

Judicial Communications Office

Wednesday 22 February 2012

COURT DISMISSES CHARGES AGAINST MARK HADDOCK

Summary of Judgment

Mr Justice Gillen, sitting today in Belfast Crown Court, found that the evidence of Robert and Ian Stewart was so flawed and unreliable and that the supportive prosecution evidence was not compelling enough to satisfy him beyond reasonable doubt of the guilt of the accused of the murder of Tommy English. He dismissed all the charges against all the accused with the exception of Neil Pollock.

Verdicts on remaining counts against Mark Haddock and others

Mr Justice Gillen had concluded at the halfway stage of the trial that there was evidence on the counts remaining before the court that it was conceivable he could convict the accused based on his view of the reliability of the evidence given by the Stewart brothers together with any supporting evidence. In his judgment today, the judge said his role, as judge sitting without a jury, was to determine if, on the evidence as a whole, the prosecution had satisfied him of the guilt of each accused beyond reasonable doubt. He concluded that the circumstances surrounding the evidence of both Robert and Ian Stewart was such that it was necessary for him to warn himself not only of the need for caution in approaching each of their accounts but also to recognise the wisdom of seeking strong independent supportive evidence before relying on anything that they said if he was to be convinced beyond reasonable doubt of the guilt of any of the accused.

Mr Justice Gillen set out the different strands that he considered in order to make up his overall assessment of the strength of the prosecution case:

- The fact that the Stewart brothers were accomplices of extremely bad character whose memories have been subject to the ravages of alcohol and drug abuse over the years;
- They lied to the police and to the court not only about their motivation in coming forward but during their narration of the events of the crimes;
- They may be prone to confuse the presence of some of the accused and individual events because of the regularity of their presence together and perhaps involvement in other crimes. The judge said there is clear evidence that on occasions they wrongfully implicated people in crimes which they did not commit;
- They had been confused as to the roles and words of many of the accused throughout the evidence;
- They compromised their independence as witnesses by clearly colluding at times;
- Their evidence was contradicted by independent evidence on many occasions; and
- Their demeanour in the witness box played a role in the overall assessment of their credibility.

Judicial Communications Office

Mr Justice Gillen recognised that some of the evidence of the Stewart brothers might be true in some or even large measure. He added, however, that much of the evidence was so flawed that he had not been able to exclude the real possibility that it was false in its implication of one or more of the accused:

“In summary, these are witnesses of very bad character who have lied to the police and to the court, on some occasions wrongly implicated a number of men who were clearly not present at the crimes suggested, on other occasions at worst falsely embellished or at best wildly confused the roles and words of those whom they alleged were present, have clear difficulties distinguishing one crime scene from another and have given evidence which is flatly contradicted by unchallenged independent evidence throughout the process.”

The judge said that weighing up the evidence, he reached the conclusion that the evidence of the Stewart brothers, on which the core of the prosecution case rests, was so unreliable that any supportive or additional evidence relied upon by the prosecution evidence, was insufficient to satisfy him beyond a reasonable doubt as to the guilt of any of the accused on any of the remaining counts.

Mr Justice Gillen commented that the supportive evidence relied on by the prosecution had fallen far short of repairing the defects in the Stewart brothers’ evidence, largely because the core prosecution case was “too weak” to gain sufficient sustenance from it. He said that adverse inference from failure to give evidence could not be used to bolster up a weak case. He commented that the evidence of the Stewart brothers was so unreliable on all the charges that he could not conclude that the only sensible explanation for the accused failing to give evidence was that they had no answer to the case against them which could have stood up to cross-examination. The judge said that even if he had invoked an adverse inference against the accused it would have been insufficient support for the other evidence to sustain a finding of guilt beyond reasonable doubt.

Referring to the case of Mark Haddock, the judge said there was clearly evidence of bad character illustrating a propensity to engage in acts of violence by himself and along with others. However Haddock’s previous convictions did not necessarily establish that he was the UVF commander or the organiser of the offences. Mr Justice Gillen said he must be wary of the danger of placing undue reliance on these convictions in a case where he considered the primary Crown evidence was weak because of the flawed nature of the Stewart evidence. He said he was not satisfied that Haddock’s propensity to commit acts of violence was sufficient to bolster up the profound weaknesses in this case to the extent that he was convinced to the relevant standard of guilt of the accused. Mr Justice Gillen added that evidence in connection with the other accused, and the effect of the passage of time on the memories of those involved, was insufficient to bolster up the “profound weaknesses” in this case. He commented that initially the implausibility of the Stewart brothers coming to a police station to invent an account about Haddock and the other accused seemed compelling, but the strength of that point crumbled considerably under the weight of doubt cast on the motivation of the Stewart brothers for coming forward and the sheer unreliability of their assertions when subjected to scrutiny.

