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*Judgment: approved by the Court for handing down (subject to editorial corrections)**	*Delivered:* **28/6/2018**

IN THE CROWN COURT OF NORTHERN IRELAND

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THE QUEEN

-v-

PATRICK JOSEPH BLAIR
AND OTHERS

_____

RULING ON NO BILL APPLICATIONS BY THE DEFENDANTS JOSEPH PEARCE, JOSEPH MATTHEW LYNCH AND COLIN PATRICK WINTERS

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COLTON J

[1] On the Bill of Indictment nine defendants face a variety of counts under the Terrorism Act 2000 relating to diverse dates, including:

- Belonging to a proscribed organisation, contrary to section 11(1).
- Providing weapons training and instruction, contrary to section 54(1).
- Conspiracy to possess explosives with intent to endanger life or cause serious injury to property, contrary to Article 9(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 and section 3(1)(b) of the Explosive Substances 1883.
- Preparation of Terrorist Acts, contrary to section 5(1) of the Terrorism Act 2006.
- Collecting information likely to be of use to terrorists, contrary to section 58(1)(b) of the 2000 Act. In the course of the "no bill" hearing I amended this count to read contrary to section 58(1)(a) of the Act, that is Counts 14 and 15.
- Providing a property for the purposes of terrorism, contrary to section 15(3).
- Receiving training or instruction in the making or use of weapons for terrorism, contrary to section 54(2).
- Attending at a place used for terrorist training, contrary to section 8 of the Terrorism Act.

[2] The case against the defendants is founded on material retrieved from audio devices that had been covertly installed in a property at 15 Ardcarn Park, Newry, prior to 12 August 2014.

[3] 15 Ardcarn Park is a small one bedroomed end-of-terrace bungalow that is leased from the Housing Executive to Colin Winters, one of the defendants in the case. The recordings relate to 11 different dates as follows: 12 August 2014; 2 September 2014; 10 September 2014; 12 September 2014; 18 September 2014; 3 October 2014; 7 October 2014; 13 October 2014; 15 October 2014; 28 October 2014 and 10 November 2014.

[4] Following an analysis of the contents of the audio recordings at 6.00 pm on 10 November 2014, PSNI conducted a search and arrest operation for terrorist offences at 15 Ardcarn Park; 11 males were present inside the property and one male was located in a vehicle parked in the layby at the front of the property. Six of the defendants were arrested at the property.

[5] Six of those arrested are named on the indictment, namely Patrick Blair, Colin Winters, Liam Hannaway, Joseph Lynch, John Sheehy and Seamus Morgan.

[6] Three others are also named on the indictment, namely Joseph Pearce, Kevin Heaney and Terence Marks.

[7] Expert evidence has been served by the prosecution arising from an analysis of the covert material, compared with sample speech of each of the defendants with a view to attributing speakers to voices heard on the recordings.

[8] On the basis of these assessments Professor French, who is an expert instructed by the prosecution, was able to conclude that the evidence provides very strong support for the view that the speakers designated Blair, Lynch, Sheehy and Winters in the PSNI transcripts of the questioned recordings examined are Patrick Blair, Joseph Lynch, John Sheehy and Colin Winters.

[9] Professor French concludes that the evidence provides very strong support for the view that the speakers designated Hannaway, Heaney and O'Neill in the PSNI transcripts of the questioned recordings are Liam Hannaway, Kevin Heaney and Sean O'Neill.

[10] The evidence provides strong support for the view that the speaker designated Pearce in the PSNI transcripts of the questioned recording examined is Joseph Pearce.

[11] The evidence provides moderately strong support for the view that the speaker designated Morgan in the PSNI transcripts of the questioned recording examined is Seamus Morgan.

[12] The evidence provides limited support for the view that the speaker designated Marks in the PSNI transcripts of the questioned recording examined is Terence Marks.

[13] Professor French has pointed out that forensic speaker comparison tests do not provide strength of evidence comparable for example to DNA analysis, and it is recognised there could be people in the population who are indistinguishable in respect of voice and speech patterns. Thus there are limitations to this evidence which on its own would be insufficient to justify a conviction against any of the defendants.

