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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO: 2022 02175/02178 A3

[2023] EWCA Crim 527



Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 25 April 2023

Before:

LORD JUSTICE SINGH

MR JUSTICE HOLGATE

HER HONOUR JUDGE MONTGOMERY QC

REX

v

JAMIE MARTIN DUNN
CATALINA COJOCARU

Computer Aided Transcript 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 STEPHEN VULLO KC appeared on behalf of the Applicants

J U D G M E N T

MR JUSTICE HOLGATE:

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with s 3 of the Act.
2. On 26 April 2022 in the Crown Court at Northampton before Her Honour Judge Crane, the applicants changed their pleas to guilty to two counts of a conspiracy regarding the offence under s 2(1) Modern Slavery Act 2015 ("MSA") of arranging or facilitating travel by another person with a view to exploitation (one count involving travel to the UK and the other travel within the UK) and one count of a conspiracy regarding the offence under s 53 of the Sexual Offences Act 2003 to control prostitution for gain. The conspiracies ran between the beginning of 2016 and 19 January 2017. Mr Dunn also pleaded guilty to one further count of acquiring criminal property, contrary to s 329(1)(a) of the Proceeds of Crime Act 2002.
3. The applicants were sentenced to concurrent terms of 3 years 9 months' imprisonment on each of the counts relating to the conspiracy to traffic people, and 2 years 6 months for the conspiracy to control prostitution, all such sentences to run concurrently. Mr Dunn was also sentenced to a consecutive term of 1 year's imprisonment for the offence under s 329. Accordingly, the total terms of imprisonment were 3 years 9 months for Ms Cojocaru and 4 years 9 months for Mr Dunn.
4. The applicants had been in a relationship since 2015. Working with Martin Dunn (the father of Jamie Dunn) and Andrei Cojocaru (the brother of Catalina Cojocaru), the applicants controlled a prostitution ring in the Midlands. In addition, Martin Dunn pleaded guilty to being involved in the people trafficking conspiracy.
5. The applicants recruited women from around Europe, primarily Romania, and brought them to the UK to work for them as prostitutes. Jamie Dunn set up an account with an online

marketplace to which he uploaded photographs of women who would be offered for sexual services for money. Clients had to call a mobile phone number to arrange a meeting. There was a separate phone for each sex worker, but these were held by the applicants so that they could control the operation and cash receipts each day.

6. At first there were three female sex workers. By May 2016, thirteen women's profiles were being advertised.
7. The police raided the applicants' homes in January 2017. They found evidence demonstrating their active role in controlling the operation, including the mobile phones used to arrange bookings for the women, with the worker's name on the back of each phone. There were extensive texts demonstrating their contact with the women which began before they were flown into the UK, telling them which brothel they would go to and how much they would earn a night so that the defendants could take their cut. There were large numbers of photographs of the women in erotic poses so that they could create online advertisements. Jamie Dunn spent about £10,667 to place the adverts. He was responsible for sourcing the properties used as brothels. Between June and November 2016 he rented four properties, ranging from a one-room bedsit to a four-bedroomed house.
8. Martin Dunn provided finance for much of the business. He paid for airline tickets for a number of women coming into the UK and would collect them from the airport and transport them to one of the locations. He also carried out maintenance work on the brothels. Over a period of nine months he spent over £12,000 on online escort adverts and over £20,000 on hotel rooms for temporary brothels.
9. One important aspect of the operation was the sourcing of women from other countries, arranging to fly them into the country and then directing them to the property from which they would be operating. The women came to the UK at Ms Cojocar's invitation. Some she knew beforehand and others were people she had been put in contact with. They all viewed her as their boss. She would organise their tickets to come to the UK and on arrival she would make arrangements for them to be collected at the airport and taken to a property of her choosing, where they would be put to work immediately. She made sure that the

women looked their best and would regularly require them to send her new photographs to be uploaded.

