

[2020] EWCA Crim 567

No: 201904031/A2

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand

London, WC2A 2LL

Thursday, 23 April 2020

(VIRTUAL COURT)
B e f o r e:
LADY JUSTICE CARR DBE

MR JUSTICE GOOSE

MR JUSTICE SAINI

R E G I N A

v

RICO ASHLEY PETER ROBINSON

Computer Aided Transcript of the Stenograph Notes of Epiq Europe Ltd, Lower Ground, 18-22
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(Official Shorthand Writers to the Court)

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NON-COUNSEL APPLICATION

J U D G M E N T

LADY JUSTICE CARR:

Introduction

1. On 2 April 2019, having pleaded guilty before the Magistrates, the applicant was committed for sentence pursuant to section 3 of the Powers of Criminal Courts (Sentencing) Act 2000, in respect of seven offences of supplying a controlled Class A drug, contrary to section 4(3) of the Misuse of Drugs Act 1971. On 21 June 2019, in Chester Crown Court, the applicant went on to plead guilty to two offences of conspiracy to supply a controlled Class A drug contrary to section 1(1) of the Criminal Law Act 1977.
2. On 29 August 2019 the applicant was then sentenced as follows: on the two offences of conspiracy to supply, a sentence of 6 years' imprisonment on each, to run concurrently; on the seven offences of supply, a sentence of 3 years' imprisonment on each concurrent inter se but consecutive to the sentence of 6 years' imprisonment. Thus the total sentence was one of 9 years' imprisonment.
3. This is the applicant's renewed application for leave to appeal against sentence and for a very short extension of time in which to do so.
4. The facts are set out in the Criminal Appeal Office summary and for present purposes do not need to be repeated.
5. The applicant was 29 years old at the time of sentence. He has 58 convictions spanning from between 2004 and 2018. Those convictions relevantly included offences of possession of a Class B controlled drug and possession of a Class A controlled drug with intent.
6. There was no pre-sentence report before the Judge but there was an offender update report (dated 9 May 2019) which we have also considered.

Grounds of Appeal

7. For the applicant it is submitted that the sentence imposed was manifestly excessive. Firstly, the factual basis on which the prosecution put its case in relation to the quantity of drugs supplied and upon which the Judge passed sentence was incorrect. The Judge was led into wrongly associating the applicant with 221 days of dealing when the period should in fact have been only 130 days. Secondly, it is submitted that insufficient consideration was given to the principle of totality.

Analysis

8. When refusing leave the Single Judge said this:
 - i. "... There are no arguable grounds for appeal. The sentence was not arguably manifestly excessive.
 - ii. The Judge carefully considered the materials. Importantly, the

applicant in his own Basis of Plea document (mostly not accepted by the prosecution), stated in terms in para 10 that he was involved in the Macclesfield supply conspiracy between June 2018 and January 2019 - i.e. 221 days. The Judge took the lowest amount of drugs which he had admitted to dealing, namely 5g per day, giving a total of over a kilo over the period of the conspiracy - making a Category 2 offence. Reasonable deductions about the applicant's knowledge were made and the principle of totality in respect of the 3 sentences was expressly applied. The Judge carefully took into account matters of mitigation, including his addiction, and of aggravation, including relevant previous convictions. There was detailed consideration of the role played by the applicant and the assessment of culpability and harm cannot sensibly be impugned nor the approach to totality given the relevant ranges of sentence for a Category 2 offence."

9. We have reviewed the merits of this application independently and agree with the remarks of the Single Judge. There was no factual error as alleged: 130 was the number of days on which the applicant was seen by the police to be operating, whereas 221 days was the period during which the team, as a whole, had operated during the conspiracy. The Judge was entitled to pass consecutive sentences subject to the principle of totality, to which the Judge paid express regard, that being reflected in the terms adopted on the seven offences of supply.
10. We see no arguable merit in the application and in the absence of any such merit, we refuse the application for the extension. Both applications will be dismissed accordingly.

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

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