

NATIONAL SECURITY

Trade secrets

AS MINISTERS move closer to introducing more secrecy in "sensitive" court cases involving national security, the extraordinary collapse of a trial involving alleged money laundering and illegal arms sales to Iraq should give them cause to reconsider.

Prosecutors had to abandon the four-year-old case against an elderly Iraqi-born British businessman, Praidon Darmoo, and his daughter Elizabeth Brown because of a repeated and "troubling" failure to disclose key material which could have helped them prove their innocence. Both had faced charges relating to the supply of Land Rovers, body armour and ammunition to the Iraqi defence ministry and the laundering of Iraqi public funds, following the overthrow of Saddam Hussein in 2003.

Material kept from their defence lawyers included: internal memoranda which indicated that sworn statements about a meeting between Darmoo and investigators were "completely misleading"; transcripts of secret tapes made by a self-confessed corrupt American arms dealer turned FBI informer, which were intended to induce Darmoo into confessing but actually revealed his consistent denial of any intent to breach arms export licence controls; emails and other documents indicating that UK defence export officials thought that people like Darmoo and Brown could indeed have believed they were engaged in a legitimate business – contradicting the prosecution claim that it was corrupt deal from the start.

There was also a critical delay and failure to secure other documents and evidence from third parties, including both the UK and Iraqi defence departments, and elsewhere. Other evidence had been wrongly classified as "does not undermine or assist" the defence, when it clearly may have done the latter.

Such was the judge's concern over the "debacle" and the waste of time and huge amounts of taxpayers' money that he took the unusual step of issuing a 28-page judgment, criticising the way the case had been handled. Judge Anthony Leonard QC said that David Green QC, the new director of the Serious Fraud Office, had now rightly acknowledged that the prosecution case had become "untenable" – a ruling he would otherwise have forced upon him. It was, said the judge, the third serious case to collapse because of fundamental non-disclosure in the last seven months at Southwark alone.

The prosecution case against Darmoo and Brown had been plagued by problems from the

outset, when prosecutors first sought to charge the pair with supplying military equipment in breach of UN sanctions – charges thrown out by the appeal court in pre-trial hearings.

Darmoo, an Assyrian Christian and opponent of Saddam Hussein (his brother had been imprisoned under the dictator), had been encouraged in the enterprise by officials from the Ministry of Defence and the Defence Export Services Organisation (DESO), a department within the MoD, which, anxious that the UK didn't miss out on trade, had intervened to persuade Barclays bank to support him. Darmoo was one of many who set up intermediary companies into which Iraqi funds would be placed to buy equipment – a move considered essential because suppliers otherwise doubted that contracts would be honoured.

In the event, many deals turned sour amid claims from subsequent Iraqi administrations of corruption by their predecessors in government. Some were indeed corrupt, with millions of pounds being illegally siphoned off. But as one of the key UK documents that had not been disclosed said: "The [Iraqi] defence minister and his senior officials have (possibly unwisely) taken a hard line on contracts awarded under his predecessor, many of which are now considered illegal, invalid or unjustifiable, even though the work may be completed in line with contractual arrangements."

For a time before the trial, Darmoo, who had never been in any trouble before, had had his passport confiscated and his assets frozen – which, coupled with the costs of mounting a defence, have left his businesses in ruins. But the judge said that while delays in the case could be criticised, he had "grave doubts" that some of the material that has now come to light would have ever been revealed if the case had been dealt with more swiftly.

Darmoo's lawyer, Andrew Katzen, a serious fraud specialist, said that as well as the battle over non-disclosure the case had also been dogged by government claims of public interest immunity over other parts of the evidence. "This raises real issues about what could go wrong in cases if the government pursues its plans for greater secrecy and non-disclosure of material, in sensitive cases," he said.

Had the spooks, government officials and former ministers had their way, the fundamental flaws in the case may not have been revealed to Darmoo's lawyers, let alone become public, and he and his daughter might have been facing long prison sentences.

DAYLIGHT ROBBERY

Claim game

ACOUNTY court judge last week dealt a blow to the big high-street retailers who have been hitting teenage and mentally ill petty shoplifters with huge "compensation" demands far in excess of the value of the goods allegedly stolen (see *Eye* 1303).

In what is being seen as a test case of the practice, the Oxford circuit judge threw out civil claims for £137.50 sent to each of two young girls caught by store security staff stealing make-up. The cosmetics were recovered and the police called but no charge was brought.

Because Judge Harris granted anonymity to the girls and, for reasons known only to him, also the chain involved, the *Eye* cannot say which retailer engaged in what the Citizens Advice Bureau has alleged is an "unfair, parallel justice system" was involved in the case. But Primark, Iceland, Asda, Boots, Debenhams, Tesco and TK Maxx have all used agents, in particular a firm called Retail Loss Prevention Ltd, to issue hundreds of thousands of "civil recovery" demands supposedly to cover administrative costs of processing shoplifting cases.

As well as cases of genuine petty pilfering, Citizens Advice found that RLP has also pursued cases such as that of a young mother whose toddler opened a drink in Boots without paying.

She received demands for £87.50 for "staff and management time, administration and apportioned security costs". In another case a woman with mental and physical problems, accused of opening a packet of balloons worth a mere 60p in Asda, received a demand for £150.

Faced with threats of court and being placed on a register of dishonesty, many pay up. This is the first known case where the legality of the practice has been challenged.

For any civil claim to proceed, the aggrieved party must be able to prove its "losses". The similar demands for compensation across the country, however, suggest they did not represent real losses but were more of a fixed penalty.

Last week the judge agreed, dismissing the retailer's claim that security staff had been diverted from normal duties and this had caused "significant disruption" to the shop's business. Under cross-examination, the security manager admitted it had taken no more than one hour and 10 minutes to deal with the incident – at a cost of £17, not £98.55 as claimed. Similarly, a security guard admitted that his involvement lasted no more than 30 minutes, at a cost of about £5, and not £19.69 as claimed. In any event, they were not being diverted from their jobs but carrying out the core functions of it.

Whether retailers continue to use the services of RLP to issue inflated demands for compensation when there is no legal authority for doing so remains to be seen.

LOCKERBIE

That's enough. Ed.

DISAPPOINTMENT among the relatives of those who died in the Lockerbie atrocity: Ed Miliband is not backing their call for a public inquiry following the release "on compassionate grounds" of Abdelbaset Al-Megrahi in 2009.

The Labour leader has written to Pam Dix, whose brother was one of the 270 who died when Pan Am flight 103 was blown out of the skies in December 1988, saying that while criminal investigations continue "nothing should be done to undermine them".

Miliband must be aware that the Leveson inquiry is doing an extraordinary job unearthing material that may aid a now very active criminal investigation, where hacks, police and a member of the armed forces have all been arrested. But how "active" is the Lockerbie investigation?

The Scottish Crown Office told the *Eye* that six legal staff "have been involved and continue to be involved". But when asked whether anyone had spoken to the two forensic experts who have cast doubt on the scientific evidence used to incriminate Megrahi, a spokeswoman said: "As the investigation remains live, it would not be appropriate to offer further comment." In other words, er, no.

Miliband appears to be adopting the same position towards the UK's biggest terrorist mass murder as the rest of the political establishment.

GURPAL VIRDI

Race against time

SO. Farewell then, Detective Sergeant Gurpal Virdi, who left the Met last week after 30 years fighting crime... and racism in the police.

Eye readers will recall how, back in 1998, the Sikh officer was fitted up by his west London colleagues and then sacked for sending race hate material to fellow ethnic minority officers at the time of Stephen Lawrence scandal. Rather than catch those responsible, senior officers continued to smear Virdi, through the pages of the *Daily Mail*, even after Inspector Knacker was forced to apologise, pay out and reinstate him.

Despite assurances in 2004 from the then head of human resources, Bernard Hogan-Howe, now the Met commissioner, that Virdi's career prospects wouldn't suffer, there has never been an inspector's job for the highly experienced officer with a law degree. Virdi even retired without the usual "exit" interview from his boss Denise Milani, the head of diversity. After being contacted by the *Eye*, the Met offered him a chat with someone else. Virdi declined.

Just fancy that!

DET SUPT Michael Broster, the counter-terrorism officer strongly criticised at the inquest into the death of MI6 officer Gareth Williams for failing to properly investigate potential secret service evidence or disclose its existence to detectives, happens to be the same Michael Broster who was senior investigating officer in the troubling murder conviction of Sam Hallam (see last *Eye*).

Hallam's lawyers will be arguing in the appeal court this week that the police's failure to properly investigate a brutal mob attack on an Ethiopian refugee contributed to the wrongful imprisonment of an innocent teenager.

Scam of the year...

Most online phishing scams carefully create an illusion of an email genuinely hailing from the recipient's bank in urgent need of reply. Not so the message received by *Eye* reader Jan Wright last month which opened, "Dear Llyods tsb online client" and concluded, "thank you for choosing Llyods STB Bank for your business needs". Careful readers just *might* spot the telltale errors.