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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

ON APPEAL FROM THE CROWN COURT AT NORTHAMPTON
(HER HONOUR JUDGE CRANE) [34NA0604823]
[2024] EWCA Crim 1507
Case No 2024/03845/A2

Tuesday 26 November 2024

B e f o r e:

LADY JUSTICE WHIPPLE DBE

MR JUSTICE BENNATHAN

SIR NIGEL DAVIS

R E X

- v -

THOMAS NOAKES

Computer Aided Transcription 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)

Miss L Blackband appeared on behalf of the Appellant

J U D G M E N T

Tuesday 26 November 2024

LADY JUSTICE WHIPPLE:

Introduction

1. On 2 October 2024, in the Crown Court at Nottingham the appellant was sentenced by Her Honour Judge Rebecca Crane to 24 months' imprisonment for one offence of stalking involving fear of violence. He now appeals against sentence with the leave of the single judge.

The Facts

2. The appellant had been in a relationship with the complainant for 14 years, from when they were both aged 16. They had two children together.

3. The offence concerned the appellant's behaviour from when the complainant had sought to end their relationship in August 2022 until May 2024.

4. When the relationship initially broke up around August 2022, the appellant did not take it well. He responded by grabbing a nine inch knife from the kitchen and walking towards the children's bedrooms. The complainant was so concerned that he would do some harm that she said that they would not break up. Two days later the appellant made various threats to kill himself. He unzipped the case of an air rifle which was in the house and took the air pellets out of the holdall. The relationship did however come to an end and the appellant moved out.

5. On 27 September 2022, the appellant attended at the complainant's home address to discuss the effects of the break-up. During that conversation he lunged at the complainant with a clenched fist. He told her that he was psychotic; that he would kill her and cut her up

like a butcher; that if she touched another man, he would kill him and that he was not the only one; and that if she kissed another man and kissed the children, then he would kill her.

6. In October 2022, the appellant again attended the complainant's house, but she was out. He became anxious in case she was with another man. He messaged her asking where she had gone and why she was out so much. He said that if she continued to behave like this he would take the children off her as she was not there half the time. He called her a "cunt" and said that she had destroyed his life and had turned him into a "psycho". The complainant did not respond to these messages.

7. The appellant started making repeated telephone calls, often containing veiled threats. When she told him that they were not back together, he said "I'm going to kill a due then". He sent a message showing people covered in blood with reference to killing new partners and the message "deadly serious get it". On another occasion he messaged: "I've seen your insides when you had that C-Section it would be a shame to see them again".

8. The majority of the stalking was in the form of text or WhatsApp messages from the appellant's mobile telephone. There were a significant number of messages. Those that the complainant found the most concerning and that we consider to be important to record included the following:

- "I am a bit fucking serious people are going to die".
- "They are promises not threats, I will kill them before your very eyes." (When he was asked to stop the threats, the appellant declined. He said that if there was no chance of them being together then he would not.)

- "I'm telling you that if another cunt touches you it's the end of his life ... he dies."
- "You've been mind twisting cunt the whole time, so I find you have given your heart to someone else I will remove them from existence in front of you and I will end you. Bye bye life, I'll end myself too."
- "I will end your life abruptly permanently."
- "Being a disrespectful, ungrateful cunt after ruining my life will result in 1 out of a hundred ways to die in Northampton, I promise."
- "Oh don't forget the blood curdling screams, and him writhing about on the floor while I pull his insides outside" "It'll be glorious I promise" "won't let ya down." (He then sent moving images of people covered in blood and said: "deadly serious...get it".)
- "I will murder my successor before he is successful, make a reeeecal mess of him in front of everyone, be a great show" "dream of his blood spatter hitting your face, sweet dreams."
- "Because then you are worthless trash, and just a cum dump, so enjoy that, you'll end up dead in an alleyway anyway."
- "If you aim to meet someone ... I'm afraid he will die by my hands" "I hope you understand my children came from you, those stretch marks are mine, if anyone touches you they will be removed from existence, and you will be if you let them" "I'm not being this much in love with the mother of my children for her to go and be

with someone else, I'd rather be dead myself."

- "You are the reason for all of the pain I have felt, you are the reason they will end up angry and hard to control myself, my parents split was a huge part of why I am the way I am now."
- "I just want to know if it was a male" "but if we continue to be civil I'm gonna need to know where you are."

