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IN THE COURT OF APPEAL  
CRIMINAL DIVISION



CASE NO 202303477/A5

[2024] EWCA Crim 706

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday 7 June 2024

Before:

LORD JUSTICE STUART-SMITH

MR JUSTICE BRYAN

HIS HONOUR JUDGE CONRAD KC  
(Sitting as a Judge of the CACD)

REX

V

SAM COLEMAN

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NON-COUNSEL APPLICATION

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

MR JUSTICE BRYAN:

1. Following guilty pleas on 11 July 2023, the second day of trial, in the Crown Court at Kingston-upon-Thames (Her Honour Judge Coello), the applicant (then aged 33) was sentenced by HHJ Coello on 24 August 2023 in respect of a conspiracy to supply Class A drug (cocaine) Count 1; a conspiracy to transfer criminal property associated with that drug dealing (Count 2); a conspiracy to possess prohibited weapons (Count 5); a conspiracy to possess associated ammunition (Count 6); possession of cocaine with intent to supply (Count 9) (relating to street supply), and possession of criminal property in relation to that (Count 10).
2. The conspiracy to supply cocaine (Count 1) and the conspiracy to supply prohibited weapons were taken as the lead offences, with sentences passed on those counts to reflect the totality of the associated drug and prohibited weapons and ammunition offending respectively. On Count 1, the judge passed a sentence of 13 years' imprisonment and on Count 5 a sentence of 8 years' imprisonment consecutive, a total sentence of 21 years' imprisonment, with concurrent sentences on Count 2 of 6 years' imprisonment, on Count 6 of 21 months' imprisonment and on Count 9 of 7 years' imprisonment, and on Count 10 of 27 months' imprisonment.
3. The applicant renews his application for an extension of time of 9 days in which to apply for leave to appeal against sentence, and for leave to appeal against sentence on the basis that the sentences passed were manifestly excessive, following refusal by the single judge.

4. Turning to the facts. Between March and June 2020, the applicant was involved in conspiracies to supply kilogram quantities of cocaine, transfer criminal property, possess prohibited weapons and possess ammunition. He also pleaded guilty to offences of possessing a controlled drug of Class A with intent (street dealing) and possession of associated criminal property committed in 2021.
  
5. The applicant's offending came to light following the disruption of the EncroChat network, which was used by criminals to communicate through encrypted mobile handsets. The applicant used the EncroChat handle "LousyBrandy". Messages sent by LousyBrandy showed that the applicant was involved in the onward supply of kilogram quantities of cocaine. The applicant would obtain the drugs from the EncroChat handle "BurlyLily". The applicant then facilitated the drugs onward supply via another EncroChat handle named "GreenFingers".
  
6. There was evidence that the applicant was also operating his own cocaine supply line. Over the indictment period, the applicant was involved in the supply of 26 kilograms of cocaine. He also transferred criminal property, namely the proceeds of his and others' drug dealing. The amount involved was just under £1 million.
  
7. Messages were also exchanged in relation to firearms. Various weapons were offered for supply including Glock self-loading pistols, Colt self-loading pistols, sound moderators, shotguns, a Skorpion machine gun, a TEC-9 and AK-47 assault rifle. It is clear that the conspiracy related to multiple weapons of multiple types with associated ammunition and all for use in relation to criminal activity namely the applicant's and

others' drug dealing.

8. By way of example only, on 29 March 2020, BurlyLily informed the applicant that he had discovered the identity of someone who had robbed him and needed a gun as soon as possible. BurlyLily told the applicant he had someone coming from Belgium but he did not know when he would arrive. The applicant asked BurlyLily to get him a gun as well. The applicant contacted GreenFingers to see if he had access to "tools". GreenFingers replied that there were some available in Manchester. The applicant asked if he could send someone to collect a firearm and told BurlyLily that he might be able to acquire a gun from Manchester for him. GreenFingers told the applicant that he would check whether a Glock with 100 rounds and a silencer were still available. The applicant then asked him to get some 9mm rounds.
9. Other communications followed in relation to the acquisition of further guns and ammunition. The applicant said he definitely needed a gun, as he had a Glock 17 but wanted another one. On 7 April, BurlyLily asked the applicant whether he could still obtain the Glocks from Manchester. The applicant replied he was working on the transport. BurlyLily said he would buy one today. Further discussions were had on 14 April as to what firearms were available. The applicant told BurlyLily the Tec-9 was available for £12,000. BurlyLily asked for a picture and said he might purchase two. The applicant confirmed that the Tec-9 resembled an Uzi and that two rounds were included in the price. He also said that an AK-47 was available for £14,000 and was also located in Manchester. The applicant also told BurlyLily he could get him a brand new Skorpion with "PP" ammunition and a silencer. BurlyLily wanted to be sent

pictures of the weapons. Further conversations in the same vein about guns and ammunition followed. It is clear that such communications related to a number of prohibited weapons.

