

[2019] EWCA Crim 2057
No: 2019 02249 A4
IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Tuesday 12 November 2019

B e f o r e:

LADY JUSTICE NICOLA DAVIES DBE

MR JUSTICE JACOBS

HIS HONOUR JUDGE LODDER QC

R E G I N A

v

KEATON BAULD

Computer Aided Transcript of the Stenograph Notes of Epiq Europe Ltd Lower Ground, 18-22
Furnival Street, London EC4A 1JS Tel No: 020 7404 1400 Email: rcj@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

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Mr Simon Burch appeared on behalf of the **Appellant**

J U D G M E N T
(Draft for approval)

LADY JUSTICE NICOLA DAVIES:

1. On 7 June 2019, in the Crown Court at Stafford, the appellant changed his pleas to ones of guilty and was sentenced as follows:
 - Count 1, burglary, 30 months' imprisonment;
 - Count 2, burglary, 30 months' imprisonment to run concurrently to count 1;
 - Count 3, theft, 15 months' imprisonment to run concurrently to count 1.
 - No evidence was offered in respect of counts 4 and 5.

The 30 months' imprisonment was to run concurrently to an existing sentence of imprisonment being served by the appellant.

2. At the time of the commission of the index offence of burglary (23 January 2018) the appellant had been convicted of one previous domestic burglary for which sentence had been passed on 17 May 2014. Although he committed a further domestic burglary on 19 January 2018, he was not convicted of that offence until 2 March 2018, sentence being imposed on 15 March 2018. The index offence was chronologically the third domestic burglary of which the appellant was convicted, but at the time of its commission he had been convicted of one previous offence in 2014 and was accordingly not subject to the provisions of section 111 of the Powers of Criminal Courts (Sentencing) Act 2000.
3. Leave has been granted by the single judge, who requested confirmation of the halfway points of sentence imposed upon the appellant.
4. Following the sentence in March 2018, the halfway release date was 14 April 2019. The release date became 30 July 2019 following a sentence of 7 months' imprisonment imposed for an offence of affray in October 2018. The sentences imposed at the Stafford Crown Court in June 2019 resulted in a release date of 20 August 2020. The appellant was entitled to 16 days' credit for time spent on remand.
5. The index offences were committed on 23 January 2018. However, it was not until 2019 that the appellant was charged with these offences. It would appear that his involvement became known to the police following investigations at a time when he was a serving prisoner. Counts 1 and 2 relate to domestic burglaries in Tamworth. Count 1 involved the breaking of a lock on a patio door, as a result of which an iPad, a wedding bracelet, two watches, a perfume set, a handbag, sunglasses and a quantity of cash (total value unknown) were stolen. Count 2 involved damage to the front door of the property, which was vacant as the family were out. A set of car keys was stolen from a drawer in the hallway. The car (a Mercedes) was the subject of count 3. It had a value of £28,500. These offences were committed four days after the offence for which he was sentenced in March 2018.
6. The appellant was aged 24 at the date of the June 2019 sentence. He has been the subject of

eleven court appearances for nineteen offences between 2008 and 2018.

7. In sentencing the appellant, the judge accepted that the appropriate categorisation within the Sentencing Council Guideline was Category 2: a starting point of 12 months custody, a range of high level community order to 2 years' custody. The judge indicated that her starting point after trial would be a sentence in the order of 40 months, to which she applied a 15% discount for the guilty pleas. She took account of the principle of totality and (it would appear) some other unidentified mitigation and reduced the sentence to one of 30 months' imprisonment in respect of counts 1 and 2, with a commencement date of 7 June 2019.
8. The appellant submits that insufficient allowance was made for the principle of totality; that the starting point taken by the judge was too high and out of line with the Sentencing Council Guideline.
9. In granting leave, the single judge noted that by imposing the sentence in the manner in which the judge did an effective total custodial term of nearly 5 years after credit for pleas was passed for three dwelling-house burglaries and associated theft of a vehicle. The single judge considered that the overall term imposed in respect of the burglary committed on 19 January 2018 and the two further burglaries committed on 23 January 2018, including the theft of the car from the driveway, is arguably manifestly excessive by reference to the relevant Guideline.
10. We agree. We accept that insufficient allowance was made for the principle of totality in order to reflect an effective custodial term relating to the three burglaries and theft of the car in January 2018. Accordingly, we quash the sentences in respect of counts 1, 2 and 3, and substitute for them a sentence of 12 months' imprisonment on each count to run concurrently with each other and concurrent to the existing sentences of imprisonment. The effective date of the commencement of these sentences is 7 June 2019. To this extent the appeal is allowed.

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

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