[14] The prosecution rely upon additional corroborating evidence to support the proposition that each of the suspects is the person recorded. On some of the dates when the recordings were made CCTV footage and surveillance officers' observations in respect of some of the suspects are available. A few of the defendants had made certain comments during interview to indicate that they had been at meetings in Ardcarn previously. During the conversations those talking refer to each other by their first name/nickname in a manner consistent with the voice attributions. Use of phones that can be heard in the audio is also consistent with call data for some of the defendants. The fact that the suspects were arrested in Ardcarn on 10 November 2014 also supports the prosecution argument that a large number of those present on 10 November had been at the property previously and that their presence at the property on the 10th is not a one-off incident. Their presence on the 10th assists the identification of the suspects on the previous occasions and is corroborative of the voice comparison evidence as part of the circumstantial case.

[15] Evidence from mobile telephones shows contact between the suspects, thereby illustrating the fact that they are associated with each other. The phone showed that some suspects have contact details for other suspects stored in the address book of their phones. This is also useful in showing their use of nicknames as Lynch is known as "Tiny" and Seamus Morgan as "Jap".

[16] Initially four of the defendants invited the court to enter a "no bill" in respect of various counts, but in the event only Winters, Lynch and Pearce proceeded with the applications.

[17] The application on behalf of Colin Winters relates to Counts 5 and 6; conspiracy to possess explosives and firearms respectively; Counts 7, 8 and 9; relating to acts in preparation of terrorism; Counts 14 and 15; relating to collecting information for the purposes of terrorism. No applications are pursued in relation to Counts 17 and 18 and finally an application is brought in respect of Count 19 – receiving training in the making or using of explosives.

[18] In the course of the hearing Mr Murphy QC (who appeared with Messrs Russell and Magee) informed the court that the prosecution did not intend to pursue Count 9 against Winters only. With no objection from the defendant, this count was left "on the books" – not to be proceeded with without leave of the court or the Court of Appeal. I amended count 9 to remove Winters.

[19] The application brought by Joseph Lynch overlaps with Winters and relates to Counts 5 and 6, 7, 8 and 9, 13 and 16 (preparation of terrorism acts); Count 20 (belonging to a proscribed organisation); Counts 22 and 23 (attending a place used for terrorist training) and Counts 21 and 24 (receiving instruction or training).

[20] Joseph Pearce brings an application for a "no bill" in respect of Counts 14 and 15 – collecting information likely to be useful to terrorists.

[21] I have been invited by the defendants referred to above to order a "no bill" in respect of the counts to which I have referred pursuant to section 2(c) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

[22] I am indebted to all counsel who appeared in this application for their detailed written and oral submissions which were extremely helpful. As already indicated, Mr Ciaran Murphy QC appeared with Mr David Russell and Mr Samuel Magee on behalf of the prosecution. Mr Gregory Berry QC appeared with Mr Kevin Magill one behalf of Joseph Pearce. Mr Joseph O'Keefe appeared on behalf of Joseph Lynch. Mr Dessie Hutton appeared on behalf of Mr Colin Winters.

[23] There is no dispute as to the appropriate legal test and the principles to be applied to these applications. These are to derived from R v Adams and Re Macklin's Application [1999] NI 106 which were summarised by Hart J in R v McCartan and Skinner [2005] NICC in the following way:

> "(i) The trial ought to proceed unless the judge is satisfied that the evidence does not disclose a case sufficient to justify putting the accused on trial.
>
> (ii) The evidence for the Crown must be taken at its best at this stage.
>
> (iii) The court has to decide whether on the evidence adduced a reasonable jury properly directed, *could* find the defendant guilty, and in doing so should apply the test formulated by Lord Parker CJ when considering applications for a direction set out in the Practice Note [1962] 1 All ER 448."

