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IN THE COURT OF APPEAL

CRIMINAL DIVISION

Case No: 2023/02149/A2

NCN:[2024] EWCA Crim 555



Royal Courts of Justice

The Strand

London

WC2A 2LL

Thursday 11<sup>th</sup> April 2024

**B e f o r e:**

**LORD JUSTICE SINGH**

**MR JUSTICE HOLGATE**

**THE RECORDER OF SOUTHWARK**

**(Her Honour Judge Karu)**

**(Sitting as a Judge of the Court of Appeal Criminal Division)**

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**R E X**

**- v -**

**ADAM CHARLES HARE**

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Non Counsel Application

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

Thursday 11<sup>th</sup> April 2024

**LORD JUSTICE SINGH:** I shall ask Mr Justice Holgate to give the judgment of the court.

**MR JUSTICE HOLGATE:**

1. On 4<sup>th</sup> July 2019, following a trial in the Crown Court at Northampton before Her Honour Judge Lucking KC and a jury, the applicant was convicted of: two offences of assault by beating, contrary to section 39 of the Criminal Justice Act 1988 (counts 1 and 2); damaging property, contrary to section 1 of the Criminal Damage Act 1971 (count 3); inflicting grievous bodily harm, contrary to section 20 of the Offences against the Person Act 1861 (count 4); and making a threat to kill, contrary to section 16 of the 1861 Act (count 5).

2. On 12<sup>th</sup> August 2019, he was sentenced on count 5 to an extended sentence of nine years, comprising a custodial term of 4 years and an extended licence period of 5 years, and on count 4, to a concurrent extended sentence of five years, comprising a custodial term of 4 years and an extended licence period of one year. He was also sentenced to concurrent determinate sentences of three months' imprisonment on each of counts 1 and 2 and one month's imprisonment on count 3. Accordingly the total sentence was an extended sentence of nine years, comprising a custodial term of four years and an extended licence period of five years.

3. The applicant now renews his application for an extension of time of 1,388 days in which to apply for leave to appeal against sentence, following refusal by the single judge.

4. The applicant started a relationship with the complainant, Sasha Wellington, in late 2017. They moved in together in January 2018. Their relationship later broke down and on 4<sup>th</sup>

February 2019 the applicant pleaded guilty in the Magistrates' Court to assaulting the complainant. She attended the hearing but did not have to give evidence. She waited for the applicant as they had some business to discuss. He told her that he had nowhere to stay. She said that she did not want him to staying at her property, but she was frightened and eventually agreed that he could stay.

**Count 1:**

5. On 7<sup>th</sup> February 2019 the applicant turned up at the complainant's house in an intoxicated state. She told him that she did not want him there. The applicant pushed her and grabbed her around the upper chest and neck with both hands. She managed to get away from him, but he followed her into the kitchen and "backhanded" her. This was a blow with the back of his hand across the body towards the head. She put her hands up to her face and he knocked the acrylic nail off a finger. She ran out of the house and begged him not to be there when she returned. He then grabbed her hair and pulled her back. She shouted "Get off". Eventually, she was able to leave.

**Count 2:**

6. On 8<sup>th</sup> February 2019 the complainant went to work and when she returned the applicant was still in her home. He was intoxicated. She attempted to calm the situation and suggested that they went to the gym. Afterwards they went to a local supermarket. The applicant asked to use the complainant's telephone in order to make a call. As they approached the store entrance he began to scroll through her telephone. She asked for it back. He became angry and aggressive. He shouted at her and pushed her with an open hand, causing her to fall on to a bench. The incident was captured on CCTV. The applicant shouted threats at other people. A security guard intervened, allowing the complainant to run to her car and drive home.

**Count 3:**

7. Approximately 10 to 15 minutes after the complainant arrived home, the applicant turned up. She begged him to go. He punched his way through the double glazed pane in the front door and then started to squeeze through the opening.

**Counts 4 and 5:**

8. Having gained entry, the applicant punched the complainant in the ribs and in the head several times until she collapsed to the floor. He then lifted her up. She was screaming. She felt her ribs break and told him so. He held her by the neck over the worktop and punched her to the ribs again until she fell to the floor. He shouted that he would kill her. She was also kicked between the legs during the assault. She realised that something was missing from the knife block but did not see a knife in the applicant's hand. He put the complainant's telephone in the sink and ran the tap so that she could not call for help. He also took her cardigan off, which was covered in blood, and put it in the water in the sink. Eventually he left. A neighbour came round and called an ambulance.

9. The complainant was taken to hospital. She was found to have sustained fractures to ribs 8 and 9 on the left-hand side that required pain relief, and a small left-sided pneumothorax (collapsed lung), which was minimal and could be observed. A CT scan suggested a possible small injury to the spleen. She was given oxygen therapy and pain relief. Ultrasound suggested a small haematoma, but that did not require any treatment.

