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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202200484/A3

[2022] EWCA Crim 1158



Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 28 July 2022

Before:

LADY JUSTICE CARR DBE
MR JUSTICE FRASER
THE RECORDER OF LEEDS
HIS HONOUR JUDGE KEARL QC
(Sitting as a Judge of the CACD)

REGINA
V
RAVINDER SONI

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MR M WOLKIND QC appeared on behalf of the Applicant

J U D G M E N T

LADY JUSTICE CARR:

Introduction

1. This is a renewed application for leave to appeal against sentence for which a 29-day extension is required. Following his earlier guilty pleas, the applicant, now 31 years of age, was sentenced by Her Honour Judge Buckingham sitting in the Crown Court at Birmingham on 27 January 2022 to an extended determinate sentence of 13 years, pursuant to section 279 of the Sentencing Act 2020, comprising a custodial term of eight years and an extended licence period of five years. The sentence was imposed for causing grievous bodily harm with intent, contrary to section 18 of the Offences Against the Person Act 1861 (count 1). Concurrent sentences were passed on additional offences as follows: inflicting grievous bodily harm, contrary to section 20 of the Offences Against the Person Act 1861, two years' imprisonment (count 3); assault occasioning actual bodily harm, contrary to section 47 of the Offences Against the Person Act 1861, 12 months' imprisonment (count 5); having an offensive weapon, contrary to section 1(1) of the Prevention of Crime Act 1953, 12 months' imprisonment (count 6).

The facts

2. On 7 May 2021 the applicant and his brother Ajay Soni ("Ajay") had been in the Floodgate Bar in Digbeth, Birmingham. They drank significant amounts of alcohol. Covid-19 restrictions were in operation, meaning that they had to use a mobile telephone application to order drinks whilst seated. The applicant provided false details.
3. During the evening a dispute arose between the two brothers and security staff including Nizar Minsaria ("Minsaria"), David Monterio ("Monterio") and Nicholas Williams ("Williams"). At some point the mobile telephone belonging to one of the two brothers came into possession of the security staff and there ensued a verbal altercation, during the course of which Williams was punched to the face. Police attended and the applicant, Ajay and a third unidentified male left the bar. CCTV footage shows that the applicant had sustained a bleeding injury to his head.
4. At some point between 10.50pm and 11.30pm Ajay obtained an Audi estate car in which he collected the applicant. The men then drove to the Floodgate Bar area. They had by now armed themselves with baseball bats or similar. CCTV cameras captured the vehicle driving up and down the road, evidently scouting for the security staff. When Minsaria had finished work, he waited to meet his family. He saw the applicant and Ajay in the Audi and, seeking to protect his family, ran away from them down the road. The Audi drove towards and struck Minsaria at speed. The applicant and Ajay exited the Audi and assaulted him with baseball bats as he lay injured on the ground. Other doormen, including Monterio and Williams, ran to Minsaria's aid. The applicant and Ajay got back into the Audi and drove towards them. Williams pushed Minsaria towards a wall, only then to be struck himself by the Audi. The Audi then struck Monterio, who was flung onto the bonnet before hitting the ground.
5. Monterio declined to go to hospital but was badly bruised all over his body. Williams suffered a twisted ankle. Minsaria was treated at hospital and found to have significant bruising, a broken right hand requiring surgery and a fractured left ankle. He also required stitches to his scalp.

6. Ajay and the applicant drove away at speed. The Audi collided with another vehicle in the vicinity of the Belgrade Middleway. The applicant checked with the female driver of that vehicle to see if she was all right before he and Ajay fled the scene.
7. In the aftermath Minsaria realised that his security badge, watch, ring and mobile telephone were all missing. His security badge was found inside the abandoned Audi. The applicant's DNA recovered from the passenger side airbag led to his arrest. Ajay on the other hand remains at large.
8. In his victim personal statement, Minsaria recorded his difficulties in sleeping and the fact that he was now taking medication for anxiety. Significantly, he was too scared now to return to work as a security guard on the doors. He had ongoing medical appointments, including physiotherapy. He described his life as having been completely changed.
9. The applicant had seven previous convictions for 10 offences spanning between December 2009 and December 2020. Notably, those convictions included convictions for resisting or obstructing a constable, destroying or damaging property, two counts of affray in 2012, and in 2013 a conviction for causing grievous bodily harm with intent. For one of the two affrays he had received a sentence of 11 months' imprisonment. For the most recent offence in 2013 he had received a 12-year custodial sentence. The offending was markedly similar to the index offending: the applicant had lain in wait in a car, again with his brother Ajay. The two men had then attacked the victim with a hammer. The applicant had only been released on licence in 2019.

