

IN THE CROWN COURT

Before:

HIS HONOUR JUDGE R. A. R. STROYAN Q.C.

Held at:

The Law Courts,
Victoria Square,
Middlesbrough.

On:

Friday, 6th March, 1981

R E G I N A

- v -

JOHN ALEXANDER SYMONDS

MR. G. RIVLIN Q.C. assisted by MR. F. RADCLIFFE appeared as counsel on behalf of the Crown.

MR. SYMONDS was unrepresented.

Transcript of the Shorthand Notes by Mrs. C. Bowe and Mrs. D. Smith of
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Defendant Symonds pleading guilty 1 - 8

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In the absence of the jury.

A MR. RIVLIN: Your Honour, I understand that the Defendant would like to seek the Court's guidance about a certain matter, if that is possible. I have been asked by Mr. Birnberg, his solicitor, whether you would be willing to listen to him, that is, listen to Mr. Birnberg, and what he has to say about this; that is, grant him the right of audience.

B HIS HONOUR JUDGE STROYAN: Well, I have already done so. I think if Mr. Birnberg has got anything helpful to say, it would be right that I should hear him. I must, of course, guard against establishing a precedent.

MR. RIVLIN: Yes, well, it is an unusual case.

C HIS HONOUR JUDGE STROYAN: It is an unusual case. The defendant is not represented by counsel. He has only got a solicitor. And I have been able to see the Defendant acting in his own defence, and I think in the circumstances, as I say, without establishing a precedent of any sort at all, I would like to hear Mr. Birnberg.

MR. BIRNBERG: I am obliged Your Honour. As Your Honour knows, my client strenuously contests the three counts against him.

HIS HONOUR JUDGE STROYAN: Yes.

D MR. BIRNBERG: However, he has instructed me, without prejudice, to ask Your Honour whether you would be willing to give an indication of whether or not you would be minded to pass concurrent sentences in the event of a conviction on more than one count.

HIS HONOUR JUDGE STROYAN: Whether or not I shall be minded to pass concurrent sentences ... Just a moment.

E Well, I should have to bear in mind, I think, the sentences in the cases of Robson and Harris, which although their trials have got nothing to do with this matter, the sentences are obviously connected. I can't remember whether their sentences in those cases were concurrent or consecutive. I think they were concurrent weren't they?

MR. BIRNBERG: Well Your Honour, no doubt the prosecution have got the details.

F HIS HONOUR JUDGE STROYAN: I have got a transcript of the Court of Appeal. It is in my room.

MR. RIVLIN: We can be of assistance there. Your Honour there were, if I may say so, some marked differences between the cases of Robson and Harris, and the case of this defendant; and it is not difficult to point out to the court what those differences were.

G HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: In the case of Robson and Harris on the one hand, the prosecution were alleging against them, very serious charges of conspiracy to blackmail Perry.

HIS HONOUR JUDGE STROYAN: Yes.

H MR. RIVLIN: And perversion of the course of justice, and I think that it was those matters that attracted the heaviest sentences in those cases.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: However, and I shall be corrected if I am wrong, I think that the difference between this case and theirs, on the other side of the coin, is that in this case, Mr. Symonds, if the Crown case be right, was putting forward various suggestions as to the future to Mr. Perry, which was not a feature of the cases of Robson and Harris. That is the licence, and the like.

Your Honour, I think that I am right in saying this, that in relation to the less serious offences in the Robson and Harris case, the sentences that were imposed were concurrently imposed.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: In fact, there is no doubt about that.

HIS HONOUR JUDGE STROYAN: Yes.

MR. RIVLIN: Your Honour, the only other thing that I would respectfully say to Your Honour at this moment of time, and I am sure you have it in mind anyway, is that in our submission, if there is to be any indication by Your Honour, if Your Honour thinks it right to give one, it would have to be an 'in any event' indication. That is, whether the defendant were to plead in the near future, or whether he was convicted at the end of the trial.

HIS HONOUR JUDGE STROYAN: Of course, yes.

MR. RIVLIN: The indication would be the same.

HIS HONOUR JUDGE STROYAN: Oh absolutely, yes.

MR. RIVLIN: Your Honour, that is the best help that I can be at the moment, I think.

HIS HONOUR JUDGE STROYAN: Yes. Well I think I shall rise and consider this matter for a short time.

Short Adjournment

HIS HONOUR JUDGE STROYAN: Mr. Birnberg, I have considered this matter.

The first thing I must say, of course, is that I could only accept a plea of guilty if you were satisfied that was a proper plea to offer in all the circumstances. I can't, of course, accept a qualified plea of guilty. And were a plea of guilty to be entered other than by verdict, I should, of course, have to deal with it as if it was a plea of guilty.

That having been said, I have considered the very unusual circumstances of this case. It is a case in which I think, without saying more about it, that concurrent sentences would be appropriate.

MR. BIRNBERG: I am much obliged Your Honour.

HIS HONOUR JUDGE STROYAN: Perhaps you would like me to rise for a short time.

MR. BIRNBERG: I would be grateful Your Honour. I think my client would wish an opportunity to contact his wife.

HIS HONOUR JUDGE STROYAN: Yes.

MR. BIRNBERG: On the telephone.

HIS HONOUR JUDGE STROYAN: Yes, certainly.

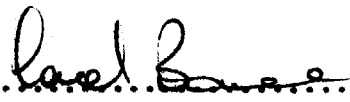
MR. BIRNBERG: And if I could indicate to your learned Clerk when he has done that.

HIS HONOUR JUDGE STROYAN: Yes, certainly. Yes. I don't want to rush him.

MR. BIRNBERG: I am much obliged.

Court Adjourned.

I hereby certify that I took Shorthand Notes in the trial of Regina -v- Symonds, and that pages numbered 1 - 3 are a complete and correct transcript of my said Shorthand Notes to the best of my skill and ability.

Signed: 

Luncheon Adjournment

A His Honour Judge Stroyan: Now, what is the present situation?

Mr. Birnberg: Your Honour, the position is that no contact has as yet been made with the wife. Unfortunately it has not been possible to contact her and efforts are being made to send someone round to her address in the course of this afternoon, and in any event I think my client would like the weekend as an opportunity to consider the position in consultation.

B His Honour Judge Stroyan: Yes, I am anxious not to waste time if this is going to continue as a contested matter.

Mr. Birnberg: Yes.

C His Honour Judge Stroyan: I am concerned about Monday. If the matter will be resolved without delay then I would be quite happy to put the matter off, in view of the risks on Monday, until Tuesday, if that would help, but if on the other hand we are going on on a contested basis, well then I do not want to lose another day.

Mr. Birnberg: Yes, I appreciate that.

His Honour Judge Stroyan: Have you any views about this, Mr. Rivlin?

D Mr. Rivlin: No, none at all, Your Honour, of course except we agree and I think Mr. Birnberg agrees to

His Honour Judge Stroyan: I would be quite happy on the basis that the matter were not to detain us beyond Tuesday, I would be quite happy to say Tuesday and not Monday, but if it is going on, well then obviously we have done little or nothing today and it means we would have lost two days.

E Mr. Birnberg: Well, Your Honour, I would undertake if the matter is going on to notify the Director on Monday morning so that he has been warned that his witnesses should be available to be called on Tuesday.

F His Honour Judge Stroyan: That does not solve the Monday problem does it?

Mr. Birnberg: I appreciate that but it may well be not until the weekend that my client is able to speak to his wife.

His Honour Judge Stroyan: Yes, well he can certainly do so in this building if she can be got hold of today.

G Mr. Birnberg: Well, a message has been left.

His Honour Judge Stroyan: Is that conversation likely to resolve the matter or is it perhaps only one factor, I do not know?

Mr. Birnberg: Well, I think it is one, but it is the major factor. I think it may be that she will have to speak to other members of the family.

H His Honour Judge Stroyan: Yes, I see.

