

Neutral Citation Number: [2019] EWCA Crim 1577

No: 201902669/A3

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Friday 13 September 2019

B e f o r e:

LORD JUSTICE SINGH

MR JUSTICE FRASER

MR JUSTICE MARTIN SPENCER

R E G I N A

v

EMERSON CLARKE

Computer Aided Transcript of the Stenograph Notes of Epiq Europe Ltd, Lower Ground, 18-22
Furnival Street, London EC4A 1JS Tel No: 020 7404 1400 Email: rcj@epiqglobal.co.uk
(Official Shorthand Writers to the Court)

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Non-Counsel Application

J U D G M E N T

(Approved)

MR JUSTICE MARTIN SPENCER:

1. On 3 November 2017 in the Crown Court at Newport, the applicant pleaded guilty to an offence of conspiracy to supply class A controlled drugs and was sentenced on 19 January 2018 by His Honour Judge Jenkins to 57 months' detention in a young offender institution. Prior to sentence the applicant had spent 155 days on qualifying curfew. It is common ground that this entitled him to credit of 78 days in respect of the time to be served in custody.
2. Pursuant to section 240A of the Criminal Justice Act 2003, the court must direct that the period of credit is to count as time served as part of the sentence. However, for reasons which are not clear to us it did not do so and credit for time served formed no part of the order made by the court.
3. When this omission came to the attention of those representing the applicant, they made valiant attempts to pursue the matter administratively so as to save time and costs, but to no avail, and a notice of appeal was issued on 12 July 2019. Unfortunately, this is now some 19 months out of time and an application for an extension of time and for leave to appeal has been referred directly to the full court by the Registrar. There is a statement from the applicant's solicitor Mr Gareth Williams of Driscoll Young Solicitors explaining the reasons for the delay.
4. It is quite clear to us that it is in the interests of justice that the extension of time sought should be granted and we so grant that extension. Furthermore, we allow the appeal and make an order pursuant to section 240A of the 2003 Act that a period of credit of 78 days shall count as time served as part of the sentence imposed. We do not interfere with any other part of the sentence and the appeal is thus allowed to this limited extent.

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

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