The test is the well-established one that if there is no or sufficient evidence on which a reasonable jury properly directed could return a verdict of guilty then the case must be withdrawn from the jury.

Joseph Pearce

[24] I propose to deal firstly with the application brought by Pearce.

[25] He was initially jointly charged with Patrick Blair, Colin Winters and Liam Hannaway with collecting information likely to of use to terrorists contrary to section 58(1)(b) of the 2000 Act. As indicated by Mr Berry in his commendably focused submission the evidence points to a count under section 58(1)(a) and I acceded to Mr Murphy's application to amend this count to allege an offence under section 58(1)(a). I consider that there was no unfair prejudice arising from this amendment which has the effect of reflecting the evidence served in the committal papers.

[26] The prosecution allege that the covert recordings reveal the defendant provided information in relation to two potential targets to the other co-accused who were present in the premises on the late afternoon of 3 October 2014.

[27] In order to determine the matter it is obviously essential to analyse the comments which were attributed to the defendant on the relevant date.

[28] However, his attributed comments at this stage should be taken at their height from the prosecution perspective and should also be seen in context and not in isolation.

[29] The prosecution evidence is that at 17:47 hours on 3 October 2014 CCTV shows a blue Mondeo driving into Ardcarn Park; a male gets out of the Mondeo and walks towards No. 15 and enters. This person has been identified in a controlled viewing by a police officer as Pearce.

[30] The recording from that date and time reveals the sound of door knocking and according to the prosecution evidence Blair calls out "Is that our Joe?". The conversation which follows suggests all present are familiar with each other. Before considering the contents of the recording and the defendant's alleged contribution I return to the context.

[31] In general terms the recordings reveal a group of men, known to each other, meeting regularly and discussing terrorist activity related to Republican groupings. Specifically in the conversation recorded earlier on the same day and before the defendant arrives the following is recorded as a conversation between Blair and Hannaway:

"4052 – But Joe was on, he has a couple of things you know. But it's fucking like you say, you see we're back to the thing, if one of the Newry ones doesn't tie in with him and meet him, like somebody should be meeting that lad, he's a source of, that's him, that's the prison governor as well, you know, Maghaberry jail, they're all in with these protests and all, man parks his car here and goes walkabout.

4115 Hannaway - 'Can't we get the cunt?'

4116 Blair - 'I don't know because I need somebody to go with a big man to see where he's fucking talking about and somebody that's into, see somebody that's into a wee bit fitness, go out walking there and you see when you see your man's car, you know he's at that end and where is he? He's walking around the fucking mountain … and sometimes he comes with his kids for the bonding session over the weekend and he takes …'

4142 Hannaway – 'You would just pull the fucking rug from under all their feet if you done a governor … They'd all be looking at everybody going, who the fuck are these wee pricks, where do they come from? Who are they? … New CO would be like a holy fuck, the best about it is we don't need to have a, we do have Mulhern like but minus Mulhern we don't even have any prisoners in the jail.'

4205 Blair – 'Well you take look he comes off with that, the governor, his brother works as a business here in this town … he was driving past and your man says, watch him 'uns in there, stay on him and hers cops. Yeah – somebody told us about this boy coming home from work on that there, he is an ex-detective but he is working in the barracks … But his wife is still a detective. But I just mentioned it and he's I spotted him I fucking know the guy you're on about. So but we couldn't find his house we know the general area. There's potential 2, 4 and the governor's 5 and then I was saying about you remember this the Brit some boy ripped another boy off, he's joined the British Army'."

[32] The prosecution said it can be inferred that Blair is talking about the information Joe Pearce imparts to him later that afternoon as Joe tells him about a prison officer he knows who takes walks in the local area.

