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IN THE COURT OF APPEAL
CRIMINAL DIVISION
[2022] EWCA Crim 985



No.202103770 A4

Royal Courts of Justice
Strand
London, WC2A 2LL

Thursday, 23 June 2022

Before:

LORD JUSTICE WILLIAM DAVIS

MR JUSTICE FRASER

MRS JUSTICE MAY

B E T W E E N :

REGINA

v

CRAIG ANDREW GLADWIN

REPORTING RESTRICTIONS APPLY

Section 1 of the Sexual Offences (Amendment) Act 1992 applies in this case. No matter relating to any complainants shall be included in any publication during their lifetimes if it is likely to lead members of the public to identify them as the persons against whom offences were committed.

Reporting restrictions therefore apply in this case.

MR L. KERR appeared on behalf of the Applicant.

THE RESPONDENT was not present and was not represented.

J U D G M E N T

MR JUSTICE FRASER:

- 1 This is a renewed application for permission to appeal against a sentence of life imprisonment imposed upon the applicant on 1 November 2021 in the Crown Court at Kingston upon Hull by Mr Recorder Woolfall. The applicant had pleaded guilty on 23 October 2021, which was to be the first day of a trial. The sentences passed by the learned recorder were for three separate counts of rape against three different women. The indictment had originally included four complainants, but the applicant offered pleas on what is called a "full-fact basis" in respect of three of the complaints only and these were accepted. Count 10, relating to the fourth complainant, was ordered to lie on the file, together with some assorted other lesser counts.
- 2 We deal, therefore, only with the offending to which the applicant has pleaded guilty and for which he was sentenced.
- 3 On one of the counts of rape, rape three, he was sentenced to a discretionary sentence of life imprisonment, with a minimum term of 11 years and 9 months less his time that had been spent on remand. On the other two counts of rape, he was sentenced to 10 years' imprisonment for each. Those sentences to run concurrently. On two other charges of criminal damage, he received two sentences each of two months' imprisonment also to run concurrently. He also received the relevant ancillary orders requiring notification under the Sexual Offences Act 2003.
- 4 Mr Kerr has appeared before us today for the applicant, renewing his application for permission to appeal, that application having been refused by the single judge.
- 5 We shall deal with the facts briefly. This is not to be taken as undermining the seriousness of the offending or the impact that the events will have had on each of the three victims.
- 6 The first offence of rape was against B1, who was in a relationship with the applicant between March and June 2018. She described the applicant as always being jealous, but he started to become aggressive as well.
- 7 On 15 June 2018, the applicant and B1 went to a public house. B1 had had a medical procedure in relation to a termination and that day was still experiencing some effects from that. The applicant became aggressive with some other people in the pub and had to be told by the bar staff to calm down.
- 8 After the applicant and B1 left the pub together, the applicant grabbed her phone and started to read through her messages. He then smashed the phone. That constituted one of the two counts of criminal damage.
- 9 When they got home, the applicant made sexual advances to her, but she told him she did not want to have sex with him. It is, of course, every person's right to decide whether to consent to sexual relations; a point which appears to be entirely missed by the applicant.
- 10 The applicant then removed his belt and put it around her neck. She managed to get her hands between the belt and her skin before he started to tighten it. She begged him, saying, "Please don't do this". He let her go and matters calmed down. They made up and began to have consensual sex. However, the applicant then became aggressive and slapped her across her face and also spat in her face. She immediately told him to stop as she no longer

consented to the sex, but he would not stop. He put his hands around her throat and, when B1 was unable to push him off, she pretended to become unconscious in the hope that this would scare him to stop him. Instead, he slapped her twice and wanted to know why she was pretending. He continued to have sex with her and ejaculated inside her. Not long after the rape, the relationship between them ended. At that time, the applicant told B1 that he had started seeing someone else.

