

IN THE CROWN COURT IN NORTHERN IRELAND

THE QUEEN

v

**ANDRÉ KHALED SHOUKRI, WILLIAM JOHN BORELAND,
TERRY WILLIAM HARBINSON AND IAN PETER CRAIG**

TREACY J

[1] André Shoukri you have pleaded guilty to 5 counts of blackmail contrary to Section 20 of the Theft Act (Northern Ireland) 1969, 2 counts of intimidation contrary to Section 1(b) of the Protection of the Person and Property Act (Northern Ireland) 1969, 2 counts of obtaining a money transfer by deception contrary to Section 15(a) of the Theft Act (Northern Ireland) 1969 and 8 counts of acquiring criminal property contrary to Section 329(1)(a) of the Proceeds of Crime Act 2002. Count 19, using criminal property, contrary to Section 329(1)(a) of the Proceeds of Crime Act 2002 was left on the books not to be proceeded with without the leave of the court.

[2] William John Boreland you have pleaded guilty to 4 counts of blackmail, one count of intimidation and one count of possession of a firearm or imitation firearm with intent to commit an indictable offence contrary to Article 60(1)(a) of the Firearms (Northern Ireland) Order 2004.

[3] Terry William Harbinson you have pleaded guilty to one count of blackmail, one count of intimidation and one count of possession of a firearm or imitation firearm with intent to commit an indictable offence in which you were jointly charged with Shoukri and Boreland on the third count. You have also pleaded guilty to intimidation on the fourth count on which you are jointly charged with Shoukri and Boreland and to possession of a firearm or imitation firearm with intent to commit an indictable offence on the fifth count which you are jointly charged with Boreland.

[4] Ian Peter Craig you have pleaded guilty to aiding and abetting, counselling or procuring and obtaining a money transfer by deception contrary to Section 15(a) of the Theft Act (Northern Ireland) 1969.

Factual Background

[5] Witness A and witness B met in 2002 and lived in Northern Ireland after that date. A was from England and her partner B was from Northern Ireland. In December 2003 A, who had experience in the licensed trade and some training in accountancy, was approached by a Mr Lawrence Bingham the then leaseholder of Bonaparts pub on the Cavehill Road in North Belfast. She was asked to help with the books. The premises were owned by a Mr Armstrong, through a company. In June 2004 Mr Bingham ran into personal and other difficulties and A was involved in increasingly running the business. A was then approached on behalf of Armstrong and asked to take over the bar which she did. In July 2004 A attended court and was granted a protection order over the licence for the premises for 6 months and on 23 December 2004 she was granted a full 5 years drink licence.

[6] In June 2004 Andre Shoukri and William Boreland were in the bar whilst she was present. It was clear A was effectively in charge of the premises at that stage. Shoukri demanded £1,000 per week for the bar to be permitted to stay open. A was aware by reputation both were involved in the UDA. Witness A made it clear that such an amount would not be possible, it was discussed and a figure of £200 per week was ultimately reluctantly negotiated and agreed to. The money was to be paid on a Monday each week to Shoukri. This money was paid initially by cheque and then later, as demanded, in cash.

[7] There was also gaming machines on the premises for which witness A paid a monthly rental. These were emptied totally without her control between the persons who effectively leased them out and ordinarily Mr Boreland being present.

[8] The payments continued on regular basis and this is reflected in the charges.

[9] Two further particular incidents occurred. One of these was at Christmas 2004 and this incident is covered by count 21 which is charge of blackmail against William Boreland. On 18 December 2004 there was a wedding reception held at the premises of Bonaparts. Mr Boreland had introduced the business and, in fact, had paid over £500 for food to be supplied. He later demanded this money back since he maintained that as he had introduced the wedding business to the premises he should not have to pay for the food. Over the weekend Andre Shoukri inquired how much money had been generated by the event and indicated that he and Boreland

wanted a share. On 20 December 2004 Boreland demanded £2,000 from the reception money. No such profit had in fact been made but it was finally agreed that he should get £1,000 which Boreland did get in cash there and then.

[10] On 3 January 2005 (and this refers to count 8) Shoukri and Boreland were in the bar and demanded £1,000 since they said that witness A had had a good Christmas financially. Shoukri was very aggressive and angry and was demanding money there and then which he got.