[33] Later on the transcript indicates that Blair asks why his phone is losing signal. A man identified as Diver replies that it is normally a sign of peelers. Blair and Hannaway talk about going to fetch something. Hannaway asks whether he will need wellies. They talk about giving someone a bell. This person is an engineer who is going to do a bit of stuff for them. Blair answers a phone call and tells the person on the phone they are in Colin Winters house and to make his way there. Blair comments "That's him now, .. he's a fucking world of information … he must have give us about four different cops or five cops, the governor, then Brit …". Blair asked whether Hannaway and Diver were leaving but they say they will stay until "he" comes. The following is recorded:

> "28;51 Blair – 'I was going to nip, because me and him, he could take me or him to show us where this fucking place where you man parks and. He mightn't be able to do it now, he is only coming home, he's coming home from Dromore but if you even stand up he probably would, I was down meeting a boy and he's you know God's knows what he'll come out with.'
>
> 29;11 Hannaway – 'You see the best place for that.'
>
> 29;14 Blair – 'He's going on about a robbery.'
>
> 29;15 Hannaway – 'In the middle.'
>
> 29;17 Blair – Round about you'se as well, remember I was telling you about, a, he was saying about a Chinese man that sells (inaudible) massive money there to … Sells spiders or something, says they are all colossal money'."

[34] The significance of this conversation becomes apparent when Joe Pearce arrives.

[35] The transcripts of the audio attributable to Pearce are set out in pages 707-766 of the transcripts contained in the exhibits to the papers.

[36] The conversation moves almost immediately to the discussion about a Chinese man who Pearce says lives in Jordanstown. He describes the man's age and

family circumstances and suggests he has money in the house. He refers to valuable birds he sells from his home. Blair asks whether the man would tell you where the money is if you threaten to kill the birds. Pearce is asked about cameras at the house. Blair is recorded as saying:

> "'So – if two boys knocked the door and got in and threatened to kill all his birds he'd tell you where the money is.'
>
> To which Pearce allegedly replies:
>
> 'Ah he'd say to you he loves his birds'."

[37] Blair then asks about "murter the screw". Pearce says he is supposed to be the head of the screws and "over the prison". Pearce describes where this man goes for walks and there is a discussion about watching him and establishing his routine.

[38] Later Blair says "We need a fucking money job Joe" – there is a discussion about police officers from the south and also looking for an "ignition barrel".

[39] In order to prove a case against Pearce he must have:

(1) Collected information.

(2) The information must be of a kind likely to be useful to a person committing or preparing an act of terrorism.

[40] Mr Berry refers me to the judgment of Lord Rodger in R v G and J [2010] 1 AC 43 which contains a useful analysis of the ingredients of this offence which I have considered carefully. In both those appeals the court was dealing with actual documents and records and the real focus of the court's consideration was their use.

[41] Mr Berry argues that the statute should be interpreted in such a way that some records, some physical manifestation of the information is required to make good the charge. He refers to the "possession of targeting lists and similar information which terrorist are known to collect and use" which Lord Rodger suggests the statute is designed to catch. In effect he submits the section should be interpreted as if there was a comma after the word "makes" – so that an accused must actually collect or make a record.

[42] I cannot agree with this submission. It seems to me that the statute envisages "collecting"; or in the alternative "making" a record. This is consistent with what Lord Rodgers said at paragraph [44] of the judgment namely "That paragraph envisages the defendant collecting or recording that particular kind of information" – it is also consistent with the rest of the section – section 58(1)(b) – which makes it a

separate offence to possess a document or record and also 58(3) which provides a defence if a defendant proves he had a reasonable excuse for his action or possession.

[43] I do not consider that 'action' is confined to the making of a record.

[44] I consider that in reality information can be collected in many ways. A person who commits to memory for example the personal details of a prison officer or police officer is "collecting information". Obviously the offence is easier to prove if the information is recorded in a document or record as is reflected in the experience of the courts.

[45] As was said by Higgins LJ in R v Boutrab and Others [2007] NICA:

> "Section 58 creates several offences relating to information. These include collecting information, making a record of information, and possessing a document or record containing information.
>
> A person may collect information but not necessarily record it."

[46] Mr Berry further argues that the second limb has not been made out even taking the prosecution case at its best. The information must be of a kind likely to be of use to a person committing or preparing an act of terrorism.

