



Neutral Citation Number: [2024] EWCA Crim 789

Case No: 2023/02611 B1

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)  
ON APPEAL**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 10 July 2024

**Before:**  
**LADY JUSTICE MACUR**  
**MR JUSTICE CHOUDHURY**  
**and**  
**MR JUSTICE FREEDMAN**

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**Between:**

**DANIEL WILLS**

**Applicant**

**- and -**

**REX**

**Respondent**

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**The Applicant appeared in person**

Hearing date: 10 July 2024  
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**Approved Judgment**

**This judgment was handed down extempore in Court 5 of the Royal Courts of Justice at 10am on Friday 12 July 2024 and release to the National Archives.**

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## **MR JUSTICE FREEDMAN:**

### **Introduction**

1. The Applicant has applied to the full Court to renew his applications to appeal against conviction, to extend time for so doing and for further evidence. On 10 July 2023, the matter was heard in the absence of the Applicant and in the belief that the Applicant had not attended for the hearing. A judgment was then given.
2. Thereafter, when the Court was informed that the Applicant had made himself known to the Court, the judgment was revoked, and the Court allowed the applicant to be heard to make submissions orally in support of his applications. The Court already had the written grounds of appeal dated 26 July 2023 and 25 September 2023. The Applicant thereafter made oral submissions to which reference will be made below. Having considered those submissions and the case further in the light of those submissions, the Court reserved its judgment. This is the reserved judgment.
3. On 17 March 2022, the Applicant then aged 40, was convicted of assault of an emergency worker (HH Judge J Townsend and jury) in the Crown Court at Taunton. The case concerned an assault on 20 January 2021 upon Crime Scene Investigator Keith Smith (CSI Smith) outside Street Police Station, Somerset. On 16 June 2022, he was sentenced to a community order for a period of 12 months.
4. The effect of the offence was that he was in breach of a 12-month conditional discharge imposed by Somerset Magistrates Court on 30th January 2020. In this regard, the Judge made no further order. A charge of intentional harassment, alarm or distress contrary to section 4(A)(1) and (5) of the Public Order Act 1986 was dismissed.
5. The Applicant was unrepresented at trial and sentence. He renews his application for an extension of time 468 days for leave to appeal against conviction following refusal of the single judge. He also seeks leave pursuant to section 23 of the Criminal Appeal Act 1968 for the Court to order transcripts of proceedings before other jurisdictions and to call witnesses relating to those proceedings.
6. The grounds of appeal were that (1) a community support officer, CSO Cave was not called at trial, (2) the Applicant has been caused distress that contributed to contraventions of his seek of his human rights, and (3) there are matters more directly relevant to the his behaviour on 20 January 2021 and in particular that the attitude of the officers at the Street Police Station added to his distress.

### **The facts**

7. The prosecution case was that on 20 January 2021 the Applicant attended the police station which was closed. He had an exchange with PCSO Elaine Cave which was captured on body worn footage. The video evidence also showed the subsequent involvement of CSI Smith. The initial conversation between CSI Smith and the Applicant was calm but the Applicant became increasingly frustrated with the

situation. At one stage, the Applicant pushed CSI Smith against his throat. The Applicant was arrested and interviewed. It was not disputed that the Applicant pushed CSI Smith. The issue for the jury was whether the Applicant acted in lawful self-defence when he did so.

