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IN THE COURT OF APPEAL  
CRIMINAL DIVISION



Case No. 202202924 B2

Neutral Citation Number: [2024] EWCA Crim 212

Royal Courts of Justice

Thursday, 18 January 2024

Before:

LORD JUSTICE POPPLEWELL  
MR JUSTICE CHOUDHURY  
HER HONOUR JUDGE ANGELA RAFFERTY KC

REX  
V  
ARTIG MWAMI MAWEJA EMMANNUEL

**REPORTING RESTRICTIONS APPLY:  
THE 1992 SEXUAL OFFENCES ACT**

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No Representations

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**APPROVED JUDGMENT**

(Transcript prepared using poor quality audio recording)

MR JUSTICE CHOUDHURY:

*The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Accordingly, no matter relating to the complainants shall, during their lifetime, be included in any publication if it is likely to lead members of the public to identify them as being the victim of these offences. This prohibition applies unless waived or lifted in accordance with s.3 of the Act.*

- 1 On 21 September 2022, in the Crown Court at Oxford before HHJ Daly, the applicant, then aged 24, was convicted of five offences of sexual assault. On 21 October 2022, the applicant was sentenced to 8 weeks' imprisonment consecutive for each of the five counts of sexual assault, a further 8 weeks' consecutive for another count of sexual assault on a different indictment and 2 weeks concurrent for another count of sexual assault. The total sentence was 48 weeks' imprisonment.
- 2 The applicant seeks to renew his application for leave to appeal against conviction, leave having been refused by the single judge.
- 3 The background is as follows. In the early evening of 10 November 2020, four women who were out in the Wantage Road area of Didcot when they were unexpectedly approached by a person described as a black male, approximately 6 feet tall, who slapped or grabbed their bottoms.
- 4 On 12 November 2020, another woman complained that, whilst walking home from work in the Broadway, Didcot, her bottom was grabbed by a black male who asked if she wanted a kiss. He was described as being 6 feet tall and wearing a blue hoodie.

- 5 Following the various reports of sexual assault, police commenced patrolling the area on 13 November 2020. The applicant was observed wearing similar clothing and matching the description of the person responsible and was arrested.
- 6 On 15 November 2020, the applicant attended the police station; he confessed that he was guilty of the offences. He subsequently sought to retract that confession, stating that he only made it in order to protect his family from unwanted attention.
- 7 There was CCTV evidence placing the applicant in the vicinity before or immediately after the assaults had taken place. The applicant accepted that in many parts of the CCTV the image was of him but explained that he was simply out walking.
- 8 The complainants gave evidence, the details of which are contained in the Criminal Appeal Office Summary and are not repeated here. Clothing from the complainants was examined and found to contain no DNA from the applicant. The results of that examination are contained in a report prepared by Suzanne Winter of Cellmark Forensic Services (“the DNA Report”). Evidence as to the content of the DNA report was given at trial. The applicant denied the offences in police interview.
- 9 The issue for the jury at trial was whether they could be sure that the applicant was the person responsible for the assaults. By a majority of 11 to 1, the applicant was convicted.
- 10 He seeks leave to appeal against that conviction. He contends that the conviction is unsafe, principally because the DNA report was not placed before the jury. He also contends that the CCTV evidence did not show him committing any of the offences, that identification

procedure was not conducted and that he was at a disadvantage at trial because he was unrepresented.

11 In refusing leave, the single judge said as follows:

“The applicant is right that there is no DNA evidence against him, that there was no identification evidence against him and that the CCTV does not show him committing any offence. However, the CCTV evidence did show that he was in close proximity to each of the complainants shortly before or after each complainant says that she was sexually assaulted. If he is innocent, that is a remarkable coincidence. Although there was no DNA evidence, and the jury was reminded of that in summing-up, there was evidence that the lack of DNA material was not inconsistent with the complainants’ accounts. There was no identification evidence because the offender was masked. There was a sufficient circumstantial case against the applicant. His convictions are not arguably unsafe.”

12 Having reviewed the matter afresh, we agree entirely with the single judge that the applicant’s convictions are not arguably unsafe. The fact that there was no DNA evidence was made absolutely clear to the jury during the judge’s summing-up. Indeed, it was, at the applicant’s request, the final piece of evidence of which they were reminded before retiring to deliberate. The fact that they were not shown the actual report of the DNA findings would not assist them. Such evidence is rarely presented directly to the jury, but is the subject of live evidence, as it was in this case. That evidence was fairly summed-up by the judge.

13 For these reasons, leave to appeal is refused.

**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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Approved by Mr Justice Choudhury