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IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2020] EWCA Crim 467



No. 201904686 B3

Royal Courts of Justice

Friday, 13 March 2020

Before:

LORD JUSTICE HADDON-CAVE

MRS JUSTICE CARR DBE

MR JUSTICE PEPPERALL

REGINA

V

PAUL ROBERT HESSEY

**REPORTING RESTRICTIONS APPLY:
THE SEXUAL OFFENCES (AMENDMENT) ACT 1992**

Computer-aided Transcript prepared from the Stenographic Notes of
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J U D G M E N T

MRS JUSTICE CARR:

- 1 On 29 November 2019 in Derby Crown Court the appellant was convicted of nine counts of sexual offending. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with s.3 of the Act.
 - 2 The appellant appeals his conviction on Count 7, being a count of indecent assault contrary to s.14(1) of the Sexual Offences Act 1956. Count 7 was a multiple incident count of indecent assault by the applicant putting his penis in the vagina of the complainant on at least ten occasions. The incidents occurred during the period December 1996 to December 1998 when the complainant was aged 14 or 15. The offending behavior would have been charged as unlawful sexual intercourse with a girl under 16 contrary to s.6(1) of the Sexual Offences Act 1956. However, that offence bears a time restriction contained in s.37(2) and para.10 sch.2 of that act: a prosecution for such an offence may not be commenced more than 12 months after the offence charged. That was why the offence was charged with an offence contrary to s.14(1) of the Sexual Offences Act 1956.
 - 3 Following the decision in *R v J* [2004] UKHL 42, the Crown was in fact precluded from prosecuting the appellant for the offence on Count 7 under s.14(1) of the Sexual Offences Act 1956 in such circumstances. Thus, and as the prosecution rightly concedes, Count 7 should never have been on the indictment or allowed to go to the jury.
 - 4 The appeal will accordingly be allowed to this extent. The conviction on Count 7 will be quashed.
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CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.