



IN THE COURT OF APPEAL CRIMINAL DIVISION

R v James Daniel PAFFEY

Criminal Appeal Office Reference Number: 202003109 B2

Index Number: A5022EK

Date of Birth: 27 July 1982

Indictment Number: T20207029 T20197163 T20207067

AMENDED ORDER ON THE APPEAL

THE APPELLANT having been convicted in the Crown Court at Chelmsford on 12 November 2020 (**Counts 1 & 15** Rape of a child under 13, contrary to section 5(1) of the Sexual Offences Act 2003; **Counts 2 & 3** Causing or inciting a child under 13 to engage in sexual activity, contrary to section 8(2) of the Sexual Offences Act 2003; **Counts 4 & 22 to 26** Sexual assault of a child under 13, contrary to section 7(1) of the sexual Offences Act 2003; **Count 5** Sexual activity in the presence of a child, contrary to section 11(1) of the Sexual Offences Act 2003; **Counts 6 & 8** Assault of a child under 13 by penetration, contrary to section 6(1) of the Sexual Offences Act 2003; **Counts 7 & 9** Assault by penetration, contrary to section 2(1) of the Sexual Offences Act 2003; **Counts 10 to 13 & 17 to 18** Rape, contrary to section 1(1) of the Sexual Offences Act 2003; **Count 14** Sexual assault, contrary to section 3(1) of the Sexual Offences Act 2003; **Count 15** Rape of a child under 13, contrary to section 5(1) of the Sexual Offences Act 2003; **Count 16** Assault of a child under 13 by penetration, contrary to section 6(1) of the Sexual Offences Act 2003; **Count 19** Assault by penetration, contrary to section 2(1) of the Sexual Offences Act 2003; **Counts 20 to 21** Sexual assault, contrary to section 3(1) of the Sexual Offences Act 2003) was sentenced the next day to an extended sentence of 20 years pursuant to S.226A Criminal Justice Act 2003 comprising a total custodial term of 16 years, and an extended period of licence of 4 years. The Appellant was made subject to a Restraining Order pursuant to s.5 of the Protection from Harassment Act 1997 until further order and made subject to a Sexual Harm Prevention Order under Section 103 of the Sexual Offences Act 2003 until further order. Having been convicted of an offence listed in Schedule 3 of the Sexual Offences Act 2003, the Appellant was required to comply with the provisions of Part 2 of the Act (Notification to the police) indefinitely. Having been convicted of an offence specified in the schedule to the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 (SI 2009 no 37) the Appellant will or may be included in the relevant list by the Disclosure and Barring Service.

THE COURT OF APPEAL CRIMINAL DIVISION on 26 November 2021
CONSIDERED the appeal against conviction

AND HAS

1. Allowed the appeal and quashed the convictions on Counts 1 to 26;
2. Ordered that the defendant be retried on **Counts 1 & 15** Rape of a child under 13, contrary to section 5(1) of the Sexual Offences Act 2003; **Counts 2 & 3** Causing or inciting a child under 13 to engage in sexual activity, contrary to section 8(2) of the Sexual Offences Act 2003; **Counts 4 & 22 to 26** Sexual assault of a child under 13, contrary to section 7(1) of the sexual Offences Act 2003; **Count 5** Sexual activity in the presence of a child, contrary to section 11(1) of the Sexual Offences Act 2003; **Counts 6 & 8** Assault of a child under 13 by penetration, contrary to section 6(1) of the Sexual Offences Act 2003; **Counts 7 & 9** Assault by penetration, contrary to section 2(1) of the Sexual Offences

Act 2003; **Counts 10 to 13 & 17 to 18** Rape, contrary to section 1(1) of the Sexual Offences Act 2003; **Count 14** Sexual assault, contrary to section 3(1) of the Sexual Offences Act 2003; **Count 16** Assault of a child under 13 by penetration, contrary to section 6(1) of the Sexual Offences Act 2003; **Count 19** Assault by penetration, contrary to section 2(1) of the Sexual Offences Act 2003; **Counts 20 to 21** Sexual assault, contrary to section 3(1) of the Sexual Offences Act 2003;

3. **Direct that a fresh Indictment be served (section 8(1)) in accordance with CrimPR 10.8(2), which requires that the prosecutor must serve a draft indictment on the Crown Court officer not more than 28 days after this order;**
4. **Directed that the defendant be arraigned upon the fresh indictment within 2 months;**
5. **Directed that the retrial take place at a Crown Court to be determined by the Presiding Judge for the South Eastern Circuit;**
6. **Directed that the defendant be remanded in custody pending the retrial (any application for bail is to be directed to the Crown Court);**
7. **Directed that any application for a representation order in respect of proceedings in the Crown Court must be made in writing to the representation authority at the Legal Aid Agency CAT, Level 6, The Capital, Union Street, Liverpool, L3 9AF, DX: 745810 Liverpool 35, Email: LiverpoolCAT@legalaid.gsi.gov.uk, Telephone: 0151 235 6750;**
8. **Directed the Registrar to order a transcript of the sentencing remarks (if not already obtained in the case) and send this to the Prosecution, who must ensure this transcript is provided to the Crown Court Judge conducting any sentence hearing following the retrial;**
9. **Made an order under s.4(2) of the Contempt of Court Act 1981 postponing publication of any report of these proceedings, save for reporting of the approved anonymised judgment dated 17/12/2021, until the conclusion of the re-trial in order to avoid a substantial risk of prejudice to the administration of justice in those proceedings;**
10. **Reserved Reasons for Judgment to a date to be fixed.**

The provisions of the Sexual Offences (Amendment) Act 1992 apply to this offence.

The appellant was represented under a Representation Order and no determination for a Recovery of Defence Costs Order was made under the Criminal Legal Aid (Recovery of Defence Costs Orders) Regulations 2013, because one of the exceptions in Regulations 7 to 11 applied.

Counsel for the Appellant: Ms S Elliott QC and Ms F Arshad
Counsel for the Crown: Mr M Fenhalls QC

The Appellant was in custody and was present (via Cloud Video Platform)



(for the Registrar)
Date: 26 November 2021
Date Amended: 9 June 2022
Criminal Appeal Office, Royal Courts of Justice
Strand, London WC2A 2LL