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IN THE COURT OF APPEAL
CRIMINAL DIVISION
ON APPEAL FROM THE CROWN COURT
DURHAM
HHJ KIDD 11EE0812023
CASE NO 202402064/A2



[2024] EWCA Crim 1190

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 18 July 2024

Before:

LADY JUSTICE MACUR

MRS JUSTICE STACEY

RECORDER OF WOLVERHAMPTON
(HIS HONOUR JUDGE MICHAEL CHAMBERS KC)
(Sitting as a Judge of the CACD)

REX

V
PETER LAWS

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MR P ROONEY appeared on behalf of the Appellant.

J U D G M E N T

MRS JUSTICE STACEY:

1. The appellant appeals against sentence with leave of the single judge.
2. Before the Crown Court sitting at Durham, before HHJ Kidd, the appellant (then aged 41) was sentenced to an immediate term of imprisonment of 10 months for unlawfully wounding John Finn, contrary to section 20 of the Offences Against the Persons Act 1861, and a consecutive sentence of 19 months for doing an act tending and intended to pervert the course of public justice, resulting in a total sentence of 29 months. His co-defendant, Nadia Sunter, pleaded guilty to perverting the course of justice and received a suspended sentence order of 10 months.
3. The facts are as follows. On 13 October 2023, just before 1.00 pm, the appellant and Ms Sunter went to the Horseshoes pub in Crook in the company of the complainant, Mr Finn, and his partner, Donna McWilliams. Mr Finn went home at around 2.00 pm while the other three went to the house of Ms Sunter's late grandmother. Mr Finn rejoined them there at approximately 3.20 pm.
4. At about 5.15 pm, CCTV recorded a female shouting "get out" and screaming. Four minutes later, at 5.19 pm, Ms Sunter contacted the ambulance service reporting that Mr Finn was injured but claiming that he was outside the house, which was untrue. Shortly afterwards, CCTV showed Ms Sunter and the appellant dragging the limp body of Mr Finn into the alley outside the rear of the grandmother's house in Bell Street and leaving him on the ground. Mr Finn's partner, Ms McWilliams, remained with him. Ms Sunter was then seen coming back into the alleyway with a cup and a cloth and began

tending to Mr Finn, washing down his back and then his face and returning several times with clothes for a pillow and to cover him. The appellant came out and handed Ms McWilliams Mr Finn's telephone and wallet. He left and came back out into the alley and said to Mr Finn, who appeared unresponsive, "You ain't gonna say anything about me are you?" He then left and returned once again and said to Mr Finn, "Say nowt ya kna." He then left the backyard and was out of the camera shot until he was seen leaving the property via the front door at approximately 5.45 pm, having changed his outfit and carrying a large carrier bag, which was full. At 5.30 pm Ms Sunter made a second call to the ambulance service. She was distressed and urged the ambulance to arrive as quickly as possible and when it did arrive 5 minutes later, she directed it into the alleyway.

5. Mr Finn was treated and taken by an air ambulance to the James Cook University Hospital. Ms Sunter was arrested at the scene. The appellant was arrested later that day at his home address. Mr Finn spent 60 days in hospital, 16 of which were in an Intensive Care Unit in an induced coma. He had suffered a brain injury and an extensive bleed on the brain, injuries to his neck and chest and three broken vertebrae. His speech and memory have been affected; he is now unsteady on his feet, requires a stick and can only walk short distances. He struggles with getting dressed, holding cups, holding a pen and suffers pain in his legs and his right arm function is limited. He has no memory whatsoever of the incident.
6. The appellant was initially charged with grievous bodily harm but the prosecution accepted a plea to section 20 Offences Against the Person Act 1861 – unlawfully and

maliciously wounding or causing grievous bodily harm - since the prosecution accepted that they could not prove, to the criminal standard, that the appellant was responsible for the catastrophic injuries suffered by Mr Finn, which could have been caused by his falling down the stairs. They could however establish that two blows had been delivered by the appellant, causing a wound to Mr Finn's lip, a black eye and fractures to the nasal bone, in an assault which took place upstairs in the property, even though they could not identify in which room it had taken place. They could establish that Mr Finn had been upright and facing down the stairs when he reached the top of the landing but could not establish why it was that he fell or where he had lost his balance. At the time of his arrest the appellant admitted punching Mr Finn twice in the face, consistent with the injuries both to Mr Finn and to the appellant's hands.

7. The offence of perverting the course of justice was the dragging of Mr Finn's unconscious body out through the backyard of Ms Sunter's grandmother's house and into the alleyway behind the house in order to distance the appellant from the assault that had occurred inside the house.
8. The appellant has 38 convictions for 122 offences including several offences of violence. His most recent offence was for attempted robbery and having a bladed article, for which he received a sentence of 6 years comprising a custodial term of 4 years and an extended period of 2 years, and that was imposed on 27 March 2017.

