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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202301703/A4

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday, 5 March 2024

Before:

LORD JUSTICE LEWIS
MRS JUSTICE CHEEMA-GRUBB DBE
THE RECORDER OF NORWICH
HER HONOUR JUDGE ALICE ROBINSON
(SITTING AS A JUDGE OF THE COURT OF APPEAL (CRIMINAL DIVISION))

REX
V
JOHN HASSALL

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MR D TRAVERS appeared on behalf of the Applicant

J U D G M E N T

1. LORD JUSTICE LEWIS: On 28 April 2023 in the Crown Court at Liverpool the applicant, John Hassall was sentenced for three offences. First, he was sentenced to 12 years and six months' imprisonment for offering to supply a class A drug (cocaine). Secondly, he was convicted of supplying a class A drug (heroin) and he was sentenced to eight years' imprisonment to be served concurrently. Thirdly, he was convicted of offering to supply a class B drug (cannabis) and sentenced to four years and nine months' imprisonment to be served concurrently. Leave to appeal against sentence was refused by the single judge.
2. The applicant first applies for an extension of time of 20 days for filing his renewed application for leave to appeal against sentence. We grant the extension of time. It appears that the short delay occurred when the applicant was moved from one prison to another and he may not have been given notice of the refusal of leave. We turn therefore to the renewed application for leave to appeal against sentence.
3. The facts can be stated shortly. The applicant was involved as a broker. Cocaine was offered to him and he offered to supply the cocaine to others. The amount of cocaine involved was a minimum of 8.25 kilos. The applicant was also involved in offering to supply one kilogram of heroin to others. Finally he was involved in offering to supply very large quantities of cannabis which were being imported from Spain.
4. The judge took the cocaine offence as the lead offence. He found that the applicant played a leading role both in the cocaine and the cannabis offences. He found that the applicant was directing and organising offers for sale on a commercial scale. He had substantial links to others. He had the expectation of substantial gain.
5. In terms of harm, the sentencing council guidelines provide that five kilograms of cocaine

fall within a Category 1 offence. That has a starting point of 14 years with a range of 12 to 16 years. The judge noted that the minimum total of cocaine being offered here was above five kilograms and that could justify an upward increase. However, he also accepted in argument that the offence here was offering to supply, not actual supply, and he said he would not move the offence above the category guidelines for that particular reason.

6. In relation to the cannabis, the quantity on the indictment in this case placed it within Category 2 of the sentencing guidelines, although it could be viewed as part of the consignment for which the applicant had already been sentenced to imprisonment in Portsmouth, in which case the total consignment would place it within Category 1. The starting point for a Category 2 leading role in relation to cannabis would be six years and for Category 1 it would be eight years.
7. The applicant had previous convictions which were an aggravating factor but the judge did not regard them as significantly aggravating. In terms of mitigation, the applicant had pleaded guilty and he would be given a 20 per cent reduction in the sentence to reflect that guilty plea.
8. The judge said he would take the cocaine offence as the lead offence and would reflect the overall offending by increasing the sentence for the cocaine offence to reflect the cannabis and the heroin offences and then by making the sentences for those other offences concurrent rather than adding them to the length of the cocaine sentence. Taking all of the offences together, the judge considered that they would have resulted in a sentence after trial of 18 years' imprisonment. That would be reduced by 20 per cent to reflect the guilty plea and that would result in a sentence of 14-and-a-half years. However the applicant had already spent the equivalent of 26 months in custody as a

result of the Portsmouth sentence for the cannabis. As the judge said he treated the cannabis in this case as part of the consignment of cannabis for which Mr Hassall had already been sentenced, he reduced the 14-years and six months by a further two years to a total sentence of 12 years and six months. He then imposed sentences for the heroin offence and the cannabis offence that were concurrent rather than making the sentence longer.

