

NCN: [2019] EWCA Crim 1835  
No: 201802677 B2  
**IN THE COURT OF APPEAL**  
**CRIMINAL DIVISION**

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Tuesday, 15 October 2019

**B e f o r e:**

**LORD JUSTICE SIMON**

**MRS JUSTICE COCKERILL DBE**

**HIS HONOUR JUDGE BATE**

(Sitting as a Judge of the CACD)

**R E G I N A**

v

**JAMES ROBERT MULVEY**

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**Mr T Owen QC & Mr J Jones** appeared n behalf of the **Applicant**

**Mr S Dent** appeared on behalf of the **Crown**

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

**LORD JUSTICE SIMON:**

1. This is a renewed application for permission to appeal against a conviction and sentence following refusal by the single judge.
2. The applicant (now aged 43) was tried in the Crown Court at Birmingham before His Honour Judge Wall QC and a jury, and was convicted on 13 June 2018 of four counts of conspiracy. Counts 1 and 3 charged conspiracy to import Class A drugs (cocaine); counts 2 and 4 charged conspiracy to import Class C drugs (cannabis).
3. On 13 June he was sentenced on counts 1 and 3 to a term of 32 years' imprisonment concurrent, on counts 2 and 4 to a term of 10 years' imprisonment, concurrent as between these counts and concurrent to the sentences on counts 1 and 3. The total sentence was therefore a term of 32 years. Count 5, a further conspiracy charge in relation to the importation of Class A drugs, was ordered to lie on the file on the usual terms.
4. There were co-accused who were charged with these conspiracies. They were tried in the Crown Court in 2009 at a time when the applicant was in Spain. Among these was Barry Phipps who was convicted of five conspiracy charges (counts 1 to 5) and was sentenced to an overall term of 25 years. His renewed application for leave to appeal against that sentence was refused by the Full Court in November 2012.
5. It is unnecessary for present purposes to set out the prosecution evidence or indeed to summarise its case. These matters are well-known to the applicant and his legal team. For present purposes it is sufficient to say that there were a number of strands of which three

are material. First, evidence from the applicant's former partner, Alina Xavier, in relation to things that she had heard and witnessed during their relationship, which suggested that the applicant was connected to drug dealing. Second, evidence from another of the applicant's former partners, Louisa Dos Santos, in relation to the applicant's admissions that he had been involved in drug dealing in the past. Third, evidence about the applicant's life-style, and financial evidence in relation to the ownership of a property in Spain. It is in relation to this financial evidence that the present application is primarily directed.

6. Although various issues arose during the trial which are said to provide properly arguable grounds of appeal, the focus in the oral hearing before us related to the service by the prosecution of a large amount of accounting evidence before and during the course of the trial and the judge's ruling in relation to it.
7. This additional evidence consisted of: 1938 pages of exhibits served before trial and a further 4875 after the trial began. It was the prosecution case that a property in Spain (Los Arqueros) built in 2006 and 2007 and held on trust for the applicant and his family was funded by drugs money emanating from the conspiracies.
8. The evidence was deployed in what was described as three schematics or flow charts. Schematic 1 illustrated where the applicant said the funding had come from, profits from property development; schematic 2 set out what the prosecution said was the illegitimate source of the funding for the property (drugs) and schematic 3 depicted what the prosecution said was the laundering of money which maintained the property very much later, in 2017.

9. Two issues arose before the judge. First, as to the admissibility of this new material and second, as to difficulty it caused by its late disclosure.
10. The judge gave a written ruling on 20 April 2018, concluding that the financial evidence was admissible and giving directions as to the practical implications of his ruling. Some of what was said in the course of argument leading to the ruling are relied on by the applicant to support the grounds of appeal.
11. The judge outlined the case against the applicant and its history. He referred to the two defence statements, the second of which was designed in part to answer allegations relating to his finances. In particular, it asserted that the money for the purchase of the house in Spain came from legitimate business transactions carried out by him. The trial had begun on 26 March 2018 and just after its start the prosecution had uploaded a significant amount of further evidence that was relied on as proof that the money for the purchase of the Spanish property did not come from legitimate business dealings, and that it came from via a circuitous route from Isle of Man companies in Mauritius and thence to Spain. This way was used by the applicant to move large sums of money that were not accounted for. The prosecution invited the inference that the movement of money in this way was the movement of drug money.
12. The judge recorded that the defence did not accept that the evidence invited this inference. Although it had conceded that the material was relevant to the issues in the case, it is submitted that the material should be excluded under section 78 of the Police and Criminal

