



IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT CAMBRIDGE

HIS HONOUR JUDGE STUART BRIDGE

T0200026/T20200187

CASE NO 202402337/B4

[2024] EWCA Crim 1032

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday, 15 August 2024

Before:

LORD JUSTICE WARBY
MR JUSTICE CAVANAGH
MR JUSTICE WALL

REX
V
SAMUEL KAYODE

Computer Aided Transcript of Epiq Europe Ltd,
Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

The APPLICANT appeared in person

J U D G M E N T

1. MR JUSTICE WALL: This is a renewed application for permission to appeal against conviction and an extension of time of 1,078 days in which to do so.
2. On 29 June 2020 the applicant pleaded guilty to offences on two indictments. On one indictment (T20200187) he admitted two counts of possessing a class A drug with intent to supply and one count of possession of criminal property, namely £3,967.86 in cash. On the second indictment (T20200026) he pleaded guilty to two further counts of possession of a class A drug with intent to supply. He was later sentenced to a total term of 30 months' imprisonment. In separate proceedings he applied for permission to appeal against the length of that sentence. He was refused leave by the single judge and did not renew that application.
3. For reasons which will become apparent, the facts of the case are not a central plank to this application. In short, the applicant was stopped on two occasions (17 March 2019 and 17 January 2020) while he was allegedly engaged in the street dealing of class A drugs.
4. When he was interviewed following his arrest in March 2019 the applicant remained silent and refused to answer questions. Following his arrest in January 2020 the applicant admitted that he had committed the offences but claimed to have done so under duress. He said that his father owed a man called Akin a debt of £20,000 and the applicant sold drugs in order to pay off that debt. He said that he had already repaid £12,000 of it. He said that he had achieved this by purchasing the drugs and then preparing them for onward sale.
5. The applicant, who represents himself, has lodged grounds of appeal. A number of those grounds complain about the way in which he was treated whilst in prison. Whether or not those complaints are justified they cannot affect the safety of the conviction.

6. The single ground which, if made out, might render these convictions unsafe is the applicant's claim that he was unfit to plead when he entered his guilty pleas. That is the ground we will address.
7. The applicant entered unequivocal guilty pleas in the Crown Court. He was at the time represented by counsel. Nothing was said by his advocate at that stage or thereafter to suggest that there was any doubt about his fitness to enter those pleas. Further, there was no evidence, medical or otherwise, available to the judge who conducted the hearing to suggest that fitness to plead was an issue in the applicant's case. Indeed there was evidence to the contrary. The applicant had been a law student at Anglia Ruskin University. The interviews of the applicant conducted after his second arrest suggested that he was fully aware of what he had done and why he had done it. The applicant wrote a letter to the judge by way of mitigation in which he effectively admitted his guilt and gave cogent reasons for involving himself in this activity. The pre-sentence report also contained a summary of a full admission of guilt made by the applicant to the probation officer along with an explanation proffered by him for his criminal behaviour. The applicant also spoke to the Probation Officer about his mental health. There was no suggestion in the pre-sentence report that the applicant might have serious mental health issues or that he was unfit to plead. It is obvious from the pre-sentence report that the applicant was able to talk fluently about other aspects of his life, such as his relationship history, without ever alerting the Probation Officer to the possibility that he was so mentally unwell that he was unfit to plead.
8. The single judge who considered and refused this application did not have sight of any further medical evidence. There is a dispute between the applicant and the Court of

Appeal Office as to whether any medical evidence was sent. We do not need to delve into that dispute. The single judge refused this application on 6 November 2023. The applicant has had ample opportunity since that time to lodge with the court any further documents he wishes us to see on renewal and has done so.

9. We have read all of the documentation in this case, including a psychiatric report from Dr Bisht dated 11 February 2022. That report followed on from consultations he held with the applicant in July and December 2021. His conclusion set out at paragraph 8.2.4 of his report was that he was "unable to support his [the applicant's] claim that he was not fit to plead and stand trial at the time."
10. It would only be open to a judge to find the applicant unfit to plead "on the written or oral evidence of two or more registered medical practitioners, at least one of whom is duly approved": section 4(6) of the Criminal Procedure (Insanity) Act 1964.
11. The situation in which we are left is that there is only one report before us and that report expressly does not support the applicant's contention that he was unfit to plead when he did so. The applicant is critical of aspects of that report but it remains the only evidence on this issue from a registered medical practitioner.
12. We have also been provided with the applicant's medical records, including his general medical records, medical records from Homerton University Hospital and a medical report form from 2017. We have also read his kiosk records: records created by Sodexo who ran the prison in which the applicant was housed after his conviction.
13. Having considered those documents there is nothing in any of them which suggests that the applicant was unfit to enter guilty pleas in 2020. In those circumstances, although we have considered the possibility of doing so, we decline to order that a fresh expert report be obtained. There is no proper evidential basis for us to do so.

14. The applicant has also provided to this court a witness statement from someone called Jack Brown dated 3 March 2024. Mr Brown was incarcerated with the applicant in 2020. He speaks as to his concern as to the applicant's mental health at the time at which they were incarcerated together but does so from a lay point of view. He does not purport to address the issues relevant to the applicant's fitness to plead. There is no application in proper form to adduce this witness statement as fresh evidence but we have considered its contents in case it contains significant material. It does not. A lay person having generalised concerns about another person's psychiatric wellbeing at a point in time where he is newly incarcerated falls very far short of being evidence which is capable of showing that the man was unfit to plead guilty when he did so.
15. Therefore, despite the applicant's submissions to the contrary, which we have read, we have no doubt that the ground of appeal which the applicant seeks to advance is unarguable. Having fully considered the papers we have concluded that there are no other arguable grounds of appeal in this case. Therefore we conclude that these convictions are safe. In those circumstances we refuse the application for leave. We also refuse the application for an extension of time as it would be futile to extend time, only to then refuse leave to appeal.

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

Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk