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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday 28th March 2019

B e f o r e:

THE VICE PRESIDENT OF THE COURT OF APPEAL CRIMINAL DIVISION
LADY JUSTICE HALLETT DBE

MR JUSTICE WARBY

SIR JOHN ROYCE

R E G I N A
V

JEMMA BEALE

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Ms Gillian Jones QC & Mr David Malone appeared on behalf of the **Applicant\Appellant**
Mr John Price QC appeared on behalf of the **Crown**

J U D G M E N T
(Approved)

1. THE VICE PRESIDENT:

2. Background

3. On 6th July 2017, at the Southwark Crown Court before His Honour Judge Loraine-Smith, the appellant was convicted of three counts of perjury and four counts of perverting the course of justice on the basis she had made repeated and false allegations of rape. On 24th August 2017 she was sentenced to a term of ten years, consisting of a total of four years on counts 1-4, three years consecutive on count 5, three years and twelve months ordered to run concurrently on counts 6 and 7, and three years ordered to run consecutively on count 8. She has leave to appeal against the sentence imposed. She renews her application for leave to appeal against her conviction based on the failure of the trial judge to give the jury guidance on rape myths and stereotypes, and the media reporting.
4. At trial, the appellant was represented by Mr Christopher Henley QC, who gave negative advice on an appeal against conviction. The appellant instructed fresh solicitors and counsel for the sentencing hearing, and the advocate who appeared for her at that hearing lodged two grounds of appeal against conviction.
5. In June 2018 the case was referred to the legal charity, the Centre for Women's Justice, following which the case and grounds for appeal against conviction and sentence were reviewed. She is now represented by Ms Gillian Jones QC, who has made an application pursuant to the Criminal Procedure Rule 36.3 to vary the grounds on which leave to appeal against conviction is renewed.

6. The Facts

7. The prosecution did not dispute that the appellant was the victim of rape in 2005, aged 13, and suffered the inevitable consequences. She became a vulnerable adult. However, the prosecution relied upon a pattern of behaviour over many years in which she made allegedly false complaints of serious physical and sexual violence usually in graphic detail, and usually after she had been drinking and/or had an argument with her partner. The pattern consisted of the following.

Tencreek

8. In 2008, after she had been drinking and had a row with her partner, she claimed she had been attacked in Tencreek. She complained of pain in her vagina at the time suggesting a sexual assault and told her partner and her partner's family she had been raped. She later retracted the allegations.

Cassim

9. On 21st November 2010, after she had been drinking and had a row with her partner, she met Mahad Cassim in Ashford. She willingly got into his car. He drove them to a garage area, where they had sexual intercourse. He then took her back to Ashford and drove off. The next morning the appellant reported she had been raped. She told a doctor who examined her she had been abducted off the street by someone she did not

know. Mr Cassim was arrested, charged and tried twice. He eventually accepted he had intercourse with her but insisted he had stopped his car because she wanted to relieve herself, and they had then had intercourse at her instigation.

