

WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2022/03143/A4

[2023] EWCA CRIM 310



Royal Courts of Justice
The Strand
London
WC2A 2LL

Thursday 9 March 2023

B e f o r e:

LADY JUSTICE SIMLER DBE

MR JUSTICE JEREMY BAKER

THE RECORDER OF LIVERPOOL

(His Honour Judge Menary KC)

(Sitting as a Judge of the Court of Appeal Criminal Division)

R E X

- v -

LORENC MARDEDA

Computer Aided Transcription of Epiq Europe Ltd,
Lower Ground, 18-22 Furnival Street, London EC4A 1JS
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

Mr S Hustler (Solicitor Advocate) appeared on behalf of the Applicant

J U D G M E N T

Thursday 9 March 2023

LADY JUSTICE SIMLER:

Introduction

1. On 19 April 2022, in the Crown Court at Reading before His Honour Judge Nawaz, the applicant pleaded guilty to production of cannabis (count 10). On 28 April 2022, following a trial before the same judge and a jury, he was convicted of two counts of conspiracy: conspiracy to produce cannabis (count 3) and conspiracy to supply cannabis (count 4). He was acquitted of conspiracy to conceal, convert, disguise, transfer or remove criminal property (count 5).
2. On 30 September 2022, the applicant was sentenced by His Honour Judge Nawaz to a term of eight years' imprisonment for the conspiracy to produce cannabis, and to concurrent terms of four years' imprisonment for the conspiracy to supply and 12 months' imprisonment for the production of a Class B drug. The total sentence, therefore, was one of eight years' imprisonment. Other ancillary orders were made.
3. He now renews his application for leave to appeal against sentence and for a representation order, following refusal by the single judge. We have had the benefit today of concise, focused submissions on his behalf from Mr Hustler.

The facts

4. The facts are fully set out in the Criminal Appeal Office Summary and are well known to the applicant. We will not set them out in detail.
5. In summary, this was a case concerning a national network of cannabis factories set up by an organised criminal group run by a co-conspirator, Vladimir Mardeda. He worked closely with others, including family members, to run and staff the factories. The group had access to false identity documents, which were used both to facilitate illegal entry into the UK of members of the criminal group from across Europe, as well as to obtain premises in which the factories were set up. In addition to producing cannabis in factories in Reading, London and Sunderland, the group were also involved in the supply of cannabis commercially to

other drug dealing groups within the UK, whether it was the cannabis that they themselves had produced, or other cannabis that they bought, in order to sell for profit.

6. The conspiracy involved a large number of conspirators, including, as we have indicated, family members, and seven or eight premises where the cannabis was farmed. The scale of the production which had taken place and was continuing was industrial. The yield was 170 kilos with a street value of about two million pounds.

7. By way of example only, when the police entered the factory at Hill View in Reading on 22 October 2020, a co-conspirator, Erion Mardeda, was arrested. Hill View was a large residential property that had been converted into a sophisticated cannabis factory with five different growing areas. 102 mature plants were recovered from four rooms. They would have produced kilograms of skunk cannabis. The nursery contained 120 small plant cuttings. Those young plants would likely have yielded just under 11 kilograms of female flowering head material. The total yield from all plants present at that address was estimated to have been 21 kilograms, with a wholesale value in the region of £105,000. A kilogram of skunk cannabis had a common wholesale value of between £5,000 and £7,000 per kilogram at the time. The total street value was therefore estimated to be around £260,000 odd. At least four similar crops to those from the plants in the four rooms could have been achieved every year, which suggested that the site could have produced an annual yield of just over £500,000 in terms of street value.

8. The other cannabis factories which operated in London, Reading and Sunderland were organised and operated in a similar way.

9. There was also evidence at trial from mobile phone data, surveillance and cell site data, all of which demonstrated the applicant's links to and his communications with others in the criminal group, and his involvement in the production and the supply of cannabis.

The Sentence

10. The applicant was of previous good character. The court sentenced him without a pre-sentence report. We are satisfied that such a report was not then necessary and is not now necessary.

11. In the course of his sentencing remarks, the judge made clear that although the applicant could easily have been categorised as having a "leading role" in light of the evidence he had heard, he would sentence him as having had a "significant role". This was a category 1 operation; it involved the production of cannabis on an industrial scale. That therefore meant a starting point of five and a half years' custody, with a range up to seven years. The judge treated the conspiracy to produce as the lead offence. Having considered the aggravating and mitigating features, the judge concluded that a sentence at the top of the range was appropriate in relation to the lead offence. He had then to reflect the criminality on the other counts, and he arrived at a total sentence of eight years' imprisonment.

The Renewed Application for Leave to Appeal

12. The single proposed ground of appeal renewed by Mr Hustler on the applicant's behalf is that there were no characteristics of the case or of the applicant's involvement that justified a departure from a starting point of five and a half years after trial and resulted in a sentence of eight years' imprisonment.

13. Mr Hustler submitted that the managerial role that the applicant had in what was an industrial scale operation meant that he was particularly active. That was inevitable, given the size of the operation. Nonetheless, he was performing classic managerial activities and did not perform or display features that were consistent with a leading role. He did not, for example, direct the operation – that was done by others. Nor did he have any substantial links to or influence on others in the chain. Mr Hustler submitted that in those circumstances the judge passed a sentence that was manifestly excessive because he treated the applicant as if he had a "leading role".

14. We have considered these arguments, both in writing and developed orally. We have concluded that there is no arguable basis for granting leave. As the single judge explained

when refusing leave, the sentencing judge was uniquely well placed to determine the applicant's role within these conspiracies, having presided not only over the applicant's own trial in relation to the two conspiracy offences, but also the trials and the sentencing of other co-conspirators involved in the same criminal group and the same conspiracies. The judge concluded that the applicant knew exactly and had a clear understanding of the scale of the operation, and that he was deeply involved in it. Indeed, such was his involvement that the judge observed that the evidence suggested that he might equally have fallen into a "leading role". The scale of the operation and the role played by the applicant in it undoubtedly justified the judge's conclusion that the notional sentence for the conspiracy to produce offence was at the top of the bracket for this category of offending – in other words, towards seven years custody.

15. As we have said, the judge treated the conspiracy to produce as the lead offence. He had therefore to reflect the overall offending involved to reach an appropriate total sentence. Having allowed for the mitigation, we are entirely satisfied that the total sentence of eight years' imprisonment was a just and proportionate sentence. It reflected the aggravating and mitigating features and the overall criminality involved. The sentence was neither manifestly excessive, nor arguably so.

16. We have considered whether to make a loss of time order against the applicant, but have concluded that it would not be right to do so in light of the cogent submissions that have been made by Mr Hustler on behalf of the applicant in support of this renewed application for leave to appeal. Nonetheless, for the reasons we have given, the renewed application is refused.

Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the

proceedings or part thereof.

Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk
