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

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Thursday 8 August 2019

**B e f o r e:**

**LORD JUSTICE HOLROYDE**

**MR JUSTICE GOSS**

**MR JUSTICE KNOWLES**

**R E G I N A**

v

**ADAM CARL HODDINOTT**  
**CARL JEFFERY NEWMAN**  
**DAVID JOHN WOOLLEY**  
**LIAM JOSEPH WAUGH**

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**Mr K Siva** appeared on behalf of **Hoddinott**  
**Mr N Treharne** appeared on behalf of **Newman**  
**Mr W Parkhill** (Solicitor Advocate) appeared on behalf of **Woolley**  
**Mr J Tucker** appeared on behalf of **Waugh**

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

(Approved)

1. LORD JUSTICE HOLROYDE: Adam Hoddinott, Carl Newman, David Woolley and Liam Waugh appeal by leave of the single judge against their sentences for offences of conspiracy to supply controlled drugs of class A. For convenience, and meaning no disrespect, we shall refer to them and others by their surnames only.
2. The appellants were charged on an indictment containing two counts, each of which alleged a conspiracy between 1 January 2018 and 2 February 2018. On count 1 the appellants and six others were charged with conspiracy to supply cocaine. On count 2 the appellants and three others were charged with conspiracy to supply MDMA. Hoddinott, Newman and Waugh pleaded guilty to both counts and received full credit for their guilty pleas. Woolley stood trial and was convicted of both counts. Of the other accused, two (namely Sellars and Baker) were convicted of count 1. Only these four appellants fell to be sentenced for both offences.
3. They were sentenced on 4 October 2018 in the Crown Court at Bristol by His Honour Judge Picton, who had presided over the trial of Woolley and was therefore fully aware of the facts. No pre-sentence reports were thought necessary at that stage and we are satisfied that none is necessary now.
4. The judge sentenced Hoddinott to a total of 12 years' imprisonment, Newman to a total of nine years four months' imprisonment, Woolley to a total of 12 years' imprisonment and Waugh to a total of nine years eight months' imprisonment. Waugh's sentence was ordered to run consecutively to a sentence for offences of arson and driving whilst disqualified, which he was already serving and which has earlier today been the subject of a separate and unsuccessful renewed application for leave to appeal against sentence.
5. The facts of the drug conspiracies can for present purposes be summarised briefly. Count 1 related to one kilogram of cocaine at 81 per cent purity which on 1 February 2018 was transported from London to Bristol. Hoddinott had been active in sourcing that cocaine and later that day, after some of the accused had been arrested, a probe recorded Hoddinott complaining that he was now stuck with a bill for £34,000.
6. The cocaine was delivered initially to Waugh in Bristol and then moved to Newman's house. Some of the cocaine was intended for onward delivery to Woolley, who had met Hoddinott and Waugh a few days earlier and had discussed the profits to be made from selling the drugs in the area of Plymouth where Woolley lived. The police however moved in and seized the cocaine from Newman's house. They found that Newman's house was also being used as a well-organised factory for the production of ecstasy tablets. There was an industrial pill press capable of producing about 5,000 tablets per

day. There were quantities of MDMA, some of which had already been pressed into tablets. The total quantity recovered from the premises was estimated to be sufficient to produce around 10,000 tablets with a street value approaching £500,000.

7. It is a feature of this case that the quantities of drugs seized, namely one kilogram of cocaine and the equivalent of 10,000 tablets of MDMA, are the indicative quantities on which are based the starting points for Category 2 and Category 1 offences under the Sentencing Council's Definitive Guideline for Offences of Supplying Controlled Drugs of Class A. There was no evidence of any earlier acquisition or supply of cocaine. The equipment and set up found at Newman's house was however clearly capable of continuing use as a factory for producing ecstasy tablets.
8. The application of the sentencing guideline to offences of conspiracy to supply was considered in Khan [2013] EWCA Crim 800, [2014] 1 Cr.App.R (S) 10. As Judge Picton noted in his sentencing remarks, the sentencer is required to have regard to an individual conspirator's role, but also to the aggravating feature that he is part of a wider course of criminal activity and his involvement in it gives comfort and assistance to the other conspirators. The judge was sure on the evidence that each of the appellants knew the amounts of cocaine and MDMA involved and the potential profits. There is no challenge to that finding in the grounds of appeal. As a result, as the judge rightly observed at page 4D of his sentencing remarks:
  - i. "... whilst there does, of course, have to be some adjustment to reflect the level of active participation, that exercise is undertaken in the context of the defendants knowing the agreement was intended to source a kilo of cocaine, and, for those involved in Count 2 as well, a vast quantity of ecstasy tablets. The defendants chose to play for high stakes in pursuit of criminal profits."
9. It is unnecessary for present purposes to say more about the facts and we turn to summarise the antecedents of the appellants.
10. Hoddinott, now aged 49, had previous convictions for offences of violence, disorder and carrying offensive weapons. Of particular significance, he was in 2013 sentenced to four years eight months' imprisonment for conspiracy to supply cocaine.
11. Newman, now aged 36, had a less serious criminal record. His previous convictions included offences of violence and disorder and he had in the past received a suspended sentence of imprisonment, but he had not served a term of immediate imprisonment.
12. Woolley, now aged 55, had convictions many years ago for possession of drugs and for disorder. He had not received any custodial sentence until February 2015 when he was

sentenced to nine years' imprisonment for an offence of causing grievous bodily harm with intent. He had only been at liberty from that sentence for about four months before he became involved in these conspiracies and was therefore on licence.

13. Waugh, now aged 31, had no previous convictions for drugs offences, but had served substantial custodial sentences for offences of robbery and in 2012 had been sentenced to 14 months' imprisonment for section 20 wounding. He had, as we have indicated, most recently been sentenced for offences of arson and driving whilst disqualified.
14. In his sentencing remarks, the judge said that it was appropriate to impose consecutive sentences on counts 1 and 2 because the two conspiracies were distinct criminal agreements involving differently constituted groups of criminals. He made clear that he had well in mind the issue of totality. He noted that the prosecution had described Hoddinott as a prime mover in the conspiracies. In considering Hoddinott's culpability for the offences, the judge found that some aspects of his activities fell within a leading role, but that there were also indications that he was subject to a degree of influence by others and at times had to seek the permission of others to act. The judge felt that Hoddinott had greater autonomy in relation to the MDMA than to the cocaine. He regarded Hoddinott's previous convictions, in particular the previous drugs conspiracy, as an important aggravating feature. He noted the submission made by counsel that Hoddinott's guilty pleas may have had some impact on the position of others and said that he would "take some very limited account" of that point.
15. The judge concluded that, setting other considerations aside, count 1 would merit in Hoddinott's case 10 years' imprisonment, and count 2, 13 years' imprisonment, before giving credit for the pleas. He took account of totality and also took into account that "from the defendant's perspective he may have perceived himself as engaging in a single criminal endeavour, albeit relating to different Class A substances and slightly differently constituted groups of co-conspirators." Making the necessary reduction by way of credit for guilty pleas and adjusting for totality, he imposed sentences of five years four months' imprisonment on count 1 and six years eight months' imprisonment on count 2.
16. The judge then assessed Newman as falling at the lower end of a significant role in the two offences. He noted that Newman's previous convictions were relatively minor, although we would observe that in April 2017 Newman had received a formal police caution for being concerned in the production of cannabis.
17. The judge referred to matters of personal mitigation advanced on Woolley's behalf. In his case of course there was no credit for any guilty plea. Adjusting for totality, the judge imposed consecutive sentences of five years' imprisonment on count 1, and seven years' imprisonment on count 2.