10. The appellant gave evidence at the original trial and a retrial, stating that she was gay and she had not previously had sex with a man and the rape had therefore caused her severe pain. The appellant provided a victim personal statement in which she set out in great detail the severe impact upon her of the alleged rape, asserting it had ruined her life. Cassim was sentenced to seven years' imprisonment, of which he served two years and nine months.
11. The appellant made a claim on the Criminal Injuries Compensation Board and received £11,000. After the payment, her partner claimed that the appellant told her that she had lied about the rape to obtain that money.
12. In 2015 Mr Cassim's appeal against conviction was unopposed. He provided, in turn, a statement in which he set out the impact on *his* life of the appellant's allegedly false complaints.
13. Counts 1 and 3 covered her evidence of rape at the first trial and the retrial; counts 2 and 4 alleged she committed perjury at both trials about her previous sexual experience.
14. *Shahzad and others*
15. On 7th July 2012, after she had been drinking and had a row with her partner, the appellant became involved in a violent argument with a Noam Shahzad in a public house. She alleged he sexually assaulted her by grabbing the area of her vagina. He was ejected from the public house and she eventually left alone. She claimed she was then attacked, robbed and further sexually assaulted by Shahzad (still wearing a red cap he had worn earlier in the pub) and three others in the grounds of the Hounslow Medical Centre. She gave two explanations for injuries found upon her: (i) her attackers used barbed wire to inflict multiple abrasions to her stomach and the entrance to her vagina; and (ii) they had used a glass bottle upon her to penetrate her.
16. She was interviewed by the police and made a statement. She identified Shahzad on an identification parade as being responsible for the first assault and one of those responsible for the second assault. Shahzad was arrested, charged and bailed. He fled the jurisdiction and has not returned.
17. The CCTV footage proved beyond a doubt that the appellant's account of the alleged sexual assault inside the public house was false. It also showed she was the aggressor in the violence. The CCTV footage also showed she did not go to the area near the Medical Centre where she had alleged the attack took place, she was not approached by a group of men, and the red cap was still in the public house at the time of the attack. DNA evidence was said to show that she had caused the injuries to herself using a wire basket.
18. *McCormack and others*

19. In October 2012, after she had been drinking and had a row with her partner, the appellant told police she had been the victim of a gang attack by seven men, including an ex-boyfriend of her partner, Steven McCormack. In the attack she said she was punched and kicked and left unconscious. She withdrew the complaint seven days later and it was not pursued, but she maintained allegations thereafter that Mr McCormack had threatened her and her family with rape and death on multiple occasions. The threats were said to have come by text message amongst other means, but examination of their phones suggested no such threats had been made.

Burglary and assault

20. In September 2013 the appellant reported to the police two things. On 27th August her flat had been burgled, during which photographs of her were defaced. On 29th August she had been sexually assaulted outside the property by one of two black men. The man who had assaulted her had been arrested by someone pretending to be a police officer. She identified the alleged rapist as one of the men who raped her outside the Medical Centre a year earlier and gave a full description. The allegation was investigated thoroughly but unsubstantiated. This formed the subject of count 7, perverting the course of justice.

21. *Luke Williams and others*

22. In November 2013 the appellant a public house, having been drinking with Luke Williams and others. They all went to his house, and she went upstairs with Mr Williams. When she came downstairs she told a friend he had attempted to rape her, but she was going to leave with him anyway. She told the friend to wait ten minutes before telling the appellant's partner. She and Williams went to a secluded spot where they had sexual intercourse that she later alleged was without her consent. After the alleged rape had occurred, she texted her partner to leave the Williams' house. She later told police that Williams had threatened her with a machete or large knife, that he had taken her to meet a group of eight men, including Steven McCormack, and four of them had raped her. Luke Williams then allegedly punched her hard to the face, raped her vaginally and orally, ejaculating inside her, tried to rape her anally and cut her between the legs. No injuries were found on the appellant, but Mr Williams' semen was found on her clothing.

23. Both Mr Williams and Mr McCormack were arrested, interviewed and bailed. Mr Williams accepted he had had sex with the appellant but insisted they had stopped in a secluded area so that she could relieve herself and the sex was at her instigation. Mr McCormack was fortunate: he was able to establish that he was at home at the time of the attack and was on bail for a relatively short time. Mr Williams, on the other hand, was on bail for two years. This was the subject of count 8, perverting the course of justice.

24. The appellant was arrested and interviewed in June 2014. In the first and subsequent interviews she maintained the truth of the complaints she had made, albeit she admitted she had never been 100% sure that Mr McCormack had ever attacked her.

25. At trial her counsel put to the witnesses, Mr Cassim and Mr Williams, that they were both rapists, and the appellant gave evidence to similar effect. Evidence of Mr Williams' bad character was put before the jury. The appellant insisted that all the complaints had been made in good faith and that she was a vulnerable woman who found herself in vulnerable positions.
26. The Grounds of Appeal
27. Ms Jones advanced two grounds of appeal against conviction, albeit ground 2 is a variant of ground 1.
28. Ground 1: the judge erred in that he failed to give a direction as to the danger of assumptions, myths and stereotypes to assist the jury when assessing the evidence of what was in reality a series of alleged sexual offences.
29. Ground 2: the appellant lost the protection of anonymity which had been afforded to her as an accepted victim of childhood rape, along with the benefit of reporting restrictions. An already vulnerable individual was subjected to extensive media scrutiny in which she was 'vilified', the effect of which may have reinforced to the jury, absent direction, the dangers of assumptions, myths and stereotypes surrounding sexual offences.
30. Although an application was made in writing for us to receive the fresh evidence of Dr Georgina Clifford, a psychologist, in support of those grounds, Miss Jones abandoned that application during her submissions this morning for the purposes of the appeal against conviction is concerned.
31. On ground 1, Miss Jones addressed the principle of giving juries the rape myths and stereotype guidance for the benefit of a complainant and then related to a defendant accused of making false allegations of rape. This Court has endorsed several times the need for balanced judicial directions to counter stereotypical assumptions about sexual allegations. In R v Miller [2010] EWCA Crim 1578, for example, the Court of Appeal endorsed this passage from the 2010 Bench Book about directing the jury:

"The experience of judges who try sexual offences is that an image of stereotypical behaviour and demeanour by a victim or the perpetrator of a non-consensual offence such as rape held by some members of the public can be misleading and capable of leading to injustice. That experience has been gained from judges, expert in the field, presiding over many such trials during which guilt has been established but in which the behaviour and demeanour of complainants and defendants, both during the incident giving rise to the charge and in evidence, has been widely variable. Judges have, as a result of their experience, in recent years adopted the course of cautioning juries against applying stereotypical images of how an alleged victim or an alleged perpetrator of a sexual offence ought to have been behaved at the time, or ought to appear while giving evidence, and to judge the evidence on its intrinsic merits. This is not to invite juries to suspend their own judgment but to approach the

evidence without prejudice."

32. The dangers of assumptions in sexual offences is further addressed in the current Crown Court Compendium 2018.
33. The recognised purpose of such directions is to avoid the possibility that juries will have preconceived ideas on what to expect from a genuine complainant of rape or be invited by the advocates to make unwarranted assumptions which, if uncorrected, may lead to illegitimate reasoning. A jury should therefore be directed to be alert to guard against this in a balanced and fair way, reflecting the evidence and arguments of the defence and prosecution.
34. If this principle of educating a jury on possible preconceived ideas apply to a complainant, Ms Jones argued the same principles should apply to a defendant to ensure their evidence is considered fairly. If we accepted that assertion, Ms Jones maintained it must apply to the facts of this case because the Crown could only prove their case if the jury was satisfied the appellant's complaints of sexual assault were untrue.
35. Ms Jones expressly disavowed any intention of criticising the conduct of Mr Price QC' who prosecuted or that of the trial judge, but effectively did just that. She accused Mr Price of compounding the problem of stereotypes and myths by relying on generalised inferences as to how a victim of rape or sexual offences would react, report and record events and the judge of failing to correct his approach. The following examples were given from Mr Price's opening.
 36. (1) He criticised the appellant's behaviour of getting back into the car of a stranger, Mr Cassim, who had allegedly just raped her, and accused of delay in reporting the rape.
 37. (2) He cited demeanour that was inconsistent with a rape complainant, namely that she did not cry, she did not immediately report the rape, her need for sympathy and attention, her lack of memory, detail, inconsistencies in her accounts, and the lack of injuries and other forensic evidence in support.
 38. (3) He commented on the inherent unlikelihood of being a multiple victim of rape and sexual offences by submitting as follows:

"Standing back and looking at matters globally, Jemma Beale therefore maintains that within a period of only three years, on four different and wholly unconnected occasions, one of which involved two incidents, and two of which, a year apart and in different localities, involved the same unknown man, she has been seriously sexually assaulted by six men and raped by nine, all but one of whom, on the day of the attack, were strangers to her. The prosecution ask rhetorically, is this not inherently improbable?"