[47] To establish this, the defendant must have knowledge of the nature of the information he is alleged to have collected – he must know what he is looking for.

[48] Mr Berry argues there is nothing that properly "calls for an explanation" from the defendant. There is no evidence that the information was to be used for the purpose of terrorism or that the information actually provided was true, reliable or of any potential benefit for the purposes of an act of terrorism. It was incapable of providing any assistance it is suggested.

[49] It should be understood, as made clear by Mr Murphy in his submissions, that the prosecution case is that Pearce aided and abetted Winters, Hannaway, Differ and Blair to collect the information he imparted to them. The collection of the information was on the date of the meeting.

[50] Having considered the submissions and read the transcript carefully I am satisfied that there is sufficient to meet the second limb for the purposes of a "no bill" application.

[51] There is a reasonable inference that this information was disclosed by the defendant for the purpose of firstly, identifying the potential target for a robbery to gain funds for terrorism purposes and secondly, identified a possible target in the form of an identified prison officer.

[52] In my view this is sufficient to return the defendant Pearce for trial on Counts 14 and 15.

Joseph Lynch

[53] I turn now to the application brought by Joseph Lynch.

[54] Mr O'Keefe reminds the court of the limitations of comparative voice analysis. Whilst Professor French has concluded as a result of analysis that there is very strong support for the questioned speaker in the transcripts relating to the conversation of 12 August 2014 – he also conceded that voice evidence alone is insufficient to meet the criminal standard of proof for identification of the speaker.

[55] Counts 7, 23 and 24 are limited to the conversation which took place on that date i.e. 12 August 2014. Mr O'Keefe points out that there is no other evidence such as sightings of the defendant entering the premises to corroborate the voice attribution evidence. He argues that on this basis alone a "no bill" should be entered in relation to Counts 7, 23 and 24.

[56] If the meeting of 12 August 2014 was the only meeting at which it was alleged the defendant was present there would be no answer to this submission. However the court must consider the evidence as a whole. There is ample evidence, for the purposes of a no bill application, that the defendant was present at other meetings at these premises involving the same persons by way of live surveillance which corroborates the presence of the defendant at those meetings. The fact that the defendant was arrested in Ardcarn on 10 November also supports the prosecution case that he had been at the property previously. His presence on that occasion assists his identification on the previous occasions and is corroborative of the voice comparison evidence. References to the defendant by his nickname "Tiny" in the course of the conversations also tend to support his presence. There is evidence of him making a call to a co-accused, Blair at 11.58 on the same day. There is live surveillance material which corroborates the presence of the defendant at Ardcarn on all the other relevant dates.

[57] Looking at all the evidence I am satisfied that there is sufficient circumstantial evidence to support the contention for the purposes of a no bill application that the defendant was present on 12 August and on the subsequent dates alleged by the prosecution.

[58] For the purposes of this application I accept the voice attributions made by Professor French in respect of the defendant. That being so, the issue is whether, taking the contents of the comments made by the defendant in their context and at their best for the prosecution, a sufficient case has been disclosed to justify putting the defendant on trial? Taking this evidence at its height, could a reasonable jury, properly directed, return a verdict of guilty on each of the counts?

[59] Counts 5 and 6 relate to conspiracy to possess explosives and conspiracy to possess firearms and ammunition. He is jointly charged with Blair, Winters (who also brings a no bill in respect of these counts) Hannaway and Sheehy. It is alleged that they conspired together and with persons unknown.

[60] Based on a careful and detailed analysis of the law including Article 9(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983, and the relevant section in Blackstone, Mr O'Keefe submits that the essential ingredients are that:

- There must be an agreement.
- Between the accused and both:
    (i) The co-accused
    (ii) Persons unknown
- To possess explosives and firearms/ammunition.
- That one of the parties to the agreement would obtain explosives, firearms and ammunition.

[61] The essence of the offence is that all conspirators must each be shown to be a party to a common design, and they must be aware there is a larger scheme to which they are attaching themselves.

