Neutral Citation: [2016] NICC 13 | *Ref:* **TRE10057**

Judgment: approved by the Court for handing down | *Delivered:* **16/09/2016**
*(subject to editorial corrections)**

IN THE CROWN COURT IN NORTHERN IRELAND

SITTING AT LAGANSIDE

THE QUEEN

v

CONNOR HUGHES

TREACY J

Introduction

[1] Connor Hughes, you have pleaded guilty to one count of collecting information likely to be of use to terrorists, contrary to Section 58(1)(b) of the Terrorism Act 2000. The particulars of the offence are that on 2 October 2015 you had in your possession a document or record containing information of a kind likely to be useful to a person committing or preparing an act of terrorism, namely a handwritten list containing the names and work locations of eight judges and 16 serving officers of the PSNI. The document, however, did not contain details of home addresses or the movements of identified individuals and the locations identified in the document were, in fact, public buildings.

[2] The document was discovered on that date during a search of your cell in Roe House at Maghaberry Prison. The information was contained on a page in an A4 pad which also contained other innocuous material. Roe House is a section of the prison which contains separated prisoners. At the time of the discovery you were a convicted prisoner. You were sentenced at Laganside Crown Court on 27 February 2015 to a determinate custodial sentence of 11 years' imprisonment made up of 5½ years' imprisonment and 5½ years on licence for possession of explosives with intent to endanger life or cause serious injury to property. Your current earliest release date in respect of that sentence is September 2019.

[3] The court was informed that this conviction related to your being caught with a backpack containing an improvised explosive device which was all but complete save for batteries.

[4] Mr Tannahill for the prosecution suggested that the sentencing range for the offence to which you pleaded guilty of collecting information likely to be of use to terrorists was 5 to 7 years following a contest. He contended that on a plea the sentence should be around 4 years. He also submitted that any sentence should be consecutive to the sentence that you are currently serving.

[5] Mr Harvey QC correctly acknowledged that any sentence this court imposes must be consecutive to the sentence that you are currently serving. He contended, however, that the range after a contest was 2 to 6 years' imprisonment. He reviewed some of the authorities and suggested that the sentence in the present case should be towards the lower end of the range that he had identified. He drew my attention to Attorney General's Reference Number 4 of 1996 [1996] NIJB 55 in which a member of the Royal Marines serving in Northern Ireland on numerous occasions gave detailed information about the identity and movement of suspected members of the Provisional Irish Republican Army, which he obtained in the course of his official duties, to the UFF. Instead of being charged with 10 offences of communicating information, the soldier concerned was charged with 10 offences of soliciting murder, 9 offences of unlawfully recording information likely to be useful to terrorists and with 3 offences of unlawfully collecting information likely to be of use to terrorists, contrary to Section 31 of the Northern Ireland Emergency Provisions Act 1991.

[6] That defendant who had a clear record pleaded guilty and was sentenced by a very experienced judge to a sentence of 4 years. The Attorney General referred that sentence to the Court of Appeal on the basis that it was unduly lenient. The Court of Appeal held that the sentence of 4 years was not unduly lenient.

[7] Mr Harvey also referred me to the case of R v O'Hagan [2004] NICC 17 in which Mr Justice Morgan set out his reasons for convicting the defendant of two counts of possession of certain articles in circumstances giving rise to a reasonable suspicion that his possession was for a purpose connected with the commission, preparation and instigation of an act of terrorism, contrary to Section 57(1) of the Terrorism Act 2000, 4 counts of possession of documents containing information likely to be useful to a person committing or preparing an act of terrorism, contrary to Section 58(1)(b) of the 2000 Act, one count of collecting such information, contrary to Section 58(1)(a) and one count of possession of such information, contrary to Section 58(1)(b).

[8] The court was provided with a BBC news print out of the Judge's later sentencing remarks. Counsel for both the prosecution and the defence informed the court that they were unable to track down any judgment on sentence and relied on the print out.

[9] From this it appears that the defendant in that case had been jailed in 1993 for 16 years for possession of explosives but released under the Good Friday agreement. The Judge is reported to have said that:

> "If this information was being gathered for the Provisional Irish Republican Army, it would merely indicate that the organisation was still engaging in identifying targets while it was on ceasefire."

[10] He also commented that O'Hagan's previous record was an aggravating factor, and that the information he had gathered was "general and in the public domain". A sentence of 40 months was imposed, the defendant having already served 3 years on remand, and the 40 months was to represent the time served as the court did not consider it in the public interest to send that defendant back to jail at that stage.

[11] Mr Harvey submitted that the A-G's Reference and R v O'Hagan (sentenced after a contest) are examples of significantly more serious cases than the present. He further submitted that there is no evidence that the readily available materials grounding the charge were for specific targeting. As the prosecution observed, the document contained names only of the individuals concerned and public buildings but nothing about movements, home addresses or other relevant matters.

[12] Mr Harvey submitted that there was nothing to link the contents of the document to anything more serious and that it is only speculation as to its ultimate purpose and in reality, he says, this was a case of simple possession.

[13] On 20 May this year the defendant was arraigned and pleaded not guilty. On 30 June this year he was re-arraigned and pleaded guilty. It is accepted by the prosecution that for all practical purposes the defendant is entitled to be treated as having pleaded guilty at the earliest opportunity and that he is entitled to substantial credit for his plea of guilty.

[14] His relevant recent record for possession of an IED and the fact that the present offence was committed whilst he was in custody not long after he had been sentenced for that offence is plainly an aggravating factor.

[15] I note from the probation report that this defendant has now completed within the prison 2 years of an Open University undergraduate degree in psychology and philosophy and he has expressed a desire to structure his time as best he can in custody.

[16] He is 24, single and experienced a stable upbringing with a close-knit supportive family environment and it is therefore all the more disappointing and surprising that he has involved himself in the activities which are reflected in his record and the current offence.

[17] It is agreed that as matters stand at the moment this very young man will not be released in any event until September 2019 and that any sentence I impose must be consecutive and will extend his period in prison beyond that date.

[18] Taking everything into account and giving you substantial credit for your early plea, I sentence you to a determinative custodial sentence of two years, and that will be one year in custody and one year on licence which will be consecutive to the sentence that you are currently serving. Had you not pleaded guilty the sentence would have been considerably stiffer and probably in the region of 3 to 4 years.