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

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Thursday, 28 November 2019

**B e f o r e:**

**LORD JUSTICE HOLROYDE**

**MRS JUSTICE LAMBERT DBE**

**HER HONOUR JUDGE MUNRO QC**

**R E G I N A**

**v**

**AURANGZEB MOHAMMED NASEEM (JNR)**

**MOHAMMED NASEEM**

**FRANTISEK CISAR**

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**Ms K Bissett** appeared on behalf of the **Appellant AURANGZEB MOHAMMED NASEEM (JNR)**

**The Applicant MOHAMMED NASEEM** did not appear and was not represented

**Mr D Duffy** appeared on behalf of the **Appellant FRANTISEK CISAR**

**Mr P Byrne** appeared on behalf of the **Crown**

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

(Approved)

1. LORD JUSTICE HOLROYDE: Aurangzeb Mohammed Naseem, Mohammed Naseem and Frantisek Cisar stood trial, together with others, on charges relating to the trafficking and exploitation of vulnerable people.
2. Aurangzeb Naseem was convicted of three offences of arranging or facilitating the travel within the United Kingdom of another for exploitation, contrary to section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and was sentenced to a total of three and a half years' imprisonment.
3. His father, Mohammed Naseem, was convicted of the same three offences and was sentenced to a total of 18 months' imprisonment.
4. Frantisek Cisar was convicted of those three offences, three further offences contrary to section 4 of the 2004 Act, and an offence of conspiracy to arrange or facilitate travel to the United Kingdom for exploitation and was sentenced to a total of 9 years' imprisonment.
5. Aurangzeb Naseem and Frantisek Cisar appeal against their respective sentences by leave of the single judge. Mohammed Naseem renews his application for leave to appeal against sentence following refusal by the single judge. For convenience, we shall refer to them collectively as the appellants.
6. We shall for the most part refer to persons by their surnames only. We do so for convenience, and intend no disrespect.
7. The offences were committed over a period of around 6 years between 2007 and 2013. The appellants and their families were all based in Leeds. Aurangzeb Naseem and his father owned a number of rental properties and Aurangzeb Naseem ran a property conversion business called Complete Conversions.
8. In a nutshell, Cisar and members of his family conspired to target vulnerable persons living in Slovakia and dupe them into coming to the United Kingdom by promises of well-paid work. Once in England, these person were used by the conspirators as very cheap labour and as a means of making fraudulent benefit claims. The Naseems used these workers to carry out property conversions. Some of the workers lived in properties owned by the Naseems, the rent for which was paid by housing benefit.
9. Each of the offences contrary to section 4 of the 2004 Act related to an individual who

had been exploited in this way. Counts 2, 3 and 5 on the indictment, of which all three appellants were convicted, related to Josef Duna, Vaclav Bauer and Marko Nemcik. Counts 4, 6 and 7, of which Cisar was convicted, related to Karol Milke, Gabriela Jurekova and Maria Simsajova. We summarise briefly the facts of each of those offences.