A similar submission was made in closing.

39. Despite what Ms Jones called the comprehensive reliance on rape assumptions, myths and stereotypes contained in those observations, the defence did not raise this issue with the trial judge and the jury received no guidance as to how to approach such matters.
40. In this case it is submitted that guidance would have covered, for example, the delay in making a complaint, the appellant's inconsistent accounts, her emotional distress when giving evidence, her intoxication and the lack of any signs of injury going to the issue of consent.
41. There was also said to be a real danger in Mr Price's argument that the appellant's allegations were inherently improbable. This was a central plank of the prosecution's case. The judge referred to this line of argument when giving his direction on cross admissibility between the counts.
42. Substantial material has been put before us from those who had researched and/or reviewed the investigation and prosecution of sexual offences. It indicates that the more vulnerable a person is, be it vulnerable through previous abuse, mental health difficulties or intoxication, the more likely they are to be repeatedly exploited.
43. In the light of that research, Ms Jones described the inherently improbable submission as controversial. The absence of a balancing direction guarding against the danger of assumptions, may inadvertently have led to the appellant being further prejudiced by a rape myth and stereotype that women are not repeatedly raped.
44. Ms Jones addressed the reliance Mr Price had placed in the Respondent's Notice on the decision in R v Hodge [2018] EWCA Crim 2501, in which this Court held that a man accused of rape and sexual assault was not entitled to the benefit of the myths and stereotypes guidance. Ms Jones attempted to distinguish the facts of Hodge, on the basis that in this case the appellant did make formal complaints of rape, as opposed to Hodge who only claimed he had been sexually assaulted in his sleep by the complainant to explain the finding of his semen on a cushion seam. Further, the appellant's complaints were made appropriately to the authorities, not, as Hodge had done, as a result of being charged. Accordingly, Ms Jones maintained that as a complainant of rape the appellant should have been afforded in her trial for perverting the course of justice and perjury the same protection as a complainant of rape in a trial of rape, unlike Hodge.
45. Conclusions on Ground 1
46. We need no persuading that myths and stereotypes about rape complainants still persist, and if the evidence of a complainant is to be assessed fairly the trial judge should give the guidance suggested by the Judicial College. It is part of the trial judge's overall duty to ensure the trial is fair. The courts have a far greater understanding now of the need to ensure that complainants in sexual cases are treated properly and that no one who has been raped should be deterred from coming forward for fear of how they will be treated in court. However, the guidance is simply that. It is guidance. It is not a direction of law. It is also directed at complainants, not defendants. Complainants, for

obvious reasons, do not have the benefit of the protections offered to a defendant, the most important of which are the burden and standard of proof. Furthermore, the guidance does not prevent an advocate from advancing the kind of arguments that Mr Price for the prosecution advanced in this trial. Mr Henley - rightly in our view - did not object to the tone or the content of Mr Price's comments and Ms Jones did not suggest otherwise.

