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IN THE COURT OF APPEAL
CRIMINAL DIVISION
ON APPEAL FROM THE
CROWN COURT AT WARWICK
HHJ LOCKHART KC T20230022
CASE NO 202401143/A4
NCN: [2024] EWCA Crim 855



Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 4 July 2024

Before:

LORD JUSTICE MALES

MR JUSTICE BRYAN

MRS JUSTICE THORNTON

REX

V

MANDIP SINGH BHANGAL

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MR HDHAMI appeared on behalf of the Applicant.

J U D G M E N T

MRS JUSTICE THORNTON:

Introduction

1. On 7 September 2023, in the Crown Court at Warwick, the Appellant pleaded guilty to racially aggravated harassment, putting another in fear of violence, contrary to section 32(1)(b) of the Crime and Disorder Act 1998. He was subsequently sentenced to 30 months' imprisonment for his offending and a restraining order was made with a duration of 20 years.
2. The restraining order was stated to be made to protect Ian and Maria Starling and their children and prohibited the Appellant from contacting them or their children, directly or indirectly, or to approach their house.
3. The Applicant appealed against the sentence of imprisonment and the duration of the restraining order. Leave was refused by the single judge in relation to the custodial sentence and has not been renewed. Leave was granted in relation to the duration of the restraining order.

Background

4. By way of background facts, in summary, Mr and Mrs Starling lived next door to the Appellant. Between January and April 2021, there were a number of incidents where the Appellant directed abuse and threats towards the Starling family, sufficient for them to fear violence would be used against them.

5. The behaviour included calling them “white racists” and the following abuse:

“Number 6 are racists. You only have to look at him. This is a Sikh close. We need to drive out the white racists. I’m a Sikh warrior. I have a knife, I can pull it out and won’t put it back in until there is blood on it. I’m not afraid to use it. I’ve been in jail before. I’m not afraid to go back. I’m gonna smash windows of the house opposite as well.”

6. The Appellant also walked around outside Mr and Mrs Starling’s house, making allegations about sexual matters involving the family.
7. The Appellant’s offending conduct took place, as said, between January to April 2021. The summary from the Court of Appeal office explains that he was arrested on 20 January 2021 and released on police bail with conditions not to contact the complainants or go near their house, which he then breached by subsequent behaviour. He failed to attend a Magistrates Court hearing in August 2021, returning instead to the United States. He was arrested on his return to the UK and attended Court on 1 June 2023.
8. Mr and Mrs Starling have three children, who were aged 10, 8 and 4 at the time of sentence and who were witness to some of the Appellant’s behaviour.

Sentencing Remarks

9. It is not necessary to rehearse the sentencing judge’s remarks in relation to the term of custody as this is not a ground of appeal before us, save to the extent they throw light on the judge’s decision to impose a restraining order of 20 years. In rehearsing the facts, the judge explained the impact of the offending on Mr and Mrs Starling, saying:

“You have tried to construct, as he said, a false narrative. It caused great distress living in a mixed-race area and with children in a mixed-race school, with the increased sensitivities around culture and race. For him to be labelled a racist would end his career and finish them within the community where they have made their home.”

The judge went on to say that Mr and Mrs Starling felt isolated, intimidated; there were prolonged periods of them retreating into their home because of the Appellant’s conduct. They were nervous when going out of their house, permanently on their guard, due to the erratic nature of the behaviour of the Appellant. Mr Starling found it difficult to allow his children to play out on that cul-de-sac. They have even thought about moving home. The judge went on to say that Mrs Starling spoke in much the same terms: “Their home had become a prison. She has found it difficult to carry on.”

10. The judge considered that the offending amounted to persistent action over a long period. Serious distress was caused to the victims who were caused to make considerable changes to their lifestyle to avoid contact. The judge referred to the observation in the pre-sentence report that the Appellant showed little empathy. Having imposed the custodial sentence, the judge made a restraining order stating as follows:

“I find that you are liable to cause further harassment, alarm or distress to the Starlings. You are not to contact Maria Starling, Ian Starling and the children of their family directly or indirectly. You are not to approach or to step on to any part of the property known as [address omitted], and that is for 20 years.”

Grounds of Appeal

11. The grounds of appeal are that the duration of the restraining order is disproportionate to the period of offending; the time that had elapsed between the offending and sentencing date and the fact that the Appellant had lived next door to the complainant family for approximately 9 months whilst on unconditional bail without incident.

12. Before us, Mr Dhami elaborated on some of those submissions and submitted that the 5-year duration of a restraining order would be the usual and appropriate duration. He emphasised that these offences were of some age by the time of the sentence and were of short duration. The fact there had been no further offending whilst the Appellant was on unconditional bail indicated a change of attitude on his part and further, the offences were committed in unusual circumstances which involved the Appellant caring for his parents.

Discussion and Decision

13. The power to make a restraining order against an offender for the purpose of protecting a victim derives from section 360 of the Sentencing Act. By section 359 of the Act, an order may have effect for a period specified in the order or until further order. The test for imposition of an order is that it is necessary to make the order to protect the victim. The terms of the order should be proportionate to the harm that it is sought to prevent.

14. The sentencing judge did not explain why he imposed a period of 20 years for the duration of the order.

15. We take account of the fact the Appellant did not engage in any further offending conduct from April 2021 prior to his sentence in March 2024, albeit it is apparent he was in the

United States for a considerable period of that time. The pre-sentence report refers to the Appellant taking limited responsibility for his actions. The risk of general offending is said to be low although he is assessed as posing a medium risk of serious harm via verbal abuse and racial harassment to Mr and Mrs Starling. The author of the pre-sentence report does acknowledge there had been no further incidents of reoffending since. We bear in mind the custodial term imposed on the Appellant ought to have focused his mind on the consequences of his offending.

16. In the circumstances, we accept the submission that the imposition of a restraining order for 20 years was excessive. We therefore quash the term of 20 years and substitute a term of 10 years. In doing so, we take account of the need to protect the Starling children as they grow up. We also bear in mind that, pursuant to section 361 of the Sentencing Act, the prosecution or Mr and Mrs Starling may apply to the court for the order to be varied in the event there is evidence that it is necessary to do so.

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

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