[2026] EWCA Crim 387

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT KINGSTON-UPON-THAMES

JJH SHETTY T20207041

CASE NOS 202402664/B4 & 202402663/B4

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday, 24 February 2026

Before:

LORD JUSTICE POPPLEWELL
MR JUSTICE HILLIARD
HIS HONOUR JUDGE DREW KC

REX
V
DEIVIS GROCHIATSKIJ
ARTEM TERZYAN

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NON-COUNSEL APPLICATIONS

J U D G M E N T
(APPROVED)

1. MR JUSTICE HILLIARD: On 22 October 2021, in the Crown Court at Kingston Upon Thames, Mr Terzyan (then aged 38) and Mr Grochiatskij (then aged 44) were convicted of two counts of conspiring to disguise, convert or transfer criminal property.

2. On 3 December 2021, Mr Terzyan was sentenced to a total of 17 years' imprisonment and Mr Grochiatskij to a total of 16 years' imprisonment.

3. On 6 October 2023, their renewed applications for leave to appeal against conviction and sentence were refused by the Full Court.

4. On 28 June 2024, Mr Terzyan was ordered to pay a confiscation order in the sum of £14,326,427.88 within three months. The default term of imprisonment was subsequently set at 14 years.

5. Mr Grochiatskij was ordered to pay a confiscation order in the sum of £14,252,460.55 within three months. The default term of imprisonment was set at 14 years.

6. Both applicants now renew their applications for leave to appeal against sentence in respect of the confiscation orders only and for representation orders after refusal by the Single Judge.

7. The facts of the case were as follows. On Count 1, sums of cash were collected from various places in England and taken to and sorted for distribution at the applicants' flats in Munnings House, London E16 and at other rental premises in East London. The money

was, in part, the proceeds of a large-scale fraud in relation to the evasion of duty payable on German beer. Bundles of cash were paid into various banks in the area, sometimes by Mr Grochiatskij, or his wife, or others. The cash was paid into shell companies controlled by the applicants, often multiple deposits in proximity of time and location. The funds were then swiftly transferred between various accounts and most was then transferred overseas. More than £16 million in cash was paid into the accounts of 18 companies.

8. The prosecution submitted that the pattern of deposits and transfers of such a large amount of cash was indicative of the transfer of criminal property. Items recovered in searches from the applicants' home addresses demonstrated their control of these companies. The value of this conspiracy was around £37 million. The applicants were arrested in June 2018.

9. On count 2, following their release on bail in June 2018, the applicants engaged in a second criminal conspiracy, using similar methods to those used in the first, but this time it involved a series of companies applying for money dishonestly under the Bounce Back Loan scheme which had been implemented by the government to assist companies during the Covid pandemic. Investigators determined that several shell and other companies were engaged in making fraudulent applications for loans under this scheme. For the most part there was no evidence of legitimate trade by these companies. Once funds were obtained, they were transferred to company bank accounts which were controlled by the applicants. Funds were then transferred abroad (over £11 million). Funds were also spent on high value items.

10. As part of their applications for leave to appeal against conviction, both applicants

complained about the conduct of their cases by their different legal teams. They said that their lawyers failed to prepare the case properly, failed to follow their instructions, failed to make proper enquiries and failed to call factual and expert witnesses. They also alleged that very substantial formal admissions placed before the jury were agreed without their consent. They criticised the lack of cross-examination of witnesses and, where it happened, the cross-examination which did take place. They also criticised the preparation by their legal teams of their defence statements.

11. The Single Judge refused the applications for leave to appeal against conviction. He was able to consider what the applicants' lawyers had said in response to the claims made by the applicants. Having done so, he concluded that it was not arguable that either applicant's convictions were unsafe. The Full Court said in its judgment that it had engaged in its own independent assessment of the allegations which gave rise to the grounds of appeal before concluding that the Single Judge was right in all the conclusions he reached and that there were no arguable grounds of appeal against conviction in either case.