10. Count 2. Josef Duna lived with his wife and six children in a flat in Slovakia which was owned by one of the Cisar family. When he lost his job, Frantisek Cisar told him that there was well-paid work in England and said he would sort out travel and accommodation. He said that Duna could delay paying the rent on the Slovakian flat until he was established in England. Duna agreed, and in November 2007 Frantisek Cisar assisted him to travel to England. Duna's wife and children subsequently joined him. Cisar found work for Duna and arranged housing benefit so that he could pay rent on a flat. Then Cisar arranged for him to work for Complete Conversions, which Duna did for 3 to 4 years. Either Cisar or Aurangzeb Naseem would drive him to the relevant place of work. Over that period, Duna only received a total of about £3,000 in wages, a fraction of what he should have been paid. A neighbour gave evidence of seeing the Duna family living in obvious poverty. Duna's bank card was kept by Cisar and whenever Duna asked for it he was told that he still owed money. Child benefit was paid into the bank account but Duna did not receive it. If he said anything about the situation to Cisar he was subdued with false promises or threats. If he asked Aurangzeb Naseem, he was told that the money had been paid. Another member of the Cisar family became angry when she learned that Duna had asked someone to translate a letter which had arrived at his flat. Duna spoke little English and felt he had no alternative but to continue working.
11. Count 3. Vaclav Bauer was homeless in Slovakia. The Cisar family told him that work could be found for him in England and he arrived in April 2008. He was met by Frantisek Cisar and put to work on a number of flats owned by Aurangzeb Naseem. Bauer and others worked to convert the properties into multi-occupancy lets, an important source of income for the Naseem family. Bauer also gave evidence about work undertaken at the Naseem family home, where the basement was dug out by hand over a period of months. The money which Bauer had been promised never materialised. He was paid £7 per day cash in hand. He was told that his wages were being used to repay the debt which he owed for his travel to this country. Housing benefit forms were put before him by Cisar and Bauer signed them, but he never saw what was happening to the money.
12. Mohammed Naseem would regularly attend the property and open Bauer's mail. A benefit claim was made with the Job Centre and the benefit money was paid into an account opened in Bauer's name, but the account was operated by Cisar, who held the bank card and knew the PIN. Mohammed Naseem would take Bauer to the Job Centre, wait outside whilst he signed on and then drive him to work. Cisar instructed Bauer also to claim benefit on behalf of a fictitious partner and children. Cisar went to the lengths of buying toys so that the flat would give the appearance that children lived in it. Mohamed Naseem also made Bauer perform menial tasks in the Naseem family home for £5 a day.

He gave him a document stating that Bauer owed several thousand pounds for his accommodation, even though the rent was being paid by housing benefit.

13. Count 5. Marko Nemcik had been working for a number of years for the Cisar family in Slovakia, being paid 20 euros per week. He was told that he could earn a decent income in England and that there was a house in Leeds where he could live. Frantisek Cisar paid for him to travel to England in November 2010. The reality was not what had been promised. Nemcik was put to work in a property and paid between £3 and £5 a day. He was instructed to claim benefits, assisted in doing so and accompanied to the Job Centre by one of the Cisars. He was instructed to apply for a bank account and helped with the paperwork, but when the bank card arrived it was taken from him and he did not have access to the account. He was told not to open mail which arrived for him. For a time he and Bauer worked together for Complete Conversions. Sometimes it was Mohammed Naseem who collected them to take them to work.
14. Count 4. Karol Milke had been homeless in Slovakia. He too was told of work in England and travelled to Leeds accompanied by a member of the Cisar family. The promise of well-paid work failed to materialise. Milke was unwell but his complaints were not listened to. He was told that he could return to Slovakia once he had paid off his debts. He was occasionally put to work organised by Frantisek Cisar and Aurangzeb Naseem in the renovation and construction of multiple-occupancy houses, but his health was not good. Any earnings were kept by the Cisars. One of the Cisars was involved in sorting out a benefit claim in Milke's name, but the money he was awarded was retained by the Cisar family. This witness said that the people for whom they were working, including Aurangzeb Naseem, knew what was going on. Milke was living hand to mouth and relied upon donated clothes. Loans were taken out in his name and he was made to sign the paperwork in respect of these, but he never saw any of the money.
15. Count 6. Gabriela Jurekova was living in a crisis centre when she was tempted to leave Slovakia for England. Frantisek Cisar introduced her to the Naseem family and she and her children lived in one of their flats. She worked as a cleaner for Frantisek Cisar and sometimes for the Naseems. Aurangzeb Naseem would collect her for work. She was paid £20 for four or five hours' work. Benefit claims were made. Cisar assisted her with this and demanded 50 per cent as his cut, saying that she would be sent back to Slovakia if she did not agree to that arrangement.
16. Count 6. Maria Simsajova, who was a sister of Gabriela Jurekova, also came to England in search of a better life. Frantisek Cisar gave her work as a cleaner and she lived in a property owned by the Naseem family. She did not speak English. Cisar helped her to open a bank account. He kept the card and he took a sizeable cut from the benefit money and tax credits she was supposed to be receiving.
17. Those being in summary the facts, the appellants were sentenced by the trial judge on 4 October 2018.

18. Aurangzeb Naseem, now aged 45, had received three formal cautions, the latest of which was in 2008 in respect of a fraud in which his father was also involved, but had no previous convictions. A large number of testimonials were provided by members of his family and persons who knew him well. They described him as a hard-working man devoted to his family, well regarded in the community, whose offending was out of character. He had become anxious and depressed in the long period since his arrest. His wife had suffered for many years from a kidney complaint and imprisonment of Aurangzeb Naseem would have a serious adverse effect on her and their children. A pre-sentence report was available to the court, from which it was clear that Aurangzeb Naseem continued to deny any knowledge of or involvement in the exploitation of workers.
  
19. Mohammed Naseem, now aged 60, had a similar caution for fraud in 2008 but no previous convictions. In his case also there were many testimonials which described him as playing a leading role in his local community and his mosque. Like his son, he was well regarded, in particular for his public service and his role as proprietor of a local shop. He too had been affected by the long period of time over which the proceedings had continued. A pre-sentence report in his case showed that he too continues to deny any involvement in exploitation.
  
20. Frantisek Cisar is now aged 38. He had no previous convictions. In his case no pre-sentence report was thought to be necessary and we are satisfied that none is necessary now.
  
21. The judge had, of course, had the benefit of hearing all the evidence in a trial which had lasted some eight weeks. In addition, several of the victims had provided victim personal statements. In his sentencing remarks, the judge referred to the long period over which the appellants had exploited their victims and to the financial rewards which had been gained by Frantisek Cisar and his family and by the Naseems, who had had their properties enhanced at a fraction of the cost which should have been paid for the work carried out.
  
22. The judge said that Aurangzeb Naseem had committed his offences out of greed. He saw the opportunity of having work done on his properties at almost no cost, including work over a period of months at his own home. In evidence, the judge noted Aurangzeb Naseem had not been able to say how much he had agreed to pay Cisar for the work which was done. Whatever it was, the judge was satisfied that it was nowhere near commensurate with the value of the work. Aurangzeb Naseem had also benefitted from the appreciation in value of the properties. He had repeatedly exploited his victims. Taking into account everything that had been said on his behalf, the judge imposed concurrent sentences of three and a half years' imprisonment on counts 2, Duna; 3, Bauer;

and 5, Nemcik.

23. Mohammed Naseem had not been involved in the running of his son's business Complete Conversions but he had conveyed the victims to and from the work which they did for that business. The works included the work at the family home as well as at rental properties. All of the properties would have appreciated in value as a result of the works. Like his son, he had taken the opportunity to use cheap labour for his own benefit. Although Mohammed Naseem was a respected member of the community, the judge was satisfied that the offences were so serious that only a custodial sentence was justified. There had to be sentence which deterred others. In his case, the judge imposed concurrent sentences of 18 months' imprisonment on each of counts 2, 3 and 5.
24. The judge described Frantisek Cisar as the head of the Cisar family enterprise. He had recruited some the victims directly and others through members of his family. All the victims were made promises of employment, accommodation and money in return for the payment of expenses of getting them into the UK and settling them in. The reality was very different. Cisar had continued to siphon off benefit payments far beyond the amount of the expense that he had incurred. In addition, when the victims were put to work, he did not share with them what little monies they received for their labours, other than paying a minimal amount for them to live on. His various offences overlapped in time and the judge treated them as a course of conduct in respect of which he would pass concurrent sentences.
25. In deciding the total sentence, the judge said that he made a reduction to take into account that there had been a period of about 2 months when Cisar had been in custody abroad pursuant to a European Arrest Warrant before he voluntarily returned to the United Kingdom and also to take account of a lengthy period when Cisar had been subject to a restrictive, but non-qualifying, curfew. In respect of count 1, the conspiracy relating to the trafficking of six victims into the United Kingdom, the judge sentenced Cisar to 9 years' imprisonment. He imposed concurrent sentences of 5 years in respect of counts 2 and 3; 12 months in respect of count 4, Milke; and 2 years in respect of counts 5, Nemcik; 6, Jurekova; and 7, Simsajova.
26. Each of the appellants submits that his sentence was manifestly excessive in length.
27. On behalf of Aurangzeb Naseem, Ms Bissett submits, both in her written grounds and in her oral submissions today, that the judge took too high a starting point having regard to the appellant's role and culpability. She submits that the appellant made no great financial gain and that the sentence imposed upon him failed properly to reflect the substantial difference between his involvement and that of the Cisar family, it being the Cisars who brought the victims into this country.

28. Ms Bissett further submits that the judge failed to give due weight to the mitigation, in particular that contained in the various references and testimonials, the personal mitigation and the long period of time which had elapsed since the offending.
29. Dealing with those matters in a little more detail, it seems that the appellants were initially arrested and interviewed as long ago as 2013. As we understand it from the helpful submissions of Mr Byrne, appearing today (as he did below) for the respondent, the investigation was wide-ranging, it was largely conducted by a single police officer and it took a long time. The matter eventually came for trial in September 2017, but the trial ran into a number of substantial difficulties and after some weeks the jury were eventually discharged in October 2017. The next available trial date was in July 2018 and it was then that the trial was concluded and the appellants convicted. Throughout this long period, it is submitted, Aurangzeb Naseem had the burden of a potential or actual prosecution hanging over him.
30. As to the personal mitigation, it was a very sad feature of this appellant's case that the first child born to him and his wife had throughout her short life suffered from cerebral palsy and had died at a young age. The appellant's wife has herself suffered from a kidney problem for many years. It is submitted on his behalf that insufficient weight was given to these matters and to the impact upon the appellant's wife and children of his imprisonment.
31. Mohammed Naseem renews his application for leave. It is a non-counsel application. The written grounds settled on his behalf submit that the judge had failed to give due weight to his substantial mitigation, including the testimonials to his years of public service and the impact on himself, his wife and his family of the long passage of time. It is submitted that the sentence in his case should have been suspended. It is further submitted that there was unfair disparity in the sentencing of him and of a defendant Jan Cisar, in whose case a suspended sentence was imposed.
32. On behalf of Frantisek Cisar, Mr Duffy submits that the starting point and the sentence were disproportionate to the facts of the offending. He draws attention in this court, as he did in the court below, to cases involving broadly analogous offending, but immediately acknowledges that each sentencing decision is fact specific and that little, if any, assistance can be gained from the sentences imposed in other cases. He does, however, draw a broad distinction between this case and other cases which have come before the courts in which the victims of the exploitation have been subjected to physical violence and have been made to live in conditions of abject misery. Here, in contrast, he submits the victims lived in reasonable accommodation; they were not confined; they had the use of mobile phones and were free to communicate with others, albeit that they mostly spoke very little English; and they were able to return to Slovakia if they wished, though Mr Duffy accepts that at least one of the victim who had wished to do so was warned by Cisar that he should not say anything about what had been going on because both he and



Cisar might go to prison as a result of false benefit claims. Mr Duffy therefore emphasises that there was no physical violence or threat of violence and that the victims had all agreed to repay the expenses incurred in bringing them to the United Kingdom, albeit that Cisar continued to take money from them after those debts had been discharged.

