

R v Dahdaleh

SFO statement to Southwark Crown Court

Tuesday 10 December

Following the court's observations on Thursday 5 December, I have taken matters up to the highest level at the Serious Fraud Office and consulted the Attorney-General.

At the commencement of this trial, the Serious Fraud Office was of the view that there was a realistic prospect of conviction in this case and that furthermore, the evidence in this case was strong.

Two things, in particular, have happened which have led to the prospect of conviction deteriorating in this case. The first of those is that Bruce Hall, a conspirator and significant witness for the SFO significantly changed his evidence from that contained in his witness statement.

Secondly, we have the unwillingness of two witnesses to face cross-examination. That impacts both on the fairness of the trial as well as the prospects of conviction.

Since last Thursday, yet further contact has taken place with Akin Gump, the lawyers for Aluminium Bahrain, or "Alba", to secure the attendance of these two American witnesses, Mark MacDougall and Randy Teslik who are both partners in that firm. As you will see from the correspondence, they have attempted to place limits on the extent to which they can be cross-examined. The Serious Fraud Office does not believe it would be appropriate to attempt to persuade the court to agree to such limits nor, given your comments last week, that they should appear via video-link.

The Defence have raised issues questioning Akins Gump's role in the provision of assistance to the Serious Fraud Office both as to what their motives may have been in the dissemination of material and assistance as to witnesses who could provide relevant information, this in the

context, as accepted by the defence, of the Serious Fraud Office acting in good faith. The attendance of the two American witnesses would have allowed this aspect of the case to be ventilated before the jury. Their refusal to attend creates a situation where it is clear that the trial process cannot remedy the position and we accept unfairness now exists for the Defence.

In seeking to secure the attendance of these two witnesses – who have previously attended court on every other occasion when their attendance has been required – the Serious Fraud Office has taken every available step, including a direct telephone conversation between the Director of the Serious Fraud Office and the chair of Akin Gump.

Not every unfairness necessarily leads to trials being discontinued, particularly where there is other evidence and taking into account the public interest in pursuing serious crime. After careful consideration of all of the circumstances of the case the Serious Fraud Office has concluded that there is no longer a realistic prospect of conviction in this case and accordingly we offer no evidence.