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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT LIVERPOOL

HHJ STUART DRIVER KC [05B30015421]

CASE NO 202401575/A4

[2024] EWCA Crim 1348

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 22 October 2024

Before:

LORD JUSTICE HOLGATE

MRS JUSTICE STACEY

SIR NIGEL DAVIS

REX

V

RHAHEEM HAMED

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MS C MOTTRAM appeared on behalf of the Appellant.

J U D G M E N T

SIR NIGEL DAVIS:

1. The appellant, a man now aged 20, appeals by leave of the single judge against a total sentence of 6 years' detention in a young offender institution for offences of wounding with intent, contrary to section 18 of the Offences Against the Person Act 1861, and possession of a knife. The sentence was imposed by the trial judge (HHJ Stuart Driver KC) in the Crown Court at Liverpool on 12 April 2024, following the applicant's previous conviction at trial.
2. The facts can be shortly stated for present purposes. On 30 May 2021, a young person called Kaleb Sweeney (then aged 16) had spent the day at Formby beach with a number of other young people. On his way back to the train station, Sweeney apparently was asked by somebody if he was laughing at them, he then recalled being struck and he ran away from the area. The next thing he was to remember was being on the ground.
3. Members of the public had seen two youths carrying out an assault upon Sweeney whilst he was on the ground. One kicked him, the other (found by the jury to be the appellant) produced a blue-handled kitchen knife, which he used to stab Sweeney, forcibly, several times. The appellant then ran to the train station. Not only had the assault, to an extent, been witnessed but also it was captured on mobile telephone footage by another member of the public.
4. Emergency services were called. Sweeney suffered a punctured lung, a lacerated spleen, a wound to the lower left back of the chest and another to the left lower back. He was treated at hospital with intravenous antibiotics and was given a litre of blood. He also

required a chest drain. He had been placed in the major trauma ward but in the event was discharged from hospital four days later.

5. The appellant was arrested on 24 June 2021 and answered “no comment” to all questions in his police interview. Regrettably, there was significant delay, for various reasons, before the matter came on for trial. The appellant initially denied presence. When that proved impossible to sustain, he then denied responsibility for the stabbing. In the event, the jury made clear their view of the position by the verdicts they gave at trial.
6. The appellant was a little short of his 17th birthday at the time of the offending. He had no previous convictions at that time, although, regrettably, he has since acquired two convictions for three offences subsequently. Those include convictions for assaulting a police officer and for affray - both offences occurring in 2022.
7. Inevitably there was a pre-sentence report. That, it is right to say, contains some positive observations with regard to the appellant. At the same time, it records his continued refusal to accept responsibility for what he had done and there was no true remorse. A number of the references indicative of the good side of the appellant’s character were also put in.
8. There was no victim personal statement as the complainant (Kaleb Sweeney) had not co-operated at that stage of the process.
9. In passing sentence, the trial judge accorded a 2A categorisation to the section 18

offending for sentencing guideline purposes. The culpability was A, both because the knife, seemingly a large knife described as having a 6-inch blade, was assessed by the judge as being a “highly dangerous weapon” and also because the appellant took the *leading role* in the group attack.

10. So far as harm was concerned, the prosecution at the sentencing hearing had asserted that there had been life-threatening injury and suggested that this was category 1 harm. But there was no sufficient evidence of that and the judge rejected that submission. On the other hand, the judge also rejected a submission, made by Ms Mottram (then as now appearing on behalf of the appellant) that this was to be styled as category 3 harm. The judge instead selected a category 2A categorisation for this offence, as we have said. That, under the guideline, provides an applicable range for an adult offender of 6 to 10 years, with a starting point of 7 years.

11. In the course of his concise and clear sentencing remarks, the judge, amongst other things said, this:

“I find the suggestion that it should be in the lower Category 3 to be insupportable. Indeed, although the case begins properly in Harm Category 2, the number of injuries and their depth, touching and causing damage to two separate internal organs, a lung and the spleen, takes the starting point closer to the top of the relevant bracket which is six to ten years. There are further aggravating features: you deliberately took this knife out with you in a backpack to a beach venue where you knew there would be lots of young people and for no reason, explosively, you used it in a busy street in daylight, horrifying innocent bystanders; the case is also aggravated by your criminal record, although you had no convictions at the time, you have since been convicted of affray with a weapon at another seaside resort.”

The judge referred, amongst other things, to the delay, commenting that that had been largely caused by the appellant. The judge then went on to describe, rightly so, a powerful mitigating factor as being the age of the appellant at the time. The judge applied the relevant guideline in that regard and expressly reduced the sentence otherwise applicable by one-third because of the appellant's age at the time of the offending. The judge expressed concerns that the appellant was to be regarded as a *dangerous* offender but, in the event, sensibly did not seek to impose any form of extended sentence. Thus it was that he imposed a total sentence of 6 years' detention in a young offender institution.

12. Ms Mottram has argued the case extremely well before this Court today. She continues to maintain that this offending was wrongly categorised: in particular, she says the harm should have been assessed as category 3 harm, with a lower range in consequence of 4 to 7 years. She stresses that, in the result, there had been no major surgical intervention, that the complainant had not sought to suggest there had been any long-term effects of what had happened to him and indeed he had been released from hospital after four days.

13. However, one only needs to consider the nature of knife injuries to see that the harm here was properly categorised by the judge as grave, not least because the wounds inflicted had been of sufficient depth to involve a puncture of a lung and a lacerated spleen, as well as other wounds. Moreover, it is the fact that the complainant had had to be admitted to a major trauma ward and indeed had been detained in hospital for four days. The appellant can perhaps count himself fortunate that the injuries had not in fact taken the life of the complainant. At all events, we can see no error in the judge's categorisation for sentencing purposes.

14. We turn then to what perhaps is, in truth, the strongest point which can be made on behalf of the appellant, namely his age at the time. There is also to be borne in mind that regrettable delay that occurred before this matter came on for trial, although Ms Mottram has realistically not sought to over promote that particular point.

15. As to age, the judge clearly had full regard to it. The appellant was in fact only a week or so short of his 17th birthday at the time; and the judge expressly gave a one-third discount from the sentence otherwise applicable for an adult in order to allow for the age of the appellant. That was entirely in accordance with the relevant guideline in this respect and cannot be criticised as an inappropriate discount.

16. Overall, this was a very bad case of its kind. This was effectively a gratuitous joint attack. The appellant had gone equipped with a large knife, clearly prepared to use it if he wished, and he did use it, in circumstances which never began to call for any such behaviour on his behalf. He stabbed several times with forcible blows. As we have said, the impact on the complainant might have been far more serious than in fact occurred. It may be, not least because of the age of the appellant at the time, that this sentence can be regarded as a stern one. Nevertheless, we are not able to conclude that it was excessive and accordingly, we dismiss the appeal.

17. We add just one further matter. It is a troubling aspect of this case that throughout, and at the time of the pre-sentence report, this appellant has failed to accept full responsibility for his appalling conduct. We were very glad to hear from Ms Mottram this morning that

he does now face up to his responsibility in this regard and that is a very encouraging aspect of this matter.

18. In the result, however, and as we have said, we dismiss this appeal.

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

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