47. We understand the argument that the prosecution could only prove the offences by proving the appellant had not been raped and that without any guidance from the judge there is a risk that a jury may have a preconception as to how a rape complainant may behave. However, this case went far further than myths and stereotypes about a rape complainant's behaviour. As both Mr Henley in his written response to the grounds of appeal and Mr Price have observed, the appellant was accused of being a serial liar who fabricated complaints mostly of a sexual nature. The prosecution had a strong case to prove the charges against her, based not on one person's word against another but on independent and objective evidence.
48. In relation to the alleged attacks by Mr Shahzad, for example, the CCTV footage proved she had lied about what had happened both within the public house and outside. Mr Price argued that the sexual assaults did not happen, rather than pose questions about why she behaved as she did. In relation to her allegations against Mr Williams and others, there was evidence, including her behaviour at the house and material on her mobile phone, to show the complaints were false. Both showed that she had probably manipulated the situation with Mr Williams having her relationship with her partner in mind.
49. At Mr Cassim's trial she undoubtedly lied. She raised the issue of her sexuality to support her assertion that she had not had sex with a man before Mr Cassim. Yet a Mr Stonehill confirmed that he had had sex with the appellant consensually about 60 times over a period of more than three years before the alleged rape by Mr Cassim. Her medical notes confirmed she was having sex with a man at that time; she was put on the contraceptive pill and she went to hospital thinking she may be pregnant. Even more importantly, her partner confirmed that she had admitted lying about the rape to obtain criminal injuries compensation.
50. Furthermore, there was an established pattern of making complaints after she had been drinking and had a row with her partner, and of manoeuvring men into a situation where she could have sex with them. Both Mr Cassim and Mr Williams stated independently that at the appellant's instigation they went to a secluded place for her to relieve herself, and when there she instigated the sex they then had consensually.
51. As to her vulnerability, we accept the vulnerable may be more susceptible to repeat attacks. But Mr Henley had the benefit of reports on her vulnerability and aspects of it were put before the jury. They were aware of how vulnerable she was. The jury were told of the diagnosis of borderline personality disorder, of her being raped as a child and its consequences, and the bullying she had suffered. One of the doctors called referred to the fact that those who have been raped may behave in unexpected ways.

52. In his closing submission Mr Henley highlighted the fact that this was a highly vulnerable young woman who might have repeatedly put herself at risk. He argued she should not be judged by harsh and conventional standards; in other words, he advanced the arguments that Ms Jones deployed before us.
53. Furthermore, Mr Price's argument, as he explained this morning, on inherent improbability was not that it was inherently improbable that a vulnerable woman would be sexually assaulted more than once, but it was inherently improbable that *this* woman had been assaulted repeatedly and in the circumstances she described. He did not rely upon her drinking to advance an argument she may or may not have consented, but to show its part in her pattern of behaviour. He did not suggest that genuine victims of rape would have injuries to show for the rape, but he referred to the lack of injuries she sustained where she claimed she had been injured. Suffice it to say, we are satisfied that Mr Price, far from peddling the stereotypes and myths suggested, focused his arguments on the evidence called to support his assertion the appellant's allegations were false.
54. We are prepared to accept, as Mr Price was prepared to accept, that there may be cases where guidance on myths and stereotypes may be appropriate to benefit a defendant, but in our judgment this case was not one of them. In the light of the evidence called even if the guidance was given it would not have assisted the appellant. Accordingly, although we allow the application to vary, we refuse leave on this ground on the facts.
55. Ground 2
56. Ground 2 relates to the reporting of the trial. His Honour Judge Loraine-Smith granted the appellant anonymity on the basis of a risk of injustice to the general administration of justice in deterring other complainants from coming forward. He did not conclude there was a risk of prejudice to the appellant from reporting of her trial and no submissions to that effect were made to him.
57. This Court differently constituted allowed an appeal by the media. Giving the judgment of the Court [2017] EWCA Crim 1012, Sharp LJ set out why the judge's decision was not open to him as a matter of law. First, the power to grant anonymity under section 1(1) of the Sexual Offences (Amendment) Act 1992 is qualified by section 1(4) so that the appellant's identity could be published *in other proceedings*, namely proceedings where she was accused of perjury. Second, she was not entitled to anonymity under section 4(2) of the Contempt of Court Act 1981. The power under section 4(2) may only be used where restrictions on reporting are necessary to prevent a substantial risk of prejudice to the administration of justice *in those proceedings*, in other words in her trial.
58. Ms Jones did not invite us to revisit that decision, accepting that the Court applied the law as it stands. It follows that the appellant was only entitled to anonymity if the reporting was of such a kind it caused a substantial risk of prejudice to her trial.
59. For the avoidance of doubt, albeit this was not an issue raised at trial, we have considered the bundle of material put before us with care. Ms Jones complained that an

