



IN THE WESTMINSTER MAGISTRATES' COURT
(also sitting at Hendon and the City of London)

181 MARYLEBONE ROAD
London
NW1 5BR

20 September 2019
Delivered 14 October 2019

REGINA

and

**JACK HARRIES, CATHY EASTBURN, JOEL INSTONE, MARK OVLAND,
JEREMY PARKER, SERENA SCHELLENBERG, SAM KNIGHTS, JANAI
POSTELICK, TRUDI ANN WARNER**

Mr Maugham appeared on behalf of the Crown.

Ms Brimelow QC appeared for JACK HARRIES.

Ms Foubister appeared for CATHY EASTBURN, JOEL INSTONE, MARK OVLAND, JEREMY PARKER, SERENA SCHELLENBERG. MARK OVLAND dispensed with his legal team immediately prior to giving evidence.

SAM KNIGHTS, JANAI POSTELICK, TRUDI ANN WARNER appeared unrepresented.

REASONS

The Defendants are all face an offence, that :

On 27 February 2019 at Intercontinental Hotel, Hamilton Road, London W1 , having trespassed on land, namely Intercontinental Hotel, Hamilton Road, London W1 and in relation to a lawful activity, namely the day to day business of the hotel, which persons were engaged in on that land, did an act, namely allowed yourself to be glued to the structure of the hotel, which you intended to have the effect of obstructing or disrupting that activity.

Contrary to s.68(1) and (3) of the Criminal Justice and Public Order Act 1984

JOEL INSTONE also faces a further offence, viz :

On 27 February 2019 at Intercontinental Hotel, Hamilton Road, London W1, without lawful excuse, destroyed protective film to the value of an unknown value belonging to the Intercontinental Hotel, intending to destroy such property or being reckless as to whether such property would be destroyed or damaged.

Contrary to s.1(1) and (4) of the Criminal Damage Act 1971

1. For sake of completeness, I record that similar allegations of criminal damage were withdrawn against the other Defendants at the close of the prosecution case.
2. I previously found a case to answer on the s.68 count. In now making my decision as to guilt or innocence, I remind myself that it is for the prosecution to prove their case so that I am sure and that the prosecution bear the burden of proof.
3. I have noted several of the Defendants are of previous good character and give myself a good character direction.
4. I make a general comment first. As much as issues of morality have been impressed upon me, this is not a court of morals. It is, of course, a court of law. They are not necessarily, the same and I am required, under my Oath

to determine every case in accordance with law and law alone, my personal views on matters not being relevant to my determination.

5. I also make a general observation that I have found each of the Defendants truthful in what they have told me. They each hold strongly held views on the perils of global warming. I have found each to be frank and honest in relation to events on the day in question and their roles within the protest.
6. Ultimately, the hotel had it appears sufficient staff on hand to deal with the protesters and dealt with the situation without difficulty or incident. The Defendants were entirely peaceful and the CCTV and evidence suggests good natured with staff at the hotel.

Overview of the Evidence

7. In addition to the live evidence, statements and admissions, I have viewed body worn camera footage / CCTV which records events. I have considered various character references and heard oral evidence as regards the same.
8. I assess the evidence against each of the Defendants separately, but I can fairly summarise events as thus :

On the day in question, the Defendants arrived at the said hotel where there was also a conference pertinent to the petroleum industry.

The Defendants were (and remain) members or sympathisers of the Extinction Rebellion group. They have strong and passionate views on the negative impact of climate change caused by fossil fuels.

Knowing that leaders of the petroleum industry would be in attendance, they arrived at about 08.00am on the day in question and each either glued or purported to glue themselves to the doors. They say that they were at the time, exercising their right to protest and their right to assembly.

They were all subsequently arrested and charged. The initial charge was later changed to the current s.68 allegation as now drafted.

The Issues

9. The Defendants all argue that they acted out of necessity in that they believe that climate change has already caused loss of life, injury to health and damage to homes, livelihoods and property. Further, increasing

temperatures will result in irreversible effect, further destruction and damage to the ecosystem causing harm and death to animals and humans.