10. The police found mobile phones used by Ms Cojocararu with a very large number of text messages on her day-to-day dealings in the operation. There were texts from sex workers confirming how many clients they had seen and how much they had been paid. She sent texts to her brother telling him he needed to bring in more clients.
11. The police found mobiles used by Mr Jamie Dunn which covered all aspects of the business. This included photographs of the sex workers, images from Vivastreet, Martin Dunn's bank card, flight details for the women and semi-nude images of them used for publicity photographs. Jamie Dunn and Mr Cojocararu would top up the pay-as-you-go phones used to receive calls from customers.
12. One of Mr Cojocararu's main roles was to man the phones for each sex worker. He would pretend to be the woman, agree terms, and then contact the woman to tell her about the appointment. The client would be given a postcode and on arrival at the location would text again to be given the house number. Once the client had left, the women had to text the phone and tell Mr Cojucararu the money received. He would pass that information on to his sister. The sex workers were expected to hand 50 per cent of their earnings to her. She recorded the earnings in notebooks.
13. Jamie Dunn kept lists on monthly outgoings, showing, for example, rent, council tax and utilities for each property, credit for the phones used by Mr Cojucararu, Vivastreet fees and "Andrei's salary". The total monthly outgoings on this list amounted to £10,150. The police also found some calculations by Jamie Dunn showing annual costs of £182,000, meaning that the operation needed to earn £3,500 a week to break even.
14. A Samsung tablet found in the sitting room of the home shared by the applicants and Mr Cojocararu contained many images of the daily earnings income sheets.
15. Whilst Ms Cajocararu and her brother managed the women, Jamie Dunn continued to place adverts with Vivastreet and was regularly in contact with the company to obtain discounts. He also ensured that there was a constant supply of women available to work for him and

Ms Cojocaru. For example, on 7 January 2017 he sent a sample text message to her brother to be sent to women they were looking to recruit, which said, "I was told you might be looking for a place to work from. I have safe, comfortable houses in great locations that are perfect for work. Everything is supplied by me, then in return percentage based commissions are paid by you. It would be great to talk more about it with you if you are serious about making more money." Andrei replied to him, "Thank you bro. Today I send messages to girls ..."

16. By May 2016 Jamie and Martin Dunn were both in a position to pay £40,000 cash for the purchase of two newbuild part ownership homes in Northampton. They completed their purchases by 15 July 2016.
17. With regard to the money laundering count, although it was not possible to state with certainty the exact value of criminal money received, based on diary entries by Jamie Dunn, it was estimated that between 2 September 2016 and 18 January 2017 alone the group made at least £89,000.
18. Jamie Dunn was interviewed in January 2017, August 2017 and in May 2018. He largely answered "no comment" to the questions put to him. Ms Cojocaru was interviewed in January 2017. In a prepared statement she denied the offences and then answered "no comment" in all interviews.
19. The applicants were charged on 21 January 2019 and were sent for trial on 25 February. At a PTPH in March 2019 all the co-defendants pleaded not guilty and the trial was set for January 2020. In late November 2019 the defence applied for the downloading of all phones and extensive disclosure of messages. The following month they applied to break the fixture, and the trial was refixed for November 2020. In October 2020 the court explained that because of reduced court capacity, the trial could not proceed and it was fixed for July 2021. The trial was then adjourned to April 2022 because Ms Cojocaru was expecting her son in 2021. In March 2022 the applicants made applications for Goodyear directions, which the court refused to give. In April 2022, Mr Dunn and Ms Cojocaru changed their legal representation. The guilty pleas were entered later that month on the first

day of trial.

