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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2021/04038/A3
[2022] EWCA Crim 931



Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 22nd June 2022

B e f o r e :

LADY JUSTICE THIRLWALL DBE

MR JUSTICE FRASER

MR JUSTICE BOURNE

R E G I N A

- v -

TAYLOR ROWLAND

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Mr G Doig appeared on behalf of the Appellant

J U D G M E N T

Section 1 of the Sexual Offences (Amendment) Act 1992 applies in this case. No matter relating to any complainants shall be included in any publication during their lifetimes if it is likely to lead members of the public to identify them as the persons against whom offences were committed. Reporting restrictions therefore apply in this case.

Wednesday 22nd June 2022

LADY JUSTICE THIRLWALL: I shall ask Mr Justice Fraser to give the judgment of the court.

MR JUSTICE FRASER:

1. The parties are reminded that the provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of the offences. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. These restrictions remain in force in this case and the name of the victim is therefore anonymised in this judgment. Reporting restrictions apply in this case.

2. This is an appeal against sentence brought with the leave of the single judge. The appellant has been represented before us today by Mr Doig, for whose succinct and realistic submissions we are grateful.

3. On 11th November 2021 in the Crown Court at Newcastle upon Tyne the appellant was sentenced by His Honour Judge Earl on eight counts of rape. The sentencing judge had the benefit of both a pre-sentence report and a psychiatric report. The appellant had pleaded guilty on 9th August 2021. He was sentenced to five years' imprisonment on count 1, to four years' imprisonment on each of counts 2, 3 and 4, to six years' imprisonment on each of counts 5 and 6, and to ten years' imprisonment on count 8. All of those sentences were ordered to run concurrently with each other. On count 7 he was sentenced to 12 years and eight months' imprisonment. That term was ordered to run consecutively to the sentence on count 1. The overall sentence was therefore one of 17 years and eight months' imprisonment. The sentences on counts 1, 2 and 3 were lower because when they were committed the appellant was himself about 16 years of age, and therefore a young offender. He was also made subject to a restraining order and the relevant notification requirements under the Sexual Offences Act 2003 for life. Some of the counts of rape related to multiple offending (for example, count 5) and to oral rapes. Some were vaginal rape.

4. All of the offences of rape relate to the same victim, to whom we shall refer as "B". The appellant was one year older than B and they met at school. B was aged 14 when they started to go out together. Within about a year the appellant had started to abuse her sexually by unwanted sexual contact and activity. He started to rape her when she was about 15, and this behaviour continued for the eight years that they were together. During the period before they lived together, he would rape her when they were at his father's house. After a time they moved in together, and his offending continued.

5. Counts 1 to 3 on the indictment charged offences that were committed between the years 2008 and 2009, when B was below the age of 16. Counts 4 to 8 were all from the year 2008 onwards up to 2015, when the relationship came to an end. As we have observed, some counts were specific incident counts and some were multiple counts.

6. The pattern of offending was as follows. The appellant was controlling and abusive to the victim and he would often commence sexual intercourse with her while she was asleep. When she woke up and did not consent, he would continue anyway. At other times he would ask for sex and when she refused, he would rape her. Over time the rapes became violent. If she struggled or physically resisted, he would punch her, overcome her and then rape her afterwards. Once, when she was sitting on the stairs and refused sex, he kicked her in the face and then raped her. Rape became a fact of life for her, including when she was pregnant with

their child. He would blame her for resisting and, as with many abusive relationships, he would sometimes be nice to her but would then revert to his criminal and shocking behaviour and blame her for being “bad”. He refused her permission to see her family and he cut her off from her friends. Even consensual sex between them became violent over time.

7. We wish to make it absolutely clear that nothing we say in this judgment in any way seeks to diminish the appalling and dreadful effect this offending has had on the victim who luckily broke away from the appellant, and has set out on a new course in her life without him.

8. The offending came to light because B was contacted by Social Services as part of an investigation into the appellant's history with his former partners. She bravely explained fully to Miss Smith, the social worker who interviewed her, what had happened to her over the years that she was with the appellant. Miss Smith contacted the police and the matter proceeded from there. Miss Smith was rightly commended by the sentencing judge.

9. The appellant was interviewed and made full admissions. He also told the authorities about other incidents that the victim had not herself reported, including one rape at the end of their time together when he had wanted what he called "break-up sex". B refused to this and so he raped her. This was count 8 on the indictment.

10. There are five grounds of appeal. They are as follows:

1. The judge failed to apply appropriately the sentencing guideline in respect of sentencing offenders with mental disorders.