10. The applicant had three convictions for three offences between 2011 and 2019. These were offences of driving with excess alcohol, criminal damage and battery. He was fined on each occasion. He had not previously received a custodial sentence. He also had a caution for assault occasioning actual bodily harm in 2008.

11. The author of the pre-sentence report stated that the applicant poses a high risk of

causing serious physical injury and also psychological harm to Miss Wellington and to the public by way of future partners. This is linked to the applicant's high level of controlling and coercive behaviour in a relationship. A custodial sentence was necessary to address these risks and to protect the public. In the opinion of the author, the applicant qualified as a dangerous offender.

12. In her victim personal statements Miss Wellington explained that the applicant's conduct had caused her to lose her independence, confidence, self-esteem and friends. She had suffered pain and was publicly humiliated by the applicant. The applicant had taken over and had controlled her in her own home. As a result, she had become hypervigilant .

13. The judge based her sentencing remarks on the relevant definitive guidelines. Count 1 was a sustained assault, targeting a vulnerable victim, falling within category 1. It was committed in the victim's home and followed an earlier assault upon her. Count 2 also fell within category 1, because the victim feared serious injury and she was vulnerable. A custodial sentence was justified for count 3, because the applicant had carried out deliberate damage in pursuit of the victim, causing her to be terrified.

14. Count 4 was a category 1 section 20 offence. It was a sustained assault, with a significant degree of premeditation. Similar aggravating features applied as before. In addition, although not the cause of the actual injury, a shod foot was used in the attack, and the applicant took steps to prevent the victim from reporting the incident by soaking her phone in water. Count 5 was a category 1A section 16 offence, with a starting point of four years' custody, within a range of two to seven years. The judge explained that the imposition of concurrent sentences on counts 1 to 4 was an aggravating factor but she had taken the totality principle into account.

15. The judge said that it was obvious from his evidence that the applicant had no remorse whatsoever. She referred to the jury's shock at his attitude towards his partner. It was clear from the pre-sentence report that the applicant's inability to control his difficulty with emotional distress was deeply engrained. It was very difficult to tell when he would be able to overcome these issues. The judge went on to explain carefully why she considered him to be dangerous and why a determinate sentence would be inadequate to protect the public.

16. We are grateful to the applicant for his carefully articulated, proposed grounds of appeal. He has made his points perfectly clear.

17. We have also fully considered the submissions that the applicant has subsequently sent to the court, including his letter to the Criminal Appeal Office of 17<sup>th</sup> February 2024. In summary, he advances two proposed grounds of appeal: first, that the judge erred in finding that he was dangerous; and secondly, that the overall sentence was manifestly excessive.

18. Much of ground 1 involves a series of criticisms of the pre-sentence report – in particular, the information upon which the author relied and its claimed inadmissibility.

19. Whatever the author of the pre-sentence report had said, ultimately the decision on whether to find the applicant dangerous, and, if so, whether to impose extended sentences, was a matter of judgment for the sentencing judge. This court will not interfere with that judgment, unless it was wrong in principle or a conclusion to which no judge could reasonably come. Here the sentencing judge was also the trial judge. She had an ample opportunity to assess the applicant for herself. She did just that. The judge's conclusions did not depend upon the opinions of the author of the pre-sentence report. It is therefore unnecessary for us to consider each of the applicant's criticisms of that report. In saying that, we do not imply that there is any merit in any of those criticisms. But the key point is that in

our judgment the judge's conclusions are not arguably open to challenge in this court. There was ample admissible evidence before the judge to justify her conclusions. In addition, we add that there was no need for a psychiatric report to be obtained.

20. In ground 2, in essence the applicant criticises the overall length of the extended sentences on counts 4 and 5, including the licence period, as being manifestly excessive in relation to the relevant category ranges in the guidelines for offences under sections 16 and 20 of the 1861 Act. That complaint is misconceived for the reasons explained by this court in *R v Terry* [2013] 1 Cr App R (S) 51. The extended licence period is not to be equated with a term of imprisonment for the purposes of applying the sentencing guidelines. Instead, that licence period has been imposed in order to enhance the protection provided to the public in view of the risk which the judge found the applicant poses. This court has stated that there is nothing wrong in principle if the aggregate of the custodial term and the extended licence period exceeds the relevant category range in the sentencing guidelines.

21. In our judgment, the custodial term of four years could not arguably be criticised as excessive, let alone manifestly excessive. It was amply justified. We see no basis upon which it could be argued that the extended licence period was manifestly excessive.

22. We also agree with the reasons which were given by the single judge when she refused the application for leave to appeal.

23. For all these reasons we conclude that the proposed grounds of appeal prepared by the applicant are unarguable, and for that reason we refuse to extend time. The outcome is that the applications for an extension of time and for leave to appeal against sentence are refused.

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

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