



**THE COURT OF APPEAL**

**Record Number: 124CJA/18**

**The President  
Edwards J.  
Kennedy J.**

**BETWEEN/**

**DIRECTOR OF PUBLIC PROSECUTIONS**

**APPLICANT**

**- AND -**

**JOHN MATTHEWS**

**RESPONDENT**

**JUDGMENT of the Court (*ex tempore*) delivered on the 17th day of December 2019 by  
Mr. Justice Edwards**

1. This is a finely balanced case. We indicated on the last occasion that in our view the sentences were unduly lenient. This appellant is before the Court on four separate Bills each charging burglary offences.
2. He is before the Court on Bill No. 763/2016 and had pleaded guilty before the Circuit Court to Counts No's 1,2,5,7,9,10,11,12,13,17,19,24,26 and 27 on that Bill, all of which charged burglary. He received a sentence of four years on Count No. 1 with the other Counts on that Bill being taken into consideration. And then he is before the Court on three additional Bills also charging numerous counts of burglary and the sentences on those Bills were each made consecutive to the four-year sentence on Bill No. 763/2016. In the case of Bill No. 928/2016 a consecutive sentence of two years imprisonment was imposed in respect of all counts, but wholly suspended; in the case of Bill No. 229/2017 a consecutive sentence of two years imprisonment was again imposed in respect of all counts, and was also wholly suspended; and in the case of Bill No. 838/2016 a consecutive sentence of five years imprisonment was imposed in respect of all counts, but with the final four years and six months suspended.
3. Now the recourse to consecutive sentencing was very necessary in this case in circumstances where this appellant has 115 previous convictions for burglary, and it is in the light of that extraordinary level of recidivism that the Court considered that to have suspended the consecutive sentences in their entirety in the case of Bills Nos 928/2016 and 229/2017, and all but six months of the consecutive sentence in the case of the five-year sentence on Bill No 838/2016, was unduly lenient.

4. It is correct, I think, to characterise this appellant as being a menace to the public in terms of his chronic burglary recidivism. Moreover, it is clear from his record, and sentences imposed on him in the past, that to date neither retribution nor deterrence has worked.
5. Despite this it was submitted by his counsel that there is still some cause for hope in this particular case in that for the first time in this man's history of offending it appears he is now gaining some insight into the fact that he needs to turn his life around, and that he needs to change his behaviour and in particular to address his underlying addiction problems -- because all of this stems from his addiction or most of it stems from his addiction. It was suggested that this is what had motivated the sentencing judge to suspend so much of the consecutive sentences.
6. In that regard, the Probation Report on him is very helpful although parts of it would make for sobering reading viewed from the perspective of Mr. Matthews. It points out that he has been involved in the commission of burglaries for thirty years and has spent a lot of his adult life convincing himself that he has not hurt anyone. This perspective has been embedded in his psyche from an early age, due to certain actions of his father and later by avoiding various realities through addiction.
7. It says that he has never fully engaged up until now with any significant drug therapeutic programme. That, it appears, has now changed. Overall, as has been mentioned by the President earlier, the report is actually very positive. It indicates that for the first time ever that he is making a real effort in prison to engage with the services that have been offered to him and is trying to address his underlying problems. The Court very much wishes him well with that but has to at the same time maintain a guarded approach and a healthy scepticism given his past history.
8. Nevertheless, there is a track record of some achievement. We have received a number of certificates of achievement both from Merchants Quay Ireland and in respect of various courses that he has done in Wheatfield and we very much take note of the assessment of the Probation Officer, Ms. Martina O'Neill, who is to be commended for having produced a really insightful and excellent report for the benefit of the Court. And we think that not so much in Mr. Matthews' interest, although it is in his interest, but very much in the public interest, and notwithstanding that the Court has found the sentences to be unduly lenient, the best course at this point may be not to interfere with them and to follow the recommendation of the Probation Services that Mr. Matthews be allowed to continue to work towards his rehabilitation in the unusual circumstances of this case.
9. In the circumstances, we are disposed not to interfere with the length of the sentences imposed in the Court below, or the degree or extent to which they are suspended, and will instead follow the Probation Service's recommendation. That envisages him being released on a date next July, that is July 2020. We will, however, adjust somewhat the conditions attaching to the suspended sentences.

10. A concern has been expressed in the Probation Report, and it is a very understandable concern, that Mr. Matthews should proceed directly from prison to Coolmine upon his release. Obviously, that is subject to the availability of a bed. For this thing to work there must be a bed for Mr. Matthews to move seamlessly, as I say, from prison to Coolmine. So we are very much taking the step that we have decided to take on the understanding and in the expectation that the relevant services will work towards ensuring that Mr. Matthews can move seamlessly to Coolmine either at his projected release date in July or whenever his actual release might be.
11. The suspensions are to be subject to his full co-operation with respect to what the Probation Service have in mind for him. He will be required to complete every aspect of the Coolmine course and following the completion of that course to continue for the duration of the suspension to engage with and co-operate with the Probation Service, to follow their recommendations and their directions, and to engage fully with all after-care services that are put in place for him, either by Coolmine or by the Probation Service. This is to ensure insofar as it is possible that there is no slippage and return to crime by Mr. Matthews or a return, indeed, to drug taking which is really the precipitating factor which leads to, or has led to, Mr. Matthews engagement in the various crimes on his criminal record.
12. So, that is our Ruling. We declare the sentences to have been unduly lenient. However, in the exercise of our discretion we are not going to interfere with them save as indicated because circumstances have moved on. We adopt this approach in light of the new circumstances that now exist as disclosed in the very helpful Probation Report that we have received. We also note in support of that, that he has been subject to admittedly limited urinalysis but that such urinalysis as has been done has come back negative for drugs. It tends to confirm to us his assertion, which is referred to in the Probation Report, that he is now on a drug free wing as an enhanced prisoner and that he is actively engaging in drug rehabilitation while in custody. It is further confirmatory of the claimed resolve on his part to reform and rehabilitate even at this late stage and it is on that basis that we have felt able to take the step that we are taking today.
13. Accordingly, Mr. Matthews should enter a bond now before us with respect to the conditions that I have set forth. There is obviously also to be the standard condition required by s.99(2) of the Criminal Justice Act 2006 that he keeps the peace and is of good behaviour. The actual sentence is unaltered but the conditions of the associated bond are, if you like, tightened up to reflect the intentions of the Court today.