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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Tuesday, 12 June 2018

B e f o r e:

PRESIDENT OF THE QUEEN'S BENCH DIVISION
(SIR BRIAN LEVESON)

MR JUSTICE SWEENEY

MR JUSTICE HOLGATE

R E G I N A
v
ANOUSKA COLEMAN

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NON-COUNSEL APPLICATION

J U D G M E N T (Approved)

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1. MR JUSTICE SWEENEY: On 6 October 2017, after a 2-week trial before His Honour Judge Graham and a jury in the Crown Court at Basildon, the applicant, who is now aged 39, and had no previous convictions, was convicted of two offences of causing grievous bodily harm with intent (Counts 1 and 3). On 15 December she was sentenced by the judge to 7 years' imprisonment on Count 1, and to 9 years' imprisonment consecutive on Count 3 - making a total of 16 years' imprisonment. She was also made subject to a serious harm prevention order until further order.
2. She now applies for an extension of time of 2 days in which to renew her application for leave to appeal against sentence, and for a representation order, following refusal by the single judge.
3. Given the young ages of the two victims we make an order, under section 45A of the Youth Justice and Criminal Evidence Act 1999, that no matter relating to them shall, during each of their lifetimes, be included in any publication if it is likely to lead members of the public to identify them as persons concerned in these proceedings. The prohibited matters include their names, addresses, the name of any school or other educational establishment attended by either of them, the identity of any place of work, and any still or moving picture of either of them. We have anonymised our judgment accordingly.
4. The facts are set out in the Criminal Appeal Office summary. It suffices to record that the applicant was a childminder of many years' experience. On the morning of 3 October 2014, X, a perfectly healthy and happy 9-month old baby girl, was dropped off by her mother at the applicant's home. During that day the applicant caused a full break of X's

right leg - by gripping it and moving it forward extremely forcefully, or by yanking it. The expert evidence was that the break would have caused X extreme pain at the time of infliction, and thereafter each time her leg was moved.

5. When X's mother collected her at the end of the day she found X to be in considerable distress. To cover up what she had done, the applicant told X's mother a story about an incident with a boy in a playgroup. Overnight X continued to show signs of distress. When her mother rang the applicant the following morning, the applicant said that she could not understand it, and that X had been moving well while with her. X's mother then took X to hospital, where the break was discovered.
6. An investigation took place into what had happened to X, but no charges were brought against the applicant at that stage, and she was able to continue to work as a childminder. Fortunately, however, X has made a full recovery, and walks without a limp.
7. Some 6 months later, on 16 March 2015, Y, a perfectly normal and happy 7-month old baby girl, was left in the applicant's care. During that day the applicant shook Y with a significant degree of force, and inflicted some sort of blunt force to the area of Y's right ear. At around 4.00 pm the applicant called an ambulance. Y was taken to hospital where doctors found that she was fitting, had an intracranial bleed, a mark on her right ear and a bruise to one of her thighs. She was then transferred to Great Ormond Street Hospital, where doctors found hypoxic injury to the brain, subdural haemorrhaging to the brain, ocular damage, spinal injuries, and some bruising to her right ear.
8. When Y's parents later questioned the applicant, she told them that she had been walking, with Y asleep in her pram, when she had noticed that Y's arm was distending strangely. Y, she said, had become increasingly pale until she started to fit, at which point, the applicant said, she had called for an ambulance.

9. Y was in hospital for 6 weeks. Tragically, she has not made a full recovery from her injuries. Indeed, she has serious long-term impairments, including severe impairment to her vision, and has been slower to reach developmental milestones compared to her peers, all of which has placed huge financial and emotional stress on her parents.

10. In passing sentence, having rehearsed the facts, the judge concluded that the applicant was not a dangerous offender. However, he observed that these were offences in breach of trust and of the gravest seriousness, with each in category 1 of the relevant Guideline. He had regard to the fact that each involved an incident of loss of control, the applicant's good character, and her loss of unsupervised access to her own children.

11. The judge concluded that there had to be consecutive sentences for what were two separate incidents with devastating effects on two separate families, and with the second offence being committed when the applicant must have known that she was a danger to children in her care. He further indicated that he would have regard to totality.

12. It was against that background that the judge imposed the sentences to which we have referred.

13. The grounds of appeal are that:

    (1) The sentence on Count 1 was manifestly excessive, in that the judge wrongly categorised the offence as one of greater culpability and greater harm.

    (2) The judge gave insufficient regard to the principle of totality in relation to the overall sentence.

    (3) The total sentence was manifestly excessive.

14. In refusing leave the judge said this:

> "By the verdicts the jury were sure you intentionally caused really serious harm to two infants in your care aged 9½ and 7½ months

> respectively. Even if it is arguable that the first offence was properly determined as a Category 2 offence under the Definitive Guideline, by reason of being an offence of lower culpability, it was nevertheless a very serious offence of its kind and justified a sentence towards the top of the range (5 - 9 years' custody). The second offence was justifiably determined to be a Category 1 offence. As the Judge observed you knew what you had done to the first child and continued to present a danger which materialised by your intentionally causing really serious harm to a second child causing 'serious long-term impairments'. The Judge was entitled to place this offence in Category 1 for which the range is 9 - 16 years' custody. Your previous good character and the principle of totality was reflected in the sentences. You did not have the benefit of guilty pleas and remorse, maintaining your denial of wrong-doing. The total sentence of 16 years was not manifestly excessive."

15. We agree.
16. The ultimate question is whether it is arguable that the total sentence of 16 years' imprisonment for both offences is manifestly excessive. In our view, the answer to that question is very obviously in the negative. The offence in Count 3 was plainly a category 1 offence - carrying a starting point of 12 years. It was aggravated by breach of trust, the applicant's knowledge of the danger that she posed to children, and the lasting adverse consequences. The aggravating features significantly outweighed the mitigating features such that the sentence after trial for that offence alone would have been significantly above the 12-year starting point.
17. Hence, even with the application of the principle of totality, the total sentence imposed for both offences was well within the appropriate range. Accordingly, these renewed applications are refused.

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

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