10. In particular, government has failed to take sufficient steps to prevent global warming and that a 'tipping point' will be reached unless urgent and immediate action is taken. They are of the view that the agenda of the Petroleum Conference included planning new developments and oil explorations which would contribute to the existing significant impact of fossil fuel extraction and consumption.
11. They believe IMMEDIATE action is required to halt irreversible global warming. They argue, therefore, that their actions were reasonable and proportionate to protect property and life and necessary due to inaction and a failure to act. They argue the defence of necessity.
12. On the said defence, I have reviewed relevant authorities.

In *Hutchinson v Newbury Magistrates' Court* (2000) 122 ILR 499, where a protester sought to justify causing damage to a fence at Aldermaston on the ground that she was trying to halt the production of nuclear warheads, Buxton LJ said:

"There was no **immediate and instant** need to act as Mrs Hutchinson acted, either [at] the time when she acted or at all: taking into account that there are other means available to her of pursuing the end sought, by drawing attention to the unlawfulness of the activities and if needs be taking legal action in respect of them. In those circumstances, self-help, particularly criminal self-help of the sort indulged in by Mrs Hutchinson, cannot be reasonable."

In *Martin (1989) Cr App R 343*, Simon Brown J, giving the judgment of the Court of Appeal, restated the general principles in these terms:

"First, English law does, in extreme circumstances, recognise a defence of necessity. Most commonly this defence arises as duress, that is pressure upon the accused's will from the wrongful threats or violence of another. Equally, however, it can arise from other objective dangers threatening the accused or others. Arising thus it is conveniently called 'duress of circumstances.'

Secondly, the defence is available only if, from an objective standpoint, the accused can be said to be acting reasonably and proportionately in order to avoid a threat of death or serious injury.

Thirdly, assuming the defence to be open to the accused on his account of

the facts, the issue should be left to the jury, who should be directed to determine these two questions:

First, was the accused or may he have been, impelled to act as he did because as a result of what he reasonably believed to be the situation he had good cause to fear that otherwise death or serious physical injury would result?

Secondly, if so, may a sober person of reasonable firmness, sharing the characteristics of the accused, have responded to that situation by acting as the accused acted?

If the answer to both those questions was yes, then the jury acquit: the defence of necessity would have been established.

In the case of Court of Appeal in the case of *R. v Abdul-Hussein and others* [1999] Crim LR 570, Rose VP made 11 propositions as regards the defences of duress and necessity and described further, the defence.

These, inter alia, were that:

- i) Unless Parliament provides otherwise, the defence of duress, whether by threats or from circumstances, is generally available in relation to all substantive crimes, except murder, attempted murder and some forms of treason.
- ii) The courts have developed the defence on a case-by-case basis, and its scope remains imprecise.
- iii) **Imminent peril** of death or serious injury to the defendant, or those to whom he has responsibility, is an essential element of both types of duress.

13. I do not find that the threat pertaining to global warming falls within the defence of necessity even upon the facts as the Defendants believed them. I find there was actually no 'immediate and instant need to act', nor 'imminent peril of death or serious injury to the defendant, or those to whom he has responsibility'. There is no imminence and, in any event, the threat was not imminent to the Defendant or a proximate person. I find this to be the case even though the Defendants, themselves, perceive an immediate crisis. The defence is simply not available to them on the facts of this case.

14. I consider whether I need consider the proportionality to prosecute, bearing in mind Arts 10 and 11 of the ECHR. I have considered the case of *James v DPP* [2015] EWHC 3296 (Admin) which concluded, 'Accordingly, in cases such as this the prosecution do not have to prove, in addition to the facts establishing the guilt of the defendant, the proportionality of the decision to prosecute itself.'

Therefore, if I conclude that any of the Defendants be guilty of aggravated trespass, s.68 being compatible with the ECHR, I am satisfied there is no need for me to then consider whether the prosecution breached Articles 10 or 11. This proposition was explicitly confirmed in the earlier case of *Dehal v DPP* [2005] EWHC 2154 (admin)

I conclude that I am not required to consider issue of proportionality of the prosecutions of any of the Defendants in this case.

Have the prosecution proved the factual elements of the s.68 offence ?

Were the Defendants trespassers?

15. I heard evidence from Mr Lentle. He confirmed that the doors into the hotel were located on private land owned by the hotel. The Defendants did not suggest that they had come to the doors with the intention to stay as guests or otherwise use the hotel facilities. Whilst none entered the hotel, they all decided to affix themselves to the doors. I will return to their motives for doing so shortly.
16. It has been argued that the Crown have failed to adduce actual and direct evidence from the owners that the Defendants did not have permission to come to the hotel. I am satisfied that the Defendants entered onto private land owned by the hotel and did so for a purpose for which they clearly did not, and would never had consented. There was a marbled area in front of the doors and not pavement. There was clear demarcation from the public highway. It was clearly private property. The hotel gave implied permission for members of the public to visit the premises for the purposes of the hotel, as staying guests, to attend the conference or otherwise in connection with the use of their facilities/services. They were running a business welcoming staying guests and delegates to the Petroleum Conference. It is nonsensical to suggest that the owners would have ever given their consent to protesters coming onto their land in order to glue themselves to the doors. I do not require a statement from the owners as to the obvious. I do not accept that the Defendants at the time of their protest, could have believed that they would have the hotel's consent to glue (or appear to glue) themselves to the doors.
17. **I am, therefore, sure that all the Defendants were trespassers on private land controlled by the hotel.**

18. For the avoidance of doubt, I am satisfied that the conference taking place at the hotel was a lawful activity. In my view, there can be no challenge to the legitimacy of the hotel hosting the event and delegates meeting to discuss matters pertaining to the fossil fuel industry.

What were the Defendants' intentions in gluing themselves to the doors of the hotel?

This is a key issue in relation to each of the Defendants.

The offence is not defined in terms of result insofar as it does not matter whether there was, in fact, obstruction or disruption. The issue is one of intention. The Crown must show that each defendant individually intended to have the effect of obstructing or disrupting the day to day business of the hotel.

It is relevant at this stage to reflect on the relationship between, motive, foresight and intention. As a legal principle, foresight of a consequence is not the same as intention, but is evidence from which a jury may infer intention. In relation to even a definitely foreseeable consequence, intention could not be established unless the defendant realised it was a virtually certain result (R v Nedrick).

It has been argued by some of the Defendants that they acted as they did to speak to conference delegates as to the issues of climate change and not to disrupt or obstruct the hotel. I find that security staff doing their job is neither obstruction, nor a disruption to the business. For the hotel, their pre-planning and provision of extra security was part of their day to day business in hosting conferences which they were aware could give rise to protest.

19. Let me deal first with the issue as to whether any Defendant was actually stuck because of the effect of glue. There was certainly glue being passed around. Some of the Defendants had to be removed by the use of solvents by specialist police officers who later arrived on scene. In my view, this is an argument without merit. Whether they were in fact stuck to the door by virtue of the adhesion of glue, matters not. They were in fact glued to their respective locations through their pressing their own hands against the doors. Through their voluntary actions, they were glued and the charge directs itself at the consequences of their means of protest.

20. **Jack Harries**, has no previous cautions or convictions. he is of good character. He has set up a YouTube channel and made documentaries on

various topics including environmental issues. He has been brought to tears by the changes brought about by climate change.

He learnt of 'an action' at the particular conference the night before and that CEOs of oil corporations and Liam Fox would be attending. He gave evidence that he decided to go to the hotel 'to communicate the science (of climate change) to people who could make that change.' He stated that they would be 'key people who should understand the science.'

He put his hand with glue on it up against the door where no one else had located themselves and held a placard. He said there was another door next to him and that he opened the door on occasion to let people through. He made a conscious choice to welcome guests. He stated that his sole intention was to communicate about climate change. He stated that he was singing. A screen was put up and he felt he could not communicate effectively. He stated he had no intention to disrupt business and that he welcomed guests. He argued he had a plan to disrupt minds of the delegates though now accepted that it is possible that it had the effect of disrupting or obstructing.

