



## **PRESS SUMMARY**

**18 May 2022**

**R v Maughan (Appellant) (Northern Ireland)**

**[2022] UKSC 13**

***On appeal from: [2019] NICA 66***

**JUSTICES:** Lord Hodge (Deputy President), Lord Hamblen, Lord Burrows, Sir Declan Morgan, Lord Lloyd-Jones

### **BACKGROUND TO THE APPEAL**

This appeal concerns the discount which convicted criminals in Northern Ireland are entitled to when they are sentenced.

The appellant and his brother violently burgled a house in Newcastle, County Down, and attempted to flee in the householder's car. They were apprehended by the police later that evening and a range of items from the burgled property were recovered. Further enquiries provided compelling evidence including CCTV evidence that in the previous three days the appellant and his brother had committed or attempted to commit burglaries of other properties. Following his arrest, the appellant refused to leave his cell to be interviewed by the police. He did not accept responsibility for the charges that are the subject of this appeal.

The appellant was charged and brought before the Magistrates' Court on 26 July 2016. He pleaded guilty at arraignment on charges of aggravated burglary and stealing, false imprisonment, burglary, attempted burglary and allowing himself to be carried at Downpatrick Crown Court on 14 September 2017. He had given no prior indication of an intention to plead guilty.

The sentencing judge held that the appellant was entitled to a reduced discount to his sentence because he (i) failed to accept responsibility for his offending behaviour at interview or indicate an intention to plead guilty at any stage prior to arraignment and (ii) was caught red handed in respect of some of the offences. The Court of Appeal in Northern Ireland dismissed the appellant's appeal. The appellant now appeals to the Supreme Court.

### **JUDGMENT**

The Supreme Court unanimously dismisses the appeal. Sir Declan Morgan gives the lead judgment, with which the other justices agree.

### **REASONS FOR THE JUDGMENT**

This appeal concerns two sentencing policies: (1) to benefit from the maximum sentencing discount a defendant must indicate their intention to plead guilty at the earliest opportunity, and (2) the

discount where a defendant has been caught red-handed should not generally be as great as those where a viable defence is possible [10].

### (1) Reduction in sentence for a guilty plea

The appellant's principal argument was based on Article 33 of the Criminal Justice (Northern Ireland) Order 1996 (the "1996 Order"), which provides that the court shall take into account the "stage in the proceedings" at which the defendant indicated his intention to plead guilty. The appellant argued that "proceedings" within the meaning of Article 33 did not include any stage prior to arraignment because in the Northern Irish criminal justice system that was the first time the defendant was required to indicate whether they pleaded guilty [27, 41]. An early plea in the Northern Irish system therefore does not provide the same benefits as other systems in which the defendant is required to indicate their plea at an earlier stage, in terms of saving police time and prosecution resources [28]. The appellant argued that the defender's failure to admit wrongdoing prior to arraignment should therefore not be treated as relevant to the sentencing discount [42].

The Supreme Court holds that "proceedings" within the meaning of Article 33 does not include the investigative process prior to charge or the issue of a summons [39, 45-48, 51]. However, Article 33 does not prevent the Court of Appeal in Northern Ireland from developing guidelines for the sentencing discount for a guilty plea based on utilitarian benefits such as administrative resources, inconvenience to witnesses and vindication and relief to victims [27-29, 43-44, 52]. The Court of Appeal in Northern Ireland is therefore entitled to adopt a sentencing policy which treats as relevant to the sentencing discount the failure to admit wrongdoing during interview [43-44]. Such a policy is typical of those applied from time to time in all three United Kingdom jurisdictions over many years [15-26, 49]. In addition to saving time, costs, and promoting the interests of victims and witnesses, early guilty pleas promote public confidence in the justice system [23-24, 49]. In summary, the Court of Appeal in Northern Ireland made no error of law [52].

### (2) Reduction in discount for plea when caught red handed

The Supreme Court explains that a reduction in discount where the offender has been caught red handed has long been recognised as a feature of sentencing practice throughout the United Kingdom [53]. The purpose of the discount is to encourage guilty pleas to obtain the utilitarian benefits of saving time, cost, and providing reassurance for witnesses and victims. However, where the prosecution case is overwhelming, the offender may be left with little realistic choice but to plead guilty. Such an offender might not deserve the same level of encouragement to plead guilty [54-55]. Although in England and Wales and in Scotland sentencing policy has changed in recent years so that full discount for an early plea is now given in cases where the offender has been caught red handed, that does not render unlawful the different policy adopted by the Northern Ireland courts [56].

*References in square brackets are to paragraphs in the judgment*

**NOTE:** This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)