

**Neutral Citation Number: [2018] EWCA Crim 444**

No: 201704359/A3

**IN THE COURT OF APPEAL**  
**CRIMINAL DIVISION**

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Thursday, 15 February 2018

**B e f o r e:**

**LORD JUSTICE GROSS**

**MR JUSTICE SWEENEY**

**HIS HONOUR JUDGE BURBIDGE QC**  
**(Sitting as a Judge of the CACD)**

**R E G I N A**

v

**ADAM PAUL RAMTHOR**

Computer Aided Transcript of the Stenograph Notes of WordWave International Ltd trading as DTI, 165 Street London EC4A 2DY, Tel No: 020 7404 1400 Fax No: 020 7831 8838 (Official Shorthand Writers to the Court)

**Mr J Lamb** appeared on behalf of the **Appellant**

J U D G M E N T (Approved)

If this transcript is to be reported or published, there is a requirement to ensure that no reporting restriction will be breached. This is particularly important in relation to any case involving a sexual offence, where the victim is guaranteed lifetime anonymity (Sexual Offences (Amendment) Act 1992), or where an order has been made in relation to a young person.

1. MR JUSTICE SWEENEY: This an appeal against sentence by leave of the single judge.
2. On 18 August 2017, in the Crown Court at St Albans, the appellant, aged 21, and of previous good character, who had previously pleaded guilty before magistrates to an offence of sexual assault, was sentenced by His Honour Judge Bright QC to 21 months' imprisonment.
3. This is a case to which the provisions of the Sexual Offences (Amendment) Act apply. Nothing may be published in her lifetime which identifies the victim as such.
4. The facts, in short, are these. At the material time the appellant was working in recruitment and had been so doing for some 2 to 3 months - commuting out from London to Hertfordshire late at night in consequence of his employment. On 14 July 2017 he drank a substantial amount of alcohol with work colleagues in a bar in Waterloo, which he left at about 3.00 am to catch a train from Liverpool Street home to Broxbourne. He was plainly the worse for drink.
5. The victim, also aged 21, took the same train and got off at Broxbourne just after 5.00 am. The appellant did not know the victim, but saw her get off the train. He was clearly sexually attracted to her and, as the judge said in passing sentence, decided that he was going to try his luck by having sexual contact with her.
6. The victim, walking home on her own, along a river towpath, was clearly very vulnerable. There was no one else around apart from her and the appellant. She was going in the opposite direction from that which would have taken the appellant home, but he followed her. As she walked down the steps to the towpath he passed her and used the pretence of tying his laces to engineer her walking past him. As she did so he grabbed her skirt, lifted it up, grabbed her bottom and pulled at her knickers. She shouted and screamed and said that she was going to call the police, at which point the appellant ran off. However, far from showing signs of remorse and regret for his behaviour, when he got to the top of the stairs he stopped and gave her a "wanker" sign. That, said the judge in passing sentence, appeared to be an indication of his attitude towards the victim. He had not been acting out of character on the spur of the moment, he was said the judge someone who had no regard at all for his victim, as shown by that sign.
7. The police attended and were given the appellant's description. They sent out a patrol to search for him. He spotted the police and tried to run off. However, they found him hiding in some bushes and he was detained.

8. In interview, the appellant told the police that he had gone for drinks in London with his co-workers, and that when he got off the train at Broxbourne only he and the victim had done so. He had thought that she was attractive but did not have the courage to go and talk to her, rather he thought he would go up to her and do what he did. He had followed her out of the station, he accepted, saw her go to the steps to the tow path, and despite living in the opposite direction had decided to follow her. He said that when he went down to tie his shoe laces he was 100% committed to do what he was about to do. He said that as he ran away from the police he knew that he had messed up and thought he could get away by hiding in a bush. He accepted that what he had done was disgusting and said that he was sorry for his actions.
9. There was a pre-sentence report before the judge, in which the author recorded that the appellant displayed a satisfactory level of victim empathy and was able to acknowledge the longer- term impact of what he had done. He would benefit, the author opined, from further work to improve his victim empathy skills. It was recorded that the appellant accepted a degree of responsibility but minimised his behaviour, due to the alcohol that he had consumed and a claim to the author that his intention was not to sexually assault the victim but rather to speak with her. The author opined that the appellant did not fully acknowledge the sexual motivation for his offending, or indeed the gravity of the situation that he was now in. He had previously had a problem with cocaine, but had been drug free for around 3 months.
10. In the result, the appellant was assessed as posing a low risk of general re-offending, but a high risk of sexual re-offending and a medium risk of serious harm. A 36-month community order with conditions was proposed.
11. A personal statement from the victim was before the judge. In it she set out how she had been attacked on a river bank as she was walking home in the early hours of the morning. She explained that she was otherwise an independent woman, who had travelled on her own to places like Thailand and Indonesia without incident, and to find herself attacked within 250 metres of her home had, she said, changed her life. She explained further, that she had not been able to sleep properly since the attack, or to live her life as she had before. She had often felt anxious. She had sought additional counselling from Victim Support, and felt apprehensive when using the train station and public transport. She explained that she had to have days off work initially after the incident, and had found herself breaking down and crying in public which had never happened to her before. She expressed the hope that with time her confidence would return, and that with the support of her loved ones she would be able to get back to being her normal happy self.
12. In passing sentence the judge rehearsed the facts. He indicated that he had taken into account the victim's statement, and opined that young women walking home alone from stations late at night were vulnerable to attack by lone men like the appellant. The thought of it, said the judge, was frightening for any young woman, and the appellant's behaviour had been utterly inexcusable. What had happened to the victim had been terrifying for her at the time and had had a dramatic effect on her life, which he thought would continue for a long time.