[62] Mr O'Keefe argues that an analysis of the transcripts, even taking the prosecution at its height, demonstrates that the evidence falls short of the specificity required to establish the counts of conspiracy.

[63] It may well be that the conversations demonstrate a degree of approval of illegal activity, various possibilities and actions are discussed, but ultimately there is no evidence of an agreement between those present, let alone an agreement with others.

[64] Mr O'Keefe's submissions have provided pause for thought. I can well see that there may be an issue about the extent of any alleged agreement. However, it

seems to me, looking at the contents of the conversations as a whole there is sufficient evidence that the defendant was party to a common design. There is sufficient evidence at this stage to establish an overarching agreement which involved obtaining explosives and firearms. By his engagement in the meetings at which he was present, and given the content of what was said at the meetings, there is evidence upon which a jury could convict. The jury could come to the safe conclusion that the defendant agreed upon an enterprise with the objective of possessing explosives and firearms with the requisite intent in terms of their use as part of a common design. It is the common criminal purpose which is central to the Crown case.

[65] I therefore refuse the no bill applications in respect of Counts 5 and 6.

[66] Counts 7, 8, 9, 13 and 16 relate to preparation of acts of terrorism. Again for the purposes of this application, I approach the matter on the basis that the defendant was present on each of the dates alleged and that he has spoken the words attributable to him by the prosecution.

[67] The prosecution allege that by his presence at the meetings in Ardcarn Park he did so with the intention of committing acts of terrorism or assisting another to commit such acts and that his participation in the meetings was conduct in preparation for giving effect to this his intention.

[68] The evidence of the intent is allegedly contained in the detail of the conversations in which the defendant plays an active part. Thus, for example, the discussions on 3 October 2014 related to acts of terrorism. The participants discussed future strategy, dealing with other dissidents, the size and structure of the organisation, identification of targets, training and funding.

[69] On 8 September 2014 there are discussions about weapons and ammunition, about pipe bomb making – the latter in considerable detail.

[70] On 2 September 2014 Lynch engages in discussions about evading detection and about future strategy. He appears to be receiving instruction in the construction of a bomb (this forms the basis of Count 23).

[71] On 28 October 2014 there are conversations about firearms and the problem Blair has in getting his firearm fixed. The defendant discusses Kay and Tommy coming to work with them.

[72] The defendant's submissions on these counts are similar to those in respect of Counts 5 and 6 – indeed there is clearly a degree of overlap or duplication – although this is not the basis for a no bill application.

[73] As in Counts 5 and 6 it seems to me the issue comes down to a question of degree. The defendant says that the conduct alleged falls short of what is required. Mere conversations are insufficient to constitute conduct. There needs to be specific preparatory conduct. Again I accept there is a triable issue here. At this stage the prosecution say that the meetings at which the defendants attended and participated in are sufficient to constitute conduct. The content of the transcript demonstrates the clear intent of the defendants and the others who participated in these meetings.

[74] Applying the appropriate legal test I conclude that there is sufficient to return the defendant on trial – and therefore the no bill applications in respect of Counts 7, 8, 9, 13 and 16 are refused.

[75] Count 20 relates to membership of a proscribed organisation.

[76] The thrust of the defendant's submission on this issue is that whilst there are references in the recorded transcripts to various Republican paramilitary organisations there is no evidence to suggest that the defendant is a member of any of these organisations or of which actual organisation he is alleged to be a member. It is argued that to convict on this count a jury would be engaging in speculation of the type warned against by Lowry LCJ in R v Adams [1978] 5 NIJB.

[77] I am satisfied that there is ample evidence, both by his attendance and his contribution to these meetings that he was a member of a proscribed organisation and sufficient evidence for the purposes of a no bill application that the organisation was the IRA. In the words of R v Z, there is no distinction in the eyes of the law between the various schisms in IRA groupings.

[78] The no bill application on Count 20 is refused.

[79] Counts 22 and 23 relate to attending a place used for terrorist training.