[11] Matters got progressively worse. They were becoming more and more aggressive towards her to the point where witness A felt directly threatened at this stage given the degree of aggression.

[12] By May 2005 the amount being taken meant no profit was being made and she was having difficulty in paying her outgoings for example in respect of the lease. Shoukri and Boreland were in the premises frequently taking what they wanted including carry-outs. They also told A to cancel her standing order to the landlord and that there would be a discount but cash was to be paid directly to Boreland.

[13] Things culminated on 31 May 2005 – and this specifically relates to counts 3, 4 and 5 on the indictment. On that day Mr Shoukri contacted A and asked if she had cancelled the standing order for the rent. When told that this had not happened Shoukri said he wanted the rent and he wanted it in cash. When A said she did not have it Shoukri got very aggressive and demanded to know what she had done with the money. Shoukri demanded to see her at 6pm at the premises. On the same day her partner B received a message to contact Boreland and he was instructed to go to the Ballysillan Arms Public House on the Crumlin Road. Boreland arrived at the premises with Harbinson. Boreland had the upstairs lounge opened and witness B was told to go upstairs. He went upstairs and he was sitting at the table facing Boreland. Harbinson took out a gun and put it to the side of his head and said “if you want to leave here you’ll have to tell the fucking truth”. Boreland told him A was out of the bar and that the keys, books, accounts, chequebooks etc were to be handed over and Boreland told him the big man, which was a reference to Shoukri wanted to wreck B’s house but that he, Boreland, had calmed him down. All this was to be done together with the handing over of £4,000 the next day.

[14] The next day A and B borrowed £4,000 and Boreland took it and all the documents and keys etc to the bar and the bar was handed over.

[15] On 12 July A and B had been in the Ballysillan Arms. A went outside for a smoke. Harbinson and Boreland walked past and Boreland was heard to say “May be next time I will pull the trigger”.

[16] Ultimately a covert operation was launched which involved the covert recording of conversations. Tapes from these covert recordings were recovered and, in particular, Boreland was heard to admit the May incident giving rise to counts 3, 4 and 5.

[17] Counts 7, 9 and 10 are connected counts and relate to the events of summer 2004. Shoukri had spoken to witness A on a number of occasions re payslips and made reference to a mortgage. She was asked to speak to a person known as Paddy. These false payslips and confirmation of permanent work were required in order to facilitate the provision of a mortgage. On one particular day she was asked to speak on the phone to a person referred to as Paddy. Paddy informed her that to get a mortgage Shoukri needed payslips and confirmation of permanent work. She was previously unaware of what was happening and asked Shoukri what was going on. Shoukri demanded that she put him on the payroll as a restaurant manager and that she give him 13 weeks of payslips. She was told to work out the figures for a wage that would show him receiving a basic wage of £450 per week. In September 2004 she went to meet Paddy who turned out to be the defendant Craig and she was directed to write a letter confirming that Shoukri lived at a particular address in order that a bank account could be set up to facilitate the mortgage. In the scheme of the indictment the defendant Craig is charged on count 22 with aiding and abetting Shoukri's activities on counts 9 and 10 which relate to the mortgage.

[18] Counts 11-16 are all counts of acquiring criminal property and they are sample counts which refer to the £200 per week which was being paid to Shoukri on an ongoing basis during the period June 2004 until in or about February 2005.

[19] As far as Craig was concerned the Crown emphasised that the single count against him was not a money laundering charge, that it related to one incident of involvement and that there was no evidence of any further involvement.

[20] As far as Harbinson was concerned the Crown pointed out that his involvement related to the occasion when the firearm was placed to the head of witness B and that there was no evidence that he was involved in general blackmail.

[21] Both Shoukri and Boreland have previous convictions including a previous conviction for blackmail.

[22] Shoukri apart from your belated plea of guilty there was little that could be said on your behalf by way of mitigation given the grave nature of

the offences and the fact that you have a previous conviction for blackmail also involving commercial premises in the same area as the present offences.

[23] Fortunately for you the decision of the Court of Appeal in Potts, Re Attorney General's Reference (No 5 of 2004) [2004] NICA 27 had not been decided at the time you were first sentenced for blackmail in June 2000 when you received a sentence of imprisonment for 30 months. Since then the Court of Appeal in this jurisdiction has in Potts given detailed guidance regarding the appropriate penalties in blackmail cases of this type.

