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IN THE COURT OF APPEAL  
CRIMINAL DIVISION



Case No: 2024/01894/A4

On appeal from the Crown Court at Leeds  
(His Honour Judge Pema)

Neutral Citation Number: [2024] EWCA Crim 989

Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

Thursday 25<sup>th</sup> July 2024

**B e f o r e:**

**LORD JUSTICE SINGH**

**MRS JUSTICE CUTTS DBE**

**HIS HONOUR JUDGE TIMOTHY SPENCER KC**  
**(Sitting as a Judge of the Court of Appeal Criminal Division)**

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**R E X**

**- v -**

**REECE MUTSINZE**

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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)

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**Mr D P Hall** appeared on behalf of the Applicant

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**J U D G M E N T**

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Thursday 25<sup>th</sup> July 2024

**LORD JUSTICE SINGH:** I shall ask Mrs Justice Cutts to give the judgment of the court.

**MRS JUSTICE CUTTS:**

1. This is an application for an extension of time (166 days) within which to apply for leave to appeal against sentence which has been referred to the full court by the Registrar. The sole ground of the appeal is that the sentence imposed upon the applicant was unlawful. This was not noticed until Mr Hall, who represents the applicant today, represented him on another case. In the circumstances we grant leave.

2. The appellant was aged 17 at the time of sentence. On 11 September 2023, in the Crown Court at Leeds, he pleaded guilty to unlawful wounding, contrary to section 20 of the Offences against the Person Act 1861.

3. On 10 November 2023 he was sentenced to eight months' detention, pursuant to section 250 of the Sentencing Act 2020, which was ordered to run consecutively to the custodial term he was already serving. This was a sentence of 78 months' detention, which had been imposed in October 2022 for sexual offences.

4. It was not open to the judge to impose a sentence on the appellant under section 250 of the 2020 Act – that is detention for a specified period for serious offences. Such a sentence can only be passed on a 17 year old for offences contained in section 249 of the same Act. Unlawful wounding is not such an offence. Nor is it an offence punishable by at least 14 years' imprisonment for those over 21 years of age. It appears that a Detention and Training Order ought to have been imposed which, by section 237(4) of the Sentencing Act can be ordered to run consecutively to another sentence of detention.

5. Given the narrow issue on this appeal, there is no need for us to recite the facts in any detail. The assault, which lasted approximately 50 seconds, occurred in His Majesty's Young Offender Institution Weatherby on 23 May 2023, where the appellant was serving his sentence. With three others he assaulted a fellow inmate, who was dragged to the floor where he was repeatedly punched, kicked and stamped upon. The victim was pulled to another part of the room where the assault resumed, with the appellant and the others punching, kicking and stamping on his head. A chair was thrown at his head, and a co-accused used an improvised weapon (a tub of cream in a sock) to hit him six times to his face and head, before it shattered. There were further kicks and punches.

6. The victim suffered a laceration to his head and bruising and swelling to his right eye.

7. Despite his youth, the appellant had nine previous convictions for 15 offences between 2021 and 2023. In addition to the period of 78 months' detention for the sexual offences, to which we have already referred, he had whilst in custody been sentenced to a further five month Detention and Training Order for three offences of assault on an emergency worker.

8. In sentencing the appellant, the judge placed the offence in category 3B of the relevant sentencing guideline. The judge found his previous convictions and the fact that the assault happened while in custody to be aggravating factors. He afforded him 17½ per cent credit for his guilty plea. The judge observed that were he not making the term consecutive to the term the appellant was already serving, the sentence would have been higher.

9. Realistically, no challenge is made to the length of the sentence imposed. As we have said, the sole ground of appeal is that the sentence was unlawful. It plainly was. The appeal must therefore succeed.

10. We quash the sentence of eight months' detention and substitute a sentence of an eight month Detention and Training Order in its place. This will be consecutive to the sentence of 78 months' detention which the appellant was serving at the time of the assault.

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

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk