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Neutral Citation Number: [2024]
EWCA Crim 188

Case No: 202103036 B2

IN THE COURT OF APPEAL
(CRIMINAL DIVISION)
ON APPEAL FROM THE CROWN COURT AT IPSWICH
Recorder Benson KC
Ind No T20207011

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 09/02/2024

Before :

LADY JUSTICE ANDREWS
MRS JUSTICE CHEEMA-GRUBB
and
HER HONOUR JUDGE ROSA DEAN
(The Honorary Recorder of Redbridge)

- -

REX

- v -

SIMON COOMBES (aka SIMON THARME)

- -
- -

Non-counsel application

Hearing date: 9 February 2024

- -

Approved Judgment

Lady Justice Andrews:

1. On 4 February 2021, in the Crown Court at Ipswich following a trial before Mr Recorder Benson KC and a jury, the applicant Simon Coombes was convicted of one count of vaginal rape (Count 2 on the indictment) and one count of oral rape (Count 3). His co-defendant Luke Sullivan was convicted on the same occasion of raping the same complainant vaginally (Count 1) and orally (Count 4). The verdicts on Counts 3 and 4 were majority verdicts.

2. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.

3. The sentencing hearing took place on 2 July 2021. Mr Coombes received an extended sentence of 17 years 6 months comprising a custodial term of 12 years 6 months and an extended period of 5 years, in respect of each count, those sentences to run concurrently. Mr Sullivan also received an extended sentence, this time of 17 years, the custodial term of which was 12 years. Mr Sullivan's application for leave to appeal against sentence was refused by the single judge and has not been renewed.

4. Mr Coombes, who represents himself, seeks an extension of time of some 4 ½ months in which to renew his applications for extensions of 200 days in which to apply for leave to appeal against his conviction and 52 days in which to apply for leave to appeal against his sentence, following refusal by the same single judge. He also makes an application to adduce fresh evidence in connection with the appeal against conviction.

The delays in appealing and in renewing these applications

5. It appears that before the single judge refused leave to appeal, solicitors named GT Stewart informed the Criminal Appeals Office that they were assisting Mr Coombes in his appeal. After the time for renewing the application had lapsed, a letter was sent to Mr Coombes informing him that he was now out of time, but it appears that because he had been moved to a different prison, that letter did not reach him until the end of February 2023. He then wrote a letter to the Criminal Appeals Office stating that he did not understand the procedure, and was waiting to hear from his solicitors. The solicitors wrote to the Court on 10 March 2023 requesting copies of the notification of refusal forms, and informing the Court that they were advising Mr Coombes.

6. Three further sets of submissions were then sent by Mr Coombes to the court relating to his grounds of appeal, but the renewal forms were not returned. When a chasing email was sent to the solicitors, they responded on 25 April 2023 that they were no longer acting for Mr Coombes. He subsequently confirmed on 29 April 2023 that he wished to renew the applications. There was then a further hiatus awaiting the renewal forms, which, after further prompting were finally returned on 5 June 2023.

7. As regards the original delays in seeking leave to appeal, Mr Coombes has said that he instructed trial counsel and solicitors to appeal and he understood them to be doing so, but they did not act on those instructions. The repeated adjournments of his

sentencing hearing, COVID restrictions, his mental health issues and the fact that he was confined to his cell for 23 hours a day severely hampered his ability to make arrangements for appeal.

8. The truth, however, is that although Mr Coombes did give those instructions, his trial counsel gave negative advice on appeal against conviction on 15 February 2021, which was passed on to him by his then solicitors. The Pre-Sentence Report expressly refers to Mr Coombes telling the author that his legal representatives had informed him that he did not have a case for appeal and that he intended to get a second opinion. There is clear evidence, therefore, that he had been advised that he had no grounds for appealing, and it is quite untrue that he understood that an appeal was being progressed.

9. In fact in the light of complaints which he made about trial counsel following his conviction, all of which we find to be completely unjustified, she became professionally embarrassed. She had to withdraw from representing him on 25 March 2021 after being informed by her instructing solicitors that Mr Coombes thought she was working in league with the Prosecution to ensure a conviction because he discovered that (in common with many other criminal barristers) she both prosecutes and defends. This is evidenced by a contemporaneous attendance note for an administrative hearing relating to fixing the date of the sentencing hearing.

