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[2024] EWCA Crim 1475

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT NORWICH

HIS HONOUR JUDGE PUGH CP No: 36CJ1615123

CASE NOS 202403157/A5 & 202403158/A5

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday, 21 November 2024

Before:

LORD JUSTICE WILLIAM DAVIS  
MR JUSTICE HILLIARD  
HIS HONOUR JUDGE LEONARD KC  
(Sitting as a Judge of the CACD)

REX  
V  
GRAMA ZORILA  
ANA IOSIF

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Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE  
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MR A KAPADIA appeared on behalf of the Applicants

**J U D G M E N T**

1. MR JUSTICE HILLIARD: On 8 May 2024, in the Crown Court at Norwich, Grama Zorila, now aged 31, and Ana Iosif, now aged 28, pleaded guilty on re-arraignment to one count of conspiracy to steal. On 22 August 2024, they were each sentenced to 23 months' imprisonment. Their applications for leave to appeal against sentence have been referred to the full court by the Registrar.
2. The applicants were part of a group of thieves who stole large quantities of goods from shops. They travelled to different parts of the country to carry out the thefts. When they were arrested, they gave addresses in London but the offences were committed in Cambridge, Bury St. Edmonds, Thetford and Kings Lynn.
3. On Tuesday 30 May 2023, the police were notified about a group of people and a vehicle believed to have been involved in a high value theft from Boots in Kings Lynn. CCTV in the town centre identified a Ford Mondeo as of interest and further enquiries established that it was travelling in convoy with a silver Volkswagen Passat. Both vehicles were circulated as wanted. The Volkswagen was seen parked in a lay-by on the A10 by police officers. Five women, including Miss Zorila, were standing by it. There was a large quantity of cosmetics in the rear passenger footwell of the car and more cosmetics and clothing with the price tags still attached were found in the boot. The women were arrested on suspicion of theft.
4. At around the same time, the Ford Mondeo was seen travelling south on the A10. It was stopped by the police. It was being driven by Ana Iosif. She was arrested. Four women got out of the vehicle and walked away.
5. Police investigations identified thefts which had been committed by the group on various days in May 2023. On 8 May, a group of women and one man went into Sainsbury's in Cambridge, filled bags with cosmetics and left the store without paying. On 18 May, a

number of women went into Sainsbury's in Thetford and stole £3,800 worth of cosmetics. Staff had challenged them but the women made off. On 26 May, a group of women went into Boots in Bury St. Edmonds. They filled their bags with £5,000 worth of cosmetics and left the store without paying. On 30 May, at 3.00 pm a group of women went into TK Maxx in Kings Lynn. They stole clothing to the value of £333.62. These items were later recovered from the Volkswagen Passat. At 4.00 pm, a group of women went into Next. They stole about £4,000 worth of cosmetics. At 4.20 pm, a group of women went into Sainsbury's. They stole property valued at £4,389.89, mostly cosmetics. At about 5.10 pm, a group of women went into Boots. They stole £4,000 worth of beauty products. Over the four identified days the prosecution said that £28,000 worth of property had been stolen.

6. Miss Zorila put in a basis of plea in which she accepted involvement in thefts on three days totalling £23,589. Miss Iosif's basis of plea accepted her involvement in thefts from shops on two days totalling £14,700.
7. The prosecution said that their involvement in particular thefts was not the end of the matter because on usual principles, their involvement in the conspiracy indicated that they had joined an enterprise which went beyond their own particular involvement.
8. Miss Zorila is a Romanian national. She had convictions for theft in Spain (one offence) and in Germany (four offences) between 2012 and 2018. She had a conviction here in 2018 for theft of £922 worth of perfume from Oxford Street.
9. Miss Iosif was also born in Romania. She had four convictions for theft in this country between 2012 and 2017. She had been sent to custody for four weeks for theft in 2017.
10. The judge had a pre-sentence report for each offender. Miss Zorila told the report writer that she stole property because she had no income and hoped to sell the items to pay for

rent and food. She did not accept that she had been involved in planned offending. That was obviously untrue. She had three children aged four, three and two who stayed with her uncle whilst she committed the offences. Her husband had gone back to live in Romania. She now lived with a partner in a private rental flat in London. She said that her children could be looked after by her partner and her sister if she was sent to prison. If the court felt able to impose a community penalty, an order with a rehabilitation activity requirement and a trail monitoring requirement was proposed.

