

Tommy Robinson encouraged 'vigilante action' in trial broadcast, judges find

Tommy Robinson encouraged "vigilante action" against defendants in a criminal trial when he filmed them and broadcast the footage on social media, High Court judges have found.

The former English Defence League (EDL) founder, whose real name is Stephen Yaxley-Lennon, was found to have committed contempt of court at the end of a two-day hearing at the Old Bailey on Friday.

Dame Victoria Sharp and Mr Justice Warby found Robinson was in contempt in three respects when he filmed men accused of the sexual exploitation of young girls and live-streamed the footage, in breach of a reporting ban, outside Leeds Crown Court in May 2018.

Giving reasons for the decision on Tuesday, Dame Victoria said that, while Robinson claimed his intention was to "denounce the media" for their behaviour towards him and others, the words he used in the video would have been understood by viewers as "an incitement" to harass the defendants.

In a written ruling, the judge said: "In our judgment, those words and the manner of their delivery were an encouragement to others to harass a defendant by finding him, knocking on his door, following him, and watching him, and this gave rise to a real risk that the course of justice would be seriously impeded."

She added: "All of this has to be assessed in the context of the video as a whole, in which the respondent approves and encourages vigilante action.

"We are sure that what the respondent said in this passage will have been understood by a substantial number of viewers as an incitement to engage in harassment of the defendants."

Dame Victoria said the dangers of using the "un-moderated platforms" of social media, with its "unparalleled speed and reach", are obvious and that Robinson's conduct created a risk that the defendants would be intimidated.

She added: "In this case, the respondent was engaged in the agitation of members of the public in respect of what he presented as a serious threat to society.

"His words had a clear tendency to encourage unlawful physical or verbal aggression towards identifiable targets.

"Harassment of the kind he was describing could not be justified.

"It is not necessary to assess the level of risk that such conduct would in fact be engaged in, beyond concluding that it was real and substantial.

"Furthermore, 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.

"That in itself would represent a serious impediment to the course of justice."

The judges also found that Robinson was "quite deliberately" reporting on the case, which he had told his viewers was the subject of a reporting restriction, and rejected his evidence that he had made checks in the court as "not credible".

Dame Victoria said Robinson's right to freedom of expression "could not justify an interference with fair trial rights".

She added: "The rule of law demands that those who act in such a way as to subvert due process should be held to account, whether or not they actually threaten the fairness of the end result.

"These are essential principles which must be given weight in a democratic society. "On the facts of this case the weight to be given to these valuable principles comfortably exceeds that to be given to forms of expression used by the respondent such as 'How are you feeling about your verdict?' or 'You got your prison bag with you?'"

Throughout the Old Bailey hearing, Robinson denied any wrongdoing, saying he did not believe he was breaching reporting restrictions and only referred to information that was already in the public domain.

But Dame Victoria and Mr Justice Warby found he was in contempt by breaching the reporting restriction imposed on the trial, by live-streaming the video from outside the public entrance to the court and by "aggressively confronting and filming" some of the defendants.

A number of Robinson's supporters who gathered outside the court on Thursday and Friday reacted angrily after the result was announced.

Robinson broadcast the footage while the jury in the second of a series of linked grooming trials was considering its verdict.

A reporting restriction was in place which postponed the publication of any details of the case until the end of all the trials involving 29 people, in a bid to ensure all defendants received a fair trial.

The 36-year-old, from Luton, Bedfordshire, was jailed for 13 months after being found in contempt of court on the day of the broadcast.

The video lasted an hour-and-a-half and was viewed online 250,000 times after being live-streamed on Facebook. It was eventually viewed 3.4 million times after being shared following his arrest.

He served two months in jail before being freed after the original finding of contempt was overturned by the Court of Appeal in August 2018.

But the case was then referred back to the Attorney General, who announced in March that it was in the public interest to bring fresh proceedings against Robinson.

Dame Victoria and Mr Justice Warby gave permission for the Attorney General to bring a new case against Robinson at a hearing in May.

Contempt of court carries a maximum sentence of two years.

*R v Stephen Yaxley-Lennon*

*Neutral Citation Number: [2019] EWHC 1791 (Admin)*

*Queen's Bench Division, Mr Justice Warby and Dame Victoria Sharp*

*Andrew Caldecott QC and Aidan Eardley (instructed by Government Legal Department.) for the Attorney General.*

*Richard Furlong (instructed by Carson Kaye Solicitors) for Stephen Yaxley-Lennon.*

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