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IN THE COURT OF APPEAL  
CRIMINAL DIVISION



CASE NOS 202300374/B2 & 202203527/B2  
[2024] EWCA Crim 471

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday, 18 April 2024

Before:

LORD JUSTICE WARBY  
MRS JUSTICE MCGOWAN DBE  
HER HONOUR JUDGE KARU  
THE RECORDER OF SOUTHWARK  
(Sitting as a Judge of the CACD)

REX  
V  
SIMON DAVIES

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Computer Aided Transcript of Epiq Europe Ltd,  
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NON-COUNSEL APPLICATION

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**J U D G M E N T**  
(Approved)

LORD JUSTICE WARBY:

1. This is a non-counsel matter to which the anonymity provisions of the Sexual Offences (Amendment) Act 1992 apply. 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 that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.
2. This judgment has therefore been anonymised so far as the complainant is concerned. It is not necessary or appropriate to anonymise the applicant who is Simon Davies.
3. On 30 May 2022, after a trial in the Crown Court at Aylesbury, he was convicted of four counts of sexual activity with a child, contrary to section 9(1) of the Sexual Offences Act 2003. He was aged 34 at that time.
4. On 4 November 2023 the applicant was sentenced by the trial judge, His Honour Judge Payne, to an extended sentence of 14 years, comprising a custodial term of 12 years and an extended licence period of two years. That was the sentence on each count to run concurrently. The applicant had pleaded guilty to an offence of sexual communication with a child, contrary to section 15A of the 2003 Act but no separate penalty was imposed in respect of that.
5. The applicant sought leave to appeal against conviction for which he needed an extension of time. The single judge refused both applications. Both are now renewed. The applicant also made an in-time application for leave to appeal against sentence. That application is also renewed after refusal by the single judge.
6. This week the applicant applied for leave to appear before us at this hearing. We saw no

good reason to take the exceptional course of granting leave. The two applications can fairly be dealt with on the papers provided. These include voluminous written representations from the applicant acting in person, all of which have been read by the court, as well as written grounds provided by his then legal representatives at an earlier stage.

7. The essential facts of the case are set out in the Criminal Appeal Office summary and familiar to those concerned with the case. They do not need detailed repetition here. It is enough to say that the applicant contacted the complainant via Instagram when she was aged 15. He persuaded her to send him photos of herself and then inveigled her into meeting and having sexual intercourse with him on two separate occasions. She in due course went to the police. When questioned the applicant denied the allegations against him and he pleaded not guilty. His case at trial was that the two had met but there had been no sexual activity of any kind. That account was rejected by the jury.
8. The applicant has made clear in the course of his representations that he does not now dispute that he did what was alleged against him. His grounds of appeal against conviction fall into two categories. First, it is said that he had mental health difficulties such that he was not fit to stand trial or, if he was, his statements in interview were inadmissible against him and/or he had a defence of insanity or some other answer to the charges based on his mental health. On that aspect of the case the applicant is critical of his legal representatives and his medical witnesses. He also seeks to adduce fresh evidence from his mother and another witness. Secondly, and in addition, it is said that the judge was wrong to admit bad character evidence in the form of a single previous conviction.
9. The application for leave to appeal was 217 days out of time. The reasons given by the

applicant for that delay are that he was incorrectly advised by his lawyer that it was not possible to appeal. He also submits that he found out that he could appeal only by reading an appeals booklet belonging to a cell mate. He says he was also in a poor state mentally, having panic attacks and was suicidal.

10. The single judge concluded that these reasons could not justify a delay on the scale of this one in seeking to pursue an appeal. We agree. It is not credible that the applicant was advised in the way that he says he was, nor could that and the other matters taken together provide a justification.
11. The single judge went on nonetheless to consider the merits of the grounds of appeal, concluding that there was no arguable substance to them. We agree with that too. There is no foundation for the criticisms made of the applicant's legal team. There was and is no evidence capable of supporting a case that he was unfit to be tried or that he lacked criminal responsibility or that he was unfairly dealt with in interview. The judge was clearly right to admit the previous conviction. Having done so the judge dealt with it very fairly. There is no basis on which to question the safety of the applicant's conviction.
12. As to sentence, a single ground of appeal was formulated by counsel for the applicant. This was that in assessing whether the applicant's mental and personality disorders reduced his culpability, the judge failed to have sufficient regard to the psychiatric and psychological evidence and thus failed properly to apply the Sentencing Council Guideline. That is not arguable. The sentencing judge found as a fact that the applicant's behaviour was cunning and planned and principally the product of choices made by the applicant and not a result of his being unwell. The judge had presided over the trial, read the documents relevant to this issue and he was entitled to evaluate matters as he did.

13. The sentence is not open to criticism on any other basis. The custodial portion was plainly consistent with the sentencing guideline given that there were a number of counts in total. The finding of dangerousness and the imposition of an extended licence period were both open to the judge on the facts and on the basis of the reports before him.

14. For all those reasons these renewed applications are refused.

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

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