[80] In respect of these counts there is an overlap/duplication with the counts of conspiracy and preparation of acts of terrorism – but as I have said this is not itself sufficient to justify a "no bill".

[81] There is ample evidence of training in the making of an explosive device, a pipe bomb and that Lynch was present and a recipient of such training. The defendant's submission in this regard related to alleged deficiencies in identification and attribution. Given my findings on those issues set out earlier, it is clear that the no bill application fails having regard to the contents of the relevant conversation to which I have referred.

[82] The no bill applications in respect of Counts 22 and 23 are therefore refused.

[83] Counts 21 and 24 relate to receiving instruction or training. As was the case in relation to Counts 22 and 23 the defence submissions focused on the alleged insufficiency of evidence in relation to identification and attribution. Having overcome that submission for the purposes of the no bill applications, given the contents of the relevant conversations on instruction and training in relation to an explosive device and a pipe bomb there clearly is sufficient evidence to justify returning the defendant to trial on these counts.

[84] The applications for a no bill on Counts 21 and 24 are therefore refused.

Colin Winters

[85] Colin Winters is charged on Counts 5, 6, 7, 8, 9,14, 15, 17, 18 and 19.

[86] No application is pursued in respect of Counts 17 or 18. The prosecution has indicated it will not proceed with Count 9 against Winters.

[87] Much of the able submissions of Mr Hutton echo those of Mr O'Keefe. As a general comment a theme of the defendant's submissions is that the transcripts do not evidence sufficient specific commitment or specific agreement to justify the counts. The conversations are characterised as "idle chat and discussion of past events/war stories". Various adventures are discussed and speculated upon, but it is submitted that is it unclear whether any of these various adventures are ever seriously considered or agreed. It is accepted that the transcripts reveal discussions about obtaining guns and explosives but it is unclear that any particular agreement is ever made to actually obtain any such materials. In short this was more of a "talking shop" than anything else.

[88] The meetings all took place in Winters' home – clearly with his approval and acquiescence. Realistically therefore the defendant does not pursue a no bill application in respect of Count 17 (belonging to or professing to belong to a proscribed organisation) and Count 18 (providing money or property for the purpose of terrorism).

[89] In relation to the remaining counts it is argued that there is insufficient evidence that he was present or involved in the discussions that form the basis of the remaining counts or that he ever agreed to any course of conduct.

[90] The defendant argues that it does not follow from him having permitted his house to be used for a particular purpose that he joined in that purpose in the manner envisaged in the counts. It is suggested that the additional counts add nothing to Count 18 in particular which adequately meets the alleged criminal conduct of the defendant.

[91] The resolution of this submission turns on the appropriate inferences that can be drawn from the evidence contained in the transcripts.

[92] In relation to the conspiracy Counts 5 and 6 I take the same view in respect of this defendant as I did in the case of Lynch. Therefore the no bill applications in respect of Counts 5 and 6 are refused.

[93] In relation to Counts 7, 8 and 9, that is preparation of terrorist acts I take the same view in relation to this defendant as I did in the case of Lynch and therefore the no bill applications in respect of Counts 7, 8 and 9 are refused.

[94] Counts 14 and 15 relate to collection of information. The defendant is charged jointly with Pearce, Blair and Hannaway on this count. I have already dealt with these counts in my consideration of the no bill brought by Pearce. I consider that there is evidence that this defendant was present and participating in the discussion with Pearce – sufficient to justify him being returned on trial on these counts.

[95] Therefore, the no bill applications in respect of Counts 14 and 15 are refused.

[96] Count 19 relates to receiving training which allegedly occurred in the defendant's home on 10 September 2014.

[97] For the purposes of this application there is sufficient evidence that the defendant is present during the meeting and that he receives instructions from his co-accused Blair on the makeup of a pipe bomb. Indeed the tape suggests that they have the device in front of them and are assembling it. Winters is purported to have said "It would be handier if they did it themselves".

[98] On the basis of this material I consider there is sufficient to return the defendant for trial on Count 19.

[99] Accordingly, the no bill application in respect of Count 19 is refused.