20. We note that after their arrests in 2017, both applicants set up legitimate businesses in other fields which are said to have been successful.
21. Mr Dunn was born in April 1980 and Ms Cojocaru in December 1984. They were married in 2019. They have two children: a daughter, born on 16 November 2018 and now aged 4 years 5 months; and a son, born on 19 July 2021 and now aged 1 year 9 months.
22. We have read the detailed pre-sentence reports on both applicants and related documents. Ms Cojocaru came to this country in 2015. She was then forced to become a sex worker and subjected to ongoing threats. She met Mr Dunn as a client. They began a relationship. He helped her to escape from the brothel and they started living together. Several of Ms Cojocaru's colleagues are said to have obtained help from Mr Dunn and Ms Cojocaru to escape from similar situations by working for them as sex workers. But in any event the applicants were also involved in recruiting sex workers from abroad. The probation officer noted that the operation soon became driven by financial gain. We also note attempts by the applicants in these reports to minimise the seriousness of their offending.
23. The reports and other evidence describe the trauma Mr Dunn suffered as a child and the suffering of Ms Cojocaru into being coerced to work as a sex worker in 2015. She had no previous convictions and Mr Dunn had only two driving offences recorded against him.
24. The applicants' basis of plea was accepted by the prosecution and by the court. The only exploitation in this case related to the control of prostitution for gain, and that control related to the giving of directions to the sex workers. They were not subjected to any coercion. They acted of their own free will.
25. In her sentencing remarks the judge, having summarised the offending, referred to the points of mitigation. She took the view that even if the operation began as an attempt to assist sex workers seeking help it became a highly profitable non-altruistic enterprise. She had regard to Ms Cojocaru's depressive disorder with associated anxiety, the fragility of her mental state and the risk that imprisonment could trigger symptoms of trauma. She had regard to Mr Dunn's severe post traumatic stress disorder and associated chronic depression.

Having regard to the Definitive Guideline on Mental Issues, the judge did not consider that these disorders reduced culpability, but she noted the guidance on the impact of custodial sentences in this context.

26. Referring to *R v Petherick* [2013] 1 WLR 1102, the judge took into account the impact of custodial sentences on the two children. She rejected the submission for the applicants that the guideline on controlling prostitution should determine the sentencing level because of the absence of coercion. She said that controlling prostitution was one aspect of the criminality involved, but there was also the serious additional element of recruitment and trafficking into this country.
27. In relation to the Guideline on Modern Slavery, the judge decided that culpability for both applicants fell on the boundary between A 'high' and B 'medium'. She said that harm was at the top of category 4 to reflect on the one hand the lack of coercion, but on the other the long period of time over which the offending had taken place. She said that an A4 offence had a starting point of 5 years within a range of 4-7 years' custody, and a B4 offence had a starting point of 3 years within a range of 1-5 years. She therefore arrived at a sentence of 5 years before mitigation. After allowing for mitigation and 10 per cent credit for the guilty pleas, she came to a sentence of 3 years 9 months.
28. In relation to the guideline on controlling prostitution, the judge said that the harm fell into category 2 and culpability fell on the boundary between A and B. An A2 offence had a starting point of 2 years 6 months within a range of 2-5 years, and a B2 offence had a starting point of 1 year, within a range of high-level community order to 2 years' custody. The judge said that the offence was aggravated by its duration, the number of women involved and the recruitment and trafficking. She arrived at a concurrent sentence of 2 years 6 months after mitigation and credit for plea.
29. In relation to Mr Dunn's offence under s 329 of the 2002 Act, the judge said that his culpability was high because of his leading role and the involvement of others. The harm was category 4. The starting point was 5 years' custody within a range of 3-6 years. She said that by itself the offence warranted a sentence of 4 years, which she then reduced

substantially to 1 year to take account of mitigation, totality and the guilty plea.

Grounds of Appeal

Ms Cojocar

30. In relation to the first applicant, Ms Cojocar, it is said that by imposing a sentence of imprisonment for 3 years 9 months the judge failed to give sufficient weight to:

- (1) the agreed basis of plea (ground 1)
- (2) that Ms Cojocar was herself a victim of trafficking (ground 2)
- (3) the impact of immediate custody on her two very young children, especially given that both parents were before the court (ground 3).

Mr Dunn

31. It is submitted that in passing a sentence of imprisonment for 4 years 9 months the judge:

- (1) failed to give sufficient weight to the agreed basis of plea (ground 1)
- (2) erred by failing to indicate at any stage that the court was considering passing consecutive sentences (ground 4).

Discussion

32. We are grateful to Mr Vullo KC for his submissions.

Ground 1

33. Mr Vullo sought to emphasise that part of the definition of trafficking in the United Nations Palermo Protocol which refers to force or coercion and suggested that the Modern Slavery Act 2015 went further than the Protocol by encompassing control of prostitution for gain based merely upon the giving of directions. He suggested that the sentencing guidelines for the offence under s 2(1) did not adequately address this point.

