

R v Palmer & others [2014] EWCA 1681

Due to an increase in domestic burglaries the police launched an undercover operation consisting of a 'sting' shop. The shop was to be run by undercover police officers and is a tactic that has been used many times before. The undercover officers would buy 'stolen' property from the thieves or handlers. The activity was authorised under the Regulation of Investigatory Powers Act 2000 (RIPA) and in agreement and in consultation with the Crown Prosecution Service. The shop was equipped with surveillance equipment and the transactions would be recorded in order to corroborate the officers evidence. Authorisations for the surveillance were renewed each month.

Officers were fully trained and briefed not to act as provocateurs. Palmer and others were individually told by the officers that they could sell items there and went on to sell computers passports, credit cards, and other stolen goods. One was asked for firearms for sale but he declared he did not have any. Palmer was later arrested and charged with numerous offences.

The defence applied for disclosure of the authorisation documents but the trial judge inspected the documents and held that they did not need to be disclosed.

Palmer claimed an abuse of process but was unsuccessful and together with others he was convicted. He appealed, maintaining that they would not have committed the offences but for the existence of the shop.

He further applied that –

1. Officers had 'entrapped' them into committing the offences in a police operation which was not a necessity and disproportionate, straying beyond its authorised limits;
2. The authorisation documents should have been disclosed;
3. Evidence should have been admitted from a former police officer who had been involved in the operation and who had expressed concerns.

The convictions were upheld. The applications were dismissed.

The Court of Appeal rejected that Palmer et al had been in any way enticed or entrapped by the officers' conduct. They were not forced into committing crimes that they would not otherwise have committed. There was nothing exceptional about the opportunity presented to them. (see Loosely)

The shop premises were open to the public and no one forced Palmer or his colleagues into entering. The court also held that the authorisations granted had been both necessary and proportionate given the rise in burglaries. Conventional policing methods had not been working and the shop had a legitimate aim of preventing and detecting crime. The operation was successful, and the fact that not all items bought by the officers had been stolen did not undermine its integrity.

The Office of the Surveillance Commissioners were also satisfied with the conduct of the police operation and the duration had not been excessive. The CPS did concede that the written authorisation could have been disclosed to the defence in redacted form but the fact that they were not was of no consequence. There was nothing which would have assisted the defence or undermined the prosecution.

The fresh evidence failed to meet the criteria for admission under the Criminal Appeal Act 1968 section 23. The court had the audio and visual recordings which were the best evidence available; it could therefore make up its own mind.

Given the extensive material available to the defence and the fact that the former officer had not dealt with Palmer and others, there had been no duty on the CPS to inform the defence of his existence as it was not relevant.

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Reference should always be made to the original case.*