



11 July 2018

PRESS SUMMARY

Please be aware that there is an anonymity order on this case:

Section 37 of the Criminal Procedure and Investigations Act 1996 imposes statutory reporting restrictions in relation to the hearing of interlocutory appeals such as the present. The objective is to ensure that the jury's consideration of the evidence and issues put before it is not at risk of being affected by prior reporting, for example of the details of the allegations or of discussion of possible issues. Those restrictions apply to the hearing of this appeal. Until the conclusion of any trial (depending on the outcome of the appeal), nothing may be reported except the following:

- (a) the identity of the court(s) and the name of the judge(s)
- (b) the names, ages, home addresses and occupations of the accused and witnesses
- (c) the offences charged, as summarised in this judgment
- (d) the names of counsel and solicitors engaged in the appeal
- (e) whether for the purposes of the appeal representation was provided to either of the accused under Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- (f) the Supreme Court judgment

R v Sally Lane and John Letts (AB and CD) (Appellants) [2018] UKSC 36
On appeal from [2017] EWCA Crim 129

JUSTICES: Lady Hale (President), Lord Mance, Lord Hughes, Lord Hodge, Lord Burnett

BACKGROUND TO THE APPEAL

This is a pre-trial appeal in a criminal case. The appellants are charged with the offence of entering into funding arrangements connected with terrorism, contrary to section 17 of the Terrorism Act 2000. The charges allege that the appellants sent money overseas, or arranged to do so, when they knew or had reasonable cause to suspect that it would, or might, be used for the purposes of terrorism.

The question which arises on this appeal concerns the correct meaning of the expression “has reasonable grounds to suspect” in section 17(b) of the Act. The appellants argued that it means that the accused must actually suspect, and for reasonable cause, that the money may be used for the purposes of terrorism. The Crown, in response, argued that the section’s wording means it is sufficient that on the information known to the accused there exists, assessed objectively, reasonable cause to suspect that the money will be put to that use. The Court of Appeal accepted the Crown’s contention.

JUDGMENT

The Supreme Court unanimously dismisses the appeal. Lord Hughes gives the sole judgment with which the other justices agree.

REASONS FOR THE JUDGMENT

The appellants relied on the well-established principle that whenever a statutory section creates a criminal offence but does not refer to the offender's state of mind ("mens rea"), there is a presumption that to give effect to the will of Parliament, the court must read in words requiring mens rea [8].

While it is an important principle, it is a principle of statutory construction. It does not empower the court to substitute the plain words used by Parliament for a different provision on the grounds that the court would have done so differently by providing for an element, or a greater element, of mens rea [9].

The presumption must give way to either the plain meaning of the words of the statute, or to other relevant pointers to meaning which clearly demonstrate what was intended. The first port of call for any issue of construction is the words of the Act [12].

The words of section 17(b) of the Act suggest an objective test for mens rea at first sight. Thus, it is very difficult to see this statutory provision as one which is silent as to the intent required for the commission of the offence [13].

An offence of providing funding towards terrorism first appeared on the statute books in 1976 and was re-enacted in identical form in 1984. Those sections required proof either of knowledge or of actual suspicion. However, the Prevention of Terrorism Act 1989 made a change and introduced the words "knowing or having reasonable cause to suspect" in place of "knowing or suspecting". These changes were deliberate. They are inexplicable unless it was the Parliamentary intention to widen the scope of the offences to include those who had, objectively assessed, reasonable cause to suspect that the money might be put to terrorist use. The change can only have been intended to remove the requirement for proof of actual suspicion. The court cannot ignore this clear Parliamentary decision [18-19].

It would be an error to suppose that the form of offence-creating words in section 17(b) create an offence of strict liability. Unlike an offence of strict liability, the accused's state of mind is relevant for section 17(b). The requirement of an objectively assessed cause for suspicion focuses attention on what information the accused had. The requirement is satisfied when, on the information available to the accused, a reasonable person would suspect that the money might be used for terrorism [24].

References in square brackets are to paragraphs in the judgment

NOTE

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:

<http://supremecourt.uk/decided-cases/index.html>