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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

ON APPEAL FROM THE CROWN COURT AT LEICESTER
(HIS HONOUR JUDGE DEAN KC) [T20190607]

[2024] EWCA Crim 1528
Case No 2023/02899/B1

Thursday 28 November 2024

B e f o r e:

LADY JUSTICE WHIPPLE DBE

MR JUSTICE BENNATHAN

SIR NIGEL DAVIS

R E X

- v -

TONY BARRY SEDGEWICK

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Non-Counsel Application

J U D G M E N T

Thursday 28 November 2024

LADY JUSTICE WHIPPLE:

1. On 27 May 2020, in the Crown Court at Leicester, the applicant pleaded guilty to four counts of making indecent photographs of children, contrary to section 1(1)(a) of the Protection Act 1978 (counts 1 to 4). He was sentenced by His Honour Judge Dean KC to a 12 month community order, with an electronically monitored curfew between 8 pm and 8 am for a period of three months, together with various ancillary orders. He was represented under a representation order by solicitors and counsel.

2. The applicant now renews his application for an extension of time (1,154 days) in which to apply for leave to appeal against conviction following a refusal by the single judge.

3. The matters came to light as a result of the applicant contacting the police. He had sent a hard drive to a third party for repair. A dispute had arisen, which the police viewed as a civil debt. However, the third party informed the police that whilst repairing the hard drive he had seen images of young girls, who he believed were under the age of 16. The third party handed the hard drive to the police. An initial triage revealed category C images.

4. On 19 December 2018, the police conducted a search of the applicant's address. They seized three other devices (a USB stick, a computer and a mobile phone). The applicant was arrested and interviewed. He stated that all that he had downloaded was legal.

5. An analysis of the four seized devices revealed a total of 1,269 category C images. All were of females. Around 44 per cent of them appeared to be under the age of 13, and the remainder were under the age of 18. There were no movies and no images of girls under the age of 5. The images of the phone were in a downloads folder. On one USB stick and the hard

drive the images were in the recycle bin.

6. The plea and trial preparation hearing on 25 November 2019 was adjourned, because the applicant did not attend due to illness. A trial was at that stage anticipated because the applicant was arguing that his human rights were being infringed and that he had not acted unlawfully.

7. The PTPH was listed again on 9 December 2019, but on that date was adjourned also in order to enable the defence to obtain a report into the legality of the images. A trial was still anticipated.

8. On 3 February 2020, the PTPH was yet again adjourned.

9. The PTPH eventually took place on 10 February 2020. The applicant entered not guilty pleas on all counts and the matter was listed for trial on 26 May 2020. No Defence Case Statement was ever served, but the applicant indicated that he sought a trial on the basis that when he downloaded these images, he had no idea that anyone would regard them as indecent. However, on 31 March 2020 a hearing took place at which guilty pleas were indicated. They were entered formally on 27 May 2020, on which date the applicant was sentenced.

10. The applicant now renews his application for leave to appeal against his conviction. His original grounds were set out in his own Grounds Form dated 17 August 2023. With the support of an organisation called Leicester Human Rights Group – a body about which this court has little information and which body appears to be closely associated with the applicant – he submitted further grounds of appeal by letter dated 23 October 2023. His grounds range widely and are summarised in the Criminal Appeal Office Summary, which the applicant has seen. The original grounds converge on complaints:

1. That there was corruption by Leicester Police; and
2. That he was inadequately represented in the Crown Court.

11. His further grounds raise these complaints in addition:

3. That he was pressured into pleading guilty; and
4. That evidence was illegally withheld by the police.

12. The overarching point of challenge is that his rights under the European Convention on Human Rights have been infringed, and that he is innocent of the charges to which he pleaded guilty.

13. In view of the criticisms of the applicant's representation below, the Registrar of Criminal Appeals initiated the waiver procedure. The response from the applicant's solicitors is contained in a letter dated 5 December 2023. His solicitors state that the applicant pleaded guilty of his own free will. Further, they note that the applicant admitted downloading these images and said in interview that he had a sexual interest in the images and used them for sexual purposes. The solicitors say that he was advised that his own belief that the images were not indecent was irrelevant; further, that his complaint about police corruption was irrelevant in light of the admissions that he had made during his police interview. Counsel's response is contained in a document dated 8 February 2024. His counsel states that no undue pressure was put on the applicant to plead guilty. It is noted that the applicant initially pleaded not guilty and that counsel and the legal team were ready to represent him at trial, but that the applicant changed his instructions at a later date of his own volition and the guilty pleas were entered.

14. By a letter dated 28 February 2024, the applicant has responded to these documents and has provided various attachments in support of his response.

15. The single judge refused leave to appeal on 19 July 2024, following which the applicant applied to renew. He submitted two more documents to the Criminal Appeals Office: a letter dated 13 September 2024 and a letter dated 30 September 2024 which attached a further letter dated 2 October 2024. These various letters provided further detail of the complaints which had already been set out at some length in writing.

16. The Court has a great deal of material setting out the applicant's complaints. By email to the Criminal Appeal Office the applicant sought leave to address the Court in person but we refused that application, given that the applicant has no right to address this court on renewal and that his arguments are clear from the extensive papers we have before us.

17. It is in our judgment clear that the applicant entered his guilty pleas voluntarily. He was not under any pressure to do so. His legal team were ready to defend him at trial. The change of heart was his own and for his own reasons. He was not inadequately represented; nor was he pressurised into pleading guilty. His assertions to the contrary lack substance.

18. There are only very limited circumstances in which a conviction, following a guilty plea, can be appealed. Three categories were identified in *R v Tredget* [2022] EWCA Crim 108.

19. The first is where the guilty plea is vitiated by erroneous legal advice. We have dealt with that. The advice which the appellant was given was sound. He was invited to consider pleading guilty, which was entirely a proper invitation; his subsequent decision to plead guilty was his own.

20. The second category is where there is an abuse of process. That cannot apply here. The applicant had downloaded these images to his own devices. There was an obvious case for him to answer. Vague allegations of police corruption do not alter that and given that the applicant had admitted the essentials of the charges he was facing, at least in police interview, those allegations are irrelevant.

21. The third category is that the individual has not committed any offence. That does not apply here either. His view, expressed in his appeal papers, that he did not consider these to be indecent images encounter two obstacles. The first is that that is not what he had said in police interview where he had accepted using these images for sexual gratification. The second is that his own view is irrelevant to the issue of whether the images were indecent. The contrary view was reached by his own legal team considered some of these images to be indecent, and so advised him. The prosecution and the police were satisfied that these were indecent images and were the basis of the case that was brought against him. His guilty pleas were an acceptance of that case. There is no basis to argue, at this stage, that the images were not indecent after all.

22. We turn to other points. The suggestions of missing evidence are vague and unsubstantiated. They are hard to understand in the face of the applicant's own admission of the key elements of this offending.

23. We see no arguable breach of his Convention rights.

24. In summary, we have no reason to doubt the safety of this conviction.

25. In agreement with the single judge, we refuse this renewed application for leave to appeal

against conviction. No purpose would be served in extending time. But we note the enormously long extension that is sought and the lack of good reason for it, and we refuse that application also.

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

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