33. Mr Duffy also seeks to place reliance on the fact that the victims received a proportion of the benefits which were falsely claimed in their names. He argues that whilst they were undoubtedly exploited, the victims in fact enjoyed a better standard of living in the United Kingdom than they would have done given their circumstances in Slovakia and he submits that there was no evidence that any of the six had suffered any harm.
34. For the respondent, Mr Byrne has prepared written submissions and has helpfully assisted us with some of the facts relating to the offending and to the course of proceedings.
35. We are grateful to all counsel for their submissions, which we have found helpful.
36. There is no definitive sentencing guideline relating to offences contrary to section 4 of the 2004 Act. It is, however, clear both from the statutory maximum sentence of 14 years' imprisonment and from the case law that such offences are inherently serious. Frantisek Cisar was party to a conspiracy in which he and his family targeted vulnerable victims, deceiving them into coming to this country and thereafter using them as cheap labour. The Naseems were involved in the exploitation of these individuals after they had arrived in Leeds. We think it important to emphasise, in view of the submissions made in relation to the comparative standards of living for the victims as between this country and Slovakia, that none of these arrangements were made for the victims' benefit: they were made for the financial advantage of the appellants and others.
37. The aggravating features of the overall offending in this case were, in our view, as follows. First, each of the appellants exploited more than one victim for his own financial advantage. Secondly, the exploitation continued over a period of years. Thirdly, there was a good deal of planning and organisation involved. Fourthly, the victims were made to work for minimal pay and told that they continued to owe substantial debts to the Cisars. Lastly, the victims were required to involve themselves in criminality by making claims for benefit from which Frantisek Cisar and his family profited.
38. In relation to that latter point, we are bound to say that we regard the sharing of benefits fraudulently obtained between Cisar and the victims as a feature which makes the case more serious rather than, as is submitted, less serious. It amounts, in our view, to the Cisars being able to increase the financial advantage to themselves by defrauding the State in order to provide a minimal standard of subsistence for the victims. Each of the

offenders, including each of these appellants, was motivated by greed, and each of these appellants acted with a cynical disregard of his victims.

39. When considering the personal mitigation of the appellants, the fact that they have no previous convictions, and the fact that in other respects they have displayed positive good character, must be seen in the context of that cynical and greedy exploitation continuing over a period of years.
40. We accept that the victims in this case were accommodated in better conditions than some other victims of exploitation, were not treated as badly as some other victims and in particular were not subjected to any violence or forcibly confined to a particular location. They were, however, encouraged to incur debt in order to travel to this country and they were effectively kept under control by being falsely told that they remained in debt to the Cisar family and had to keep working in order to repay that debt.
41. In addition, as is apparent even from our brief summary of the facts, they were kept under control in other ways. The bank accounts which they were told to open were operated by Frantisek Cisar and his family for their own benefit, correspondence addressed to the victims was taken by Cisar and his family and they were driven between the Job Centre and places of work so that Cisar and his family could maximise the profits to be gained from the exploitation. The victims may not have been forcibly confined, but the reality of their situation was that they had been selected for their vulnerability, they spoke little English, they had no money and they would have found it extremely difficult to do anything other than what the appellants told them to do.
42. As to the passage of time, it is regrettable that the investigation took as long as it did before the appellants were eventually charged and court proceedings began in about April 2016. It is also regrettable that the first trial ran into a number of serious problems which led to the discharging of that jury and consequent further delay. In our view, however, the effect to which that delay can assist the appellants is limited, given that they denied their guilt throughout and were ultimately convicted by the jury. In particular, as to the abortive first trial, we understand from the submissions made to us today that one of the major problems relating to the standard of interpreting during the ABE interviews of the victims was not raised by any of the defendants until the trial was in progress, notwithstanding that there had in the usual way been editing of the transcripts before the trial began.
43. In all the circumstances, we have no doubt that the judge was entitled and correct to take a serious view of the offending and to take into account the need to deter others from targeting and exploiting vulnerable victims.

