[GB] Political activist imprisoned after contempt of court retrial

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The former leader of political activists the English Defence League (EDL) Tommy Robinson (his real name is Stephen Yaxley-Lennon) was imprisoned for nine months after a retrial by judges of the Central London Criminal Court (known as the Old Bailey) concerning an incident which occurred in May 2018, when, outside Leeds Crown Court, he filmed defendants attending trial accused of the sexual exploitation of young girls. The footage, which was in breach of a reporting ban, was livestreamed from outside Leeds Crown Court while the jury was considering its verdict. Mr Robinson argued in his defence that information about the defendants had already been made public.

After the 2018 incident, Robinson was sentenced to 13 months' imprisonment after being found guilty of contempt of court, but was freed after two months, when the Court of Appeal overturned the finding of contempt.

Upon referral, the Attorney General announced that it was in the public interest to bring fresh proceedings.The Attorney General considered that Robinson’s “whole objective” was to “get the defendants’ faces out there”.

Robinson's broadcast on 25 May 2018 was viewed 250 000 times online after being livestreamed. An existing reporting restriction had postponed the publication of any case details until the end of a series of linked trials involving 29 people in order to help ensure that all concerned received a fair trial.

Prior to the reporting restriction, at least one newspaper had reported the identity of the defendants. In his defence, Mr Robinson argued that the details were already in the public domain and that his freedom of expression entitled him to reveal details of the defendants.

However, judges at the retrial of Mr Robinson’s contempt of court indictment considered that his conduct “amounted to serious interference with the administration of justice”. One of the judges, Dame Victoria Sharp, said that he had breached a reporting restriction imposed on the trial by livestreaming the video from outside the public entrance to the court and by “aggressively confronting and filming” some of the defendants. “In our judgment, the respondent’s conduct in each of those respects amounted to a serious interference with the administration of justice.”

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During the retrial, judges heard evidence that a security officer at Leeds Crown Court had suggested Mr Robinson check with the court office for any reporting restrictions. They considered that the “critical question” was why Robinson had “declined the invitation to take this obvious step which would have put the matter beyond doubt”.

Regarding Mr Robinson’s public domain defence where he referred to details of previous reports concerning the sexual exploitation case, including the defendants' names and charges, which had been published in the Huddersfield Examiner, the Old Bailey judges determined that the publication had been issued before the reporting ban and was not a justification or context for continued reporting.

The Old Bailley judges concluded, “We are entirely satisfied that [Robinson] had actual knowledge that there was an order in force restricting reporting of the trial,” and they ended by saying, “He said as much, repeatedly, on the video itself.”

Mr Robinson was found to have committed contempt for having breached a reporting restriction, risked impeding the course of justice and interfered with the administration of justice by “aggressively, and openly filming” the arrival of defendants at court. “The dangers of using the unmoderated platforms of social media, with the unparalleled speed and reach of such communications, are obvious.”

The judges continued, “Harassment of the kind he was describing could not be justified … There was plainly a real risk that the defendants awaiting jury verdicts would see themselves as at risk, feel intimidated, and that this would have a significant adverse impact on their ability to participate in the closing stages of the trial.”

The judges dismissed Mr Robinson’s defence that his broadcast was legitimate freedom of expression. The judges considered fair trial rights were qualified free speech. “Here, we are concerned with interferences with the administration of justice that fall short of subverting the right to a fair trial. However, we are satisfied that our interpretation and application of the law of contempt is consistent with the [European] convention [on human rights].”

R v Stephen Yaxley-Lennon (aka Tommy Robinson) [2018] EWCA Crim 1856; UK Government Press Release

https://www.judiciary.uk/judgments/r-v-stephen-yaxley-lennon-aka-tommy-robinson/

Her Majesty's Attorney General v Stephen Yaxley-Lennon- In the High Court of Justice Queen's Bench Division, Divisional Court

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https://www.judiciary.uk/judgments/attorney-general-v-stephen-yaxley-lennon-decision-on-penalty/

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