- 11 B1 suffers very considerable and severe psychological effects from this event and from her relationship with the applicant and cannot even bring herself to talk about it at counselling sessions.
- 12 The applicant then began a relationship with B2 towards the time of the end of his relationship with B1. On 31 August 2018, B2 and the applicant had a row on the way home together, after having been out socially, and the applicant became insulting and snatched her phone.
- 13 At home, she followed the applicant upstairs to recover the phone and found him going through her messages and he claimed she was having sex with another male. He then threw her against the bed, put his hands around her throat and started strangling her. She lost consciousness and, when she came around, he called her “a slag”. He then calmed down and asked her to join him on the bed. She refused and he then told her, “You are not leaving this house alive”. He then smashed her phone against the wall. This is the second count of criminal damage. B2 was terrified as the applicant would not let her leave. He grabbed her, pulled her on top of him, saying that he wanted sex. He ripped at her clothes and forcibly removed her underwear. She tried to push him off, but he got on top of her and forced himself inside her and raped her. Afterwards she lay on the bed crying.
- 14 Neighbours who heard the commotion called the police. The fact that people outside the property realised these offences were being committed makes clear the extent of B2’s ordeal. Officers attended and arrested the applicant who denied rape. He was released under investigation.
- 15 Whilst on bail for the two offences that we have just described, the applicant met B3. He would routinely check the messages on her phone and answer her telephone calls. He did not like her going out and was jealous of the thought of what he said were other men looking at her. After an argument between B3 and the applicant at a social event, on the following morning she went to his home to collect the medication that she took for depression and anxiety. As she walked up the stairs, he followed her and, when she entered the bedroom, he slammed the door behind them. When she said she needed to leave to collect her son, the applicant told her she could not leave. He kept telling her to lie on the bed. She refused but eventually gave in and sat on the bed. The applicant then grabbed her by the hips and said, “Well, to be honest with you, I may as well rape you, I am off to prison, anyway, so I may as well make it a hat trick”. He laughed and said, “I’m scaring you now, aren’t I?” These are plainly degrading and humiliating comments deliberately designed to exacerbate her ordeal.
- 16 The applicant then pulled her trousers and underwear down and threw her on the bed. He digitally penetrated her vagina and said he wanted sex. She was crying and begging him to stop. He raped her and ejaculated inside her and then, some time later when she was trying to leave and get dressed, he raped her again, ejaculating inside her again. Only then did he let her leave.

- 17 These are dreadful and serious offences even within the context of what is itself a serious offence. There are numerous aggravating factors. It must have taken great courage on the part of the three victims to come forward.
- 18 In his sentencing remarks, the recorder carefully considered the relevant steps that were required in order for him to arrive at the relevant sentence. As he observed, these incidents were terrifying, violent and also prolonged. Two of the victims were strangled, which is an incredibly dangerous thing to do to anyone. One of the victims lost consciousness as a result. B1 was still unwell on the day that she was raped and, indeed, was bleeding from her termination. The applicant was wholly unconcerned about any of this. All of the victims were in a relationship with the applicant in which he was manipulative and controlling as well as violent. They have all suffered severe psychological harm as a result of what he has done.
- 19 There can be no complaint about the recorder's categorisation of each of the rapes, with the lead offence falling into Category 1A and the other two into Category 1B. There can be no complaint about the way in which the recorder arrived at a view of the proper length of sentence at 17 years 6 months, reduced from 20 years to reflect the applicant's guilty pleas, translating into a minimum term, by applying two thirds, which resulted in the period of 11 years 8 months.
- 20 The sole ground of appeal is that a discretionary life sentence was unduly pessimistic as regards the assessment of the future risk of the applicant and that this, therefore, resulted in a sentence which was manifestly excessive.
- 21 Mr Kerr submits that a determinate sentence could suitably manage risk presented by this applicant, given his commitment to change. We are unpersuaded by these submissions.
- 22 Although the applicant had only one previous conviction, which was assault of a constable - in that offending he had put the officer in a headlock- the pre-sentence report author clearly thought that he was highly dangerous to any future partner and our view is that he plainly was and is.
- 23 Here there were three violent sexual assaults of rape on three successive partners over the course of a period of two and a half years, with strangulation of two of them and forcible detention of one. One of the incidents of strangulation caused the victim to lose consciousness. The third rape was committed whilst the applicant was on bail for the first two. The recorder correctly went through the necessary analysis required by the case of *Crown v. Burkinstas* and was perfectly entitled to conclude that a discretionary life sentence was justified, since he could not say when the applicant would cease to represent a significant risk of serious harm to women.
- 24 In our judgment, there is nothing even arguably wrong with the analysis and the conclusions reached by the learned recorder. We entirely agree with his analysis and it is not reasonably arguable that the assessment of risk by the sentencing recorder was unduly pessimistic, or that his conclusion that a discretionary life sentence was required was wrong, or that it has resulted in a sentence that is manifestly excessive.
- 25 We, therefore, refuse this renewed application which is thereby dismissed.
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CERTIFICATE

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This transcript has been approved by the Judge.