

R v Burns [2017] EWCA Crim 1466

Convicted of stirring up racial hatred by publishing written material, contrary to section 19(1) of the Public Order Act 1986 (count 1); and of stirring up racial hatred through words or behaviour, contrary to section 18(1) of the same Act (count 2). On 10th March 2017, sentenced to three years' imprisonment on the first count and to a consecutive term of one year's imprisonment on the second count. The total custodial sentence was, therefore, four years' imprisonment. D was a member of National Action, a far-right white supremacist group, and was an avowed racist. Between August and September 2014, when he was aged 20, he posted a series of virulently racist updates, comments and links to a Facebook account he operated under an alias. Those posts gave rise to count 1. The comments contained many vile and deeply offensive comments directed at, in particular, the Jewish and Afro-Caribbean communities. The gist of the messages was to promote militant action against them, with the aim that they should be eliminated, with a view to protecting what the applicant described as "an advanced warrior race consisting of white men and women". If there is any doubt about the appellant's state of mind and intention, it was dispelled by material found on electronic media belonging to him, including e-books, expressing extreme anti-semitic views and extolling Adolf Hitler as "the ultimate being",

The Facebook page could be readily accessed by any user of the internet.

Count 2 related to a speech made by the applicant on 23rd May 2015, whilst he was aged 21 and whilst he was on bail for the offence charged in the first count. During a demonstration staged outside the United States Embassy, the appellant spoke, using highly inflammatory language directed towards non-white immigrants and Jews. He alleged that the former were "rapists, robbers and murderers" and that the latter were "parasites and bankers" who wanted to create a "mongrelised" race. The speech was filmed. Video was to be posted on YouTube. Defence at trial was that postings on Facebook were intended to be "private banter" and that his speech, whilst not banter, was not intended to stir up racial hatred and was unlikely to do so. Rejected, but sentence reduced due to age and immaturity, and comparing to other authorities where similar sentences were imposed for significantly greater number of offences and previous convictions for similar offences. Sentence on Ct 1 reduced to 18 mths and Ct 2 sentence remained. Total sentence two and a half years.

R v Sheppard and Whittle [2010] EWCA Crim 65

Whittle was convicted of four counts of publishing racially inflammatory material (counts 4, 5, 7 and 8). Sheppard was convicted of 10 counts of publishing racially inflammatory material, four counts of possessing racially inflammatory material and one count of distributing racially inflammatory material. Whittle composed material which he submitted by e-mail to Sheppard. Sheppard edited the material on his computer and then uploaded it to a website called heretical.com which was set up by him. When posted on the website the material was available for access via the internet by visitors to the website. Pamphlets also posted. Whittle's involvement was less than that of Sheppard and over a shorter period, and he had no previous convictions. On the other hand he was the "brains" behind the construction of the offensive material which he fed to Sheppard.

Offences related to publishing and distributing a pamphlet called Tales of the Holofoax in hard copy and on a website called heretical.com. It was a publication in the form of a comic book, the central theme of which was to cast doubt on the existence of the Holocaust. The publication also suggested that the Jewish people had a history of inventing stories of the commission of atrocities against them and it portrayed the Jewish people in a way that, as was alleged, made it likely that racial hatred would be stirred up against them if the pamphlet was distributed. Number of other articles written by Whittle, edited by Sheppard and published by Sheppard on the website. All the articles were alleged to contain derogatory remarks about Jewish people and black people. A number of other documents which were likewise alleged to contain material that was threatening, abusive or insulting towards various racial groups, distribution by Sheppard of a pamphlet called "Don't be Sheeple"

which was likewise alleged to be racially inflammatory. The Crown Prosecution Service decided that Tales of the Holohoax contained words which were abusive, insulting and possibly threatening towards a racial group, namely Jewish people. No evidence of how many people saw the material or of the consequences of their having seen it, although there were several thousand "hits" or visits to heretical.com per day. There was no evidence of any individual having been corrupted, although the court noted such evidence would be unlikely to be forthcoming.

Shepherd- 4½ years in total reduced on appeal to 3½ years.