already vulnerable individual was subjected to extensive media scrutiny. She described the vulnerability of the appellant in detail: she was suffering from profound mental health difficulties, namely chronic PTSD with disassociative symptoms and the PTSD is likely to be characterised as 'complex'. Ms Jones claims these problems impacted on the appellant's ability to engage properly with her trial and were exacerbated by the loss of anonymity. Ms Jones argued that the level and type of reporting would have left the most robust of witnesses in a state of heightened anxiety and would have affected her behaviour and performance at trial given her already fragile and vulnerable state. There were undoubted outbursts from her during the trial, some of which were reported in the media.

60. Thus Ms Jones contended that if the members of the jury were aware of the reporting the effect may have been to reinforce to them, absent direction, the guidance of assumptions, myths and stereotypes surrounding sexual offences, and the reporting adversely affected the way in which the appellant presented to the jury.
61. Conclusions on Ground 2
62. We agree with the prosecution that the complaints now made about the publicity are, on analysis, no more than a recasting of the original ground of appeal rejected by the Single Judge. There is nothing of substance that is new at this stage. We agree with the single judge's conclusion that there is no evidential basis on which to conclude that the trial was unfair or that any juror was influenced by prejudicial publicity surrounding her trial. At the outset of the trial the jury were given the standard warning to ignore media coverage and refrain from internet research. They were directed on several occasions to try the case on the evidence alone. There is no indication any juror disobeyed those directions.
63. Indeed, there is good reason to conclude there was no prejudice. If trial counsel believes there has been prejudicial publicity that a juror may see and may affect the fairness of the trial, he or she will apply for the discharge of the jury. In this case there never was such an application because, as Mr Henley explained, nothing was brought to his attention at any stage during the trial and the situation was kept under review. He was no doubt aware, as we are aware, of the volume of media coverage of this case. Some was cast in sensational and somewhat emotive terms, but it did not appear to him, and does appear to us, to have gone beyond the bounds of reporting the evidence and arguments advanced before the jury in the trial. It has not been suggested that it did. Accordingly, even if a jury had read this material - and, we repeat, there is no evidence of that - they would have received no more than a colourful account of things they had seen and heard for themselves in detail in court. There is also no or no sufficient evidential basis for the submission that publicity undoubtedly affected the appellant's behaviour and performance at trial. No evidence has been identified to link the appellant's outbursts to any publicity.
64. It follows that, despite Ms Jones' considerable assistance and eloquence, in our view no arguable grounds have been identified and we refuse the application for leave to appeal against conviction.

65. Sentence

66. We turn to the appeal against sentence. Ms Jones argued that a ten-year sentence of imprisonment given the overall circumstances of this case is one that can properly be described as manifestly excessive. She gave three grounds.
67. (1) The judge failed to give adequate weight to the appellant's accepted history as a victim of child rape, to her psychiatric history and other mitigation as to her background, character and age.
68. (2) The judge erred in placing too much emphasis on the deterrent element of sentencing.
69. (3) The judge failed to give sufficient regard to the principle of totality.
70. There are no Sentencing Council guidelines in respect of the offences of perjury or perverting the course of justice, and therefore the only guideline that may apply is the one on totality.
71. Accordingly, at the time of sentence, and before us, the court was provided with a note for sentence with a number of authorities. The authorities included R v Archer [2002] EWCA Crim 1996, in which guidance was given as to the factors to be taken into consideration when considering the appropriate sentence for offences of perjury. They include:
- "The number of offences committed; the timescale over which they are committed; whether they are planned or spontaneous; whether they are persisted in; whether the lies which are told or the fabrications which are embarked upon have any actual impact on the proceedings in question; whether the activities of the defendant draw in others; what the relationship is between others who are drawn in and the defendant."
72. We shall refer to just three of the other decisions provided in support of Ms Jones' proposition that ten years was far higher than previous sentences passed for offences of this kind.
73. In R v Vine [2011] EWCA Crim 1860 the appellant made nine false allegations of rape against nine different men, some of whom were arrested; one of the men falsely accused was only 16. The motivation for the false allegations was to punish the men for how they had treated her before and after consensual sexual activity. The Court held that the appropriate sentence after a trial would have been between six-and-a-half to seven years' imprisonment.
74. The approach adopted in Vine was endorsed in the decision in R v Costin [2018] EWCA Crim 138. The Court in that case considered the sentence imposed for an offender who made seven false allegations of rape and sexual assault against four separate men over a considerable period of time. Each was arrested and interviewed, and the victim personal statements described the considerable impact of the offender's offences on three of the men, one of whom was described as "vulnerable". The