9. There were also various voice messages in a similar vein, with reference to stabbing other boyfriends the complainant might have. For example on 3 May 2023, the appellant threatened to attend the house and became obsessed with why the complainant had broken up with him. He made reference to buying a chainsaw when she started to see someone and said: "I want you to feel the pain I'm in and will kill anyone that touches you. I'm not scared of the police, I'll fight and kill anyone".

The Sentencing Exercise

10. The judge noted that the appellant was of previous good character. She had before her a pre-sentence report and a Mental Health Treatment Requirements letter. She also had the complainant's Victim Impact Statement.

11. The pre-sentence report indicated that the appellant lacked insight into his offending, and to an extent continued to blame the complainant for the situation.

12. The judge referred to the guidelines. The offending was agreed to be culpability B on grounds that the appellant's conduct was intended to maximise fear and distress; and that his actions persisted over a prolonged period. The defence and the prosecution both suggested to

the judge that the offending was harm category 2. However, in her sentencing remarks the judge disagreed. She considered the harm to fall into category 1, because the course of conduct had caused very serious distress. The starting point was two and a half years' imprisonment, in a range of one to four years. The judge said that the offending was made more serious by the fact that it was domestic violence; that there were children in the house at the time; that the offending had occurred over a 19 month period; and that on two occasions it had involved weapons, namely a knife and a rifle.

13. The judge noted that the appellant had mental health issues, which she approached as mitigation rather than as a factor going to culpability, and that there was a lack of previous convictions. She said that she would give him 25 per cent credit for his guilty plea. She imposed a term of 24 months' imprisonment, taking account of all of these factors.

14. She addressed the imposition guideline and concluded that appropriate punishment could only be achieved by a period of immediate custody.

The Grounds of Appeal

15. By grounds of appeal drafted by Ms Blackband, counsel for the appellant at sentence and in this court, it is submitted: first, that the judge erred in placing the harm in category 1; and secondly, that the sentence should have been suspended. We are very grateful to Ms Blackband for her succinct and helpful submissions.

Discussion

16. The guideline states that "the level of harm is assessed by weighing up all the factors of the case". It then goes on to list in category 1: "very serious distress caused to the victim, significant psychological harm caused to the victim, and/or victim caused to make considerable changes to lifestyle to avoid contact". Category 2 applies where there is some

distress caused to the victim, some psychological harm caused to the victim, or the victim is caused to make some changes to lifestyle.

17. The complainant's Victim Impact Statement was not particularly helpful in establishing the degree of harm from the stalking (as opposed to the harm complained of as a result of her 14 year relationship with the appellant, which had come to an end). No doubt the statement was couched in those terms because the indictment had originally included a charge of controlling and coercive behaviour as count 1 which, in light of the appellant's plea to a different count of stalking, was ordered to lie on the file. Still, in that statement the complainant does make clear the very significant effect on her of the stalking. She said that at times she had worried about staying in; at different times she had worried about going out because of the things that the appellant had said that he would do and the threats that he had made to her; she lost weight and became anxious; she became scared to look at her phone and knew that he would carry on trying to contact her; she said that his threats had caused her sleep to be interrupted.

18. We have set out already some of the messages sent by the appellant. They demonstrate a high level of abuse, which continued for many months. It is understandable that the complainant was significantly adversely affected by receiving them. We also note that the appellant threatened to use an air rifle on himself and a chainsaw on others during the course of this abuse.

19. The judge was entitled to conclude, on the evidence before her, that the effect of the appellant's behaviour crossed the threshold into very serious distress within harm category 1. On that footing, the judge must have reached a notional sentence after trial of around 32 months, which is still well within the category range, taking account of the aggravation and the mitigation. The judge then discounted for the guilty plea to arrive at her final sentence of

24 months' imprisonment. We are not persuaded that the sentence imposed was manifestly excessive or wrong in principle.

20. We turn to Ms Blackband's second ground. The judge considered the factors in the imposition guideline with some care, but she concluded that appropriate punishment could only be achieved by a term of immediate custody. We see no reason to disturb that assessment.

21. Accordingly, we dismiss this appeal against sentence.

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

Tel No: 020 7404 1400

Email: rej@epiqglobal.co.uk