Evidence Act 1984, as its admission would have an adverse effect on the fairness of the trial, essentially because of the lateness of its service and the difficulty in answering it. It followed that the issue was whether it was fair to allow the evidence to be presented at trial given its late service. The defence had submitted that, unlike the prosecution, they did not have the services of an accountant or junior counsel able to concentrate on the disclosure issues. The applicant was a category A remand prisoner who was travelling considerable distances each day to attend trial, and lengthy pre and post-trial conferences were simply not possible. The consequence was that the defence could not obtain his instructions in relation to the new material. In essence it was late served material with which the defence would not have time to deal.

13. The judge approached the issue by considering the effect on the trial if the evidence were admitted or if it were excluded. If admitted the jury would have a picture of the applicant's finances and would be in a position to consider whether the amount of unexplained money and the routes through which it passed supported the prosecution case that he was involved in dealing in large amounts of drugs. If the evidence were excluded the jury would be faced with the applicant's explanation as to how he was able to buy a luxury villa in Spain without any material against which they could assess that evidence. This would lead to an incomplete and potentially misleading picture of his finances. It was therefore in the interest of justice to admit the evidence provided the defence could properly deal with it. The judge then considered the reasons for the late service. He bore in mind that the applicant had not previously mentioned the fact that he had financial links to the Isle of Man and, prior to the start of an earlier trial, had not accepted that he had any interest in the Spanish villa. Once these matters became known to the prosecution they had acted

with an alacrity by sending an international letter request to the Isle of Man authorities on 17 October 2017. This was answered and the material provided to the prosecution on 26 March 2018 (the first day of trial) and uploaded within a matter of days thereafter, despite the intervention of the Easter weekend.

14. The information was also provided in written form so that the applicant could study it. The judge found that the prosecution acted with due diligence. The judge also accepted that although the task of analysing the base material appeared to be daunting it would be much simpler in light of the fact that the material had been condensed and had been explained in witness statements:

A defence advocate approaching this material will do so with the alleged significance of it being made clear by those statements and not unguided.

15. The judge then turned to the arguments advanced by the defence in relation to the practical difficulties in dealing with the material. He accepted that the defence did not have the assistance of an accountant but was not persuaded that such assistance was required:

It is not necessary to have specialist knowledge to deal with matters raised by this evidence.

16. The judge also noted that although in possession of the material for two weeks, no steps had been taken to extend legal aid to secure an emergency extension to the certificate so as to instruct an accountant. The applicant would be in the position to give instructions about the companies he was involved with, which movements of money he accepted he was connected with and why the money was moved in the way it was.

17. The judge also accepted that the defence did not have junior counsel dedicated to the issue of disclosure. Nevertheless, there were two defence counsel and the defence junior counsel was well aware of the issues in the case. In contrast, the prosecution junior dealing with disclosure was only instructed two weeks before and had come to the case cold. Although it was not for the judge to decide how to organise the presentation of the defence case, he noted that there would be minimal cross-examination of many of the witnesses.
  
18. The judge accepted that there were difficulties for the defence team in obtaining effective conferences with their client, however the future timetabling of the case would allow time for conferences and allow counsel to complete their work on this aspect of the case. The prosecution would call the financial evidence over three days, starting on the Monday 30 April; and it had been made clear at the start of the trial that the court would not be sitting on the following week beginning Monday 7 May. Defence counsel would not be required to cross-examine on the financial evidence until the trial resumed on Monday 14 May. This would provide a full week in which to prepare the cross-examination and possibly more at the end of the week commencing on the Monday 30 April. The judge accepted that a considerable amount of work would have to be done but was sure that it could be done in the timescale of the trial without unfairness. The alternative courses of the aborting the trial or simply proceeding without allowing the defence further time to prepare were rejected. The judge ordered the prosecution to submit a full note setting out the way in which they put this aspect of the case with reference to page numbers in the DCS of the documents on which they chiefly relied. He directed that the case be listed

during the week of 7 May, so that the applicant would be brought to court for conferences so that he could give instructions.

19. A number of points are taken in the grounds of appeal but, as we have noted, the primary focus (Ground 1) of the renewed application advanced by Mr Tim Owen QC and Ms Jessica Jones (neither of whom appeared at trial) is directed at this ruling including paragraph 7 where the judge said this:

... in response to two direct enquiries by me in the course of argument [counsel for the defence] accepted that the material was relevant to issues in the case.

