

IN THE WESTMINSTER MAGISTRATES' COURT

THE QUEEN V MUHAMMAD RABBANI

JUDGMENT ON CONVICTION - 25th September 2017

SENIOR DISTRICT JUDGE (CHIEF MAGISTRATE) EMMA ARBUTHNOT

1. On 20th November 2016 at about 630am Mr Muhammad Rabbani, the international director of Cage was made subject of an Schedule 7 Terrorism Act 2000 stop and search at Terminal 4 of London Heathrow Airport. After answering some questions, he refused to provide the PIN and password for two computer devices to examining officers and was charged with an offence contrary to section 18 of Schedule 7 of the Terrorism Act 2000, that on 20th November 2016 he wilfully obstructed, or sought to frustrate a search or examination under Schedule 7 to the Terrorism Act 2000.
2. He was stopped by first one then a second officer. Both of whom gave evidence. Neither officer had ever stopped or examined Mr Rabbani before and certainly the first officer had only the vaguest idea of what Cage did.
3. At the start of the process Mr Rabbani was given a notice which explained the examination officers' powers. The powers are exercised with reasonable suspicion or not, to determine whether a person is involved in the commission, preparation or instigation of acts of terrorism.
4. As part of the stop the defendant was asked for the PIN number and password of his i phone and Apple computer. He refused to provide them and said it was against his Article 8 rights.
5. At the airport there was a formal interview conducted by the officers who stopped him. This was after Mr Rabbani had spoken to a solicitor. He told the officers he had been out for three days to attend the wedding of a friend in Doha. He said the officers knew where he worked. He did not wish to give the PIN numbers as he did not think the requirement "extends to matters of personal privacy so by giving my mobile number or a password or similar, all I'm doing is violating my own privacy which I think this doesn't cover". He repeats again in the interview that it is about his own privacy. It is like handing over "my own home keys" which he would rather not do. Indeed, the importance of Passwords and PIN numbers in the 21st century cannot be overstated.
6. The defendant went on to say he had been stopped before when he had not given the PIN numbers and he had not been prosecuted for failing to do so. The prosecution evidence confirms this that on at least two earlier occasions he had not given his PIN number although it is my understanding that on one occasion he had.
7. The defendant confirmed to the officers he would not give them the numbers. His main qualm he said was that there was a lot of information that had already been collected. So he thought it was a bit of a pointless exercise and unnecessary. It was disproportionate he said in the circumstances. What he did not say to them was that there was information on his devices that was excluded material. He was repeatedly told of the powers of the examining officers under the Schedule.
8. He was then arrested under section 18(1) of Schedule 7 the Terrorism act 2000.
9. He is later interviewed at the police station by other officers and gives a prepared statement in which he says that he is happy to comply with the request but that the contents of the devices

affect the privacy and confidentiality of others, including the fact that his work is in large part to do with vulnerable people who have placed their trust in him and his colleagues. He had given the codes to his solicitor and they could be released once he had informed his family and colleagues.

10. He was later charged in May 2017 after there had been correspondence about an independent counsel who would be given access to the devices. In the event that did not take place.
11. Mr Rabbani gave evidence, he is the international director of CAGE and also has worked in the past for third sector and local authorities. He is of good character and has a family with two young children. The importance of his good character is that he is less likely to have committed the offence and is more worthy of belief.
12. He explained that his reluctance to give his PIN numbers for the two devices comes down to the fact that he had received confidential information from a client he had seen at the wedding in Doha who was alleging he had been tortured in the United States and the information was to form the basis for the making of a complaint in that country and this one. Bearing in mind his good character I accepted this account.
13. In cross examination he said he had deliberately not provided the PIN number and password to the examining officers. I found they had lawfully required him to provide them.
14. The burden of proof is on the Crown and to a high standard, I have to be sure he has committed the offence before I could convict this man of good character.
15. Various half time submissions were made by Henry Blaxland QC for Mr Rabbani. I gave my ruling rejecting the submissions earlier. I will not repeat the ruling here.
16. There is no doubt that the defendant obstructed the police in not giving them the requested PIN and password, Mr Blaxland submits that I have to be satisfied of the mens rea of the defendant. He contended Mr Rabbani had been asked at least twice before for the PIN/password and not given it, the police had not chosen to prosecute him and therefore relying on those past occasions it could not be said it was a wilful obstruction on this occasion.
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17. I find the defendant took a risk and thought that as in earlier occasions, the police would not take any further action. I accept he was trying to protect confidential material on his devices. The defendant took a calculated risk by refusing to give the information.
18. It is not disputed that the defendant knew the Schedule 7 powers even before he was stopped, I find at the time of the stop he was warned over and over he would be committing an offence if he didn't provide the information requested. He took a decision not to provide the information when requested by the examining officers and I find this amounts to a wilful obstruction of the lawful examination in the circumstances. By his actions he was also seeking to frustrate it.
19. In the circumstances the case is proved.