9. In his oral and written submissions, Mr Travers submits that a sentence of 18 years before reduction for the guilty plea was manifestly excessive. First, he submitted that the applicant's role was in truth a significant role, not a leading role, and that would have put the offence into a category with a lower starting point and a lower category range. Secondly, Mr Travers submitted that the judge erred in categorising the harm as Category 1. This is put in two ways. In the written grounds of appeal it is put on the basis that the judge erroneously believed that the cocaine offence involved a minimum of 18.25 kilograms not 8.25 kilograms. In oral submission it was put differently; it was said the prosecution in their response to Mr Hassall's basis of plea had focused on irrelevant matters outside this jurisdiction and which were not part of the offence for which Mr Hassall was being sentenced. Mr Travers referred to references in the judge's sentencing remarks apparently quoting submissions that the prosecution had said that there were messages dealing with how drugs could be transported for huge profits. Mr Travers submitted the reference to 'huge profits' in particular may have led the judge astray and may have led the judge to start sentencing Mr Hassall on the basis not just for this 8.25 kilograms of cocaine but the other things that the prosecution had referred to and which were irrelevant to this sentence. Thirdly, Mr Travers submitted that there was a disparity with the sentences given to other offenders.

10. We are satisfied that the judge was entitled, for the reasons he gave, to conclude that the applicant's role in relation to the cocaine and indeed the cannabis was a leading role. The applicant was the broker. He was offering to supply cocaine to others and he was sourcing that cocaine from a supplier. There was ample material, given that, to enable the judge to find as he did that Mr Hassall was directing and organising offers for sale on a commercial scale. The judge was entitled to find that he had substantial links to others. He was also entitled to find that the applicant had an expectation of financial gain. We doubt that the 'huge profits' is a reference to the profits of offending other than that which is the subject matter of this sentence. The judge had pointed out that one kilo of cocaine would be priced at between £35,000 and £40,000 and here the court was dealing with 8.25 kilograms. The profits to any reasonable person are huge and it is not surprising that that is how they are described in the sentencing remarks.
11. Secondly, the judge was correct to identify the harm as Category 1. The indicative amount for Category 1 offences is five kilograms of cocaine. These offences involved the broker offering to supply a minimum of 8.25 kilograms. The starting point for the cocaine offence alone was therefore 14 years and the range was up to 16 years' imprisonment. An upwards adjustment would be justifiable to reflect the fact that the amount of cocaine was above the indicative five kilogram level. The judge however said he was not moving outside the category range because he had accepted that this was offering to supply rather than actual supply and that would merit a downward adjustment, albeit a small downward adjustment. In the circumstances the judge was entitled to take that approach of adopting an upward adjustment but not going outside the sentencing category.
12. There is no merit in the argument that the judge thought the amount of cocaine being

offered was greater. The judge said at the start of his sentencing remarks that the amount was 8.25 kilograms. When dealing with the argument that this offence involved offering, not actually supplying, the judge said that would merit some adjustment but only a small one. He made it clear that he could have gone outside the category if it was more than five kilograms. There is no basis for considering that the judge thought the amount involved was 18.25 kilograms, not 8.25 kilograms at that stage of his sentencing remarks. It is correct that later there was one reference to 18.25 kilograms. That however was clearly a slip. It is clear from the remarks read fairly and as a whole and in context that the judge knew that he was dealing with offering to supply a minimum of 8.25 kilograms of cocaine and sentenced on that basis.

13. Thirdly, the judge was entitled to take the cocaine offence as the lead offence and to make an upwards adjustment to the sentence for that offence to reflect the other offences, namely the heroin and the cannabis offences, and then to make the sentences for those other offences concurrent. That was a perfectly proper approach to sentencing. The resulting sentence is just and proportionate to the offending and it is not even arguable that the sentence in this case was manifestly excessive.
14. Fourthly, there is no merit in the argument that there is a disparity of sentence between the applicant and other people convicted such as should lead to a reduction in the applicant's sentence. As the single judge noted when refusing leave, the others were sentenced on different evidence by different judges. The judge here sentenced the applicant on the basis of the evidence before him. The sentence for this applicant, John Hassall was correct in principle and it was just and proportionate given the evidence and the offending for which he had pleaded guilty.
15. For those reasons leave to appeal is refused.

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