11. Miss Iosif's report noted that she lived in private rental accommodation with her husband and three children. She had come to the United Kingdom when she was two years old. She was in receipt of universal credit. She said that she did not know that others were stealing. That was also untrue. If the court concluded that she could be sentenced within the community, she was suitable for a rehabilitation activity requirement and unpaid work.
12. When he passed sentence, the judge said that he sentenced the applicants on the basis of a conspiracy to steal carried out by an organised crime group which went beyond the six people named in the indictment and on the basis that each applicant was aware of the nature and scale of the stealing and was prepared to lend herself to the enterprise as and when required. He said that this had not been challenged by the defence.
13. The judge referred to the sentencing guidelines for offences of theft from a shop or store. He said that there was high culpability because of the sophisticated nature of the offending and significant planning. The volume of property stolen indicated that there had to be a chain and a sophisticated way of selling the property on. Harm would be in Category 1 because high value goods had been stolen, above £1,000 as specified by the guideline. A Category 1A offence has a starting point of 26 weeks' custody and a range

of 12 weeks to three years' custody. The judge said that the guideline provides that where the value greatly exceeds £1,000 it may be appropriate to move outside the identified range, in other words in excess of three years. The judge said that if he had regard to the general theft guideline, again there would be high culpability and Category 2 harm because the value of property stolen was between £10,000 and £100,000. A Category 2A offence has a starting point of two years' custody and a range of 12 months to three-and-a-half years' custody. The judge said that the appropriate starting point in this case would be one of two years' imprisonment.

14. Turning to Miss Zorila, the judge referred to her previous convictions. He said that she had pleaded guilty ten months after the plea and trial preparation hearing. He would allow credit of 15 to 20 per cent. He said that she had three young children and a husband who was a hotel manager. He said that after a trial her offence would have merited a term of 28 months' imprisonment. He reduced the sentence to 23 months because of her plea of guilty. The judge said that the impact upon the children was a factor in favour of suspending the sentence. It was also said that there was a prospect of rehabilitation. However, the judge said that appropriate punishment could only be achieved by a sentence of immediate imprisonment.

15. In Miss Iosif's case the judge noted her previous convictions for theft. She had also pleaded guilty ten months after the plea and trial preparation hearing and would receive credit of between 15 to 20 per cent. Again he took a figure of 28 months in her case before allowing credit for the plea. He concluded in her case too that immediate imprisonment was the only appropriate sentence for her offence.

16. It is now argued for the applicants that although their cases crossed the custody threshold, a shorter sentence would have been appropriate, that culpability was not in the highest

category and that the sentence should have been suspended, principally because there would be a significant harmful impact upon the young children. We have been informed that Miss Zorila's children are being looked after by their father and by an aunt. Miss Iosif's children are being looked after by her husband and his mother. We have given these submissions careful consideration.

17. The judge applied the sentencing guidelines for theft from shops. He took an increased starting point of two years' imprisonment because of the value of the goods stolen and because of the implications of the conspiracy offence which he spelled out. In our judgment, for the reasons he gave, the judge was entitled to put this case into Category A culpability. The figure he took was well within the applicable category range. The judge had regard by analogy to the figures for loss used to categorise harm in the general theft guideline. We can find no fault with the starting point taken by the judge or with the adjustments he made for the previous convictions and for the pleas of guilty. This was a significant conspiracy to steal with a number of people taking part and targeting shops in a particular area to which they had then travelled. The offending was carefully organised and must also have included arrangements to dispose of the goods afterwards so as to realise their gain. Shops cannot function in the ordinary way if offenders simply help themselves to large quantities of goods which are put out on display for the convenience of honest shoppers.

18. The judge then applied the guideline for the imposition of community and custodial sentences. He evidently had regard to the factors which must be weighed when considering whether it is possible to suspend a custodial sentence. He had particularly in mind the prospects for rehabilitation and the position of children who would be without their mothers and who would have to be cared for by others. He was aware of the

arrangements that would be made for them. They have in the event proved satisfactory and Children's Services are no longer involved with them. In the end, he concluded that appropriate punishment could only be achieved by immediate custody. In our judgment he was entitled to take that view because of the evident seriousness of this conspiracy to steal. It is clear that when the offences were being committed and whilst the applicants have been in custody the children have been cared for by others. The culpability involved in the offending and the level of harm which resulted were in combination a sufficient basis for the judge's conclusion. The contrary is not arguable. These applications for permission to appeal are accordingly refused.

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