2. The judge failed to apply appropriately the sentencing guideline in respect of sentencing children and young people.

3. The judge failed to apply appropriately the sentencing guideline in respect of totality.

4. The judge failed to take sufficient account of the particular and unusual circumstances of this case including, but not limited to, the nature of the appellant's co-operation with the police and the results of that co-operation, in that additional charges were laid against him to which he pleaded guilty.

5. The judge ultimately imposed a term of imprisonment for the offending that was manifestly excessive.

11. Essentially the four prior grounds all go to ground 5. They all come to the same point, which is that, although there is nothing in the categorisation of the offending that is itself wrong in principle, and although each component sentence for each count is in itself unobjectionable, given the type and nature of the appellant's offending, the end result of a sentence of 17 years and eight months is simply too long for an offender who has pleaded guilty, made full admissions immediately, and taking into account that offender's own youth at the time, immaturity and untreated mental problems.

12. In essence, therefore, this can be seen as an appeal grounded in the principle of totality. That point is effectively accepted by Mr Doig on behalf of the appellant.

13. The appellant had been diagnosed with a personality disorder. That disorder was not only untreated, but the psychiatric report shows that it directly impacted upon his sexual offending. His offending started when he was about 16 years old. That does not mean that the effect upon

the victim would have been any less, of course, and we do not consider for a moment that it would have been. Indeed, she was only 15 years old herself when her boyfriend began to rape her with regularity. However, the sentencing guidelines on the sentencing of children and young persons requires an adjustment to be made for the age of the offender. Similarly, the guidelines on sentencing offenders with mental disorders and the guideline on totality require relevant adjustments to be made to take account of individual circumstances, particularly where there are a number of different offences, and even where these have been committed over a lengthy period of time.

14. The third important factor, in our judgment, is that of the appellant's full and frank admissions at the beginning of the investigation, together with volunteering extra information to the police about his offending. By doing this, not only did he demonstrate actual remorse, but this meant that his victim B knew that he accepted his behaviour, and also would have known that she would not have to give evidence in a contested trial.

15. This was, undoubtedly, a difficult sentencing exercise. The judge carefully considered and assessed the different features when arriving at the different categorisation of the offences to arrive at the relevant sentences on each count. The impact of the offending upon the victim was considerable. We have read her two victim impact statements with considerable care. It is impossible not to be affected by her experiences, which she explains have had a terrible effect upon her. We are also impressed with her fortitude, determined as she is now to move on from what must have been a dreadful and lengthy episode in her life. She bravely volunteered information when contacted by the Social Services. Providing her evidence must have been very difficult.

16. We are, however, of the view that the structuring of the sentences, with the two longest sentences of each group being ordered to be served consecutively, has resulted in an overall term that, while it may have been justified after a contested trial, is in the circumstances of full admissions, the age of the appellant at the time of the offending, the untreated personality disorder and his early guilty pleas, a sentence that is manifestly excessive.

17. In the particular circumstances of this tragic case, we are of the view that the resulting sentence does not correctly reflect the culpability of the offender, who was also immature himself when his offending started. He was between the ages of 16 and 23 for all of the criminal conduct in the different counts of the indictment, and he offended throughout the whole of this period. The overall sentence for this period of offending must, to some extent, in our judgment, be properly discounted for his age and immaturity. We wish to re-emphasise that this conclusion on our part does not, in any way, seek to diminish the impact of the offending upon B herself.

18. In those circumstances we quash the order of the court below that the sentences for count 1 and count 7 be served consecutively to one another. We have carefully considered how the different sentences should be structured, given that there can be no proper objection to any one of the single sentences passed by the sentencing judge when each sentence is considered in isolation. It is purely to reflect totality that we have decided to restructure these sentences.

19. We are of the view that the correct way to approach the sentence in this case is not to interfere with any of the individual sentences, but to order that the sentences are all to run concurrently with one another. That gives an overall total of 12 years and eight months' imprisonment, governed by the longest sentence on one of the counts passed by the sentencing judge. All the other orders remain undisturbed.

20. We turn, therefore, to the period of time the appellant must serve prior to release on licence.

The position at the time of sentence was governed by the Release of Prisoners (Alteration of Relevant Proportion of Sentence) Order 2020. The effect of articles 3 and 4 of that order was to order that for sentences of seven years or more passed on or after 1st April 2020 for offences listed in Schedule 15 to the 2003 Act, a prisoner must serve two-thirds of their sentence before being considered by the Parole Board for release. Rape is such an offence, and this is such a sentence.

21. The appellant will, therefore, serve a period of two-thirds of that sentence in custody before being eligible for release.

22. All the other associated ancillary orders remain undisturbed.

23. To that extent this appeal against sentence succeeds.

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

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