8. On the day in question, the Applicant gave evidence that he had had difficulties including homelessness as well as disputes relating to employment, a car and a tenancy. He told the Court that that he was living at his father's address but did not want to do so. He said that he was very frustrated by the fact that repeated efforts to solve his difficulties had got nowhere. He felt that the police had failed to take sufficient action to investigate his reports to them. In the Applicant's words, the police had been criminally negligent in failing to protect him and his property leading to very great difficulties in his life. He said that on the morning in question he had been disturbed by the arrival of a man at the front door of his father's house. He arrived with a parcel. Things were very difficult. The Applicant admitted that at the police station, he was seeking an investigation into these matters.
9. He said that he saw PCSO Cave and there was an exchange between him and that officer captured on her body worn footage. Some of it was also captured on the footage of CSI Smith who had been loading his van in the car park. CSI Smith said that the conversation between him and the Applicant started calmly with the Applicant asking why the police station was closed. CSI Smith said that there was then some discussion about an eviction that the Applicant mentioned and CSI Smith said to the Applicant that he thought that this was likely to be a civil matter. The Applicant told the Court that the police were in effect saying that it had nothing to do with them. CSI Smith said that he told the Applicant that if he wanted to speak to a police officer, he should go to the hatch phone. The defence said that he had made repeated previous attempts to phone the police which had got nowhere.
10. CSI Smith said that at that time the Applicant became increasingly frustrated and started swearing. There was a discussion about a housing association in Wells, Somerset and that being somewhere to go to if he was homeless. That was captured on the body worn footage. CSI Smith then said, and this was also captured on the CCTV, that the Applicant then approached him and came straight at him and struck him in the throat hard. It was only the fact that he was not standing with his feet together that stopped him from falling over.
11. The Applicant said that he accepted that he did push CSI Smith. He did not know whether it was to the throat or the chest or somewhere around that. CSI Smith then said to the Applicant that if the Applicant came at him again, he would defend himself. He said that he got into a kind of defensive position with one foot behind the other but in fact the Applicant did not reapproach him. That was the end of the physical interaction.
12. Police officers then came out of the police station and the Applicant was arrested. He said that a PAVA spray was used and that he had been caused considerable pain or disability as far as seeing was concerned. He was arrested and then interviewed.
13. The Applicant gave evidence before the jury. He was able to tell the jury in detail about some of the incidents in his life causing him difficulty. He was also able to give his version of events when it came to the allegation of assault. The Applicant spoke

about all the factual matters that he wished the jury to know about. This included his telling the jury why he felt he had been provoked during the incident involving CSI Smith.

14. In evidence, the Applicant accepted pushing CSI Smith but was unsure of precisely where he made contact with CSI Smith. He had attended the police station as he felt that his complaints to the police were not being adequately investigated. He said that the way in which his concerns were dismissed by PCSO Cave and by CSI Smith added to his distress. He said that communication among the emergency workers may have induced his behaviour.

### **Grounds of appeal**

15. We have read carefully the grounds of appeal dated 26 July 2023 and 25 September 2023. It is difficult to make out the precise grounds of appeal, but we have been assisted by the Respondent's Notice. The three grounds identified are as follows.
16. The first ground is that PCSO Cave was not called at trial. She had tested positive for COVID. The Judge indicated that in his view the evidence of PCSO cave was not required. The prosecution confirmed that on the basis that the body worn video of PCSO Cave, it was not necessary for her statement to be adduced. Her statement did not feature in the case as presented to the jury. There was no application on behalf of the Applicant for an adjournment so that the evidence of PCSO cave could be led orally or otherwise admitted before the Court.
17. The second ground of appeal was that the Claimant had been caused distress that contributed to contraventions of his human rights. He sought to appeal "*for specific conditions in housing, driving, consumer rights, welfare, employment, identity, health and safety and humanity.*"
18. The third ground of appeal was that he raised matters more directly relevant to his behaviour on 20 January 2021 and complained that the attitude of the officers on that occasion added to his distress. He had previously suffered mental health difficulties, homelessness, employment issues and disputes concerning his car and tenancy.

### **Witness request**

19. The Applicant wishes that statements be taken from various witnesses because they were present at the scene of earlier events. He gave names of witnesses and in particular in addition to PCSO Cave, he gave the names of Alexandra Stacey, Lara Lea, J Mullin and Katie Moyes. He sought an extension of time for the appeal case on the basis that there were civil cases that were progressing at different stages.
20. It became apparent that whereas an application for fresh evidence in the Court of Appeal is usually accompanied by statements of the relevant witnesses, in the instant case, the applications had been in the expectation either that the Court would rule first that the witnesses attend or that the Court would order that funding be provided for a solicitor to take statements from the witnesses.

21. He also referred to mental health symptoms causing him distress, which were difficult for other people to observe. He referred to an application before the Employment Tribunal and his appeal to the Employment Appeal Tribunal, but it is difficult to discern how these matters provide a defence to the particular assault.

### **The oral hearing**

22. In the oral hearing on 10 July 2024, the Applicant referred to the fact that he was homeless. He said that he had been treated in a dehumanised way and he was very angry. He said that he had thousands and thousands of grounds of appeal. He was asked to focus on what it was about these many matters that was relevant to a defence of self-defence. He may have felt aggrieved or deeply frustrated, but he was asked to explain what it was about all or any of these matters which advanced or were relevant to a defence of self-defence.
23. The matter was encapsulated by the Judge to the facts of this case in his direction as to law to the jury as follows:

*“A person is entitled to use reasonable force to defend themselves from an attack or from the threat of an attack. It is a defence from a physical attack that is important. The fact that a defendant may have a grievance or feel provoked is not enough.”*

24. When asked to focus on any of these matters were relevant to self-defence, the Appellant was unable to provide an answer. Instead, he wished to focus on how badly he believed he had been treated in these other matters and how poorly had been the police response to the same. He believed that it was important to focus on the documents in the other matters without identifying how any of those matters could indicate an attack or a threat of attack outside the police station on the day in question or to a reasonable necessity to use force to defend himself.