18. Sentencing in Waugh's case was complicated by the fact that he was already serving a total sentence of three years nine months for the offences which we have mentioned. The judge rightly indicated that he therefore had to take account of totality, not only as between counts 1 and 2 on this indictment, but also with reference to the sentence currently being served. The judge found that Waugh had played a significant role in both conspiracies. Only limited distinctions could be drawn between him and Hoddinott. Hoddinott had a somewhat more senior position in the conspiracies and was a little higher up the chain. It could also be said that Waugh, unlike Hoddinott, did not have any previous conviction for supplying drugs, although Waugh did have a bad record and had served lengthy sentences for offences of violence. The judge noted that while serving his current sentence, Waugh had done good work in volunteering as a listener within the prison. Giving credit for the guilty pleas and taking account of the various totality issues, the judge imposed sentences of four years four months' imprisonment on count 1, and five years four months' imprisonment on count 2. He ordered that those sentences should run consecutively to one another and consecutively to the current sentence.
19. We are grateful to all counsel for their written and oral submissions on behalf of the appellants, each of whom submits that his total sentence was manifestly excessive and failed properly to take account of issues of totality.
20. On behalf of Hoddinott, Mr Siva submits that whilst a substantial sentence was of course inevitable, a total of 18 years' imprisonment, before giving credit for the guilty pleas, was manifestly excessive. Mr Siva submits that in the circumstances of the case there was no reason to make any uplift above the guideline starting points and that if consecutive sentences were to be imposed, it was necessary for the judge to make a substantial reduction in one of the terms in order to take account of totality. In writing, he advanced a submission based upon a passage in Sanghera [2016] EWCA Crim. 94. At paragraph 19 of the judgment in that case, the court said of a particular appellant in a multi-handed case that the credit to be given for his guilty pleas was diluted by the fact that he had unsuccessfully contested a Newton hearing, but added that "as against that, it is in our view important in a complex and multi-defendant case to give particular credit to the first defendant to break ranks and plead guilty." In his oral submissions, however, Mr Siva did not seek to pursue that point, on which the single judge had refused leave.
21. On behalf of Newman, Mr Treharne submits that the sentence was manifestly excessive having regard to what he argues was the very limited involvement of Newman with the cocaine and to the fact that Newman was, as Mr Treharne puts it, "at the bottom of the pecking order" in both conspiracies. He submits that Newman's role was in effect limited to allowing the conspirators to use his house for drug dealing purposes, although it is conceded that Newman was allowing that activity to take place despite the fact that his own children were resident in the house.

22. It is submitted that in relation to the cocaine, Newman had taken delivery of it, but knew nothing of it before the package arrived and even then thought that it contained more MDMA. It is submitted that Newman's only point of contact with other conspirators had been Waugh. Mr Treharne submits that the sentences should have been shorter and should have been ordered to run concurrently. He too advanced in writing a submission based on the passage which we have quoted in Sanghera but did not pursue it in his oral submissions.
23. On behalf of Woolley, Mr Parkhill submits that Woolley had limited contact with other conspirators, was not involved in acquiring the cocaine and had no control over the MDMA factory. He further submits that since Woolley was to be in effect a customer, receiving part of the cocaine, the total quantities of the drugs seized by the police did not represent a fair measure of harm in Woolley's case. He too argues that the sentences should have been shorter and should have run concurrently.
24. On behalf of Waugh, Mr Tucker submits that the judge failed to make sufficient adjustments for totality, both as between counts 1 and 2 on this indictment and as between this indictment and the arson indictment. As a result, the sentence was manifestly excessive. Mr Tucker acknowledges that the judge in his sentencing remarks identified the correct approach to be taken to totality in these circumstances, but submits that the judge then failed to follow that approach. He argues that the eventual total sentence should have been substantially reduced to reflect totality between counts 1 and 2 and then further reduced to reflect totality as between the indictments. He acknowledges that Waugh was on bail for the arson and disqualified driving offences at the time of his involvement in the drugs conspiracies.
25. Reflecting on these helpful submissions, we begin by making some general observations. First, we think it appropriate to reiterate what was recently said by a constitution of this court in Williams and others [2019] 2 Cr.App.R (S) 15. The court there emphasised that the judge who has sentenced a number of defendants for their parts in drugs conspiracies and who has dealt with the case over a number of hearings is particularly well-placed to assess the relative levels of culpability of the various accused. At paragraph 4 of Williams the court said:
- i. "The Court of Appeal does not have those advantages. So unless it can be shown that in sentencing a particular defendant the judge did so on a factual basis which is obviously mistaken, or that the judge made an error of principle, or that in assessing the weight which should or should not be given to one or more relevant factors the judge formed a view which no reasonable judge, acting reasonably, could have formed, the Court of Appeal is most unlikely to think it right to interfere with the judge's assessment of the appropriate sentence. Arguments that the judge misappraised the level of a defendant's role in the conspiracy or imposed a

sentence which is unfair in comparison with the sentences imposed on other defendants will seldom have any realistic prospect of success."