He leant there for 1.5 hours until a time when his hand was seen to come by a police officer. At that stage, he was arrested. He said, he didn't know what he was going to do that day until he was there and saw what the others were doing.

I watched the CCTV with care and listened carefully to what Mr Lentle said.

He did not suggest that anyone entered into the hotel building, nor attempted to do so. Protesters were glued to doors and had entered onto the forecourt of the hotel itself. The hotel decided to put up screens as he didn't want the name of the hotel to be filmed. I find that the putting up of screens was not foreseeable. He said he was also motivated by wanting to stop interaction between demonstrators and guests. He personally did not ask anyone to leave assuming them all to be stuck with glue. He stated that there was 'large scale disruption' in that the forecourt was closed off. There were other demonstrators on the pavement who were on top of planters. They were told to come down. The charge is, however, specific and not opened on the basis of joint enterprise. There may equally have been disruption because of the actions of other protesters who did not glue themselves and were singing and chanting. It is not suggested that they acted unlawfully.

There may have been some actual obstruction in his placing himself in front of a door even though the defendant said that people were still coming in and out of the door. Actual obstruction or disruption is, however, not the issue. The issue is one of intention and what might be inferred.

I have not been persuaded that his actions were intended by him to disrupt or obstruct the day to day running of the hotel. I am satisfied that he simply wanted to speak to them and express his strongly felt views. He consciously placed himself at the door where no one was positioned. I bear in mind the numbers involved (9 persons in total) and the fact that on any interpretation, they spread themselves out across the various doors. Even if a pre-planned collective action with strategic positioning (which in fact, I am not persuaded of), I am not all persuaded that the Defendant wanted to obstruct or impede guests or conference delegates from going in or out of the doors. I am satisfied that he simply wanted to speak to them and express his strongly felt views. The placing of screens, nor the closing of the forecourt to cars was definitely foreseeable. In any event, I am not persuaded that the defendant would have seen that as a virtually certain consequence. The response of staff / security staff was not a disruption or obstruction. They were carrying out their duties and had been in deployed in advance in anticipation of protests.

I therefore find Jack Harries NOT GUILTY.

21. **Cathy Eastburn** stated that she heard of the protest and decided, 'I can't let this happen. I wanted to put myself in the way and try to stop it. I didn't feel I would.' She also stated 'I wanted to be in the way, the conference may not be a criminal activity yet but will be seen as such in the future. I was in the way. I was trying to block it.' Further, 'delegates were going in and out. I wanted to talk to people, especially delegates. Jolt them in a friendly way, catching peoples' eye. Hello, please think about your children. A few people smiled. Many looked away and looked shifty. I was not intending to stop people coming in and out'. In cross examination she answered, '**I accept I was trying to disrupt the conference, yeah. It was a specific thought.** It was much more general and heartfelt. The activities in the conference, those could not be allowed to go ahead. It was a sense of this can't be allowed to happen'

This is a case where a disparate group of people from various different walks of life came together to protest and take action. I stress this because on the evidence, I came to the view that the motives of members of

Extinction Rebellion are not all the same. The common ground is that they have a deeply held view that climate change is causing a crisis.

Ms Eastburn made admissions that others did not. She stated that, through her actions, she intended to disrupt the conference.

Accordingly, I find, that by her actions, she did intend to disrupt the business of the hotel, ie the holding of the conference.

It is argued that she has available the Common Law defence of necessity.

It is submitted that her actions were necessary to protect serious harm / loss of life. She asks me to accept her actions were in accordance with her right to freedom of expression and assembly.

I reject the argument. Necessity requires a degree of immediacy. The *necessity* and *saving of life* referred to are to do with events at a later stage, or in the future and are remote (see para 12 above).

I find Cathy Eastburn GUILTY of the offence.

22. **Joel Instone** has been strongly of the view that the oil industry has had no intention of changing their business model and of their negative contribution to climate change. He wanted to do something, having learnt 2 days before the events, of what was being planned.

