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IN THE COURT OF APPEAL

CRIMINAL DIVISION

NEUTRAL CITATION NUMBER: [2021] EWCA Crim 655

CASE NO 201903299/B4

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 16 February 2021

Before:

LORD JUSTICE HOLROYDE
MR JUSTICE LAVENDER
MRS JUSTICE ELLENBOGEN DBE

REGINA
V
JOSHUA BECKFORD

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NON-COUNSEL APPLICATION

J U D G M E N T

MR JUSTICE LAVENDER: This is a renewed application for leave to appeal against the sentence of nine years' imprisonment imposed on the applicant on 24 July 2019 in the Crown Court at Harrow, following his conviction on 24 June 2019 on one count of conspiracy to rob, contrary to section 1(1) of the Criminal Law Act 1977, the single judge having granted a short extension of time but having refused leave to appeal.

We gratefully adopt the single judge's summary of the offence and of the sentencing process. He said as follows:

> "3. The applicant's conviction arose out of an incident on 11 June 2017 when the complainant was robbed in his flat by four males including, on the prosecution case, the applicant's co-defendant, Beckford. The applicant was also present in the flat. The robbery included not only the theft of money and valuables, but also gratuitous violence against the complainant including having a kettle of boiling water poured over his face (albeit the applicant and his co-defendant played no part in this infliction of grievous bodily harm). The learned judge said:
>
> > 'I don't sentence either of you on the basis that you were responsible for that pouring of the boiling water. However, and this is important, I note that you both continued carrying out the robbery after you had observed Mr Abayomi having had his flesh burned.'
>
> 4. In his sentencing remarks, the learned judge stated:
>
> > 'You, Ms James, were the architect of this mean plot and you, Mr Beckford, recruited the other people and you were one of the masked intruders yourself. Both category A, which has a suggested starting point after trial of eight years, with a range up to 10 years. In my view the nature of this offence and the evidence I heard at trial means the starting point is at the very top of that range of 10 years. There is little to choose from you in terms of your roles.'
>
> 5. The learned judge presided over the trial, he heard the evidence, and he was in the best position to assess the relative culpability of the defendants. In my judgment, the sentence of 10 years before reduction for mitigation was wholly appropriate. In sentencing the applicant, the learned judge said:
>
> > 'You, Mr Beckford, as I say, on licence with bad antecedents. You are currently serving a sentence for drugs offences. It is urged upon me that

> the sentence I pass today not be consecutive because that sentence is soon to expire, but your personal mitigation is that in the time you have been in custody I have read the letters from the prison staff, namely the deputy governor, or most importantly the deputy governor, and it seems you are making a real effort to put your life back on track and I also note that prior to this offence you were the victim of an extremely nasty stabbing in which you were injured but it hardly stopped you going on to commit this dreadful offence. So because of the personal mitigation I feel able in both of your cases to claw back from what I have taken as the starting point of 10 years' imprisonment in both your cases.'"

There are two proposed grounds of appeal. The applicant relies, first on, the judge's error in saying that the applicant was on licence when he was not and, secondly, on the alleged disparity between the applicant's sentence and the sentence of eight years' imprisonment imposed on the applicant's fellow conspirator, Xinia James.

We have carefully considered all of the documents and considered afresh the merits of the proposed grounds of appeal, but we have come to the clear conclusion that the proposed grounds of appeal have no prospects of success for the reasons given by the single judge in the passage we have cited and further in paragraphs 6 and 7 of his reasons:

> "6. It is suggested that the learned judge erred in saying that the applicant was on licence. That may be true, but he was on bail, having been arrested on 16 March 2017 for possession of heroin with intent to supply, for which he was sent to prison for 4 years on 9 February 2018. In fact, mercifully, the learned judge did not order (as he could have done) the sentence for the offence of conspiracy to rob only to start once the sentence for possessing heroin with intent had been completed, but it started from the date of sentence. It is not reasonably arguable that the approach of the judge would or should have been any different had he not made that error.
>
> 7. The applicant's record was significantly worse than that of Ms James and her mitigation was significantly stronger as she had a very young child. In my judgment it is not reasonably arguable that the sentence of 9 years' imprisonment was manifestly excessive by comparison to the sentence for Ms James and leave to appeal is refused."

We add only this. In so far as it is alleged that Miss James' culpability was greater than that of

the applicant, the judge had presided over their trial and was well-placed to assess their respective culpability. His assessment (which we have already quoted) that they both played a leading role and that there was little to choose between them is one which cannot be impugned in this court. For those reasons we refuse this application.

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

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