26. Secondly, we think it clear that in the circumstances of this case it was open to the judge to impose either concurrent or consecutive sentences. Whilst some judges would have preferred the former approach, there was no error of principle in the judge's preference for the latter. Whichever approach he adopted, the judge must seek to impose just and proportionate punishment for the offending as a whole. It follows that the imposition of concurrent sentences would have reached the same result by a different route.
27. Thirdly, we think it important to note that the appellants pleaded guilty to, or were convicted of, two distinct conspiracies to supply class A drugs. Although they ran in tandem, as the judge put it, and at the same time, they involved different personnel, different drugs and different methods of operation. This case accordingly is even more serious than a case in which there is effectively one drug-supplying operation in which two different types of drug of the same class are being supplied.
28. Fourthly, the judge, as we have said, clearly had in mind the issue of totality. The relevant principles are succinctly expressed in the Sentencing Council's Definitive Guideline on Totality as follows, at page 5:
  - i. "The principle of totality comprises two elements:
    2. All courts, when sentencing for more than a single offence, should pass a total sentence which reflects all the offending behaviour before it and is just and proportionate. This is so whether the sentences are structured as concurrent or consecutive. Therefore concurrent sentences will ordinarily be longer than a single sentence for a single offence.
    3. It is usually impossible to arrive at a just and proportionate sentence for multiple offending simply by adding together notional single sentences. It is necessary to address the offending behaviour, together with the factors personal to the offender as a whole."
29. Fifthly, we observe that counsel were correct to abandon reliance on the passage which we have quoted from Sanghera. The Sentencing Council's Definitive Guideline on Reduction in Sentence for a Guilty Plea, which came into effect after Sanghera, makes it clear that the maximum credit which can be given for a guilty plea is one-third. If a defendant is entitled to full credit, and the court is persuaded that weight should be given to the fact that he was the first to plead guilty and by doing so encouraged others to plead guilty, that might be treated as a mitigating factor justifying some reduction in the sentence which would otherwise be appropriate before credit is given for the guilty plea. But whether such a reduction should be made will be a fact-specific decision and Sanghera did not lay down any fixed rule applicable to all cases. In the present case, the

very fact that more than one defendant sought to argue that he had "led the way" in pleading guilty, shows the weakness of the argument. In our judgment, in the circumstances of this case, this was a point to which very little, if any, weight could be given.

30. Lastly, we note that the sentencing guideline in relation to supply of drugs gives, for a significant role in a Category 1 offence, a starting point of 10 years' custody and a range from nine to 12 years. For a Category 2 offence it gives a starting point of eight years' custody and a range from six years six months to 10 years' custody.
31. Turning to the individual appellants, the judge was entitled in Hoddinott's case to make an uplift from the guideline starting point to reflect the fact that Hoddinott's role had elements of a leading role and could overall be regarded as lying at the upper end of the significant range. The previous drugs conviction was a serious aggravating factor justifying a further increase. Having reflected carefully on the submissions made on Hoddinott's behalf, we conclude that his total sentence, was stiff but was not manifestly excessive.
32. In Newman's case, we have no doubt that the judge was entitled to take a more serious view of his role than counsel's submissions would suggest. In relation to the well-organised factory which he permitted to operate in his house and which he assisted by being the man who purchased the pill press, albeit using money supplied by someone else, Newman's role was plainly a significant one. In relation to the cocaine, it is important to remember that he pleaded guilty to being a party to the conspiracy charge in count 1. He therefore admitted knowing involvement in the movement and storage of the cocaine, and it was only the intervention of the police which brought his involvement to an end soon after the cocaine arrived at the house. The judge took into account Newman's personal mitigation. We are unable to say that the sentence in his case was manifestly excessive.
33. In Woolley's case it is again important to remember that he was convicted of both conspiracies. He was not therefore to be viewed as only a would-be customer in relation to part of the cocaine. He was knowingly involved in both conspiracies to supply class A drugs to others. He had contested the case in the face of overwhelming evidence and could therefore have no credit for any guilty plea. The judge had proper regard to totality and although the overall sentence was again a stiff one, it was not manifestly excessive.
34. Waugh was not far behind Hoddinott in terms of culpability in relation to both the conspiracies and although he had no previous drugs conviction, his convictions for robbery and for serious violence significantly aggravated his position. He was on bail for the arson and disqualified driving matters when he involved himself in these drugs



conspiracies. There was no error of principle in the judge ordering the sentences on this indictment to run consecutively to the current sentence and the judge plainly had regard to the current sentence in his overall consideration of totality. We agree with Mr Tucker that when one sets aside the reductions made for guilty pleas and totality, the aggregate sentences before any reduction amount to a substantial total. That however reflects the fact that Waugh within a comparatively short period of time had committed different types of serious crime. His total sentence was certainly a stiff one, but we are not persuaded that it was manifestly excessive.

35. We recognise of course that each of these appellants must serve a long sentence with the inevitable impact of those sentences on their respective families. They are however mature men and as the judge said they chose to play for high stakes. We are satisfied after careful consideration that none of the sentences can properly be said to be manifestly excessive. All appeals are therefore dismissed.

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