The Judge's Sentence

9. The judge found that the section 20 offence fell within category 3B under the Sentencing

Guidelines, with a starting point of 12 months. Bearing in mind the aggravating feature of the appellant's previous convictions and the appellant's entitlement to 15 per cent credit for his guilty plea when the lesser charge was offered shortly before trial, the sentence imposed was 10 months' immediate custody. For the offence of perverting the course of justice, the judge found that the Sentencing Guidelines were not easy to apply to the circumstances of the case. It was common ground that there was medium culpability (category B). Although the prosecution placed the harm in category 2 and the defence in category 3, the judge disagreed with both of them and concluded that the correct category of harm fell into category 1. She concluded that the movement of an unconscious body from the bottom of the stairs to the rear alleyway had serious consequences for an innocent party, namely Mr Finn, as a result of the offence. She concluded that it must have been obvious that he was very badly injured. Although the judge noted that there was no medical evidence to support the serious consequences for Mr Finn from being moved in that way, she was satisfied that such movement may have caused, or was capable of causing, some neurological complications. The judge arrived at a final sentence of 19 months after making a downward adjustment from the starting point of 2 years, after considering the appellant's previous convictions for violence and his entitlement to 20 per cent credit, resulting in the 19-month sentence. She imposed a consecutive to the sentence for the section 20 wounding. Ms Sunter (the co-defendant) received a suspended 10-month sentence for perverting the course of justice, which was the only charge she faced. It was a standalone suspended sentence order since Ms Sunter has stage 3 cancer.

10. The single ground of appeal was that the judge erred in placing the sentence for

perverting the course of justice into category 1 harm. It was submitted that there was no direct medical evidence and it could not be inferred from the circumstances and known facts, that there were serious consequences to Mr Finn from having been dragged into the alleyway as he was. None of the other category 1 or category 2 factors applied. There was only limited impact on the administration of justice since the CCTV that showed Mr Finn's body had been moved in that way was quickly recovered and the appellant arrested from his home address later that day. It was therefore said that the offence properly fell into category 3B, with a starting point of 9 months and a range of 6 months to 1 year. Applying the 20 per cent credit to which the appellant was entitled for the timing of his guilty plea, he should have received a sentence of 7 months and 2 weeks for perverting the course of justice. It was accepted that the sentence should be served consecutively to the sentence for the section 20 wounding. The disparity of a sentence which was so much longer in comparison to his co-defendant (Ms Sunter) was relied on as further weight to the argument.

Discussion and Conclusion

11. The Crown Court sentenced the appellant without first obtaining a pre-sentence report. We agree that a pre-sentence report was unnecessary and is not now necessary. The custody threshold was passed, and this was clearly a sentence that could not be suspended. We agree that this was a difficult sentencing exercise and that the facts of the case were unusual. The victim had suffered catastrophic life-changing injuries but the prosecution could not prove that they had all been caused by the assault, hence the reduction in the charge from grievous bodily harm to section 20 and the categorisation of the assault offence under the guidelines as B3, resulting in the 10-month sentence after

credit for the guilty plea.

12. The Sentencing Council guidelines for perverting the course of justice state that the level of harm is to be assessed by weighing up all the factors in the case. We agree with Mr Rooney's clear and succinct grounds of appeal that none of the factors in category 1 harm apply in this case. The evidence does not support the judge's conclusion that there were serious consequences from the dragging of Mr Finn's unconscious body into the alleyway, and it was common ground that none of the other category 1 harm factors applied in this case. However, we disagree with the submission that this was a category 3 case. There was more than limited distress caused to an innocent party that would be appropriate to place this in the lowest category of harm. It is more accurately categorised as "some distress caused to an innocent party". There was also some more than limited delay caused to the course of justice. The innocent parties were not only Mr Finn but also his partner, Ms McWilliams, who witnessed her partner's unconscious body being dragged out of the back door, through the backyard and into the cobbled alleyway and her understandable distress and anguish is evident on the CCTV footage. Although unconscious, Mr Finn suffered the indignity and humiliation of being dragged feet first into the alleyway. This was a category 2 harm offence. The offence therefore had a starting point of 1 year, with a category range of 9 months to 2 years. Statutory aggravating factors were the appellant's previous convictions, which were both recent and relevant. Other aggravating factors were the victim's vulnerability: he was unconscious at the time that he was moved, and there had been attempts to clean up the evidence in the house of the victim's blood. Even though Mr Finn was unconscious, the appellant still tried to warn him to keep quiet. Unlike his partner Ms Sunter, the

appellant's actions were wholly focused on protecting himself, by removing Mr Finn's body and his own possessions from the house, warning Mr Finn to keep quiet, leaving the house as quickly as he could with a full bag of belongings. In contrast, Ms Sunter rang for the ambulance, helped tend to Mr Finn and stayed to help the ambulance when it arrived. The aggravating factors of the appellant's previous convictions, his callousness and disrespect for Mr Finn's unconscious body would lead to a significant upward adjustment from the 1-year starting point for a category 2B offence. Thereafter, having regard to totality and applying the entitlement to a 20 per cent reduction for the appellant's guilty plea at a hearing after the plea and trial preparation hearing, the final sentence for this count should have been in the region of 12 months.

13. We therefore allow the appeal to the extent that the sentence of 19 months for perverting the course of justice is quashed and replaced with a sentence of 12 months, to be served consecutively to the 10-month sentence for the section 20 assault offence, making a total sentence of 22 months. The 5-year restraining order remains in place.

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

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