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NCN: [2021] EWCA Crim 1246

IN THE COURT OF APPEAL

CRIMINAL DIVISION



CASE NO 202100571/A3

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 3 August 2021

Before:

LADY JUSTICE CARR DBE
MR JUSTICE GOSS
MR JUSTICE KNOWLES

REGINA
V
GEORGE CARPENTER

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MR M O'BRIEN appeared on behalf of the Appellant

J U D G M E N T

LADY JUSTICE CARR:

Introduction

On 12 January 2021 in the Crown Court at Liverpool, the appellant, now aged 34 years, pleaded guilty on the day of trial to the offence of arson with intent to endanger life, contrary to sections 1(2) and 1(3) of the Criminal Damage Act 1971. On 12 February 2021 His Honour Judge Byrne ("the Judge") imposed an extended sentence of 14 years' imprisonment pursuant to section 254 of the Sentencing Act 2020, made up of a custodial term of 12 years and an extended period of two years. This is his appeal against sentence.

The facts

On 11 July 2020 the appellant threw a home-made petrol bomb through the window of an occupied residential home at 190 Grove Street in Liverpool. The offence was motivated by animosity between the appellant and Tremaine Wiltshire, known as "Tremz". Tremz was a friend of Doyle Bilal-Jones and it was the home of Mr Bilal-Jones, where Mr Bilal-Jones' mother also lived, that was the target of the attack. All three men were musician rappers.

The motive for the petrol bombing was as follows. On the previous day, 10 July 2020, the appellant's grandparents' home was attacked by a number of males. Missiles were thrown at the window and shouts of "Carpo you grass" could be heard. Someone filmed the incident and the footage so recorded was placed on the internet using Tremz' account. Tremz may have been reacting to previous messages from the appellant regarding an assault allegedly carried out by Tremz on an ex-partner. The appellant had been vocal in claiming that Tremz should be brought to justice for this assault. The bad blood between

the appellant and Tremz appears to have gone back a long way.

Following the attack on his grandparents' house, the appellant uploaded footage of himself commenting on the attack onto the internet, which we have viewed. The appellant can be seen to be extremely angry, expressing a strong desire for revenge and to "light up Lily Grove" (a reference to Mr Bilal-Jones' address). He also stated "Bally Jones mum feels the repercussions from this". The appellant's intentions were very clear.

In the early hours of 11 July 2020 the appellant travelled from his home in Milton Keynes to Liverpool. That journey was facilitated by his co-accused, Adam Achramowicz ("Achramowicz"). Achramowicz, at the appellant's request, used his own car. On the way, Achramowicz stopped at a service station. He was seen to purchase a petrol container and fill it with petrol at the pump. The car arrived in Liverpool shortly before 5 am. It was captured on CCTV travelling along Liverpool's Edge Lane. Achramowicz then dropped the appellant, together with another unknown male, a short distance from Grove Street. The appellant and the unknown male approached the corner of Faulkner and Grove Street. There was a short discussion before the appellant left and at around 5.15am the unknown male disappeared towards 190 Grove Street.

At this time Mrs Bilal-Jones was awake at home watching television. The other occupants of the house, including her son and his girlfriend, and her nephew and his girlfriend, were all asleep in bed. On hearing a loud bang and initially thinking that her television had blown up, Mrs Bilal-Jones realised that the curtains around her window were on fire. The flames spread from the window to the back of the sofa. She screamed and ran into the kitchen.

The commotion woke the other occupants of the house who were fortunately able to extinguish the flames using a garden hose.

The appellant asserted, and this was not disputed by the Crown, that he caused a man and woman to attend the house of Mrs Bilal-Jones to warn the occupants after the fire had started.

The fire brigade was called. They recovered a wine bottle which had contained a petrol-based accelerant. Fire Officer Joseph Cunliffe, who conducted an investigation at the scene, concluded that a petrol bomb had been thrown through the window into the lounge. He made the following observations:

"The prompt actions of the occupier to extinguish the fire prevented a more serious fire from occurring... I have investigated fires where petrol bombs have caused significant damage to property and have placed lives in danger of serious harm. It is fortunate that on this occasion the petrol bomb failed to cause a more serious fire."

Achramowicz's car was identified as returning to Milton Keynes after the incident. Shortly thereafter, the appellant posted a video onto the internet which showed an image of Mrs Bilal-Jones' house with an emoji of a fire next to it - a clear reference to the arson attack.

Mrs Bilal-Jones has understandably described the incident as causing her great stress and anxiety. Not only that, she suffered physical injuries to her feet from broken glass and blisters to the tips of her fingers. The incident has affected her ability to sleep and socialise, as well as causing financial hardship with the costs of restoration. There was a huge amount of damage to the house.

Sentence

The Judge placed the offending into Category A for culpability and Category 1 harm for the purpose of the Sentencing Council Guideline on Arson Offences (“the Arson Guideline”). He said that there was no guarantee that those asked by the appellant to warn the occupants would follow the appellant's instructions or, had the occupants been asleep, arouse them before the fire took hold. The Judge concluded that the risk remained very high and the risk was of serious injury. The starting point for this offending was eight years’ imprisonment with a range of five to 12. The Judge remarked that the offence was aggravated by the appellant's previous convictions, noting that he had a bad record; further, this was a revenge attack involving a significant degree of planning and the use of a petrol bomb. In mitigation, he accepted that there was some remorse. Limited credit of 10% was given to reflect the appellant's very late guilty plea.

The Judge found the appellant to be dangerous. (He did so incorrectly by reference to the Criminal Justice Act 2003 and not the new Sentencing Code. However, this was a technical error and of no substantive materiality.) He concluded that a determinate sentence of imprisonment was insufficient to manage the risk that the appellant posed. An extended sentence was passed with a custodial element of 12 years' imprisonment and an extended licence period of two years.

Grounds of appeal

On this appeal, Mr O'Brien submits for the appellant, first, that whilst there were aggravating features, they were not so grave as to justify a term of 13 years and four months before credit for guilty plea. Secondly, whilst he accepts that the Judge was entitled to make a

finding of dangerousness, the imposition of an extended sentence, particularly given the length of the determinate sentence, was unnecessary. The risk would be reduced by the time of release, reflecting the appellant's guilty plea, remorse and his instant regret.

Discussion and analysis

As indicated, the main ground of appeal now pursued on behalf of the appellant is that the term of 13 years and four months after trial was too high. Sensibly, he no longer challenges categorisation or the Judge's finding of dangerousness.

This was a very serious example of this type of offence involving a high degree of planning and the use of an accelerant against defenceless victims. It was, as the Judge commented, “serious and wicked”, arising from a trivial feud between the appellant and Tremz. The appellant appeared out of control and intent on committing acts of violence in the footage recorded shortly before the attack. Following the attack, more footage was posted in which the appellant can be seen effectively to be gloating. It was fortuitous that Mrs Bilal-Jones was awake at the time of the attack. Had she been asleep the situation could easily have resulted in a more serious fire where people could have died. Mrs Bilal-Jones had suffered psychological, as well as physical harm.

Further, as the Judge identified, the offence was aggravated by the appellant's previous convictions, which included convictions for robbery and violent disorder and for an affray in July 2017 for which the appellant was sentenced in 2019 to eight months' imprisonment. Additionally, this was a revenge attack, there was a significant degree of planning, use of a petrol bomb and multiple people were endangered. The Judge identified that there was

some remorse. The Pre-Sentence Report suggested that the appellant had had a difficult childhood and been diagnosed with post-traumatic stress disorder.

On the basis of around 10% credit for guilty plea, we agree that the Judge must have reached a notional term of around 13 years and four months as being appropriate after trial. He did not, however, set out any basis for going outside the relevant range in the Arson Guideline (of five to 12 years' imprisonment). If a sentencer goes outside a relevant sentencing range, reasons for doing so need to be given; here the Judge identified no justification for taking a notional term after trial that fell above the top of the relevant range. In our judgment, balancing the aggravating and mitigating factors against each other, there was no justification for doing so. A term of no more than approximately 11 years before credit for guilty plea would have been appropriate. After applying credit of 10%, a custodial term of 10 years is reached.

As for the imposition of an extended sentence, in the light of the appellant's offending history and the seriousness of this offending, in our judgment the Judge was fully entitled to reach the conclusion that a determinate sentence would not be sufficient to manage the risk posed by the appellant. He was fully entitled to impose an extended sentence. He recognised in terms that his finding of dangerousness did not compel him to do so. He considered separately whether such a sentence was necessary. We see no basis for interfering with his decision that an extended sentence was justified or that the period of the licence period should be one of two years.

For these reasons and to this extent, the appeal will be allowed. The sentence of 14 years will

be quashed. It will be substituted with a sentence of 12 years, comprising a custodial sentence of 10 years and a licence period of two years.

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

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