



Press Summary

30 April 2025

R (Respondent) v Perry (Appellant)

[2025] UKSC 17

On appeal from [2024] NICA 74

Justices: Lord Reed (President), Lord Hodge (Deputy President), Lord Lloyd-Jones, Lord Hamblen, Lord Leggatt

Background to the Appeal

A defence statement is filed by the accused in effectively every criminal case in the Crown Court in Northern Ireland. Its purpose is to set out the nature as well as the factual and legal basis of the accused’s defence. In this appeal, the certified question is whether the interpretation of a defence statement is a question of law for the trial judge [3].

The appellant, Ms Perry, appeals against her conviction for collecting or making a record of information likely to be useful to a terrorist, contrary to section 58(1)(a) of the Terrorism Act 2000 [4]. The trial was a non-jury trial, a certificate having been issued under section 1 of the Justice and Security (Northern Ireland) Act 2007.

On 28 February 2018, the appellant’s house was searched by the police. The information which was the subject of her conviction was contained in coded notes handwritten on cigarette papers which were found in a perfume box on a bookshelf close to the computer workstation. The prosecution case was that the coded notes referred to individuals using ciphers and related to a previous police search operation in 2015 which had resulted in the arrest and prosecution of Kevin Nolan for possession of firearms, ammunition and explosives. Nolan had been sentenced in 2017 [5-7].

The appellant’s evidence at trial was that the notes related to papers which were put through her letterbox anonymously some time shortly before Christmas 2017 of which she then made handwritten copies. She wrote on issues relating to policing and to approaches made by MI5. She considered that the papers were sent to her in connection with this work. Although she could not make much sense of the papers, she concluded that they were sent to her as their utility was spent, but could not recall why she had formed that opinion [7-9].

Her defence statement referred to the notes being forwarded to the appellant “some considerable time” after the events leading to Nolan’s conviction and after his sentence. In the

next sentence it stated: “Any currency in the information contained in the notes was considered by the Defendant to have long since dissipated” [14].

The judge concluded, among other things, that the “obvious meaning” of this part of the defence statement was that the appellant knew that the notes related to the 2015 arms find and Nolan’s conviction in 2017 and that this was inconsistent with her oral evidence that the notes made little or no sense to her [16]. This was one of a number of reasons given by the judge for his conclusion that he did not believe the appellant’s evidence in relation to the notes.

On her appeal against conviction the appellant contended that the judge’s interpretation of the defence statement was erroneous and this rendered the conviction unsafe. The Court of Appeal considered the issue of interpretation of the defence statement to be one of law. Alternatively, if it was a question of fact, it considered that the judge’s assessment of the meaning of the defence statement was justified and indeed “irresistible” [20-21].

Judgment

The Supreme Court unanimously dismisses the appeal. Lord Hamblen gives the judgment of the Court with which the other Justices agree.

Reasons for the Judgment

Whether the interpretation of a defence statement is an issue of law for the trial judge or a question of fact will depend on the nature of the statement made in the defence statement and the purpose for which it is being relied upon [22]. Where the issue is as to the legal effect of the document, that it is a matter for the judge. Where the issue is as to meaning intended or understood by the parties it is a matter for the jury [24].

In this appeal, the issue is the meaning of the defence statement as understood or intended by the appellant. That is an issue of fact to be determined by the jury (or, in a non-jury trial, by the judge). The judge questioned the appellant on how he considered that it would be understood by the person reading the defence statement. That raises a question of fact [25-26].

The circumstances in which an appellate court may go behind a judge’s finding of fact are limited. In the present case this requires the appellant to show either a misdirection in law or that a plainly wrong or perverse conclusion had been reached on the facts [27-30].

The appellant did not suggest that the judge misdirected himself in law. It was, however, submitted that the judge’s interpretation of the defence statement was contrary to the ordinary meaning of the words used and was plainly wrong. The Court does not consider the judge’s interpretation of the defence statement to be in any way perverse. The natural inference to be drawn from the defence statement is that the relevant sentences are connected. The reason being given for the appellant’s conclusion that the currency of the information in the notes had long since dissipated is that it was a considerable time after the Nolan conviction and sentence. No other reason was given in the defence statement or in evidence at trial [31]. The judge’s interpretation of the defence statement contributed towards but was not determinative of his conclusion that the appellant lacked credibility. His judgment set out further cogent reasons for so concluding, as confirmed and added to by the Court of Appeal [32]. No good reason has been shown for going behind the judge’s conclusion on the question of fact in issue.

Further, that finding of fact was made by the trial judge and upheld by the Court of Appeal and so this is an appeal against concurrent findings of fact of the lower courts. It is only in very rare cases that it will be appropriate for the Supreme Court to take the exceptional step of disturbing concurrent findings of fact. The Privy Council has a similar settled practice and the reasons given in the authorities for that practice apply with equal or greater force to the Supreme Court, given its prime function of deciding points of law of general public importance [33-35].

References in square brackets are to paragraphs in the judgment.

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)