### **Discussion**

25. We have considered carefully the material that has been presented by the Applicant to this Court. We shall consider the matter as if the application had been made in time. We shall then consider the application to extend time.
26. Before addressing each of the grounds of appeal, we have considered the way in which the judge conducted the case and conclude without hesitation that he conducted it in a fair manner. The judge allowed the Applicant to put forward relevant background and to explain his frustration at the police about his efforts to solve his difficulties and what he regarded as the failure of the police to take sufficient action to investigate his reports.
27. The Judge identified the issue of self-defence in the case in the words quoted above. This in itself might have been particularly fair, even generous, to the Applicant. He summarised fairly the Applicant’s case. He referred to the body worn footage which

showed that the Applicant had launched forward to the throat of CSI Smith. The only possible defence was that of self-defence. That was properly put by the judge to the jury. He gave a correct direction in respect of self-defence both as regards the elements of the defence and as regards the burden of proof being on the prosecution.

28. Having admitted that evidence and directed the jury as to self-defence, the jury unanimously convicted. There is no reason at all to regard the conviction as anything other than a safe conviction.
29. In respect of the three grounds, they are answered as follows.
30. As regards the first ground, for the reasons set out above there was no reason why the prosecution had to call PCSO Cave, let alone to seek an adjournment for PCSO Cave to appear after her recovery from COVID. The case was proven by reference to the evidence that was adduced including the body worn footage and the evidence of CSI Smith. It did not render the decision unsafe that the case proceeded without the account of PCSO Cave or without her submitting to cross-examination. It was up to the prosecution how it conducted its case, subject to any request by the Applicant that she be called. There was no irregularity in the decision not to call her, and it did not render the conviction unsafe that she was not called.
31. As regards the second ground, any distress that had been caused to the Applicant in respect of human rights matters and his housing, driving, consumer rights, welfare, employment, identity, health and safety and humanity are matters which did not provide an answer to his behaviour on that day. It is difficult to discern how such matters could give rise to a defence of self-defence.
32. If these were matters which had led to a sense of grievance or provocation, that did not fall within the defence of self-defence. Nevertheless, the Judge put the defence to the jury, and the jury was sure that there was no defence of self-defence. There was no other conceivable defence arising out of these matters. If they were relevant at all, it was to background to the offence, and, at best, to mitigation.
33. As regards the third ground, none of the matters raised by the Applicant relevant to his behaviour on 20 January 2021 gave rise to a defence of self-defence. It suffices to say that the jury was entitled to come to the view in all the circumstances that the prosecution had proven its case so that the jury could be sure that there was no defence of self-defence.
34. In all the circumstances we are satisfied that the Applicant had a fair trial. There is nothing in the written documents submitted or in the oral submissions which lead to any prospect of success in an appeal. It is clear that the Applicant is deeply distressed about a whole myriad of issues and that he feels that the responses which he has received have been inadequate. He may have felt frustrated and provoked by these matters, but as the Judge's direction in respect of self-defence made clear, such feelings do not make lawful an attack on an emergency worker. The jury was entitled to come to the decision which it did and to be sure that there was no lawful excuse for the assault on the emergency worker. We therefore conclude that the conviction was safe and that an appeal has no prospect of success and nor there is any other compelling reason to give leave to appeal.

35. There is also no reason to grant the application for further evidence to be adduced. There is no reason to infer that any such evidence would provide any lawful excuse for the assault on CSI Smith. It might say more about his sense of distress and frustration, but there is no prospect that would provide any evidence relevant to the defence of self-defence.
36. As regards the application to extend time, there is no reason to extend time in circumstances where there is no arguable appeal. In any event, the reasons given for the extension of time are inadequate bearing in mind the length of the delay. The fact that the Applicant had been prioritising civil disputes was not a reason for extending time for the appeal. As we have stated, even if the application for leave to appeal had been made in time, it still would have been dismissed.

### **Disposal**

37. Having considered the papers and having heard the Applicant, we do not extend time and we do not admit any further evidence. There are no matters which raise an argument that the conviction was unsafe or that there has been any error of principle nor is there any compelling reason why the matter should go to a full appeal. For these reasons, the application for leave to appeal is dismissed.