He went to the door and put glue on his hand and placed it on the glass of the door. It was a double door and people were using the middle door. He was the on the side door.

Had he not had glue on his hand, he believes he would have been removed. He says he wasn't actually attached and had no intention to stop people going in and out. He was of the view that it was physically impossible to do so. He argued that it was his intention to raise his voice against what the conference was doing. In the event, he felt, he was unable to do that anyway. He said that he believed that the conference went smoothly and it was uninterrupted. His actions were to draw attention to the issues. He felt that they had achieved their goal.

Whilst his hand did not in fact glue to the glass, that was his intention. There was another person there in their group with a solvent to remove his hand.

I am satisfied that he simply wanted to have his say and express his strongly felt views. Clearly, gluing his hand would force others to listen to what he had to say. The placing of screens, nor the closing of the forecourt to cars were definitely foreseeable. In any event, I am not persuaded that the defendant saw that as a virtually certain consequence. The response of staff/security staff were not a disruption or obstruction. They were carrying out their duties and had been deployed in advance in anticipation of protests.

As previously, not all Defendants previously knew each other nor known of the names of all the others. I believe and the others when they say that.

The prosecution have failed to satisfy me that that he went to the hotel and that, by his actions, he intended to disrupt or obstruct the day to day running of the hotel.

I find Joel Instone NOT GUILTY of aggravated trespass.

He says he did not know he had damaged the protective film on the glass. He accepted that it was said that it was compromised.

The prosecution have failed to prove that he intended to damage the protective film. The test of recklessness is subjective, per G [2004]. There is no evidence that he knew of the existence of a protective film. I have not been persuaded that he was aware of the risk of damage to the protective film.

I therefore find Joel Instone was not reckless either, and, therefore, NOT GUILTY of criminal damage.

23. **Mark Ovland**, as he was entitled, decided to dispense with his legal team when it came to he giving evidence. He was passionate in his evidence and critically, stated right at the outset, that 'he intended to shut the conference down; not allowing the conference to happen.' He was unambiguous and re-stated that it was his intention was to shut the conference down. He assumed that his actions were probably something that would not be tolerated in law and possibility something criminal. He felt that his over-riding deeply felt views on climate change and the damage being caused by the fossil fuel industry was more important.

I, of course, consider, each Defendant separately. I find that they were individuals individually motivated though with a common concern as to the effects of climate change.

I find, on his own admission, that, by his actions, he did intend to disrupt the business of the hotel, ie the holding of the conference.

It is argued that he has available, the Common Law defence of necessity.

It is submitted that his actions were necessary to protect serious harm / loss of life. He asks me to accept her actions were in accordance with his right to freedom of expression and assembly.

I reject the argument. Necessity requires a degree of immediacy. The *necessity* and *saving of life* referred to are to do with events at a later stage, or in the future and are remote (see para 12 above).

I find Mark Ovland GUILTY of the offence of aggravated trespass.

24. **Jeremy Parker** stated he had been involved with Extinction Rebellion since the beginning.

He stated in oral evidence that he fixed himself with glue at the staff entrance which was away from the others.

He stated :

'I approached the entrance towards the back. It was more of a staff entrance. There were not enough volunteers to cover all entrances. This would be a solitary experience. The conference had a main and secondary entrance, then there was mine.'

He said he sat down, fixed his hand with glue and did some spraying. He said that he was intending to position himself as a bit of an obstruction. They would ask why he was there, 'fossil fuel had to be challenged.' In the event, he did not speak to any delegates. He was sitting in the turnstile with his limbs on glass areas. He then suggested that he was not actually causing an obstruction. He conceded 'I knew if anybody wanted to use the entrance, they would have to get around me.'

That concession amounts to an admission that Mr Parker unlike several of the others, knew he was causing an obstruction and that he intended to position himself so as to cause an obstruction.

Whether he did or did not cause an obstruction matters not. He accepts that he formed an 'intention to position himself as a bit of an obstruction'. In that sense, unlike some of the others, he had consciously thought about the consequences of his gluing himself and formed an intention to obstruct and people would 'have to get around him' if they wanted to use the entrance.