13. This was not, said the judge, a rape or an attempted rape. There was no contact with naked flesh as such, and no physical assault accompanying the sexual one. But the appellant had undoubtedly caused the victim very considerable psychological harm. In consequence, the judge found that, in terms of the relevant Guideline the offence was on the cusp of category 1 and category 2 in so far as harm was concerned.
14. In respect of culpability, the judge said that it seemed that there had been some planning involved but whether it was significant was open to question. In the result, he said, culpability fell somewhere between category A and B and the court took that into account - as the planning was not significant in the sense of being planning from the start. Such planning as there was had really commenced at the point where the appellant had bent down to tie up his shoe laces.
15. The aggravating features were that the location was a towpath, it was 5.00 am, when there was no chance of anyone being around to help the victim when he attacked her, and it was a matter of conjecture whether he would have gone further if she had not screamed. But, said the judge, it was undoubtedly a case where the court needed to make it clear that attacks on women on towpaths, late at night, were extremely serious offences which would result in a custodial sentence.
16. The starting point which the judge identified was one of 3 years' custody. He regarded the further aggravating features as increasing that sentence to one of three-and-a-half years' custody, but the mitigating features, which were the appellant's early guilty plea, his age and his previous good character, resulted in an eventual reduction to a term of 21 months, as we have already indicated.
17. The judge said that he was not persuaded that it was appropriate to suspend that sentence, to bring home to the appellant and to others that those who attack lone women on towpaths could expect to go to prison, good character or not, drunk or not, young or not. It was in those circumstances that the judge imposed the sentence to which we have referred.
18. There are two Grounds of Appeal:
  - (i) In all the circumstances a total sentence of 21 months was manifestly excessive.
  - (ii) The starting point adopted by the judge was too high.
19. On the appellant's behalf Mr Lamb submits that the judge put this offence into the wrong sentencing category. Mr Lamb accepts that it is arguable, in so far as harm is concerned, that the judge's approach that the offence fell on the cusp of categories 1 and 2 was reasonable. However, he submits that this was clearly a category B offence, not one either in category A or on its cusp with category B. Whilst accepting that offending of this type is a nightmare for anyone to contemplate, he submits that the judge fell into error in relation to culpability. Certainly, submits Mr Lamb, the judge went too far in relation to the effect on the victim, and too far as to the aggravation provided by location and timing. Mr Lamb submits that, in the result of all that, the sentence which the judge should have begun with was somewhere between 1B and 2B.

Equally, Mr Lamb submits that whilst the judge took into account the appellant's age and his lack of previous convictions, he nevertheless made insufficient allowance for those factors in reaching the sentence that he did.

20. Mr Lamb points out that the appellant's parents are in court and, as an indication of the family's normal responsibility, underlines that it was them who ensured that, after the event, the appellant changed railway stations to ensure that there could be no unfortunate encounter with the victim going about her normal business.
21. There is no doubt that the case is a tragedy for all concerned. The victim, walking home, in the early hours of the morning was entitled to expect that she could do so unmolested. Instead, she found herself suffering the nightmare of a sexual assault. This is a young man of 21, of previous good character, who has surmounted a previous problem with drugs in order to gain good employment. What he did in the early hours of that morning was completely out of character, and he of all people knows that it should never have happened. All that said, it was clearly a very serious crime. Even if one goes down the route of regarding this as being on the cusp of category 1B and 2B, it seems to us that the gravity of the aggravating features provided by the location and timing and the effect (unsurprisingly) on the victim, is such that it is readily possible, even making every allowance for the mitigating features, to arrive at broadly the same sentence at which the judge arrived by a different route.
22. We have to look at the matter in the round. Whilst recognising how sad the case is, we nevertheless have reached the firm conclusion that it cannot be said that this sentence was manifestly excessive.
23. It is however clear that it was unlawful in one technical but important respect, namely that the appellant was the subject of a qualifying curfew for which he was not appropriately credited by the judge. We must therefore correct that. We direct that 14 days will count towards the service of the sentence imposed. If that calculation is later found to be wrong, it will be put right by correcting the record administratively without any further hearing. To that very limited extent only, the appeal is allowed.

**WordWave International Ltd trading as DTI** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

165 Fleet Street, London EC4A 2DY

Tel No: 020 7404 1400