44. Aurangzeb Naseem appears to be an intelligent man with many positive qualities, but he was motivated by greed and he must have profited substantially from the exploitation of three vulnerable victims over a long period of time. We accept, of course, that a prison sentence is difficult for him and for his family, but we agree with the judge that there was no alternative to an immediate sentence of imprisonment. In any event, it is unrealistic to suggest that his role in the exploitation of three victims could properly be punished by a sentence of 2 years or less, and there could therefore be no question of suspension of sentence. Having reflected on the submissions well made on his behalf by Ms Bissett, and giving full weight to the matters of mitigation on which this appellant is able to rely, we are unable to say that the total term of 3 years 6 months' imprisonment was manifestly excessive in length for his offending.
45. Mohammed Naseem was also motivated by greed and also profited substantially. He drove the victims to and from their places of work and indeed had them working in his own home, as well as at rental properties. He played a somewhat lesser role than his son, and in particular did not run the business of Complete Conversions, but the distinction between their respective positions was fully and, it might be said, generously reflected in the significantly shorter sentence which he received.
46. This applicant is able to rely on matters of personal mitigation. But even giving full weight to those, it is not possible to argue that a total of 18 months' imprisonment was manifestly excessive for his offending. The Sentencing Council's definitive guideline on imposition sets out the approach to be taken in deciding whether a custodial sentence is unavoidable and, if so, whether it can be suspended. The judge was, in our view, correct to conclude that appropriate punishment could only be achieved by immediate custody.
47. The argument based on disparity is entirely without merit. It suffices to note that the judge when dealing with Jan Cisar said in terms that a suspended sentence was imposed in his case "only on health grounds and health grounds alone". Mohammed Naseem is not able to point to any comparable basis for taking a similarly lenient course in his case.
48. We have considered both the original grounds of appeal which were before the single judge and additional grounds put forward by different counsel later instructed. We are satisfied that none of them is arguable.
49. Frantisek Cisar's culpability is substantially greater than that of the Naseems. He played a leading role in bringing his six victims into the United Kingdom and in exploiting them for his own profit. It was inevitable that his sentence would be substantially longer than those of his co-accused. Although Mr Duffy, on his behalf, questions the finding by the judge that this appellant was the head of the family enterprise, that was, in our view, a decision which the judge was entitled to make having heard all the evidence over many weeks.

50. We sympathise with the judge, who had a difficult sentencing process. As we have said, there is no sentencing guideline for offences of this kind and fact-specific decisions in other cases can provide little, if any, assistance. We hesitate to differ from the view which the judge formed having presided over the trial. We are, however, persuaded that a total sentence of 9 years' imprisonment was outside the range properly open to the judge, bearing in mind that the statutory maximum sentence of 14 years' imprisonment has to cover yet more serious offences of this kind, including offences committed by repeat offenders.

51. We would in other circumstances have concluded that the appropriate total sentence in this appellant's case was 7 years' imprisonment. We have, however, been greatly assisted by Mr Duffy and by Mr Byrne in understanding, in more detail than was apparent from the papers, the factors of detention abroad, and bail subject to a non-qualifying curfew, which had led the judge to make a reduction from sentence before reaching his total of 9 years. We are persuaded that we should make a greater allowance in that regard than had initially seemed appropriate. In our judgment, the appropriate total sentence is one of 6 years 6 months' imprisonment.

52. For those reasons, we dismiss the appeal of Aurangzeb Naseem. We refuse the renewed application for leave to appeal against sentence by Mohammed Naseem. We allow the appeal of Frantisek Cisar to this limited extent: we quash the sentence of 9 years' imprisonment on count 1, the conspiracy, and substitute for it a sentence of 6 years 6 months' imprisonment. All his other sentences remain as before, with the result that Frantisek Cisar's total sentence is reduced from 9 years to 6 years 6 months' imprisonment.

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

Lower Ground, 18-22 Fournival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: [Rcj@epiqglobal.co.uk](mailto:Rcj@epiqglobal.co.uk)