offender had sixteen previous convictions, predominantly for offences of harassment. She was diagnosed with autism, pathological avoidance demand syndrome and emotional unstable personality disorder. The Court observed:

"We are satisfied, as the court in Vine was satisfied, that a figure of approximately six-and-a-half years to seven years following a contested trial would be appropriate on these facts. In the light of the offender's very substantial mitigation and pleas of the guilty the Community Order for three years concurrent on each count was quashed as unduly lenient and a sentence of four years' imprisonment ordered to run concurrently on each count substituted."

75. In R v Palmer [2018] EWCA Crim 1972 the appellant pleaded guilty to four counts of perverting the course of justice and sending malicious communications. She was convicted after trial of four further counts of perverting the course of justice. All her allegations related to a former boyfriend, including that he had raped her vaginally, orally and anally. They were made over a number of years. He was arrested, interviewed and bailed. The offending had a huge impact upon him and upon his mother, whose lives had been shattered. The appellant had a prior warning for wasting police time, having made an allegation a security guard had assaulted her. She suffered from emotional unstable personality disorder and possible dysexecutive syndrome that may result in confabulation. Her sentence of five years was upheld on appeal.
76. Ms Jones accepted in respect of the four counts (counts 1-4) that the following aggravating factors arose.
77. (1) The appellant persisted with the false allegation of rape against Mr Cassim to her parents in her ABE interview and she gave perjured evidence twice.
78. (2) Mr Cassim was convicted following a second trial and served two years nine months of a seven-year sentence of imprisonment.
79. (3) A victim impact statement was prepared by the appellant prior to the sentence of Mr Cassim describing the impact on her life.
80. (4) A successful claim for compensation was made and she later admitted that it was the reason for her lies.
81. (5) Mr Cassim has described in graphic terms the impact upon him of her lies.
82. In relation to the counts of perverting the course of justice, Ms Jones accepted the following aggravating factors.
83. (1) There were four separate false complaints set against a background of prior perjury for a false allegation of rape.
84. (2) The false allegations relating to Mr Shazad led to his arrest, interview and charge. He appeared at the magistrates' court, before fleeing the country.

85. (3) The false allegations against Mr Williams and Mr McCormack led to their arrests, and Luke Williams remained on police bail for two years.
86. (4) The cost of the investigation and the hours of police time involved has been substantial.
87. (5) False allegations of rape may have a detrimental effect on genuine victims of sexual violence coming forward.
88. Ms Jones advanced the following mitigating factors relevant to all the counts.
89. (1) The appellant was aged 18 to 21 at the time of the offending and 25 at the time of sentence. She was of previous good character and a number of character references were put before the court.
90. (2) The appellant was not always the person who wished to report the allegations. She did so on occasion because others insisted.
91. (3) The appellant's mental health problems stem from her being raped when she was only 13.
92. (4) The psychiatrist who reported upon her diagnosed unstable personality disorder of a borderline type and post traumatic stress disorder and their characteristics.
93. (5) Dr Clifford, an expert in the impact of childhood trauma, has reported on the impact of the appellant's mental health difficulties for many years. She suffers from both borderline personality disorder and post traumatic stress disorder, and the latter is of a chronic kind. Amongst other findings, Dr Clifford lists the appellant's history of suffering disassociation, depression, being bullied, she has self-harmed and she has a negative self-image. Dr Clifford also described how, since incarceration, the appellant had been subjected to bullying, has resorted to self-harm, she required referral to a psychologist for weekly sessions and referral to a behavioural therapist, and she made a suicide attempt and was on suicide watch.
94. Ms Jones invited us to find that a report of this nature would have been more helpful to the judge than the report he actually received for the purposes of sentence, which simply outlined the appellant's diagnosis. Had the judge had Dr Clifford's report, Ms Jones' contended that he may not have described the appellant as "manipulative" and "indulging in victimhood". He may have better understood, it was said, the extent to which her offending was triggered by her mental health.

Conclusions on sentence

95. The question for us is whether in weighing the aggravating and mitigating factors the judge gave too much weight to the former and insufficient weight to the latter, and whether he effectively ignored the principle of totality despite his expressed acknowledgment of that principle.

96. This was a difficult sentencing exercise, even for a judge as experienced as His Honour Judge Loraine-Smith. On the one hand, the victims of the appellant's crimes have suffered incalculable harm, the system of justice has suffered significant harm, and very considerable resources have been expended investigating and prosecuting crimes that never happened. On one occasion the false allegation of rape was motivated by financial gain. The idea that a woman, whatever her difficulties, could send an innocent man to prison for years solely so she could obtain compensation beggars belief. Yet knowing that fact, the appellant persisted in her lies and inflicted injuries on herself to support them. She caused other men to suffer the consequences of being accused of rape, albeit fortunately they did not go to prison. She identified them knowing that they might. Mr Shahzad was charged, and when he appeared at the magistrates' court the appellant deliberately drove past to gloat at his misfortune - a misfortune that was entirely of her making, as the CCTV footage eventually proved.
97. On the other hand, the appellant undoubtedly has significant mental health difficulties. She has herself been a victim of a grave crime. We have considerable sympathy for her as the victim of rape as a child and for the difficulties she has suffered as a consequence. She was young at the time of the offending.
98. We have read all the reports prepared on her, both before and after conviction, including that from Dr Clifford, albeit, as we expressed this morning, we had concerns about some of the content of the report that seemed to us to stray beyond Dr Clifford's expertise and may have betrayed a degree of a lack of objectivity. But having considered all the matters put before us carefully we are satisfied that for the reasons given by the judge this was an exceptional case. Having heard all the evidence, having seen and heard from the appellant herself, he was in our view best placed to assess her level of culpability. He was also right, in our view, to assess the appellant's offending as even more serious than that considered in previous decisions of this Court in cases of this kind.
99. The appellant's case was significantly aggravated by the fact that her lies led to Mr Cassim standing trial twice, she perjured herself twice, her victim personal statement was designed to ensure he received a lengthy prison sentence and her motivation was financial. Thereafter, she indulged in deliberate and prolonged lying against several men, all of whom she knew by then could have been put in the same dreadful position as Mr Cassim, serving a lengthy prison sentence as a convicted rapist and disowned by some close to him who believed the worst. Yet there has been no hint of remorse on the appellant's part.
100. Accordingly, a sentence above that considered by this Court to be appropriate in the cases of Vine and Costin was in our judgment justified. The total of ten years, although stern, cannot be described as excessive, and we dismiss the appeal.
101. We are indebted to Ms Jones and her team for the huge amount of effort put into preparing this application and the appeal, much of it done on a *pro bono* basis. Ms Jones could not have said or done anything more. We are also grateful to Mr Price for his assistance, and to Mr Henley and Ms Stephenson, the trial advocates, for their detailed response.

102. Ms Jones, we are extremely grateful to you and those who sit behind you, and to you Mr Price. Thank you both very much for the quality and succinctness of your submissions.

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

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