10. That note makes clear, and it has been confirmed by trial solicitors, that Mr Coombes was made aware of counsel's withdrawal. In fact he also sacked his trial solicitors and the representation order was transferred. This necessitated an adjournment of the sentencing hearing from 9 June 2021 to enable the new solicitors and counsel, who had only just been instructed, to get up to speed, and counsel to have a conference with Mr Coombes. The new solicitors and counsel represented Mr Coombes at the sentencing hearing. There is no evidence of advice having been given to Mr Coombes on an appeal against sentence, although we have seen the advice and grounds lodged in respect of Mr Sullivan (who also changed his representation before the sentencing hearing).

11. In the light of this history there appears to be no reasonable excuse for the delay in seeking leave to appeal against conviction. The position in respect of appeal against sentence is less clear, but if positive advice had been given at a time when Mr Coombes was still legally represented it is almost inconceivable that the Advice and Grounds would not have been lodged with the Court of Appeal Office at or around the same time as the documents were lodged for Mr Sullivan's appeal against sentence. Since Mr Coombes, in one of his many letters, was very critical of counsel who represented him at the sentencing hearing, it is possible that he too was sacked before he could give any advice on appeal. If not, the inference can be drawn that the advice he gave was negative.

12. However, even where there is lengthy delay without reasonable excuse, the Court will always consider the merits of the proposed appeal. If there were, for example, strong grounds to doubt the safety of a person's conviction it would plainly not be in the interests of justice to preclude them from being considered by the Full Court simply because of unjustified delay. Having taken into account the voluminous material that was placed before us, we are confident that this is not a case which falls within that category.

Factual Background

13. The facts of the offending can be summarised as follows. In December 2018 the complainant, a married woman to whom we shall refer as "C", was due to go to a social event in Cambridge organised by her work colleagues. She arranged a lift to and from the venue with one of those colleagues, a young man to whom we shall refer as "M". The co-defendant, Luke Sullivan, was staying at M's flat at that time. Mr Coombes, a friend of Mr Sullivan, who also knew M, was staying at an address a short distance away from M's flat. Because both C and M planned to drink alcohol at the party it was arranged that Mr Sullivan would remain sober and be their driver for the evening. He would accompany them to Cambridge and drive M's car back to M's flat. He would drive back to pick them both up after the event had ended, and he would then drive C to her home before returning with M to his flat.

14. In the event, when the car arrived to pick C and M up from the party venue at around 2.30 am on 9 December 2018, although Mr Sullivan was in the car, he had been drinking and Mr Coombes was in the driver's seat. M and C had both had a considerable amount to drink. M became very angry with Mr Sullivan on the return journey because he had not remained sober as had been arranged, and an argument ensued. Whilst they were still in Cambridge, the car pulled over, M got out of it and he refused to get back in. Eventually Mr Coombes drove off without him. He then drove C and Mr Sullivan back to M's flat, instead of taking C back to her home.

15. On realising that the car was not going to turn round and come back for him, M contacted his father, who picked him up and drove him back to the flat. When they arrived, it was around 5.45 am. They discovered that the front door was locked and M had to enter through an unlocked window. Mr Sullivan was asleep on the living room sofa. M became very angry and threw him off the sofa. Mr Coombes and C were in the bedroom; C was in the bed and Mr Coombes was getting dressed. C was still fully dressed. M's evidence was that she told him "these people are not good people" and that they should not have left him in Cambridge. Her eyes were glazed. She did not know where she was. She began to cry. When she got up he noticed that her clothing was ripped at the back.

16. Subsequently Mr Sullivan and then Mr Coombes left. M's father then saw C for the first time as she came out with M to go to the car. He saw that the back of her clothing was ripped and her buttocks were partly exposed. He got a jumper out of the car and wrapped it around her. He asked her if anything had happened to her and she said she did not know and could not remember anything. He asked if she wanted to go to the Police or to hospital, but she told him she did not know. She appeared to him to be in a state of shock. M's father therefore drove C back home. On the way back she told him that she was sore and that she didn't feel right. Later that day she told her husband, and subsequently her sister, that she believed she had been raped.

