satisfied that he voluntarily lived a drifter lifestyle. He moved from one country to another when he was liable to be detained by the authorities. In those circumstances a new identity would have facilitated his movement from one country to another. I am not satisfied that the use of aliases in itself is evidence of terrorist purpose.

[94] In moving from one country to another the defendant not only adopted a new alias but gave a history to the immigration authorities. His history of escape from Algeria given to the immigration authorities in Northern Ireland was untrue as were his answers to the immigration authorities after his arrest in April 2003. His history of escape from Algeria given to the immigration authorities in the Republic of Ireland was also untrue. These false histories, given in the above context, were part of the defendant's scheme for the avoidance of immigration control. The use of the name Fabio Parenti in Northern Ireland was undertaken to establish a European Union identity for employment purposes.

[95] The handwritten documents illustrate connections between the defendant and the Republic of Ireland and Holland. None of the material in the documents is evidence of a terrorist purpose.

[96] At the police interviews the defendant denied the use of the names Abbas Fawaaz and Jocef Djafari and that was untrue. The defendant made his denial when he knew that the inquiry was not an immigration issue but a terrorist issue.

[97] In the course of the police interviews the police explored two avenues which the defendant contended did not amount to evidence against the defendant. The defendant might have sought to edit some of these materials out of the interviews for the purposes of the Court hearing but elected not to do so in order to illustrate that the police view of the defendant in November 2003 in respect of the two avenues was not the basis of any evidence against the defendant at the trial. The two avenues were first the issue of travel on the false passport of Abbas Fawwaz and secondly the issue of terrorist connections.

[98] As to the first matter of the stolen passport, at interview 24 the defendant was shown a Dutch passport of Abbas Fawwaz which the interviewer stated had been stolen in Holland on a date which was then believed to be 1998. The passport recorded entry to Canada in November 1999, Guinea in December 1999, Prague and Libya in May and June 1999, Morocco in February 1999, and the United States in April 2000 from Amsterdam. When asked about his movements during this period in 1999/2000 the defendant replied "I am not answering".

[99] Further inquiries in relation to the passport of Abbas Fawwaz indicated that it had not been reported stolen in Holland until 2001, and therefore after the period when the defendant was asked about the countries to which the passport holder had travelled in 1999/2000. The defendant relied on the mistake as to the date on which the passport had been stolen to illustrate the mistaken nature of the original police investigation. A mistake was made by police. The issue does illustrate that the defendant's refusal to answer questions on an issue cannot be an indicator that he was concealing information.

[100] As to the second matter, namely terrorist connections, the defendant admitted that he had put some names and numbers in the memory of the mobile phones. The interviewer went through the names and numbers in the memory and in response to questions about those matters the defendant replied "I am not answering". The interviewer stated to the defendant that the names and numbers would connect the defendant with persons suspected of Islamic terrorism in Europe. At interview 31 the defendant was asked about a named person who was said to be currently in jail in France awaiting extradition to Holland for terrorist offences. The interviewer asserted that a number on the defendant's mobile phone had been found on that other person's phone and a message had been sent from the defendant's mobile phone to that person on 9 January 2002. Further it was put to the defendant that there were numbers in his mobile phone that had been checked by European police agencies and some of the numbers were of those involved in Islamic terrorism. The contacts were said to extend to an address in London from which the defendant's mobile phone had received messages, which was an address said to be connected with Abu Hansa, who was described by the interviewer as the famous cleric who preaches in Finsbury Park Mosque and heavily involved in a terrorist organisation based in Algeria. The defendant was also asked about an underground ticket to Finsbury Park, London, recovered at the defendant's flat. The defendant stated that the purpose of his visit had been to attend Finsbury Park Mosque. Further numbers on the defendant's mobile phone were said to provide connections with those who were subject to Islamic terrorist investigation in Holland. The defendant's response to these questions was either to deny knowledge of the connection or to state that he was not answering.

[101] There was no evidence at the trial in relation to any of the terrorist connections which were alleged by the interviewer to arise between the records in the mobile phones and those with alleged terrorist links. The prosecution invited the Court to take Judicial Notice that Abu Hansa is a declared supporter of Islamic terrorism and to note the extensive and elaborate communications network with those of Arabic origin indicated by the records extracted from the mobile phones. Blackstone's Criminal Practice 2005 at page 2124 states in relation to Judicial Notice -

“Generally speaking, the doctrine of judicial notice allows the tribunal of fact to treat a fact as established, notwithstanding that no evidence has been adduced to establish it. Judicial notice may be taken without inquiry or after inquiry and refers to facts which a judge can be called upon to receive and to act upon either from his general knowledge of them or from inquiries to be made by himself for his own information from sources to which it is proper for him to refer. Under the ‘Judicial Notice Without Inquiry at Common Law’ it is stated that ‘if a fact is sufficiently notorious or is such common knowledge that it requires no proof, the judge, without recourse to any extraneous sources of information, may give judicial notice of it and direct the jury to treat it as established, notwithstanding that it has not been established by evidence’.”

