IN THE COURT OF APPEAL

CRIMINAL DIVISION

NCN: [2020] EWCA Crim 1342

CASE NO 202001253/A1

Royal Courts of Justice

Strand

London

WC2A 2LL

Thursday 17 September 2020

Before:

LORD JUSTICE SINGH

MRS JUSTICE WHIPPLE DBE

MR JUSTICE FRASER

REGINA

V

REGINALD CHARLES WILSON-FORD

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MR S ROUTLEDGE appeared on behalf of the Appellant.

J U D G M E N T

MRS JUSTICE WHIPPLE: Reporting restrictions apply under the Youth Justice and Criminal Evidence Act 1999, and no matter relating to the complainant (to whom we shall refer to as "D") may be published in her lifetime if it is likely to lead members of the public to identify her as a witness in these proceedings.

On 11 February 2020 the appellant (aged 37) pleaded guilty to a number of offences against D. His guilty plea was entered on the second day of his trial, after D had commenced her evidence.

On 10 March 2020 he was sentenced by the trial judge (HHJ Earl) at Newcastle Crown Court. The lead sentence was an extended sentence of 9 years and 4 months, made up of a custodial term of 7 years 4 months, with an extension period of 2 years. That sentence was imposed for count 6 on the indictment of making threats to kill, contrary to section 16 of the Offences Against the Person Act 1861. He was also sentenced to concurrent sentences as follows: on count 2, for affray, to 18 months' imprisonment; on count 8, for having an offensive weapon, to 18 months and on count 9, of having a bladed article, to 18 months' imprisonment. No evidence was offered against him on other counts on the indictment and a not guilty verdict was entered on those other counts.

He now appeals to this court with the leave of the single judge.

The facts, in brief, are as follows. The appellant and D commenced a relationship shortly after his release from custody at the end of 2018. By September 2019 the relationship had begun to deteriorate. After a number of arguments D returned to her own address but she later realised that she had left her bankcard behind in the appellant's car. On 17 September 2019 she arranged to collect the bankcard from the appellant. She travelled by taxi to meet the appellant outside his home address accompanied by her male cousin. As she got out of the taxi the appellant ran towards her brandishing a hammer and a knife

fell from his back pocket. The appellant tried to strike at D's cousin with the hammer. D attempted to intervene before getting back into the taxi which drove away. These facts constitute count 2 (the affray).

Following that incident D asked her cousin to stay at her address overnight in case there were any further problems. At around 4.00 am on the following day (18 September 2019) the appellant threw a brick through D's living room window while she was sat on the settee. Two other windows at the front of the address were also smashed. D then saw the appellant trying to climb through her window holding a large knife which she thought looked like a machete. D called the police. The appellant then forced the door from its frame and entered the property. He was holding a knife. He threw D to the floor, causing soreness to her arm. He made a number of threats to kill her whilst brandishing a knife. D fled from the house and hid in a neighbour's garden until officers arrived (count 6).

Police officers found the appellant in a nearby neighbour's garden. He was intoxicated and had a small knife in his pocket. His car was parked a couple of streets away. Inside his car was a second larger knife which matched the description given by D to the police. These facts constitute counts 8 and 9.

When questioned, the appellant made no reply to questions in police interview.

In passing sentence the judge noted that at the time of these offences the appellant was on licence, having received a 9-year sentence for a section 18 offence and two offences of assault occasioning actual bodily harm on 3 November 2014. As to these offences he said that these were two serious incidents committed within a 12-hour period. The affray offence fell within category 1A of the sentencing guidelines which had a starting point of 2 years' imprisonment within a range of one-and-a-half to 2 years 9 months. The offence of

making threats to kill was considered the most serious offence and the judge said he would subsume the sentences for the other offences into that sentence.

The judge had read the victim personal statement and the pre-sentence report. The appellant had a background of violence dating back to his teenage years. At the time of this offence he had been on licence for offences of significant violence that were also committed within a domestic context. The previous offence licence period did not expire until November 2023.

The Probation Service had assessed the appellant as posing a high risk of serious harm to members of the public and partners. The judge was satisfied that the appellant met the criteria for dangerousness due to the nature of his offending and the risk assessments that have been undertaken and thus an extended sentence was necessary. The judge said that the offence of making threats to kill fell within category 1A of the Sentencing Guidelines. That gave a starting point of 4 years within a range of 2 to 7 years. The starting point, he said, was significantly increased to reflect the totality of the appellant's offending. The appellant's antecedents and that he was on licence were aggravating features. The offence was committed in the victim's home where she was entitled to feel safe; indeed she had since felt the need to move.

In mitigation the judge noted that the appellant had undertaken some work in prison and he took into account that the appellant and the victim had at the time been in some form of relationship. There may have been contact between them in the intervening period between offences but there was nothing to alleviate the offences that were committed on the appellant's arrival at her address. So the judge took a starting point of 8 years for the threats to kill to reflect the affray and possession of bladed article offences. The appellant was given 8 months credit for his guilty pleas which were entered after the victim had

begun giving evidence. The judge imposed an extended sentence comprising the custodial term of 7 years 4 months with an extended licence period of 2 years with concurrent determinate sentences to reflect the other offences.

For the appellant Mr Routledge, who has appeared before us today as he did at trial, has submitted that the sentence imposed was manifestly excessive. We wish to thank Mr Routledge for his careful and succinct arguments before us today. He advances the fowling grounds:

(i) Although the threats to kill fell within category 1A they did not fall near the top of the range even after taking into account the aggravating factors;

(ii) the offence was on the spur of the moment. There was no physical injury and possession of weapons was part of the threats;

(iii) the 8 year starting point adopted by the judge was too high;

(iv) in passing an extended sentence the judge did not invite submissions from counsel or indicate that he had such a sentence in mind;

(v) the incident was isolated between parties known to each other. The wider public was not involved and the behaviour was limited to a specific individual;

(vi) the appellant had only received one lengthy sentence previously albeit for a serious offence. He did not pose a significant risk of harm to members of the public through the commission of further specified offences.

We deal first with the seriousness of the appellant's offending. As the judge noted, these were two significant and serious incidents which took place within 12 hours of each other. The more serious offence was the threats to kill. The appellant was intoxicated. He used significant violence to kick in D's door. He had a knife with him and he threatened to kill her. In fear, she fled from her own home.

Although he caused little physical injury, D was terrified, as is clear from her victim impact statements and as would be expected from experience of an incident of this type. This violence unfolded in a domestic context. It is not the first offence of this appellant of domestic violence. The pre-sentence report notes that there is a pattern of domestic violence in the appellant's history. We reject absolutely Mr Routledge's submission that domestic context not involving any member of the public somehow serves to reduce seriousness.

The seriousness of the offences is aggravated by the appellant's previous convictions. He has a long criminal record as follows. At the time of sentence he had 18 convictions for 44 offences from 1999 to 2014. His convictions included offences of possessing an offensive weapon in a public place (1999/2000 and 2001), racially threating words or behaviour with intent to cause fear or provocation of violence (2008), threatening words or behaviour with intent to cause fear or provocation of violence (2013), assaulting a constable (2013 and 2014), grievous bodily harm with intent (2014) and assault occasioning actual bodily harm (two such offences in 2014). For the offences in 2014 he was sentenced to 9 years for the grievous bodily harm and 3 years on each of the assault occasioning actual bodily harm to be served concurrently with the lead sentence. He had been released from prison on licence on 21 December 2018 and was still on licence at the time of these offences.

The culpability was plainly high, given the use of a visible weapon and the use of significant violence. The harm too was very high given the psychological consequences and the fact that D was forced from her home. There were statutory aggravation in the form of previous convictions and the fact that these offences were committed on licence. It was to reflect the totality of the appellant's criminal behaviour that the sentence was imposed.

For all these reasons we do not consider that the judge's starting point of 8 years was too high.

All these factors easily justify a sentence in the order of 8 years as a starting point. We acknowledge that falls outside the category range of 3 to 7 years, applying the relevant guideline for intimidatory offences, but we note that the start point falls well within the maximum for this offence of 10 years.

There is no dispute about the discount that was afforded for the late guilty plea, that discount amounting to 8 months. So the resulting sentence of 7 years and 4 months was, in our judgment, justified.

The pre-sentence report makes chilling reading. The appellant tried to minimise his part in the offence: he blamed D and her cousin. He said he had been attacked with liquid when he got to D's house. He advanced a very different version of events, suggesting that the knife he had on him was for work purposes and that he was not intoxicated when he went to D's house.

The author of the pre-sentence report suggests that he has a distorted view towards females and demonstrates manipulative and controlling behaviour. He shows traits indicative of dissocial personality disorder.

As to future risk, the appellant was assessed as posing a medium risk of re-offending within 2 years with a high risk of serious recidivism. As to level of harm, he was assessed as posing a high risk of serious harm to known adults, a high risk to the public and a medium risk to children and staff. The judge plainly thought very carefully about whether the appellant was dangerous. We would not interfere with his assessment that the appellant was. There was plenty of evidence to support that conclusion.

The appellant complains that the judge did not invite submissions on dangerousness but the issue was raised fair and square by the pre-sentence report and by the fact that the appellant was being sentenced for specified offences. The finding of dangerousness cannot have come

as any surprise.

We dismiss this appeal. We conclude that the sentence was not manifestly excessive or wrong in principle.

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

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