17. The matter was reported to the police and both defendants were arrested on 10 December. In interview they both admitted having penetrative sex with C and in consequence no vaginal swabs were sent off to be forensically examined. However, C was medically examined. She was found to have approximately 18 injuries including bruising to her right eye socket, left arm, legs and abdomen. There was a deep scraping injury to the bottom of her vagina and another to the lips around her vagina

on both sides but more prominent and deeper on the left. The abrasion injuries to her vagina covered a large surface area of internal tissue.

18. The issue at trial was one of consent. The prosecution case was that it was obvious to the defendants that either C did not consent to having sex with them or that, because of her state of intoxication, she did not have the capacity to do so. The defence case was that C had become openly affectionate to both Mr Sullivan and Mr Coombes in the car after M had got out of it, and that she had willingly agreed to being taken back to the flat instead of being taken home. When they arrived C had first had sex with Mr Sullivan on the sofa and then she had initiated a threesome in the bedroom.

The proposed appeal against conviction

19. The Respondent's Notice served by the Crown provides comprehensive answers to each of Mr Coombes' proposed grounds of appeal, which we adopt without repeating them. Mr Coombes was sent a copy of that document under cover of a letter dated 12 December 2022 . He has responded to it, though in our judgment he has provided no good answers to the points which the Crown makes. The same is true of the contents of the numerous lengthy handwritten letters which he has sent to the Criminal Appeals Office since the single judge refused leave to appeal, the latest of which was received in the office only two days ago.

20. We are satisfied that there is nothing in any of the material we have seen which gives rise to any concern about the safety of these convictions. Mr Coombes gave evidence in his own defence and was cross-examined. Mr Sullivan did likewise. At the end of the day the jury had to decide whether or not they believed Mr Coombes' and Mr Sullivan's accounts of what happened in the period when they were alone with C, and it is clear that they did not. The jury were in the best position to consider and evaluate any inconsistencies in the evidence which they heard, and decide who was telling the truth.

21. Mr Coombes makes a number of serious complaints about the conduct of his trial by his experienced trial counsel and her instructing solicitors. In view of those criticisms Mr Coombes was invited to and did waive privilege. We have read the responses from his trial counsel and solicitors, counsel's attachments, including her attendance notes, and Mr Coombes' lengthy replies. Suffice it to say that none of Mr Coombes' litany of complaints about the conduct of his former legal representatives gives rise to an arguable ground of appeal with real prospects of success. There is no need to itemise the complaints. We are satisfied that there is no substance in any of them. His defence was competently and professionally prepared and presented, and his instructions were followed to the extent that it was permissible to do so as a matter of professional ethics. For example, counsel would not have been allowed to put to any witness that they had tampered with evidence or otherwise sought to pervert the course of justice without any evidence to support those allegations other than their client's assertions.

22. We are satisfied on the evidence that we have seen that whatever Mr Coombes may now say, his Amended Defence Statement was in accordance with his instructions and that he approved it.

23. As the prosecution has confirmed, Mr Coombes' bad character was not adduced in evidence at trial and his counsel did not seek to adduce it. All jury notes are logged

and we have seen them; the jury did not ask for tapes of Mr Coombes' interview to be re-played to them as he now asserts. If he was the person who made such a request, the judge was entitled to refuse it.

24. There is contemporaneous evidence that Mr Coombes, far from being dissatisfied with his representation at trial, was highly complimentary about it, until he was convicted. On 31 January 2021 the trial solicitors mentioned in an email to counsel that Mr Coombes had described her cross-examination of C as "brilliant" and as leaving the witness with "nowhere to go". Mr Coombes even sent counsel a thank you card before the verdicts were returned, with a handwritten message saying:

> "Sorry I haven't been the easiest client to work with (smiley face) whatever the outcome I know you did your best & I'm truly grateful. I hope by now it's clear I'm innocent. Was nice meeting you."

He has sought to explain this away as an attempt to apologise for his "out of control behaviour which continued throughout trial" and as a gesture of kindness because he said that he and counsel had had some disagreements. He suggests that the card was sent in the course of the trial and before he gave evidence. It is clear from its contents that this cannot possibly be true.