34. There is no merit in this ground for two reasons. First, even if it be assumed that the submission about the Protocol is correct, it is nothing to the point. The judge applied the appropriate sentencing guideline for s 2(1) of the 2015 Act.

35. Secondly, the submission regarding the Protocol is incorrect in any event. As Mr Vullo's

pointed out in his written submissions in the Crown Court, the concept of trafficking in the Protocol is not limited to threats or coercion but includes what he described as “inducement”. In this case there was plenty of evidence of that. That concept may be also relevant to the degree of loss of personal autonomy which may be involved. It cannot be argued, as the applicants seek to do, that the Modern Slavery guideline either had no relevance or reduced weight.

36. It must also be remembered that this offending involved conspiracies lasting for a substantial period, in which these applicants involved two other co-defendants and played the leading roles. Those aggravating factors have to be reflected in a sensible application of the relevant guidelines.
37. Turning to counts 1 and 2 and the MSA guidelines, in our judgment the judge cannot be criticised for putting the harm in this case at the top of category 4 (the lowest of the four categories) for the reasons she gave. Nor can any criticism be made of her for judging culpability to lie on the cusp between A and B. Accordingly, it is not arguable that the starting point of 5 years was manifestly excessive.
38. In relation to count 3, controlling prostitution, we consider that the judge was generous to treat the culpability as falling between A and B. There were several clear category A factors: there was a significant commercial basis, an expectation of significant gain and an exploitation of those known to be trafficked. But even following the judge's approach, she had to aggravate a 2-year sentence lying on the boundary between A and B by the substantial aggravating features in this case: duration, the number of women involved and the recruitment and trafficking. The starting point for category 2A offences of 2 years 6 months lies close to the bottom of the category range of 2-5 years. Here, the sentence had to be increased substantially above 2 years. If, as Mr Vullo suggests, the judge's implicit sentence before mitigation was 3 years or even more, that could not arguably be criticised. In our judgment, ground 1 is unarguable in relation to both applicants.

Ground 2

39. Mr Vullo submits that Ms Cojocar's mental health issues were more significant than those

of Mr Dunn and the judge erred in failing to treat them as reducing her culpability. He places particular emphasis on the trauma that the applicant suffered when she was coerced into prostitution which led her to assist other victims in a similar position.

40. In our judgment the judge's approach cannot be faulted. However the operation may have started off, Ms Cojocarui soon became involved in the successful business which sought to induce women abroad to come to this country to work as sex workers. The motive was significant financial gain. The trauma has little or no relevance to her culpability in this context.

Ground 3

41. We have carefully considered all the material addressing the position of the two children, including all the information submitted post sentence. That includes a detailed report by a social worker, Ms Brown. The children, particularly the daughter, are suffering because of the imprisonment of both of their parents. There is an interference with their Article 8 rights as well as those of Ms Cojocarui. But it is in accordance with the law and it pursues legitimate aims. That leaves the question of proportionality, in particular the balance discussed in *Petherick*. Here, the offending is of such seriousness that it is not arguable that the impact upon the children has been insufficiently reflected in the judge's treatment of mitigating factors and the final sentences imposed on this applicant.

Ground 4

42. Mr Vullo has not criticised the judge's categorisation of the offence under s 329. Even if she had treated the offence as lying towards the top of category 5A rather than in category 4A, the judge's sentence of 4 years before allowing for mitigation, totality and the guilty plea would have been justified.
43. Mr Vullo criticises the passing of a consecutive sentence. But if a concurrent sentence had been passed, that would have required an appropriate increase in sentence on the lead offence. Whether consecutive or concurrent, the essential question is whether the totality principle was respected. The judge did have regard to it. In our judgment it cannot be argued that the additional sentence of 1 year was wrong in principle or produced a total

sentence for Mr Dunn which was manifestly excessive.

44. For these reasons, these renewed applications for leave to appeal against sentence are 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 Funnival Street, London EC4A 1JS
Tel No: 020 7404 1400 Email: Rcj@epiqglobal.co.uk