[102] I reject the prosecution contention that the matters on which they rely are sufficiently notorious or of such common knowledge as to require no proof. I reject the prosecution contention that the matters referred to establish any terrorist connection or that the admitted attendance at the Finsbury Park Mosque is evidence of any terrorist connection or that the contact with premises associated with a cleric from the Finsbury Park Mosque amounts to evidence of any terrorist connection or that the allegations put to the defendant at interview of alleged terrorist connections are any evidence of terrorist connections or that the communication network with others of Arabic names taken on its own or in conjunction with any evidence adduced at the hearing is evidence of any terrorist connection.

[103] In any event an unidentified mobile phone was forwarded to the Security Service on 15 April 2003 and returned on 16 April 2003. It is probable that the mobile phone was the Nokia phone or one of the Trium phones. No explanation was offered for the presence of this mobile phone with the items delivered to the Security Service. The continuity of the mobile phones has not been established. In those circumstances I will not take into account the information retrieved from the mobile phones.

[104] Taking account of the matters discussed above, I am satisfied on the basis of the contents of the documents produced from the discs recovered from the defendant, and of the recovery of the cassette player with the missing capacitors, that the defendant possession of the discs was for a terrorist purpose. I am satisfied that he had acquired a cassette player and removed the capacitors. I reject his explanation for the absence of the capacitors from the cassette player. I am satisfied that his possession of the

material was not out of curiosity but was for a terrorist purpose under section 57(1).

[105] Further, a lie may be relied on as evidence supportive of guilt. R v Lucas [1981] QB 720 indicates the cautionary approach to such evidence. I am satisfied that the defendant's explanation about the cassette player was a lie, that the lie was deliberate, that it relates to a material issue and that there is no innocent reason for that false explanation about the cassette player. Accordingly, while otherwise satisfied of the defendant's terrorist purpose, as set out in the preceding paragraph, I regard the defendant's lie about the cassette player as evidence supportive of guilt.

[106] In addition, while otherwise satisfied of the defendant's terrorist purpose and while not regarding the defendant's possession of the tools and equipment in itself as evidence of guilt, I am satisfied that possession of the tools and equipment, in combination with the matters set out in the two preceding paragraphs, is further evidence supportive of guilt.

[107] In addition, while otherwise satisfied of the defendant's terrorist purpose, and while not regarding the defendant's use of aliases in itself as evidence of guilt, and while accepting that the use of aliases assisted the defendant in attempts to avoid immigration control and that the use of the name Fabio Parenti also served to secure employment, I am satisfied that the use of aliases, in combination with the matters set out in the three preceding paragraphs, is further evidence supportive of guilt.

[108] Further, I am satisfied that the defendant told police a lie when he denied the use of the names Abbas Fawaaz and Yocef Djfari and that lie was told when the defendant knew that the police were investigating a terrorist matter and not an immigration matter. I am satisfied that the lie was deliberate, that it related to a material issue and that there is no innocent explanation for the false denial. Accordingly, while otherwise satisfied of the defendant's terrorist purpose as set out in the four preceding paragraphs, I regard the defendant's lie about these aliases as evidence supportive of guilt.

[109] For the purposes of the charge under section 58(1)(a) I am satisfied that the defendant collected the information on the discs and that it was likely to be useful to a terrorist. As I am satisfied that the defendant had possession of the information for a terrorist purpose I am satisfied that he had no reasonable excuse for collecting the information for the purposes of section 58(1)(a).

Findings on each charge.

[110] On the first count of possession of articles for a purpose connected with terrorism contrary to Section 57(1) of the Terrorism Act 2000 I find the defendant guilty.

On the second count of collecting information likely to be useful to terrorists contrary to Section 58(1)(a) of the Terrorism Act 2000 I find the defendant guilty.

On the third count of handling stolen goods, contrary to Section 21(1) of the Theft Act (NI) 1969 I find the defendant not guilty.

On the fourth count of using a false instrument, contrary to Section 3 of the Forgery and Counterfeiting Act 1981 I find the defendant not guilty.

On the fifth count of having custody or control of a false instrument, contrary to Section 5(2) of the Forgery and Counterfeiting Act 1981 I find the defendant guilty.