

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

ON APPEAL FROM THE CROWN COURT AT WINCHESTER
MR RECORDER TAIT 44BB0647722 & 54ED0147522

CASE NO 202302926/A4

NCN: [2024] EWCA Crim 1250

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 10 September 2024

Before:
LORD JUSTICE SINGH

MRS JUSTICE MAY

MR JUSTICE GRIFFITHS

REX
V
SANDRO DIAS

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

NON-COUNSEL APPLICATION

J U D G M E N T

MRS JUSTICE MAY:

1. This appeal has been listed as a non-counsel matter for the purposes of correcting what appears to have been a miscalculation in applying the correct discount for plea. The single judge has given leave in respect of this limited ground. The appellant has not sought to renew an application for leave in respect of his remaining grounds.

The Facts

2. The appellant was first arrested in April 2022, after police entered the flat of a known drug user in the Andover area. They had observed the user leaving with drugs and a mobile phone. Police went in and found the appellant in possession of a phone operating the “CJ line” with messages advertising the sale of drugs. He was arrested, made “no comment” in interview and appeared at the Magistrates’ Court where he pleaded guilty to two counts of supplying Class A drugs (cocaine and heroin) and was committed to the Crown Court for sentence on bail. Some months later, in November 2022, whilst still on bail awaiting sentence for the April offences, the appellant was found in different premises in the same area, with a phone which, when analysed, had messages indicating that it was operating the CJ line, supplying the same drugs once more. He was arrested and again made “no comment”.
3. On 13 January 2023, in the Crown Court at Winchester, at the pre-trial preparation hearing, the appellant pleaded guilty to the second set of Class A supply offences. On 26 July 2023, in the Crown Court at Winchester, the appellant was sentenced to a total of 7 years’ imprisonment, being 3 years for the first set of offences in respect of which he had been committed for sentence, those sentences being concurrent with each other but

consecutive to a total of 4 years for the second set.

The Calculation Error

4. Applying the guideline the sentencing judge arrived at a sentence of 4½ years for the first set of offences to which he applied the full one-third discount for plea, resulting in a sentence of 3 years. Turning to the second set, and rightly regarding the fact that they were committed on bail as an aggravating factor, the judge said that the notional sentence before discount for plea would be 5 years. He stated that he would apply a discount of 25% for the appellant's plea at PTPH and went on to pass a sentence of 4 years. This was an inadvertent mathematical slip on the part of the judge, doubtless made in a busy morning's list, which was not corrected by counsel at the time. A 25 per cent reduction to a sentence of 5 years results in a sentence of 3 years and 9 months, not 4.

Conclusion

5. Accordingly, we quash the concurrent sentences of 4 years passed on counts 1 and 2 on indictment 44BBO647722, replacing them with sentences of 3 years and 9 months. Those sentences were ordered to run concurrently with each other but consecutive to the sentence of 3 years on each of the earlier matters. All other sentences and orders remain the same. The adjusted total sentence is therefore one of 6 years and 9 months.
6. Finally, we note at the end of his sentencing remarks the judge referred to a surcharge order. As indicated by this Court in the case of *R v Bristowe* [2019] EWCA Crim 2005, a judge should ordinarily postpone the decision on a surcharge until the outcome of any confiscation proceedings. We understand that there are confiscation proceedings in the

present case. As it happens, despite the judge's reference in the course of his sentence, the court log does not record that a surcharge order was made. For clarity therefore, we confirm the absence of such an order in the court record to date, so that any decision on a surcharge will be dealt with upon the outcome of the confiscation proceedings.

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

Lower Ground, 46 Chancery Lane, London WC2A 1JE

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk