

Neutral Citation No. [2025] EWHC 421 (SCCO)

Case No: T20197346

SCCO Reference: SC-2024-CRI-000078

IN THE HIGH COURT OF JUSTICE
SENIOR COURTS COSTS OFFICE

Thomas More Building
Royal Courts of Justice
London, WC2A 2LL

Date: 26 February 2025

Before:

COSTS JUDGE ROWLEY

R

v

VALJEET SINGH

**Judgment on Appeal under Regulation 29 of the
Criminal Legal Aid (Remuneration) Regulations 2013**

Appellant: Andrew Copeland (Counsel)

The appeal has been successful for the reasons set out below.

The appropriate additional payment, to which should be added the sum of £100 paid for the appeal fee, should accordingly be made to the Applicant.

COSTS JUDGE ROWLEY

Costs Judge Rowley:

1. This is the appeal of Andrew Copeland of counsel against the decision of the determining officer to allow only one fee in these proceedings when calculating the graduated fees payable to counsel under the Advocates Graduated Fee Scheme in accordance with the Criminal Legal Aid (Remuneration) Regulations 2013, as amended.
2. Counsel was instructed on behalf of Valjeet Singh who, together with 11 others, originally faced a two count indictment involving a conspiracy to transfer cash from the UK and participating in the criminal activities of an organised crime group which were said to have taken place between January 2017 and October or November 2019. Valjeet Singh was arraigned on 20 December 2019 and the trial was fixed for 14 April 2020 before Covid intervened. The trial was adjourned to 9 January 2023.
3. A directions hearing took place on 7 June 2022 by which time the indictment contained 53 counts and Valjeet Singh faced seven of those counts (and to which he pleaded not guilty. The first count had altered from being a conspiracy to transfer criminal property to a conspiracy to remove criminal property. Both offences, being conspiracies, said to be contrary to Section 1 Criminal Law Act 1977, but the substantive offences were both said to be contrary to section 327 Proceeds of Crime Act 2002.
4. The six further offences were counts 39, 41, 43, 44, 45 and 53. Four of these offences related to Valjeet Singh and a co-defendant being said to have removed criminal property, in the form of cash, on specific days in November 2018 or October 2019. The other two offences related to Valjeet Singh and three others removing or attempting to remove cash on other dates in November 2018.
5. Mr Copeland, who appeared at the hearing of his appeal, said to me that the change to the first count and all of the subsequent counts reflected a change in the case. Originally, written records at one of the co-defendants' house showed who had carried money out of the country. They did not include Valjeet Singh save for one trip to Brussels which did not appear to be relevant given that the money was said to have been taken to Dubai. However, further evidence came to light after the original trial date which, according to the Crown, showed that he had recruited a number of couriers and had on a number of occasions travelled with them to Dubai. Consequently, it was alleged that he was delivering the cash himself and not simply just marshalling it within the UK. He was therefore acting on his own account unlike the original description of being the right-hand man of the leader of the group.
6. This additional evidence did not make much difference to a number of the co-conspirators and co-defendants but it did, according to Mr Copeland, make a significant difference in the case against Valjeet Singh. The six substantive counts could not have been brought if the case had gone ahead in April 2020 because the evidence had not been uncovered. Even the first count, which had only been changed in terms of the relevant verb in the count, and therefore subsection of section 327, had in fact changed significantly.

7. At the end of the trial, the trial judge quashed the earlier iterations of the indictment (B1 to B7) so that there was no possibility of, for example, the second count of the first indictment being pursued by the prosecution.
8. It is a fundamental concept of the graduated fee scheme that there is only one fee payable in respect of one case. That case is defined as being one or more counts on a single indictment. It is only if there has to be a retrial that a further fee is payable in respect of the same indictment. If a single indictment is severed so that a defendant faces counts on each severed indictment, then two fees are payable. Here, an indictment has been formally quashed and a subsequent indictment preferred. As has been the subject of numerous Costs Judge decisions, the use of the Digital Case System has led to a situation where a number of versions of the indictment faced by the defendant appear to be present at the same time.
9. Trial judges have understandably, whether of their own motion or at the urging of advocates, quashed earlier versions of the indictment so as to make sure that the defendant is not at risk of further prosecution. This sensible approach has unintendedly led to a spate of claims being made for second fees in respect of cases which would traditionally have only resulted in a single fee.
10. This in turn has led to a number of appeals to Costs Judges and something of a line has been drawn between those iterations of the indictments which simply show an administrative or housekeeping aspect to the amendments and those where there has been a substantial change in the case to be faced by the defendant.
11. Where, as here, there are numerous defendants, it appears to have become a practice for indictments containing a few counts against some defendants to be subsumed within a larger set of proceedings against all of the defendants resulting in an indictment with many counts. The question therefore arises as to at what point that merger of cases against some defendants in order to make a larger, single prosecution, stops being an administrative exercise and affects some or all of the defendants in a manner reflective of there being a new indictment with the earlier indictment having been stayed and ultimately quashed?
12. It seems to me that there is nothing for it in these cases but to take very much a case specific approach and that the change in the nature of the case in terms of criminality or jeopardy as to sentence to the defendant has to be considered.
13. Consequently, as has happened here, it may be appropriate for the determining officer to consider that one defendant's case has not materially altered so that a single fee is payable yet for other defendants in the same proceedings there has been a sufficient alteration which would justify, for example, a cracked trial fee for the indictment not ultimately pursued as well as a trial fee for the ultimately preferred indictment.
14. In my view, in this case counsel has successfully demonstrated that the case against Valjeet Singh altered significantly between the original indictment for trial in 2020 and the trial which eventually took place in 2023. Not only were the specific substantive counts against him raised by the later indictment rather than the general conspiracy counts originally produced, but it seems clear that the nature of the case against Valjeet Singh changed so that he was a principal in the organisation rather than a follower.

15. For these reasons this appeal succeeds and counsel is entitled to a cracked trial fee in respect of this case in addition to the trial fee that has already been paid. This raises the question of the extent of the PPE at the time the cracked trial occurred. There was some dispute about whether the original indictment was stayed at the mention hearing on 7 June 2022. The transcript of that hearing, insofar as it relates to Valjeet Singh, has been obtained. There is no express reference to any stay but it seems to me that in this context is the question of whether the proceedings had altered by this point or not. In that respect it is clear from a comment made by the clerk of the court that the 53 count indictment was before the court and that therefore, in effect, the original indictment had been stayed. For the purposes of calculating the cracked trial fee, then the extent of the disclosure by the prosecution ought to be considered at the time of the June 2022 hearing.
16. For the reasons I have given, counsel has succeeded in this appeal and is entitled to his court fee in addition to the cracked trial fee (counsel having declined to seek any further costs).