20. It is submitted that the judge was in error by refusing to exclude the financial evidence. The prosecution disclosure extended to over 4000 pages of financial material after the trial had started. It is said that the prosecution case and its presentation of the evidence at trial could not be properly challenged by the applicant. Although a concession was made by the defence as to the relevance of the information, it was not made at a time when defence counsel had had an opportunity to consider the evidence, and was made without full knowledge of the material. The concession was made in the light of the prosecution mischaracterisation of material. We will come to a development of this argument shortly.
21. The prosecution, it was said, had asserted that all the money came from drugs and, on this basis, the defence had accepted it would be relevant evidence. However, on proper analysis, the assertion was unfounded. The information obtained in schematic 3 was derived from three investigations, one of which had not been completed by the time of the



trial. On this basis Mr Owen submitted first, that the evidence disclosed by and relied upon the prosecution could not have been complete. There were three investigations: Operation Display (an investigation of the applicant and the conspiracies of which he was convicted), Operation Sasak and Operation Kingsland (which the prosecution said was superseded by Operation Sasak). Operation Sasak was not completed at the date of trial and is not complete even now. It may reveal further an exculpatory evidence and the investigation was relevant to the contents of schematic 3. Second, it was submitted that the evidence disclosed was complex as well as extensive and there were practical difficulties in taking detailed instructions from the applicant. Third, the adjournment which was relied upon by the judge, as enabling the defence to deal with the new material, had already been planned and was not time made available to the defence specifically for the purpose of considering the new material. Fourth, in any event the financial evidence had already been dealt with by and addressed by prosecution witnesses and the defence lost the opportunity to raise any further arguments as to its admissibility. Fifth, a provisional defence analysis indicated that in fact there was no evidence that the money came from drugs. Sixth, on 13 May 2018 the defence made an abuse of process application based on, among other things, the inaccuracy of the prosecution assertion that the transaction related to drugs money upon which the ruling had been based. Seventh, in addition, Mr Owen drew attention to other matters upon which the applicant's instructions had to be taken and which involved difficulties for the defence.

22. More recently in a note to the court, dated 9 October 2019, attention has been directed to a missing transcript of 20 April, the date of the argument as to the admissibility of the new material. It is said that the prosecution counsel asserted that the financial evidence related

to drug money. We have now seen that transcript and we will address that point shortly.

23. There is a further complaint in relation to the schematic 3 document placed before the jury. This document, covered a period outside the indictment period of the conspiracy and gave the impression that the funds were the proceeds of drug dealing rather than other possible crimes (VAT fraud); this impression was reinforced by the evidence of Derek Tinsley when he came to give evidence and such evidence was inaccurate, irrelevant, inconsistent and unfairly admitted in evidence.
24. A further point is taken that there are prosecution witness statements in relation to continuing financial investigations which may indicate that the prosecution did not comply with its disclosure obligations, and a yet further point is made in relation to disclosure schedules at trial. It is sought to argue that their nature and contents demonstrate that the prosecution failed in its obligation to make proper disclosure because of the generic descriptions of the material. This is a new point, because instead of the complaint that too much material was disclosed, it is now said that not enough material was disclosed.
25. A yet further point is made in relation to other transcripts of 1 and 14 May which again we will come to shortly.
26. In addition to these arguments it is said (Ground 2) that there were a number of unsatisfactory features of the trial that, when considered cumulatively, rendered the proceedings unfair and the applicant's conviction unsafe. Over 2000 pages of unused material was served during the trial without the defence having sufficient time properly to

consider it. Highly prejudicial evidence was given by the applicant's two former girlfriends, one of whom gave evidence that he had been violent towards her, the other that he had been dealing drugs after the date of the conspiracy. Not only did this evidence not form part of a bad character application against the applicant, it was also irrelevant. The judge should therefore have directed the jury to ignore it.