12. In the meantime, consideration had been given in the Crown Court to the impact of the allegations made by the applicants upon their continued legal representation at public expense. On 18 August 2022, the case was listed for mention in the Crown Court. However, a formal application to transfer legal aid had not yet been lodged in respect of either applicant and the hearing was adjourned.

13. On 29 September 2022, the applicants' cases were listed before the trial judge. The judge refused to transfer legal aid to new lawyers until the Court of Appeal had considered the

criticisms the applicants had made about their existing lawyers and their conclusions were known. He said that if the complaints were upheld he would transfer legal aid. If not, the applicants would be unrepresented. The Respondent's Notice and chronology indicated that Mr Terzyan attended this hearing by video link. Mr Grochiatskij attended in person.

14. The judge referred to R (on the application of Sanjari) v Birmingham Crown Court [2015] EWHC 2037 (Admin). There, the judge in the Crown Court had refused to permit a legal representation order to be transferred from one firm of solicitors to another. The claimant had complained that his existing solicitors had failed to interview a key defence witness whose evidence constituted the basis of his appeal against conviction. The claimant wanted to be represented by different solicitors in Proceeds of Crime Act proceedings. There was also criticism that the existing solicitors had failed to instruct a forensic accountant. The judge refused to allow a change of representative, pursuant to regulation 14 of the Legal Aid Regulations 2013 and instead revoked their representation order, pursuant to regulation 9(1)(c) because the original provider of representation declined to continue to represent the claimant.

15. The judge in the Crown Court at Birmingham had previously warned the claimant that if he was unsuccessful in his appeal, he should understand that if he placed his solicitors in a position where they could no longer act for him, then an application to transfer the representation order might well be unsuccessful and he would then have to represent himself in the confiscation proceedings.

16. The judgment of the Divisional Court upholding the judge's decision, was given by Lord Thomas, CJ. The Court held that the material before the judge had not provided a proper basis for a transfer of the representation order and that the revocation of the order followed from the claimant's own actions about which he had been clearly warned.

17. In the present case, on 27 October 2023, a formal application for a transfer of legal aid was made on behalf of both applicants. On 10 November 2023, the judge again refused the applications for transfer and now revoked the existing representation orders. He said that there had been no complaints about representation during the trial and the claims against the lawyers appeared to be a misguided attempt to blame the convictions on legal representation. That was what had led to the breakdown of the relationship. The judge said that the Court of Appeal had now rejected all of the applicants' points on appeal. He said that he had warned the applicants about blaming their lawyers without merit and how that would most likely lead to revocation rather than transfer of the representation orders; if the appeals were without merit, then the breakdown in the relationship had been caused by the applicants. The court would not allow further expenditure from public funds to accommodate defendants who sought to blame their representatives when there was no basis to do so. This was set out in an email of 13 November 2023 to the solicitors who had applied to take over the representation orders.

18. Thereafter, the judge took steps to ensure that both applicants had been provided with the papers for the confiscation proceedings. There was a hearing on 18 January 2024. On 8 February 2024, the case was listed again. Both applicants refused to attend, notwithstanding previous warnings that the proceedings could go ahead without them. The

judge was not sure that Mr Terzyan had received all the papers and adjourned the final hearing to June. He was sure that Mr Grochiatskij had received translated copies of the relevant papers. The judge prepared a note of the hearing which was to be provided to both applicants. He explained that he had refused an abuse of process application they had made. He told them that they must attend the next hearing in person or it would go ahead in their absence. They were warned that if they failed to respond to the case that the prosecution had made under section 16 of the Proceeds of Crime Act, they could be treated as having accepted matters as conclusive. They should respond in writing by 19 March 2024 and no more applications concerning representation would be granted.

19. The abuse of process applications had been made on the basis that documents had not been received by the applicants. The judge said that he was satisfied that Mr Grochiatskij had had translated copies of the documents but he adjourned matters because of doubt in the case of Mr Terzyan. The documents were to be provided to him.

