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IN THE COURT OF APPEAL
CRIMINAL DIVISION



Neutral Citation No: [2023] EWCA Crim 774
CASE NO 202203094/B5

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday 7 June 2023

Before:

LORD JUSTICE LEWIS
MRS JUSTICE LAMBERT DBE
THE RECORDER OF LONDON
HIS HONOUR JUDGE LUCRAFT KC
(Sitting as a Judge of the CACD)

REX
V
MICHAEL VANSTONE

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NON-COUNSEL APPLICATION

J U D G M E N T

1. LORD JUSTICE LEWIS: On 16 April 2019 in the Crown Court at Croydon, the applicant was convicted of wounding with intent to cause grievous bodily harm. He was subsequently sentenced to an extended sentence of fourteen-and-a-half years, comprising a custodial term of eleven-and-a-half years' imprisonment and an extended licence period of three years. He was refused leave to appeal against conviction. He renews his application for an extension of time to appeal. He seeks leave to appeal and leave to adduce a witness statement said to be by his mother, Susan Matthews.
2. The facts can be stated shortly. The applicant was accused of stabbing his step-father six times in the kitchen of the home where he lived with his mother and his step-father. He claimed he acted in self-defence. He gave evidence at his trial and his step-father also gave evidence. His mother did not give evidence. She was in the living room when the stabbing occurred in the kitchen. She did give a witness statement and that was read out at trial. In that she said she heard her son say, "Get off me". The jury were sure that the applicant had not acted in lawful self-defence. He was convicted of wounding with intent.
3. He now seeks leave to appeal out of time. He says that his trial counsel was too inexperienced for such a serious case. He says he had mental difficulties and he was not fit to plead. He said that he had autism and needed an intermediary to help him at the trial. He also says the trial should not have gone ahead without his mother being there to give evidence. He applies to admit an unsigned statement by a person said to be his mother. Miss Matthews has given a signed statement to the police saying she did not make that statement and it is not hers. Yesterday the court received an email from a solicitor saying that he had in fact taken the statement from Miss Matthews. This court does not need to resolve the disputes about how and who that statement was made by.

4. The single judge refused the extension of time to appeal. She said this:
 - i. "In order to argue your appeal before the full court you need an extension of time of more than 1200 days. You were represented at the time of trial and, by different lawyers at sentence. You received negative advice on appeal and I do not accept that your personal difficulties were such as to prevent you from making this application on your own until now. I am not satisfied that an extension of time is justified on that basis but even so I have considered the merits of your proposed grounds before concluding that the extension is not required in the interests of justice."
5. We agree that there is no proper basis for extending the time to seek leave to appeal.
6. Nonetheless, like the single judge, we have gone on to consider the substance of the grounds. We have also read the response from the applicant's trial lawyer, the reports prepared at the time of trial and the Respondent's Notice. The single judge said this:
 - i. "Your complaints are that you were inadequately represented at your trial. Having read the papers, including the response from your advocate, the prosecution's Respondent's Notice and the summing up I am sure you were represented to a suitable standard. I have no reason to reject the account from your advocate that you were offered alternative counsel, but having built up a rapport with your solicitor advocate you wanted her to represent you. I am also sure that you wanted your trial to go ahead despite the absence of your mother from the witness box. It is clear that the statement from her which was read assisted your case of self-defence. She could not have given much more helpful evidence given she didn't see the incident in which the injuries were inflicted on the complainant. I am not persuaded that your fitness to stand trial was a real issue at the time. You had been assessed appropriately by a psychologist and a psychiatrist and there is no indication that you were not able to give a good account of yourself at the trial. There was no recommendation that an intermediary was required at trial and from the summary of your evidence in the judge's summing up I can see no deficiency in your presentation or ability to communicate. I am also sure that the experienced judge and your advocate would have been alert to any such difficulty you experienced. Understandably you were anxious for the trial to proceed when listed."

7. We agree. There is no substance in any of the grounds of appeal.

8. Finally, we turn to the application to admit new evidence. The court must have regard to whether the evidence would be credible and whether it may afford a ground of appeal.
First, the new statement is unsigned. Secondly, there is in fact little that the applicant's mother could say about the actual stabbing as she was in a different room from the room where the stabbing occurred. Evidence of what she had heard was read out at trial.

9. In those circumstances, this new statement, even if admitted, would not offer a ground of appeal. For that reason we refuse the application to admit new evidence.

10. In conclusion therefore we refuse the application for an extension of time to appeal, we refuse leave to appeal and we refuse the application to adduce new evidence.

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

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