27. The Crown relied upon four pieces of evidence which should either have formed part of a bad character application or been ruled inadmissible. First, the evidence that two of the applicant's associates, Thomas Kavanagh and Gerald Kavanagh, were involved in drug dealing. Second, evidence that the applicant had a mobile phone in prison. Third, evidence of a phone call between the applicant and his previous solicitor, which would have been subject to legal professional privilege. Fourth, the fact that the applicant was questioned by the prosecution and the judge as to the identity of Gerald Kavanagh's murderer. This was clearly a prejudicial and irrelevant line of questioning.
28. The response from Mr Dent, on behalf of the prosecution, is that the judge was right in his approach to the defence application to exclude the financial evidence and for the reasons he gave.
29. In the course of an abuse of process hearing the prosecution undertook to review all of the financial material from the relevant investigations, a review document was prepared and the judge was satisfied that all of the relevant material had been reviewed and either disclosed or placed on to the unused material schedule. The prosecution are not aware of any new evidence that would have been relevant to the applicant's case.

30. The evidence from the applicant's previous domestic partners was properly before the jury. Only one incident of assault formed part of the evidence. This was a necessary part of Alina Xavier's story. Louisa Dos Santos gave evidence about the applicant being referred to by individuals as "Big Man" - this was not adduced to demonstrate his leading role in the conspiracy but rather to support the Crown's case that the telephone numbers stored in other individual phones such as "Big Aug" and "Big Sept" related to the applicant.
31. The evidence in relation to the applicant's use of the mobile phone in prison was served but not adduced in front of the jury. Leave to adduce the evidence of Gerard and Thomas Kavanagh's involvement was correctly given by the judge. They were named on the indictment as co-conspirators and there was ample evidence which indicated their involvement. Permission was also granted to rely upon the relevant parts of covert recordings. Further recordings were adduced following the applicant's evidence in cross-examination, in relation to the possibility that one of his cousins was dead by the time of trial and could have had possession of a telephone linked to the conspiracy.
32. Mr Dent submits that the applicant was convicted on overwhelming evidence as set out in the prosecution case summary which the court has seen and on the basis of the respondent's notice which we have also taken into account.
33. We have considered the submissions in the light of what has been addressed to us. The point in relation to the evidence of the applicant's use of a mobile phone in prison being not adduced in front of the jury highlights one of the problems facing Mr Owen and this court.

Mr Owen was not trial counsel and this court does not have the feel for the dynamics of the trial which the judge plainly did.

34. It is clear that the issue of funding of Los Arqueros (bought for €1.498 million) was raised by the prosecution at a hearing in October 2017; it being part, but not a particularly large part, of the prosecution case that there was evidence showing that it was beneficially owned by the applicant and was funded by drug money.
35. In fact the prosecution financial analyst, Mr Tinsley, met the defence team and took them through the evidence relating to the Mulestate Foundation, its connection with the applicant and its ownership of the villa. The applicant accepted he had an interest in the villa and the trial was adjourned because the applicant said he needed time to establish that the funding for the property came from a legitimate source. Subsequently, as we have noted, on 17 October a letter of request was sent to the Isle of Man authorities. The case was adjourned to March 2018, with a direction that the prosecution serve any additional evidence by 19 December. They were unable to do so, but that was due to delays that were due to the inactivity of the Isle of Man authority. It was not therefore until the first day of the trial (26 March) that the bulk of the financial material was received.
36. The prosecution's initial evaluation was sent to the defence on 28 March. On 6 April hard copies of the financial material were handed to the defence and it was supplied on disc and uploaded to the DCS. On 27 April the prosecution financial case was opened to the jury. Between 30 April and 2 May Mr Tinsley, as the prosecution financial investigator, gave evidence in-chief. It was not until 14 May that he was cross-examined.

37. It is clear that the prosecution served a very large amount of financial evidence in the course of the trial. We readily accept this would have caused difficulty to the defence. The service of late evidence, particularly complex financial evidence, was bound to cause problems. The first question for the judge was whether the prosecution was materially at fault in producing the material. He was satisfied that it was not and his reasons, by reference to the nature of the applicant's case, are clear and compelling. There was no delay in issuing the letter of request, there was delay (160 days) in answering the letter of request but no delay by the prosecution thereafter.
38. The second question was whether the timing and extent of the material would cause unfairness to the defence. The judge was fully aware of the potential difficulties and its impact on the fairness of the trial. The evidence was conceded to be relevant and it was therefore admissible and should properly have been admitted provided that the defence had sufficient time to deal with it in the course of the trial. The judge took into account that it was not simply raw data but, as one would expect, material whose relevance was explained in witness statements. The trial was paused for approximately 11 days in order for the defence counsel to take instructions from the applicant and prepare cross-examination. In addition, an expert forensic accountant was instructed to assist the defence, although in the event he was not called to give evidence as part of the defence case.
39. In these circumstances, we do not accept that it is properly arguable that the service of this evidence created unfairness or placed the defence at a material or unwarranted disadvantage.