20. In March 2024, both applicants served a section 17 response statement.

21. In May 2024, the prosecution served an addendum section 16 statement in response.

22. On or around 12 June 2024, the applicants served a further abuse of process application, saying that they were unable to manage without legal representation and that the prosecution had not investigated matters properly. At paragraph 8 of that application, they recorded that at the hearing on 29 September 2022 the trial judge had indeed said that he would transfer legal aid only if the Court of Appeal accepted the grounds relating to the

claims against their lawyers, otherwise they would be unrepresented. So this confirms that they were aware of this.

23. On 28 June 2024, the judge ruled that there was no abuse of process for the same reasons as he had given in February. The argument that had been raised related to denial of access to legal aid because of the refusal to transfer the representation orders. The judge noted that he had on numerous occasions warned the applicants that if they were to persist in making complaints about their legal representatives, which then proved to be unfounded, then Sanjari was clear authority that the applicants could not expect to transfer to new legal aid providers on the basis of their complaints. They were without legal representation through their own actions.

24. On 27 June 2024, the applicants had not attended the final confiscation hearing. The judge rehearsed the chronology of the proceedings. He said that in paragraph 9 of 8 February note, the applicants had been warned that if they refused to attend in person then the hearing would proceed in their absence. A video link would not be permitted because of the need for an interpreter and the need to give evidence on oath/affirmation if they chose to do so. The abuse of process application received from Mr Grochiatskij was written in English and referred to "a substantial amount of case law and statutes to further its argument". However, the applicants said they were not ready for the confiscation hearing as they did not "understand the case against them, do not know how to deal with the allegations apart from denying them, and do not know how to prepare a defence from their prison cells without a professionally qualified legal team". It was said that appearing in person would result in relocation within the prison system and "significantly damage their

progression within the prison."

25. The judge agreed to the hearing proceeding in their absence. He said that there had been numerous adjournments; the applicants had complained about a lack of representation and notwithstanding that he considered the complaints about a lack of papers to be fabricated, he had taken the "extra step" of ensuring that papers had been provided. The applicants knew that the hearing would proceed in their absence and that the video link request had been denied. The judge considered that they had waived their right to attend. He said that he had considered the checklist of factors in R v Jones [2003] 1 AC 1 [which concerns the exercise of a judge's discretion to proceed in a defendant's absence.] The judge repeated that the applications that there was an abuse of process were dismissed and referred again to Sanjari. The judge noted that if the applicants were present, then he could assist them with law and procedure. The legal arguments which had been submitted suggested that they had access to legal texts.

26. Having heard the evidence of financial investigator Barr and considered the submissions and assertions made by the applicants who were not present, the judge noted that the prosecution evidence was available to be challenged. By absenting themselves, the applicants' assertions could not be challenged and accordingly limited weight could be attached to them. He noted that the applicants had not provided documentary proof. The judge reminded himself of the legal framework for Proceeds of Crime Act ("POCA") proceedings.
27. He said that the offending satisfied the provisions for a criminal lifestyle offence, that he was entitled to apply lifestyle assumptions (section 10 POCA). He concluded that the

applicants had jointly benefited from their conduct: in count 1, in the sum of £36,167,492.09; and in count 2, in the sum of £31,178,592.10.

28. The judge said that the benefit figure for Mr Terzyan was £86,057,610.53; for Mr Grochiatskij, £85,419,676.84. The judge made confiscation orders in the available amounts as he found them to be and set terms of imprisonment in default of payment.

29. Both applicants have submitted the same grounds of appeal:

1. The judge's refusal to transfer legal aid and the revocation of legal aid was a breach of Article 6.
2. The judge gave no adequate explanation for why it was in the interests of justice to revoke legal aid.
3. There was a breach of Article 6 and/or an abuse of process, because the refusal to grant representation orders for new solicitors meant that they had no assistance in preparing their cases in the confiscation proceedings. It was a complex case, the applicants did not understand the case or how to deal with the allegations. They had no money to instruct solicitors privately. They were unable adequately to prepare the case or conduct investigations from a prison cell.
4. There was a breach of Article 6 and/or an abuse of process, because the prosecution failed to assist by investigating matters raised in the section 17 responses. The prosecution failed to investigate those involved with the various companies with which they were said to be associated.
5. The confiscation order was "unfair and inadequate" and "contrary to the interests of

justice".