Mr. Birnberg: But I will, as I say, undertake to make every effort to ensure that contact is made as soon as possible.

A His Honour Judge Stroyan: Yes, well I am grateful. No doubt your client has had the benefit of your advice. Well, I think in case there is some prospect of getting hold of Mrs. Symonds this afternoon I will wait here for a little longer. Is the conversation likely to be able to resolve the matter straight away, perhaps not? I do not know.

B Mr. Birnberg: Probably not, no, but I think a clear indication can no doubt be given.

His Honour Judge Stroyan: Yes, well I will remain here for some time longer in the hope that some sort of contact will be made. There may be some difficulty, I do not know, about the arrival of the prisoners here on Monday and I do not want to assemble everybody here, if one is only going to find that there are not any prisoners. That would be a very expensive exercise.

C Mr. Rivlin: Well, one appreciates the difficulty, if I may say so, of the position of the Defence at the present time and I am sure that we can rely upon Mr. Birnberg to give us as it were his estimate as to whether in his opinion it would be really worth our while to say not before Tuesday, without committing him or of course the lay client in any way. He might be able to help us to understand whether perhaps it is more likely than not, to put it no higher than that, that we won't be troubled further and an indication of that nature might be helpful.

D Mr. Birnberg: Yes, well I would prefer to give that indication after my client has indeed spoken to his wife.

E His Honour Judge Stroyan: Yes, of course. Well, I will rise again now and perhaps you will let me know in due course what the situation is going to be. If we can get some useful indication this afternoon then that would be helpful; if not, then it looks as if it might be best to adjourn the matter until Tuesday.

Mr. Rivlin: Your Honour, and the waiting witnesses and the like today?

F His Honour Judge Stroyan: I do not think it is realistic to expect that we can go on today, is it?

Mr. Rivlin: I would have thought not.

His Honour Judge Stroyan: In view of the present situation it would probably not be helpful to continue with Mr. Mounter's cross-examination today.

G Mr. Rivlin: No, so that may our witnesses be released at this stage?

His Honour Judge Stroyan: They can certainly be released for today and probably, though not certainly, for Monday. We can take a decision about Monday later this afternoon.

H Mr. Rivlin: And finally, may I enquire of Your Honour as to how long you are thinking of waiting this afternoon until we get some information?

His Honour Judge Stroyan: I will wait as long as may be useful. I would have thought if I wait another hour?

Mr. Birnberg: Yes, I will certainly do my best.

His Honour Judge Stroyan: Yes and if there is any prospect of arriving at a decision then I will continue to wait, but I imagine if such efforts as Mr. Birnberg is going to make are fruitful, we will have some sort of an answer within an hour.

Short Adjournment

His Honour Judge Stroyan: Now, is there any further useful information?

Mr. Birnberg: Your Honour, the position is

His Honour Judge Stroyan: No conclusion I take it has been arrived at?

Mr. Birnberg: No conclusion has been arrived at, Your Honour. He has spoken to his wife. She is going to go and see him at the prison tomorrow. I understand from the Prison Officers that normally a prisoner would only be allowed a short visit, 15 minutes, but if the Court directs that he should be allowed an extended visit, that can be given to him and also if the Court were prepared to direct that he was allowed a telephone call on Sunday following the visit by his wife?

His Honour Judge Stroyan: When is the visit?

Mr. Birnberg: The visit is tomorrow.

His Honour Judge Stroyan: Well, my view about it is that it is right that the prisoner should give very careful consideration indeed to the situation in which he now finds himself. I say no more than that, but it is a situation which he plainly ought to consider very carefully - what the situation now is - in the event of the trial continuing. It is obviously going to be a very long and arduous business so far as Monday is concerned. I think the right thing to do is for me to sit at two o'clock and that will give those travelling from afar some time to get here, and will you be here on Monday morning, Mr. Birnberg?

Mr. Birnberg: Well, I would be in the event of certain eventualities. If there was in fact a plea on Monday, I would certainly be here.

His Honour Judge Stroyan: That would give you time, I do hope you have an opportunity of having a further conference with your client before he finally makes his mind up. I regard that as very important. Yes, what I shall do is to direct that the Prison Authorities grant an extended visit in the case of Mr. Symonds tomorrow. I shall also direct that he should have a telephone call to his wife on Sunday, should he so wish, and I am further going to say that in the event of the witness Moody, who I understand is now a prisoner, being brought to Durham Prison, it is very important that they should be entirely separate and no communication should be had between them under any circumstances, by any means. That is of the first importance. Well, is there anything further that I can say?

A Mr. Rivlin: Your Honour, only this I think, that in the event that the trial proceeds on Monday we are going to have to have a witness handy, that goes without saying. The position as regards Chief Inspector Vernol is this, he is due to be giving evidence at the Old Bailey on Tuesday. At the present time I have got Mr Mounter in the witness box. Obviously it is very important indeed that we should know what our situation is so that we can have a witness available here on Monday afternoon, if need be. Your Honour, with that in mind I am wondering whether some undertaking can be given to communicate with us?

B His Honour Judge Stroyan: I am sure Mr. Birnberg will let you know.

Mr. Birnberg: Yes, I readily give that undertaking, on Sunday so that we can make appropriate arrangements.

His Honour Judge Stroyan: Yes, it would probably be better if we could finish off Mr. Mounter.

C Mr. Rivlin: The position is that after Mr. Mounter gives evidence, it is Mr. Vernol and Mr. Perry, and Mr. Vernol cannot be here on Tuesday.

His Honour Judge Stroyan: No, he would certainly be required for Tuesday.

D Mr. Rivlin: He would be required for Tuesday, so I think what we would have to do on Tuesday is, dare I say interpose him, on Monday afternoon and get him away. On paper he is a very short witness indeed, and then we can continue with Mr. Mounter. So in the event that we receive communication that this trial is to proceed, may I give the Defence notice that we would be calling Mr. Vernol on Monday afternoon and Mr. Mounter.

E Mr. Birnberg: I do not think that would present any difficulties if Mr. Vernol were interposed.

His Honour Judge Stroyan: I think it is the best we can do in the circumstances.

Mr. Birnberg: And so far as the Defence witnesses which were required, presumably they would not be required until at the earliest Wednesday.

F His Honour Judge Stroyan: I do not know about that. They certainly would not be required on Tuesday, I should not think.

Mr. Rivlin: They won't be required on Tuesday, but I am pretty confident that we will need them for Wednesday.

Mr. Birnberg: Yes, I can make the appropriate arrangements.

G His Honour Judge Stroyan: Yes, we certainly ought to have got to that stage by Wednesday.

Mr. Rivlin: When I say they won't be required until Wednesday, I will have him in the box as far as I am concerned for about ten minutes at the moment.

H His Honour Judge Stroyan: Giving every latitude to Mr. Symonds, I should have thought he would not want to cross-examine him for an

hour or possibly more.

Mr. Rivlin: The position is this, if we go ahead we might very well reach the Defence by Tuesday afternoon.

His Honour Judge Stroyan: We will know more about it by Monday, won't we?

Mr. Birnberg: Yes, we will.

His Honour Judge Stroyan: Yes, it is enough if we leave people on notice and let them know on Monday evening. I think that is as far as I can take it today.

Mr. Rivlin: I take it there is no problem in this Court about Monday, is that the situation?

His Honour Judge Stroyan: I am not a prophet, Mr. Rivlin, but I hope there won't be. I can say no more than that. If there should be a problem then the Court will get in touch as soon as possible, but I hope there won't be a problem.

Mr. Rivlin: Yes, I think we can leave our telephone numbers with the Court.

His Honour Judge Stroyan: And I am sure Mr. Symonds will give very careful consideration to the position he now finds himself in.

Court Adjourns

I certify that I took the shorthand notes in the case Regina V J. Symonds and the transcript pages 4 - 8 is a true and correct transcript of the said shorthand notes to the best of my skill and ability.

Signed

D. J. Smith