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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2023/01492/A5



Neutral Citation Number: [2024] EWCA Crim 495

Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 3rd May 2024

B e f o r e:

LORD JUSTICE LEWIS

MR JUSTICE GOSS

HER HONOUR JUDGE MONTGOMERY KC
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E X

- v -

JONATHAN ORIBA

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Miss K Mulhern appeared on behalf of the Applicant

J U D G M E N T

Friday 3rd May 2024

LORD JUSTICE LEWIS:

1. On 28th November 2019, in the Crown Court at Southampton, having been convicted following a trial, the applicant was sentenced to 18 years' imprisonment for an offence of conspiracy to rob. The applicant now renews his application for an extension of time (1225 days) in which to apply for leave to appeal against sentence following refusal by the single judge.

2. The facts may be stated shortly. The conspiracy to rob involved several co-conspirators, including the applicant. It involved a very serious and well planned robbery of a jewellery shop in Bournemouth. The applicant was significantly involved in the planning. He hired vehicles which, on two occasions, he and other conspirators used to transfer mopeds to an address in Bournemouth which were to be used for the robbery. He hired another car and drove to Bournemouth to carry out a reconnaissance.

3. On the day of the robbery, the applicant and others drove from London to Bournemouth. Four men carried out the robbery. They wore helmets and face masks. One of the mopeds was driven through the glass door of the shop, deliberately creating terror. One of the robbers remained outside the shop and threatened the security guard with a sword. Another threatened to spray members of the public with ammonia. Two of the robbers entered the shop. They smashed display cabinets and stole jewellery and watches worth about £620,000. The applicant was parked a short distance away. The sentencing judge, who conducted the trial, found that the applicant had been unable to take part in the raid himself that day as he had injured his leg in a road accident a few days earlier.

4. The judge said that this was a professionally planned, commercial robbery. He found that

the applicant's culpability, along with that of other conspirators, was high. He found that the applicant played a "leading role" in a group activity. The conspiracy involved the use of very significant force and the production of a sword. The harm was category 1, because very high value goods were targeted and obtained, and there was a serious detrimental effect on the business. In those circumstances the starting point under the relevant Sentencing Council guidelines was 16 years' custody. The aggravating factors included the applicant's convictions. He has 21 convictions, including three for burglary. The judge considered that the appropriate sentence was 18 years' imprisonment. As the applicant had not pleaded guilty, there could be no reduction for an early guilty plea. In the case of a number of the other co-conspirators whose culpability was also high, the appropriate sentence after trial would have been 18 years' imprisonment. But because they had pleaded guilty, their sentences were reduced by one third to 12 years' imprisonment.

5. In her written and oral submissions, Miss Mulhern, on behalf of the applicant, submits that the sentence was manifestly excessive and that the judge was wrong to treat the applicant as having played a leading role and in placing his offending within category 1A of the sentencing guidelines. Further, she submitted that the judge did not take sufficiently into account the applicant's mitigation. In particular, he lived near Grenfell Towers. All in London will be familiar with the tragedy which occurred on 14th June 2017, when that building was engulfed in fire. The applicant had to be relocated. He had a friend who sadly had died in the fire that engulfed the building. We note that these offences occurred in March 2019 – 21 months after that fire.

6. In our judgment, the judge was perfectly entitled to place this offending into category 1A and to form the view that the applicant had played a leading role in the whole conspiracy. He was entitled to take the view that the applicant was not just a driver, but had been heavily involved in the planning and preparation. The judge had presided over the trial and had heard

the evidence. He was entitled to conclude, as he did, that the applicant and several others were (as he put it) "the driving force of the conspiracy". There would also have had to have been an upward adjustment from the starting point because of the applicant's previous convictions. The judge took into account the applicant's personal mitigation but said that it could not have a very great bearing on the outcome of the case. There was no error in the judge's approach. The sentence was not manifestly excessive. We therefore refuse the renewed application for leave to appeal.

7. In those circumstances there is no purpose in granting the extension of time for appealing, Had we been minded to do so, we would have needed far more details about the precise chronology and the precise reasons as to why it is that 1225 days passed before the renewed application was made. However, in the circumstances, as we consider that there is no merit in the renewed application for leave to appeal, no further detail is necessary.

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