The sentence

10. The judge reviewed the facts. She placed the offending on count 1 in Category A3 for the purpose of the Sentencing Council Guideline on Assault ("the Guideline") and indicated that she would treat that offending as the lead offence in determining the overall appropriate sentence. She referred to the applicant's character references, the fact that he had obtained employment whilst on licence and formed a settled relationship. She would afford a 25% credit for guilty plea.
11. She referred to the applicant's temper as being the cause of this latest offending, alongside what she described as "the toxic relationship" between him and his brother. On the night in question the applicant had been seeking revenge. It was pure luck that no one had been more seriously injured. Whilst it was unjust to impose a life sentence, she was entirely satisfied that the applicant posed a significant risk of causing serious harm from the commission of further specified offences. In those circumstances she imposed an extended sentence, as we have indicated, with a custodial period of eight years and a five-year licence period.

Grounds of appeal

12. Mr Wolkind QC, who did not represent the applicant below, makes the overarching submission that the judge adopted a starting point on the lead offence (count 1) that was excessive. A term of 10 years and eight months before 25% credit for guilty plea was more than double the suggested starting point in the Guideline for Category A3

offending. In his submission, consistent with the submission of his predecessor, a nine-year term before credit for guilty plea would have marked adequately the presence of the additional counts of offending in counts 3, 5 and 6, and the gravity of the case overall. There was the extended five-year licence period, the maximum period, to be taken into account. Whilst clearly a serious case, Mr Wolkind contends is that the ultimate term arrived at “feels too high” and “was too high”.

Discussion

13. This was a series of premeditated attacks on security staff at night using a car as a weapon and including a violent and brutal assault with a baseball bat on a victim lying on the ground. The CCTV footage which captures much of the events in question makes for shocking and harrowing viewing.
14. There is and can be no complaint as to the categorisation of the offending on count 1 as Category A3 offending. Culpability was high because there was significant premeditation. A vehicle was used as a weapon, the victim was also hit with baseball bats in a persistent attack and this was a revenge attack. Harm caused fell into Category 3.
15. A Category A3 offence has a starting point of five years' custody with a category range of four to seven years. However, the Guideline says in terms that multiple features of culpability can justify an increase from the starting point even before other aggravating and mitigating factors are considered. The offence here was aggravated further by the fact of the applicant's previous conviction for the same offence, also committed with Ajay, and an earlier serious affray. In addition, Minsaria had been working as a security guard, the applicant was under the influence of alcohol and on licence. The CCTV footage confirms that bystanders on the night in question were understandably terrified.
16. The sentence had to reflect the applicant's overall criminality, including the attacks on two separate victims, again using a vehicle as a weapon. There was only limited personal mitigation. The judge took an overall term of 10 years and eight months' imprisonment before discounting it by 25% to reflect the applicant's guilty plea. We do not consider that that term, considering all of the applicant's offending, was arguably manifestly excessive. A sentence outside the category range for the single offence on count 1 was more than justified, given all the significant features of the offending. Indeed, Mr Wolkind fairly accepted that an ultimate sentence well outside the category range was justified, as reflected in the submission that a term of nine years before credit for guilty plea would have been justified. In our judgment, the total sentence was unarguably proportionate to the overall offending.
17. It follows that we agree with the single judge that there is no arguable merit in an appeal. In the absence of any merit in an appeal and any good reason for the delay, that reason apparently being a change of legal team, we decline to grant the necessary extension of time. For these reasons, this renewed application is refused.

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