10. On 23 February 2021, police arrested the applicant at his home address. Inside the property was a white envelope containing £2,720, another envelope with £2,900, a black holdall with £32,010 inside and £1,615 in a chest of drawers. Next to the applicant's bed was a large knife, a drug testing kit, an iPhone and a Rolex watch. Inside his Nissan truck was an iPhone, a memory stick and eight wraps of cocaine. In his police interview the applicant gave a prepared statement denying any involvement in the supply of drugs or firearms and attributed the cash, found to be at home, to his work in construction. He then answered "no comment" to all questions.

11. The applicant's mobile telephone was analysed. There were a number of photographs on it showing cannabis, a large carrier bag of cash, cash on a bed, a picture of kilogram blocks of cocaine and boxes containing kilogram blocks of cocaine. Messages on the telephone also showed supply of relatively low quantities of cocaine consistent with street-level supply.

12. The applicant had one previous conviction for possession of a controlled drug of Class B with intent in 2010.

13. The applicant submits that the sentences passed on Counts 1, 5 and 9 were manifestly excessive for the following reasons:

- (1) the applicant should have been placed within *significant role* for Count 1 not a *leading role*;
- (2) the applicant did not receive any credit for pleading guilty on Count 5;
- (3) the sentence on Count 9 was outside the Guidelines;
- (4) the judge was in error when she said that the applicant had a money counting machine and drivers working for him;
- (5) it was wrong for the sentence to be increased by a year for the use of an EncroChat device.

14. There is, upon examination, nothing in any of the grounds and the total sentence passed was not arguably manifestly excessive.

15. The applicant clearly performed a *leading role* in the cocaine conspiracy, the subject matter of Counts 1 and 2, being involved in, at a high level, a sophisticated and large-scale enterprise to distribute and supply wholesale kilo blocks of cocaine between March and June 2020 dealing, together with others, in cocaine on a commercial scale with the aid of an EncroChat mobile phone. The applicant was someone whose role involved the controlling of a distribution and supply of cocaine to others, working with others, and with the means and the contacts to consolidate and enforce his position in the conspiracy through access to prohibited weapons which could only have been intended to be used by those who were connected to the applicant, and by the applicant himself for criminal purposes, namely the drugs dealing operation.

16. The applicant's *leading role* in the drugs conspiracy, the subject matter of Count 1

together with the associated conspiracy to transfer criminal property, associated with that drug dealing in of itself could have justified a sentence in excess of 20 years' imprisonment after adjustment for mitigation and a 10 per cent credit for guilty pleas as rightly noted by the single judge.

17. Equally, the conspiracy to possess prohibited weapons (Count 5) and conspiracy to possess ammunition (Count 6), contrary to the applicant's submissions, clearly involved multiple prohibited weapons of the most lethal kind and associated ammunition to facilitate their use for lethal purposes in the context of high-level drug dealing. That justified a sentence at the maximum for a single such offence of 10 years' imprisonment. That was then adjusted down to reflect the applicant's guilty plea in mitigation to a sentence of 8 years' imprisonment, which was not arguably manifestly excessive in respect of the totality of the applicant's firearms offending and was a just and proportionate sentence in respect of the same.

18. The judge was entitled to pass the sentence she did in relation to Count 9 (which also took into account the applicant's associate offending in relation to Count 10) and such concurrent sentences (in relation to Counts 1 and 5) in reality had little, if any, impact on the sentence passed in respect of Count 1.

19. The points the applicant makes in relation to a money counting machine and drivers, even if correct, can have had no effect on the overall sentence in respect of Count 1. The use of an EncroChat phone was rightly considered to be a serious aggravating factor, its very purpose being to further the applicant's illegal activity, and thwart law enforcement in

relation thereto.

20. The judge had express and careful regard to totality and made a very substantial reduction from the sentence to be passed on Count 1 to arrive at a sentence of 13 years' imprisonment on Count 1 and an overall sentence of 21 years' imprisonment to reflect the totality of the applicant's offending. In this regard the judge was correct to pass consecutive sentences in respect of the drugs and firearms offending, the latter being distinct serious offending to be sentenced as such. The learned judge also had express and careful regard to the applicant's relevant mitigation including his guilty pleas, remorse and conduct on remand. The total sentence passed was not arguably manifestly excessive and indeed was just and proportionate in relation to the totality of the applicant's offending.

21. Accordingly, the applicant's application for an extension of time and associated application 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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