Judicial Communications Office

Dealing with the charges of UVF membership, Mr Justice Gillen said he was not satisfied about the provenance or reliability of the names and signatures found on the UVF plaque seized from Bond's house. He said he did not know who inserted the names or who applied the alleged signature and found that the evidence was not strong enough to bolster up the inherent weaknesses in the Stewart evidence. The judge said that the evidence of UVF paraphernalia found in Bond's house provided potentially sterner supportive evidence of UVF membership. Mr Justice Gillen, however, said that the material was found in his house in 2009 whereas the charges of membership of the UVF related to a period between 1996 and 2000. He said this evidence on its own was not sufficient to persuade him that Bond was a member of the UVF on the dates in the Bill of Indictment. The judge also found the fact that Haddock had a UVF tattoo was not sufficient to justify satisfaction beyond reasonable doubt to the specific counts in this case.

Mr Justice Gillen concluded:

"The evidence before me on the [Tommy] English murder, the [assault on Mr X] and UVF membership has been too weak and unreliable based as it was on the flawed and unreliable Stewart testimony. The supporting evidence falls far short of restoring the necessary credibility to satisfy me beyond reasonable doubt as to the guilt of any of the accused on these charges. With the exception of Pollock whom I have convicted on counts 7 and 8 I therefore dismiss all remaining charges against the accused."

Verdict on Neil Pollock

Neil Pollock was charged with possession of items intended for terrorist purposes and intending to pervert the course of justice. The court was shown CCTV footage of Pollock buying a sledgehammer which was later found outside the back door of Tommy English's house after the murder had taken place. Pollock accepted that he purchased the sledgehammer but claimed that he was acting under duress. The court also heard that Pollock attempted to provide a false alibi for his brother-in-law, John Bond, on the day that Mr English was murdered. Pollock said they went to a Banbridge Hotel following a funeral and did not return home until it was dark. This was disputed by the CCTV evidence which showed him outside the hardware store in Glengormley at approximately 3.00 pm.

Mr Justice Gillen was satisfied beyond reasonable doubt, on the basis of the evidence before the court, that Pollock would have been aware or at least had a reasonable suspicion that he was being asked to buy the sledgehammer for a purpose in connection with terrorism and been requested to buy it by a person with paramilitary terrorist connections in the context of the on-going Loyalist feud. The judge was also satisfied that Pollock was attempting to provide Bond with a false alibi of being in Banbridge when the murder took place.

Mr Justice Gillen was satisfied that Pollock was of good character but was not persuaded that he had made out the case of duress. He said that Pollock had not given evidence during interview that a specific threat of death or grievous bodily harm to him or his family had been made or that he had ever tested the risk by expressing reluctance to or refusing to assist. The judge also drew an adverse inference from Pollock's failure to give evidence despite being warned of the risk.

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Mr Justice Gillen found Neil Pollock guilty of possession of items intended for terrorist purposes and intending to pervert the course of justice.

Closing remarks

Mr Justice Gillen stated that his judgment should not be seen as, nor was it intended to be a, criticism of the regime on the use of accomplice evidence under the Serious Organised Crime and Police Act 2005. He said that Parliament has passed this legislation and it is for the courts to interpret and implement it faithfully:

“Cases such as the present test adherence to the rule of law to the utmost. One of the primary obligations of a court is to unflinchingly protect the public against violent criminals and visit condign punishment on those who offend. However, it must convict only where guilt is proved beyond reasonable doubt and not on grave suspicions or probabilities. That I have not been so satisfied in this instance does not preclude the possibility of guilty verdicts in other similar cases where less flawed witnesses are called to give evidence.”

The judge recognised the time and effort that had been put into the case by members of the Historical Enquiries Team. He said that much public money has been invested in the investigation and trial and the fact that it had fallen short of satisfying him beyond reasonable doubt of the guilt of all but one of the accused was “no reflection on the courage, determination and dedication” coursing through the thousands of pages of evidence of many of the witnesses who came before him. In particular, Mr Justice Gillen paid tribute to Mrs English who he said gave her evidence with a dignity and poise which he was sure she struggled to maintain in more private moments:

“Her courage on the night of the crime and in court provided a chilling contrast to the cowardly actions of those murderous men who brushed her aside to assassinate her husband before her eyes.”

Mr Justice Gillen concluded by saying that he had no doubt that the determination of the police to bring to justice the killers of Mr English and those who have engaged in the other horrific crimes before him will remain undiminished despite his verdict. He commented that the ongoing advances in forensic science and the limited statutory abolition of the rule against double jeopardy may yet ensure that those who committed these crimes, including potentially some of those whom he acquitted in this case, will yet face their just desserts and be subject to condign punishment from the courts.

NOTES TO EDITORS

1. This summary should be read together with the judgment and should not be read in isolation. Nothing said in this summary adds to or amends the judgment. [The full judgment is available on the Court Service website \(www.courtsni.gov.uk\)](http://www.courtsni.gov.uk).
2. The accused were:
 - Mark Haddock

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- David Miller
- John Bond
- Darren Stuart Moore
- Alexander Thomas Wood
- Jason Loughlin
- Ronald Trevor Bowe
- Samuel Jason Higgins
- Neil Pollock
- David Samuel McCrum
- William Hinds
- Mark Thompson
- David Smart - Acquitted on 20 January 2012
- Philip Laffin

ENDS

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