Whittle- Sentences of 2 years reduced to 18 months

R v Saleem and others [2007] EWCA Crim 2692

Convicted of stirring up racial hatred during demonstration held in central London to protest against the republication in a number of countries, although not in the United Kingdom, of cartoons depicting the Prophet Mohammed which had originally been published in Denmark. Many posters and placards saying things like: 'Massacre Those who Insult Islam'; 'Be Prepared for the Real Holocaust'; 'Osama Is On His Way'; 'Europe You Will Pay' and 'The Fantastic Four Are On Their Way'. As the march moved off, it grew in size considerably. A public address system was used. Things were said continuously such as: 'Bomb, bomb the UK'; 'Bomb, bomb Denmark'; 'Democracy Hypocrisy'; 'Queen Elizabeth go to hell!'; 'Tony Blair go to hell!' and also Arabic words including 'Zakari' and 'Bin Laden'

Saleem held microphone and addressed the crowd through a public address system. He chants: 'There is no God but Allah!' 'Mohammed is his messenger!' 'Hands up messenger of Allah!' 'Hands up dearest to Allah!' He then leads the chants which are repeated by the crowd: 'There is no God but Allah!' 'Mohammed is the messenger!' 'Hands up messenger of Allah!' 'Hands up dearest to Allah!' 'Democracy, hypocrisy!' 'Democracy, go to hell!' 'Freedom, go to hell!' 'Democracy, go to hell!' 'UK, you must pay!' 'Muslims are on their way!' 'UK, you will pay!' 'Islam is on its way!' 'UK, you will pay!' 'Sharia is on its way!' 'Denmark you will pay!' 'Muslims are on their way'. 'Denmark you will pay!' 'Islam is on its way!' 'Denmark you must pay!' 'Sharia is on its way!'. Saleem addresses large crowd outside Embassy and says: 'There will come a day we will stand inside this Embassy. There will come a day when we remove that flag. There will come a day when we will raise the flag of Islam. Outside every Parliament of every nation whether you like it or not. Islam is superior and can never be surpassed'. He then leads the chants: 'Down, down UK!' 'Down, down Norway!' 'Down, down Denmark!' 'Denmark, you will pay!' 'With your blood, with your blood!' 'Norway, you will pay!' 'With your blood, with your blood.' 'Europe, you must pay!' 'With your blood, with your blood!' After every phrase, the crowd chanted the same words back.

Umran Javed; seen chanting in the crowd and later took over the microphone. Used words to effect of: 'The infidels attack the Muslim nation. They are one group. We will not stand for what Denmark did, for what France did. The whole of the infidels and the Western world are united. You have declared war against Allah and the Muslim nations for which you will pay a heavy price. Take a lesson from Theo Van Gogh and take a lesson from the Jews of Khyber from what you can see, or you will pay with your blood.'

Abdul Saleem was sentenced to four years' imprisonment. Javed was sentenced to three years' imprisonment for stirring up racial hatred (concurrent to six years for soliciting to murder).

Sentences quashed - replaced with 30 months' imprisonment for Saleem and two years' imprisonment for Javed.

El Faisal [2004] EWCA Crim 343

Two counts of using threatening, abusive words or behaviour with intent to stir up racial hatred contrary to section 18(1) of the 1986 Act, for each of which he was sentenced to one year's imprisonment; and one count of distributing threatening, abusive or insulting recordings of sound with intent to stir up racial hatred contrary to section 21(1) of the 1986

Act, for which he was sentenced to two years' imprisonment. The appellant was a minister of Islam. He held a series of public meetings at which he addressed audiences of predominantly young Muslim males. At these he encouraged Jihad, involving the killing of those who did not believe in Islam. Suicide bombings and the use of chemical weapons were recommended. Some of these meetings were recorded and the resultant tapes distributed to a number of specialist bookshops. The offences charged related to meetings that had been recorded in this way.

Abu Hamza [2006] EWCA Crim 2918

Abu Hamza was the Imam of the Finsbury Park Mosque. On 7 February 2006 he was convicted of six counts of soliciting to murder and, inter alia, three counts of using threatening, abusive or insulting words or behaviour with intent to stir up racial hatred. The inflammatory speeches that formed the subject matter of these offences spanned a period of about three years between 1997 and 2000. They also were recorded and the tape recordings distributed. The former counts attracted sentences of seven years' imprisonment and the latter sentences of 21 months' imprisonment, all to be served concurrently.

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