25. There is also no merit in the application to adduce fresh evidence. Indeed most of the "evidence" that Mr Coombes says he wishes to adduce is not even properly identified. Under section 23(2) of the Criminal Appeal Act 1968 this Court may, if it is *necessary* or *expedient in the interests of justice*, receive any evidence which was not adduced in the proceedings from which the appeal lies. If an application to adduce fresh evidence is made, among other matters the Court must have regard to whether the evidence would have been admissible at trial on an issue which is the subject of the appeal, whether there is a reasonable explanation for the failure to adduce it at trial, whether it appears to be capable of belief, and whether it appears to the Court that it may afford any ground for allowing the appeal. However in this case the "evidence" appears to consist of nothing more than bare assertions by Mr Coombes or inadmissible extracts from social media following the trial.

26. The underwear that C was wearing that night, and whether she later changed it, is irrelevant to the central issue of consent. There was no need for any forensic examination of her underwear, since it was admitted that both defendants had vaginal sexual intercourse with her. She therefore had no reason to lie about what underwear she was wearing at the time, or to swap it. Doing so would not assist in "framing" Mr Sullivan or Mr Coombes. The suggestion that is now made by Mr Coombes is that she lied about the underwear that she was wearing in order to conceal from her husband the fact that she had had sex with two other men. However that makes no sense at all, given that she told her husband that she believed that she had been raped.

27. In any event, the evidence on which Mr Coombes seeks to rely is not new. It was disclosed by the Crown and was available to be used at trial. The same is true of the photograph which Mr Coombes asserts is proof that C cut her own tights. His legal team would have been able to make an assessment as to whether it was capable of proving this, and, even if it were, whether the point was worth taking. It cannot be argued that a value judgment taken not to explore these matters with C was unreasonable.

28. There is no evidence of any police misconduct, such as is alleged, and Mr Coombes merely asserts that there is evidence in the form of emails or text messages undermining the evidence of M without producing anything tangible to support that assertion. He has had ample time in which to do so. Even if, as Mr Coombes alleges M was "obsessed" with Mr Sullivan, that has no bearing on whether the sexual intercourse with C that evening, which took place when M was not present, was or was not consensual.

29. There was ample evidence to support a conviction, not least the evidence of C herself and the medical evidence of her injuries, which Mr Coombes most unattractively seeks to blame on her husband, who he also accuses of attempting to pervert the course of justice by deleting messages from his phone. We have carefully considered all the material on which Mr Coombes relies, and are not persuaded that there is the slightest shred of any evidence to implicate the victim's husband in any wrongdoing including, but not limited to, the violence experienced by C.

30. The four witnesses of fact called by the Prosecution at trial who were not present at the time of the rapes all gave relevant and admissible evidence. In the case of C's husband and sister they gave admissible evidence of recent complaint. In the case of M and his father, they gave highly probative evidence as to C's appearance and behaviour in the immediate aftermath of the alleged offences. In addition, M was able to testify to C's lack of sobriety when they both were collected from the party and how much alcohol they had consumed before they left. In the light of the most recent communication from Mr Coombes we have re-read M's witness statement (we do not have a transcript of his evidence at trial, though it appears that Mr Coombes' most recent solicitors sought and obtained trial transcripts). We cannot see anything in that statement which is inconsistent with what the Crown has said about his evidence in the Respondents' Notice.

31. As trial counsel's negative advice on appeal records, Mr Coombes was repeatedly warned about his disruptive behaviour in front of the jury, which he has subsequently admitted was due at least in part to his taking cocaine. On 29 January 2021 he apparently suffered an anxiety attack. When that happened, the Recorder directed the jury in these terms:

> "I am sure you will bear in mind that whether a defendant is guilty or not guilty, standing trial is a serious matter, is worrying, and no doubt one feels pressurised. Please, I'm sure you will, just bear that in mind."

That direction was entirely appropriate. It was designed to ensure that the Jury did not hold Mr Coombes' behaviour against him and that they concentrated on the evidence in the case. It could not possibly be characterised as a direction to the Jury that Mr Coombes was guilty.

32. The Recorder was under no obligation to tell the jury that Mr Coombes suffered from any particular medical condition; that was a matter for Mr Coombes to raise himself if he wished, and in any event the expert psychologist Mr Rogers' diagnosis of C-PTSD post-dated the trial. There is no evidence to suggest that Mr Coombes was unfit to stand trial, and his experienced legal team had no concerns in that regard.