40. So far as schematic 3 is concerned, it related to events in 2017, a very considerable time after the conspiracy. Although DC Tinsley appears to have agreed to a question put to him, that it or perhaps, more likely, schedule 2 showed the movement of money that was unaccounted for and which represented the proceeds of drug dealing at the abuse hearing on 14 May, the prosecution made it clear that it did not put forward schematic 3 as showing the movement of drug money but as showing the means by which the applicant deployed funds for the purpose of maintaining Spanish property.
41. We have looked, as Mr Owen invited us to do, to the transcripts of 20 April 2018 before the Judge gave his ruling, the evidence-in-chief of Mr Tinsley on 1 May and his cross-examination on 14 May. In our view, it is entirely clear that schematic 3 was relied on by the prosecution to show the applicant's continuing involvement in the flow of funds in his direction and implicitly his involvement with the companies concerned.
42. So far as the disclosure obligations in relation to Operations Kingsland, Display and Sasak are concerned, we are told that the prosecution gave an undertaking in relation to disclosure. It was signed by the reviewing lawyer and four disclosure officers and the material was subject to key word searches, to which the defence were invited to make suggestions, a review document was considered by Judge Wall, who was satisfied that everything relevant had either been disclosed or put on the schedule of unused material.
43. Finally, we have considered the second ground, the various additional points. As we have noted, the financial evidence was only part of the case. There were many other compelling

strands to the prosecution case which it is unnecessary for present purposes to refer. In our view, whether considered individually or together, there are no properly arguable grounds for leave to appeal against conviction and the application is accordingly dismissed.

44. We turn then to the application in relation to the sentence. The applicant was aged 42 at the date of sentence and had five convictions for six offences spanning 2011 to 2014. These included two convictions from 2013 and 2014 for possessing a controlled drug of Class A, for which he received a financial penalty.
45. In passing sentence the judge noted that the quantity of drug which had been intercepted by the police (22 kilograms of cocaine and 392 kilograms of cannabis) was to be taken as a representative load for the purpose of estimating the total quantity of drugs traded in the course of conspiracies. Fifteen trips were made, so the total was about 300 kilograms of cocaine and 5.47 metric tons of cannabis. On the evidence presented at trial the judge concluded that the wholesale value of the drugs would have been in the region of at least £17 million. The retail value of the cocaine would have been £42 million with the retail cannabis approximately £60 million.
46. There was no doubt in the judge's view that the applicant was one of the directing minds of the conspiracy. He had contacts in Holland, from where the drugs were sourced, he also had contacts in Ireland, where the drugs were sold and owned a successful transport business from which he could fund the operation. Although no specific finding could be made about how much money he had made from the offending, the judge was sure that it had allowed him to live a lavish life-style and enabled him to buy, among other things, two



luxury villas in Spain.

47. He had been living abroad when the co-accused were tried in 2009 and the judge was sure he had made a conscious decision not to return to this country to face trial. He had returned in 2012 due to his father being ill.
48. The case fell well outside the Sentencing Guidelines. The judge said he had considered, as he was invited to, *R v Sanghera* [2016] 2 Cr App R(S) 15, which suggested that a leading role in a sophisticated importation of 40 kilos of quality cocaine should attract a sentence starting at 27 years' imprisonment.
49. Looking at the sentences passed on the co-accused the judge noted that the co-accused, Phipps, was not one of the four bosses, did not fund the conspiracies and therefore stood to profit to a lesser degree than the applicant. As a result it was inevitable that the applicant's sentence should be significantly longer than the 25-year term passed on him.
50. In the grounds of appeal it is sought to argue first, that there was objectionable disparity in the sentence imposed on the applicant and co-accused, Phipps. He was convicted of both conspiracies and sentenced to 25 years' imprisonment. Phipps was involved in and convicted of a further conspiracy. Although the applicant was alleged to have been the leader of the conspiracies the co-accused had still been very high up in the hierarchy and therefore the disparity between his sentence and those of the applicant were not justified. Second, it was submitted that notwithstanding the amount of drugs that were imported the sentence imposed was manifestly excessive. Such high sentences are usually reserved for

cases involving much larger quantities of drugs.

51. In an additional note, Mr Owen drew the court's attention to the case of *R v Cuni & Ors* [2018] 2 Cr App R(S) 18, where this court considered that 28 years was the appropriate starting point where a conspirator had been involved in helping to direct the importation of 900 kilograms of cocaine.

52. In refusing leave the single judge noted that the applicant had been convicted after a trial lasting almost 3 months of four offences of conspiracy to evade the prohibition on the importation and exportation of Class A and Class C drugs between 2006 and 2007 on an industrial scale. It was not in issue that the applicant was in a leadership role in the conspiracies importing from the Netherlands and exporting to Ireland. It was also accepted that the judge was required to sentence the applicant to a term of imprisonment substantially outside the drugs guideline for category 1 offending (leading role 12 to 16 years). The disparity argument based on the sentence on the co-accused, Phipps, who was sentenced to 25 years ignored their different roles. The trial judge had noted:

... you were one of the directing minds of the conspiracy... You described yourself in a conversation that you did not realise was being recorded as being one of the four bosses of the operation... You were the man who had contacts in Holland from where I am sure the drugs were being ultimately sourced. You also had contacts in Ireland where the drugs were sold. You were a [linchpin] to the operation of this conspiracy.

I am equally sure that you are one of those who funded the enterprise ...

... you stood to make and indeed must have made a huge amount of money.

53. By contrast Phipps played a significant role beneath the applicant in the hierarchy, stood to make less money and was not one of the four 'bosses'. As the single judge noted, the

judge had found that the applicant's sentence was required to be significantly longer than that of Phipps. In that assessment he was undoubtedly correct. It was not arguable that the sentence of Phipps gave rise to objectionable disparity. The roles played in the offences were different and required different sentences.

54. In the view of the single judge the initial argument, based on *Sanghera* that the sentence of 27 years' imprisonment after a trial would have been appropriate, ignored the obvious fact that the quantity of drugs involved in the applicant's case was considerably more than those involved in *Sanghera's* case (40 kilograms): in fact over seven times as much.
55. We agree with those observations of the single judge.
56. We turn then to the developed argument relying on the case of *Cuni*. In that case the court set out various principles which applied to the sentencing of large-scale conspiracies for the importation of drugs by reference to the case of *Sanghera*:

42. Secondly, and, logically, the first point which is important for those appeals, is made in [15] of the judgment in *Sanghera*. Under the regime before the publication of the guidelines, sentences of more than 30 years would have been an appropriate starting point for the prime mover in an importation of 2,000-3,000 kg. Apart from extraordinary figures like that, there seems generally to be, generally, a ceiling of about 30 years.

43. The court in *Sanghera* derived four significant points from *R v Welsh* [2014] EWCA Crim 1027 ([5], [8]-[12], [16]):

- i) the Sentencing Council Guidelines are to be treated as applying to conspiracy offences;
- ii) it has been said that the longest sentences are to be reserved for offences of importation rather than of supply, although, if this is a principle, it is doubtful, because of the structure of the guidelines, whether it applies to offences which fall within the guideline, or to the most persistent and complex cases of supply;

iii) for very significant commercial offending, on a scale which is outside the indicative amounts in the guidelines, there is bound to be an element of crowding or bunching in the range of sentences between 20-30 years, as the scope to differentiate for amounts and roles is very compressed. In such cases, 'it is an exercise of judgment to scale up the corresponding sentences for those at the bottom rung of leading role along with significant and lesser roles in such a way that fairly reflects not only the part played by the offender ... but also his comparative significance to the offending as a whole. Given the limit beyond which a sentence for this type of offence does not normally extend, it is not surprising that at the highest levels, sentences on different offenders will be nearer to each other than might otherwise be the case'; and iv) for the very serious offences, factors which might otherwise mitigate sentence, such as remorse or the impact of the sentence on children, are less important."

44. Thirdly, we do not get help from decisions on other appeals in which an appeal has been allowed against a sentence on the ground that it is manifestly excessive. As Bean LJ said in [26] of *Sanghera*, it is difficult to discern any pattern of sentences in these types of case.

57. In that case, where the conspiracy was less sophisticated but *Cuni* played a leading role in what was the assessed importation of 900 kilos of cocaine, the court considered that the right starting point was a term of 28 years. In the present case, recognising the points made in [43(iii)] in *Cuni* the overall criminality, involving highly sophisticated conspiracies in relation to Class A and Class C drugs, justified a sentence of 30 years but not above.

58. Accordingly, we grant leave, we quash the sentences of 32 years and substitute sentences of 30 years on the relevant counts. To that extent the appeal is allowed.