[24] Scott-Baker J in The Queen v Cioffo [1996] 1 Cr App R(S) 427 stated at page 429:

"Blackmail is always a serious offence. As has been said by this court in the past it preys on the soul of the victim, in this case not only the victim but his family too. Deterrent sentences have to be passed by the courts when those guilty of these offences are brought to justice."

[25] In paragraph 20 of its judgment in Potts the Court of Appeal stated:

"In a paramilitary context we consider that the normal range for such an offence after a contest should be between 10 and 14 years, depending on the seriousness of the offence. In the present case an appropriate penalty *after a contest* would have been, in our judgment 10-12 years."

and at Paragraph 21:

"The reduction for the offender's plea of guilty should not have been substantial, for the reasons that we have given. The *minimum* penalty on a plea of guilty in the present should have been one of 8 years, in our opinion. Given the lateness of the plea and the virtual inevitability of conviction even if the charge had been contested, no more substantial reduction could be justified."

[26] Mr Harvey QC pointed out that Potts, unlike his client was on bail at the time of the offence and that he had (he submitted) a worse record than Shoukri including a sentence of 16 years for conspiracy to murder and possession of firearms. The aggravating features in Potts were set out at paragraph 13 only one of which did not apply in this case i.e. being on bail at the time of the offence. Mr Harvey correctly agreed that the remaining

aggravating features were all present in this case although he submitted to a lesser degree.

[27] I do not accept, as counsel contended, that Shoukri pleaded guilty at a much earlier stage than Potts. In reality there is little if anything between the two cases in this respect. Shoukri pleaded a matter of days before the trial was due to commence. I remind myself of the comments of the Court of Appeal in Attorney General's Reference (No 1 of 2006) McDonald & Ors [2006] NICA 4 and, in particular paragraph 19 thereof in respect of belated pleas.

[28] Practitioners and their clients must be aware that the earlier the plea the greater the discount. The advantages to the victims of crime and to the administration of justice in terms of resources is obvious and the earliest plea conferring the greatest advantages in those respects is likely to attract substantial discount. But where, as here, the victim has been spared little and the administration of justice has gained fractionally a belated plea without any forensically justifiable reason whilst it will still attract a discount must be at the opposite end of the spectrum.

[29] Whether or not Potts' record was worse than Shoukri's the fact is that Shoukri has a recent previous conviction for blackmail committed in the same area of North Belfast. That is plainly a highly material consideration in this case. Having regard to what was said in Potts I consider that the appropriate overall sentence in this case is one of 9 years. The Crown did not demur from defence counsel's suggestion that the other charges faced by Shoukri were ancillary to the main charges of blackmail and I shall sentence accordingly.

[30] William John Boreland you also have a previous conviction for blackmail which as I understand it arises out of the same incident giving rise Mr Shoukri's previous conviction for blackmail. The overall effective sentence that I intend to impose in your case is one of 9 years.

[31] Terry William Harbinson I will treat you on the basis that you have no relevant previous convictions. You initially contested the charges and indeed witness A and B were compelled to give evidence and were cross examined by your counsel. You nonetheless face fewer charges and, as I say have no relevant convictions. The effective sentence in your case is one of 7 years.

[32] I should add that quite apart from the fact that there has been no recommendation of custody probation in any of the pre sentence reports I would consider such a sentence a wholly inappropriate disposition in a case of this kind.

[33] Ian Peter Craig you are charged with a single count and everyone has agreed that you fall into a quite distinct category from your co-accused. You

have a good solid family background being married with 3 children, your wife is a teacher and you have no relevant record. Your counsel reminded me that the prosecution had accepted that this was not a money laundering charge nor are you suspected of any such activity. I note that there is no proceeds of crime application in respect of you and I have been told without contradiction that the circumstances of your involvement are regarded by the police as representing the totality of your involvement and that there is nothing more pending. It is also accepted that but for your association with the co-accused in this case your charge may very well have been dealt with in a lower court. I note that you have been assessed as a low risk of re-offending and that you are not assessed as posing a risk of harm to others. Nonetheless this is a serious offence which ordinarily will attract an immediate period of imprisonment. However having regard to your background and the nature of your involvement I am, exceptionally, prepared to impose a sentence which will not automatically deprive you of your liberty. The sentence will be 2 years suspended for 3 years.