



Neutral Citation Number: [2024] EWCA Crim 422

Case No: 202203757 B4; 202203758 B4

IN THE COURT OF APPEAL (CRIMINAL DIVISION)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 26/04/2024

Before :

LADY JUSTICE MACUR DBE

MR/MRS JUSTICE X

and

MR/MRS JUSTICE Y

Between :

Rex
- and -
AIB

Respondent
Appellant

Approved (Open) Judgment

This judgment was handed down remotely at 10.30am on 26 April 2024 by circulation to the parties or their representatives by e-mail and by release to the National Archives.

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Macur LJ:

1. The court ordered that these proceedings should be heard in camera otherwise the administration of justice would be frustrated. There are strong public interest reasons for not revealing the identity or the role of the appellant as an informer. We have handed down this partial judgment to comply with the requirements of open justice. We have not included material which may enable the appellant to be identified, including the names of the other two judges who heard the appeal.
2. The appellant was convicted or otherwise pleaded guilty to serious offences for which he was sentenced. His appeal against conviction was dismissed.
3. The appellant submits that when passing sentence the judge had insufficient regard to the material relating to his former role as a CHIS.
4. Realistically we think, counsel for the applicant does not argue that the total sentence of 8 years imprisonment would be classified as wrong in principle or manifestly excessive save for the impact of the ‘text’. Equally realistically, counsel for the prosecution do not seek to suggest that the judge took the text into account in reaching this sentence.
5. *R v Royle & ors* [2023] EWCA Crim 1311 now provides authoritative guidance following review of all applicable previous authorities and structure of the Sentencing Guidelines, on “the principles applicable to the sentencing of those who provided information and assistance, to whom we shall for convenience refer collectively as “informers”.” It was not available at the time of sentencing.
6. The rationale for reducing sentence to that which would otherwise have been imposed is pragmatic; see [9] – [15]. The rationale for making a reduction is the same whether the information relates to the offence for which the informant has been convicted “or some other criminal activity”. A guilty plea is not an essential pre-requisite of the making of a reduction for information and assistance received.
7. At paragraph [31] Holroyde LJ, Vice President, affirmed that the “decision as to what reduction is appropriate requires a fact-specific assessment of all relevant circumstances”. He identified the following factors which “may” be relevant as to the extent of the appropriate reduction in a particular case:
 - a. the quality and quantity of the information provided, including whether it related to trivial or to serious offences (the risk to the informer generally being greater when the criminality concerned is more serious);
 - b. the period of time over which the information was provided;
 - c. whether it assisted the authorities to bring to justice persons who would not otherwise have been brought to justice, or to prevent or disrupt the commission of serious crime, or to recover property;
 - d. the degree of assistance which was provided, including whether the informer gave, or was willing to give, evidence confirming the information he had provided;

- e. the degree of risk to which the informer has exposed himself and his family by providing the information or assistance;
 - f. the nature and extent of the crime in which the informer has himself been involved, and the extent to which he has been prepared to admit the full extent of his criminality;
 - g. whether the informer has relied on the same provision of information and assistance when being sentenced on a previous occasion, or when making an application to the Parole Board: in our view, an informer can generally only expect to receive credit once for past information or assistance, and for that reason the text should where applicable state whether particular information and assistance has been taken into account in imposing a previous sentence;
 - h. whether the informer has been paid for the assistance he has provided, and if so, how much; but it is important to note that in T at [8] the court emphasised that a financial reward and a reduction in sentence are complementary means of showing offenders that it is worth their while to disclose the criminal activities of others: a financial reward, unless exceptionally generous, should therefore play only a small, if any, part in the sentencer's decision.
8. It appears to us that the judge was in error in determining that the text did not assist the appellant. The text is of recent date and confirms a significant period during which the appellant had provided "accurate and reliable information ... for which he has been substantially rewarded [financially] on thirty-six separate occasions". He had not previously been provided with a "text" for the purpose of sentencing and had never given evidence to a crown court in relation to the intelligence or information provided during his period as authorised CHIS. During the relevant period he was subject to an acknowledged 'credible risk to life' warning.
9. In all circumstances, we consider that the appropriate reduction in the overall sentence is in the region of 40% and will result in a total sentence of 60 months.
10. To that extent the appeal against sentence succeeds.