30. When he refused leave to appeal, the Single Judge gave the following reasons:

> "I have considered the grounds of appeal, the documents submitted with them, the respondent's notice, the appendices to the respondent's notice, and your comments on the further respondent's notice. You seek leave to appeal against the confiscation order on the basis that it was a breach of your Art 6 rights and/or an abuse of process for the judge to refuse permission for you to change solicitors under your representation order, and to revoke the representation order, and then to proceed to make a confiscation order when you were unrepresented. You contend, in particular, that: (1) The judge's refusal to transfer legal aid and the revocation of legal aid was a breach of Article 6;
> (2) The judge gave no adequate explanation for why it was in in the interests of justice to revoke your legal aid;
> (3) There was a breach of Article 6 and/or an abuse of process, because the refusal to grant you a representation order for your new solicitors meant that you had no assistance in preparing your case in the confiscation proceedings. You said that it is a complex case, you had no money to instruct solicitors privately, and you were unable adequately to prepare the case or conduct investigations from your prison cell; and/or
> (4) There was a breach of Article 6 and/or an abuse of process, because the prosecution failed to assist you by investigating matters that you raised in your section 17 response, which you were yourself unable to do. In particular, you say that the prosecution failed to investigate those involved with the various companies with which you were said to be associated.
>
> None of these grounds is arguable.
>
> (1) The judge carefully considered whether to transfer legal aid and whether to revoke the legal aid certificate. He applied the guidance on these issues that was given by the then Lord Chief Justice in R (Sanjari) v Crown Court at Birmingham [2015] EWHC 2037 (Admin). Sanjari makes clear that a defendant does not have an unfettered right to legal aid, even if they risk imprisonment in the proceedings. In particular, it may be appropriate to refuse a transfer and to withdraw legal aid if the defendant has triggered a breakdown in the relationship by making unjustified allegations against counsel or solicitors. Your solicitors and counsel withdrew because you had criticised their conduct, in the course of your attempt to appeal your conviction, and this had led to a breakdown of the relationship. The

judge gave reasons for his provisional decision to refuse a transfer and to revoke legal aid on 29 September 2022. These reasons were sent to you in writing. The judge did not consider that your criticisms of your original legal team had any merit. Having taken the decision, on a provisional basis, the judge said that he would be prepared to reconsider if the Court of Appeal criticised the legal team. No such criticism was made. Indeed, the criticisms that you made against your original legal team were rejected as without merit by the single judge, and then by the full court, on your renewal of your application for leave to appeal on 6 October 2023. In those circumstances, on 10 November 2023, the judge formally revoked the legal aid order. He said that the complaints against trial solicitors and counsel were no more than a misguided attempt to blame the convictions on legal representation. At the final confiscation hearing, on 26 June 2024, the judge pointed out that you had been warned, on numerous occasions, that if you were to persist in making unfounded and meritless complaints against your original legal advisers, blaming them for your convictions, this would lead to a situation in which your legal team would have to withdraw. The fact that you have complained to the Legal Ombudsman and the City of London National Fraud Intelligence Bureau about your lawyers does not affect the position that the trial judge, the single judge who considered your application for leave to appeal, and the full court each considered that your complaints against your legal team were without merit;

(2) Ground (2) is hopeless. The judge gave reasons for his provisional decision to withdraw legal aid in writing following the hearing on 22 September 2022, and he gave reasons for his decision on 10 November 2023, in an email dated 13 November 2023. He reiterated these reasons when dealing with the abuse of process application that you made at the confiscation hearing on 26 June 2024;

(3) The responsibility for the fact that your legal aid was withdrawn rested entirely with you. You had been warned on a number of occasions that you would lose legal aid if you made meritless allegations against the trial lawyers. Having withdrawn legal aid, the judge took steps to make clear that you received the case papers and to ensure that the process was made clear to you. You were given every opportunity to present your case yourself. However, you chose not to attend the first final confiscation hearing on 8 February 2024 (as you had refused to attend previous hearings on 12 May 2023 and 31 August 2023), despite being made aware that the hearing would proceed in your absence. You made an application to stay the confiscation proceedings for abuse of process, which was dealt with and rejected by the judge at the hearing on 8 February 2024. The judge was plainly right to do so. He pointed out that you,

> and a co-defendant, had played fast and loose with the court. Nevertheless, the judge adjourned the confiscation decision until a further hearing on 26 June 2024, to give you more time to consider the bundle and to make representations. You were warned that the hearing would proceed if you did not attend. You were able to serve a detailed section 17 statement. The judge dealt with a further abuse of process application at the hearing on 26 June 2024 and he was again plainly right to reject it. The judge gave a detailed ruling on 28 June 2024, and pointed out, amongst other things, that you had had been obstructive in the confiscation proceedings, refusing to attend, and claiming that you did not have papers, when they had been served on you. The judge took account of the representations that you made in your section 17 statement.
>
> (4) It is not arguable that there was a breach of Art 6 or an abuse of process because the prosecution failed to take adequate steps to investigate the matters that you raised in your section 17 statement. The allegations relating to hidden assets were clearly set out in the section 16 statement, so that you could deal with them. You put your position in your section 17 statement, though you did not attend the final confiscation hearing so as to confirm the contents of the section 17 statements. The prosecution considered and dealt with the matters raised in your section 17 statement in an addendum s16 response, and served a skeleton argument and called live evidence at the final hearing from a financial investigator. The financial investigator informed the court at the final hearing that there was no substance to the points that you made in your section 17 statement. As I have said, you chose not to attend that hearing and put your case and to confirm the contents of the section 17 statement on oath. There is no basis whatsoever for criticising the prosecution for its actions in the confiscation proceedings, and there is no basis for alleging that the prosecution had breached its duties to the court or had failed to act in the wider interests of justice. I should add that your demands for further investigations by the prosecution in the section 17 statement were wholly unreasonable and unrealistic. Amongst other things you said that they should identify, locate, interview and proffer for cross-examination at the confiscation hearing the beneficial owners and directors of some 183 companies, almost all of which were based overseas."

31. We are in agreement with the conclusions of the Single Judge and for the reasons he gave which we endorse. We are satisfied that the judge's conclusions in the POCA proceedings, including his conclusions about benefit and available amount, were open to him and properly reached in accordance with the evidence and with the statutory provisions

which governed the proceedings.

32. We have also considered Mr Terzyan's letter of 10 October 2025 following the Single Judge's refusal of permission to appeal. He argues that the facts of the present case are different from Sanjari; that the proceedings were unfair because he did not have representation or sufficient time or facilities to prepare his defence. He said that he was not warned about losing legal aid if he complained about his lawyers and that he told the court he would not be ready for the final hearing. He repeats the submission that the prosecution did not investigate matters properly. He says that the court should not have conducted the final hearing in his absence. He says that confiscation orders were made in breach of the statutory scheme, that the proceedings had the appearance of unfairness because the judge had found against the applicants on various matters and that overall, the proceedings were unfair.

33. We are satisfied that as in Sanjari, the judge here was entitled to revoke the existing representation orders and to refuse to transfer them. The judge made it clear that if the applicants made unfounded allegations against their lawyers, they might be unrepresented. Of course, we observe that if they had withdrawn unfounded criticisms in the conviction appeal, they could have been represented.

34. The judge took steps to ensure that the applicants had the necessary documents and sufficient time to prepare for the proceedings. They put in section 17 responses. They were warned that if they failed to attend court, proceedings could go ahead without them. Of course, matters would have been far easier for them if they had been represented, but

that was their own choice.

35. We are satisfied that the statutory scheme for POCA proceedings was complied with. The judge had made rulings which were adverse to the applicants in the proceedings but that did not mean that he could not continue to hear the case. Indeed, it was important that one and the same judge did hear the case. We are satisfied that there was no unfairness in the proceedings. The disadvantages the applicants had to contend with were entirely of their own making.

36. In all these circumstances, we have concluded that there are no arguable grounds of appeal. Accordingly, all these applications must be refused.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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