33. No valid complaint can be made about the summing up or the other legal directions given to the jury. The majority direction which was given was given in the entirely orthodox situation for which it is designed, namely, that after the prescribed period of deliberation the jury is unable to reach a verdict on which they are all agreed. Had they reached a unanimous decision to acquit, the verdicts would have been taken and no majority direction would or could have been given. Mr Coombes' suspicions that there may have been a police officer on the jury are not a proper basis for complaint. The Recorder's decision to continue the trial with 11 jurors after one was discharged for personal reasons was a matter of discretion, and given the stage at which that occurred, there is no prospect of Mr Coombes satisfying the court that it was improperly exercised. The efficient use of court resources is a legitimate matter to take into account, as the Prosecution have said.

34. Trial counsel stated in her Advice that Mr Coombes mentioned to her that a juror spoke to him in the car park, but whilst this was inappropriate, as far as she could recollect nothing was said to suggest a jury irregularity which might provide a good ground of appeal. If a juror had felt that other members of the jury were behaving inappropriately, he or she would have sent a note to the judge, as the jury would have been instructed at the onset of the trial, and not raised it with the defendant in a car park. Had the defence legal team become aware of any jury irregularity that might give cause for concern, they would have raised it with the judge and the prosecution at the time it was brought to their attention. In any event, the lengthy delay in appealing would prejudice any investigation into a matter of that nature now.

35. For all these reasons we agree with the single judge that there is no merit whatsoever in any of the grounds of appeal against conviction and that there is no justification for granting the extension of time or the application to adduce fresh evidence. We refuse the renewed application for an extension of time for appealing and we refuse the application to adduce fresh evidence. Even if we had granted the extension of time, we would have refused leave to appeal.

The proposed appeal against sentence

36. The Judge had the benefit of a sentencing note from the Crown which submitted that the offences all fell within Category 2A of the Definitive Guidelines. This indicated five separate Category 2 harm factors. In addition, C had to receive medical treatment for a sexually transmitted disease that one of the defendants gave her; this was evidenced by a letter from a GP who specialised in sexual health matters. Culpability was said to be A because each offender acted with the other to commit these offences. Category 2A has a starting point of 10 years with a range of 9-13 years.

37. The Prosecution identified as aggravating factors in the case of Mr Sullivan that the offences were committed under the influence of alcohol and that he had been entrusted to take C home, and in the case of Mr Coombes that he ejaculated into C's vagina.

38. Mr Coombes was 32 at the time of sentence. He was not of good character. He was subject to a community order at the time of the offending which was revoked on 4 October 2019. He had three convictions for breaches of a non-molestation order, and two previous offences of battery and one of threats to kill, committed against a partner or ex-partner.

39. A pre-sentence report was prepared. The probation officer indicates that Mr Coombes was not co-operative in interview, although eventually he answered a number of questions in a manner which suggested to her that he wished to deflect from certain issues and take control of the interview. He maintained that he was innocent and that the criminal justice system was corrupt and all agencies had conspired to have him and Mr Sullivan convicted.

40. The report does not show Mr Coombes in a good light. Despite describing C as "totally wasted" he refused to accept that someone with that level of intoxication would not be capable of consenting to sexual intercourse. On the contrary he told the probation officer: "It's the 21st Century, everyone has drunk sex, if she regrets it afterwards, it's her own fault." (Pausing there, we note that he is now seeking to play down her state of intoxication). He demonstrated no victim empathy and no remorse. Reference is made to an extremely troubled childhood and to his exposure to violence within his immediate family. His mother was an alcoholic and had a number of abusive partners who exposed him to physical abuse. The author of the report assessed him as posing a high risk of re-offending, and a high risk of causing serious harm, both physical and psychological, to members of the public.

41. There was also the expert report from the psychologist, Mr Rogers, which suggests that Mr Coombes had an insecure attachment disorder in childhood which may have progressed to a form of complex PTSD. Mr Rogers ruled out a diagnosis of ADHD, although he said that Mr Coombes displayed many of the symptoms of that condition. Although the condition from which he suffers may have partially explained his disruptive behaviour in court and the anxiety attack, it was not put forward as affording any explanation for the offending behaviour. Although Mr Rogers was instructed by the defence, his overriding duty as an expert was to the court and he was obliged to give his honest and impartial opinion on the matters on which he was asked to provide evidence. Despite Mr Coombes' criticisms we have no reason to believe that he did not do so.

42. The Recorder placed the offending into Category 2 A. He rightly identified more than one Category 2 harm factors but did not elevate the offending to Category 1. He found that both Mr Coombes and Mr Sullivan were *dangerous*, based partly on the conclusions of the authors of their pre-sentence reports, but also on his observations of their behaviour during trial and whilst giving evidence. He considered that a determinate sentence would not afford the public sufficient protection. He explained the 6 month differential between the custodial elements of the extended sentences on the basis of Mr Coombes' previous relevant convictions.

43. Although Mr Coombes appears to complain that the Judge placed the offending into Category 2B, that is a *lower* sentencing category, and we have therefore treated the complaint as being that it should have been placed in Category 2B not 2A. As to that, where an offender acts together with others to commit the offence, which happened here, that is Category A for culpability, and the Judge was right to put the offences into that category.

44. There were plainly a number of Category 2 harm features. Whilst Mr Coombes is aggrieved at the finding of abduction, it is nothing to the point that C originally got willingly into the car. She thought she was being given a lift home, and the jury by their verdicts rejected the defence account that she had agreed to be taken to M's flat

instead. Whilst Mr Sullivan may have been too intoxicated to drive, Mr Coombes was not, and Mr Sullivan knew where C lived and could have given the necessary directions. The other category 2 features were properly identified by the judge.

45. The starting point for sentence was 10 years with a range of 9 to 13. Mr Coombes was sentenced within that range; the custodial element of his sentence was 12 years and 6 months. The judge was entitled to move up from the starting point because of the multiple category 2 features and the aggravating features he identified. There was very little that could be said by way of mitigation, but such as there was, was in the psychologist's report and pre-sentence report.

46. Whilst Mr Coombes refers to his "good character and honesty," and the fact that whilst in custody on a previous occasion he came to the assistance of a prison officer who was being assaulted, matters of that nature are of little weight in mitigation for two offences of rape committed, furthermore, in connection with two other offences of rape by a co-defendant. He had previous convictions for violence, which were rightly treated as aggravating features. He complains that he was denied an opportunity to provide character references, but there was more than sufficient time between his conviction and the sentencing hearing to have procured such references. In any event, in the light of Mr Coombes' own behaviour and attitudes displayed during and after the trial, references of that nature are unlikely to have been afforded much weight in the sentencing process.

47. The finding of *dangerousness* and the decision to impose an extended sentence were both justified. Mr Coombes appears not to understand what an extended sentence means. Although the overall sentence is 17 years and 6 months, the 5 year extension is to the licence period when he is released on licence after serving two thirds of his custodial term of 12 years 6 months.

48. Although the custodial term of the sentence was towards the upper end of the sentencing range, we consider that it cannot be described as manifestly excessive. We therefore refuse the renewed application for leave to appeal against sentence out of time.

Loss of Time

49. There remains the question of whether we should make a loss of time order. In *R v Gray & Others* [2014] EWCA Crim 2372 the then Vice-President of the Court of Appeal (Criminal Division) observed that:

> "the only means the court has of discouraging unmeritorious applications which waste precious time and resources is by using the powers given to us by Parliament in the Criminal Appeal Act 1968 and the Prosecution of Offences Act 1985".

In this case the single judge not only indicated that the Full Court should consider making a loss of time order in this case, but specifically drew Mr Coombes' attention to the fact that he was doing so. Far from this acting as a deterrent, it appears to have encouraged Mr Coombes to bombard the Criminal Appeal Office with further correspondence.

50. In a case in which the applicant is already serving a lengthy sentence this Court would usually draw back from making a loss of time order, but some cases are exceptional, and this falls into that category. There is absolutely no merit in any of Mr Coombes' complaints, as he was told by the single judge. He was forewarned of the risk he took by renewing these applications. The sheer volume of the paperwork he has generated in respect of the appeal against conviction, in particular, has wasted a huge amount of court time. In all the circumstances, we consider that it is appropriate to make an order that 56 days should not count towards his sentence.

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

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