I find that there was intention to obstruct the use of an entrance and therefore, the day to day access of users to the building.

It is argued that he has available, the Common Law defence of necessity.

It is submitted that his actions were necessary to protect serious harm / loss of life. He asks me to accept her actions were in accordance with his right to freedom of expression and assembly.

I reject the argument. Necessity requires a degree of immediacy. The *necessity* and *saving of life* referred to are to do with events at a later stage, or in the future and are remote (see para 12 above).

I find Jeremy Parker GUILTY of the offence of aggravated trespass.

25. **Yania Postelnik** accepted that he had come armed with and applied glue to his hand and placed it on the door as there was no-one else on that particular door. His motive was to bring to the attention of the media, what he believed to be illegal activity going on inside. He is of the firm view that the discussion and planning at the Conference amounted to crimes against humanity. He stated that 'he wanted to stop the illegal activity of the conference'. Like the others, he came across as honest, and added that the Conference will in the future be seen as a crime and 'as such, after the fact.'

He, however, stated in his closing submissions, '**My intention was to disrupt that which was unlawful on the premises.** I had no intention to disrupt anything that was lawful. The evidence doesn't suggest that I did disrupt.'

As I have stated before, the offence of aggravated trespass is not defined in terms of actual disruption caused, rather, what was going through the Defendant's mind and their intention.

Mr Postelnik is a lay Buddhist preacher and a principled man but, wrongly takes the view that the conference taking place at the hotel that

day was an illegal activity. Whilst he is entitled to his views as to the impact of the fossil fuel industry, they are entitled to meet and discuss matters affecting their industry even if they plan their business in a way which the Defendant finds wholly objectionable and in his view contributing to a global climate crisis. As I have said before, I am not passing judgment on his entitlement to hold such views and to lawfully express that view. The fact remains that the fossil fuel industry is not party to 'a criminal conspiracy', nor involved in any 'crime against humanity' as he describes it.

He accepts gluing his hand on a door and stated that his motivation was to bring attention of the world media to the issue but, critically, also, to prevent the illegal activity at the hotel.

As I have stated before, the doors to the hotel were clearly and obviously on land belonging to the hotel. He was a trespasser.

I find, on his own admission, that, by his actions, he did intend to disrupt the business of the hotel, ie the holding of the conference which he saw as illegal.

It is argued that he has available, the Common Law defence of necessity.

It is submitted that his actions were necessary to protect serious harm / loss of life. He asks me to accept her actions were in accordance with his right to freedom of expression and assembly.

I reject the argument. Necessity requires a degree of immediacy. The *necessity* and *saving of life* referred to are to do with events at a later stage, or in the future and are remote (see para 12 above).

I find Janai Postelick GUILTY of the offence of aggravated trespass.

26. **Serena Shelenburgh** has never been arrested before and has no convictions. She is of good character.

On the day, she approached the glass door and put glue on one side and stuck her hand to the glass to stay there as long as possible. It was, she said, an attempt to try and gently cause them to listen. While her hand was on the door, she spoke to quite a few delegates. She said things like 'think of your children'. She suggested the response amongst some was that they hung their heads and just walked by.

She said:

'The main door was open all the time. I was on the far left hand side. I had no impact on the running of the hotel. They wanted to cover us up. They were ashamed. They were shutting us up. We were an embarrassment.'

She said she decided to go to the hotel the day before and knew some of the others involved. She stated that 'If I had not anchored myself, I would have been moved on. This time I wanted to make a difference.' She stated that his intention was to communicate and suggested that no-one was prevented from using the door.

She said that previous letters to her MP did not work.

Like several of the others, her intention was to force others to listen and not to be moved on. By gluing themselves to the doors, the delegates would be forced to encounter them and the protesters could make their argument to them. There is no suggestion of any aggression on the part of any of the Defendants nor of any violence. There is no suggestion of anything other than a peaceful protest.

The prosecution have failed to satisfy me that that by her actions, she intended to disrupt or obstruct the day to day running of the hotel. They have not negated her suggestion that her intention was simply not to be moved on so that she could have her say to the delegates. Gluing themselves to doors, and therefore creating opportunity to voice what she and other protesters had to say does not, of itself, amount to an intention by her or others to disrupt or obstruct the hotel in its business.

I find Serena Shelenburgh NOT GUILTY of aggravated trespass.

27. **Sam Knights** has no cautions, nor convictions and is a man of good character. He described himself as a writer , actor and comedian. He gave the court his view on the negative impact of the growth of the oil and gas industry. There was a closed conference that day and he saw no accountability.

The plan was to glue onto the doors, the doors at front of the ballroom and side. There would be group action on front, ballroom and side. His understanding was to make sure all entrances were covered. There was also a staff and car park entrances. Main entrances were for residents and restaurant. He didn't know if they actually had enough people.

He said :

So on 27.02.19, I got up , went to International Park Lane Hotel and glued myself onto a door in order to communicate to people about their actions. Doors were open the entire time. We allowed people to pass through. We were peaceful. It was non-violent direct action. That is important to us. The security team I think panicked a little bit.'

He engaged with people attending the conference. He only spoke to conference delegates with lanyards, security and police. He asked delegates to consider the future and his concern was to get the message through. He stated that he had scoped the property and it was ok to go through other doors. Health safety had been considered and his bag was being held by another member of the team with a solution to remove the glue and his hand.

He accepted a distinction between the hotel and the conference there that day. He did take umbrage that the hotel had hosted the conference. He did say to the police officer that there was nothing that they could do to make him leave as he wanted to get his message through. He was, however, able to take his hands off the door to be arrested and wasn't there when the Phantom team arrived. He didn't recall being asked to leave and stated that he was not obstructing.

As far as doors were concerned, it was hotel policy to keep doors physically closed. The position of doors was not important to him and he accepts he closed it to so it would be easier to glue himself.

The prosecution have failed to satisfy me that that he went to the hotel and that, by his actions, he intended to disrupt or obstruct the day to day running of the hotel. He took the view that the hotel should not have hosted the conference. He created a situation where he would not be moved and have opportunity to address delegates. That is not enough unless the prosecution can prove he intended that actual disruption or obstruction would result. I have discussed above the actual consequences and do not repeat them again. I cannot conclude that he was then aware that those would result.

I find Sam Knights NOT GUILTY of aggravated trespass.

28. **Trudi Ann Warner** had heard of the protest the night before on whatsapp group. She said she had been prepared to leave once asked to do so and

did agree, once asked by the police officer. She had not been at any briefing meeting but wanted to support the action. She says she went to protest and was aware that it was an operating hotel. She had gone to the hotel having received a whatsapp the night before and to do something, maybe to leaflet or talk to people.

She said she did use a small amount of glue which was given to her by Serena Schellenberg. She said 'I did go to protest, only to protest. I went there to protest I didn't agree with the conference. I certainly believe it's a criminal activity.' She said she drifted along with others. She chose the particular door as she was too timid to place herself in a more central place.

She suggested the whole things was a learning experience and, for her, a step into the unknown.

She stated that she had come late and not been to the briefing meeting. When spoken to by the police officer, he asked whether she was prepared to leave now and said, I probably am. Her hand had been on the glass but it was not in fact stuck on by glue so she was able to take it off. When directed to affect an arrest, the police constable said, 'I didn't think that was the plan sergeant' but he said arrest her. In fact, I was able to observe that sequence of events on the body work footage and find her version of events to be true.

The prosecution bear the burden to prove their case. The prosecution have failed to satisfy me that that she went to the hotel and that, by her actions, she intended to disrupt or obstruct the day to day running of the hotel. To the contrary, the evidence suggests she had no such explicit intent, nor any specific thought as to the consequences of her actions. I am unable to infer the required intent for a s.68 offence.

I find Trudi Anne Warner NOT GUILTY of aggravated trespass.

Tanweer Ikram
Deputy Chief Magistrate

