

Neutral Citation Number: [2018] EWCA Crim 2945

Case No: 201305186/A4

**IN THE COURT OF APPEAL**  
**CRIMINAL DIVISION**

Royal Courts of Justice  
Strand  
London, WC2A 2LL

Tuesday, 18 December 2018

**B e f o r e:**

**LORD JUSTICE HOLROYDE**

**MRS JUSTICE ANDREWS DBE**

**RECORDER OF STAFFORD**  
**(HIS HONOUR JUDGE MICHAEL CHAMBERS QC)**  
(Sitting as a Judge of the CAD)

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**R E G I N A**

v

**COLIN PAUL HUTT**

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**NON-COUNSEL APPLICATION**

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**J U D G M E N T** (Approved)

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1. LORD JUSTICE HOLROYDE: On 11 September 2013 this applicant was convicted of the attempted murder of his former partner. He was sentenced to 19 years' imprisonment. An application was made for leave to appeal against sentence but was refused by the single judge on 20 December 2013 and was not renewed timeously to the Full Court. The applicant, acting in person, now applies for a long extension of time in which to renew his application and for leave to put forward new grounds of appeal in substitution for those which were drafted by his trial advocate and were rejected by the single judge.
2. At the time of the offence the applicant was estranged from his former partner and was barred from the public house of which she was the licensee. He was drinking heavily. On 17 March 2013 he went to the public house armed with a steak knife which he used to stab and slash his victim a number of times. He denied any intention to kill but was convicted by the jury. The evidence against him at trial included evidence relating to an incident in October 2012 when the applicant had taken a knife from the kitchen of the public house and threatened to slit his partner's throat. In relation to that incident he had received a formal police caution for common assault.
3. In his sentencing remarks the trial judge, His Honour Judge Wood, assessed the case as falling within level 2 of the Sentencing Guidelines Council's Definitive Guideline, which indicates a starting point of 15 years and a range from 12 to 20 years' custody. He regarded the severity of the injuries inflicted as justifying an increase to 16 years. He then identified a number of aggravating factors. The offence was committed in the presence of others, in a public house from which the applicant was barred; he was intoxicated; he had gone to the premises armed with a knife which he intended to use to kill; and he had previously made threats to the victim including, most seriously, on the occasion of the incident in October 2012.
4. The learned judge also identified some mitigating features. The applicant was affected by post-traumatic stress disorder, having unfortunately been the victim of a robbery in 2010. He was treated as a man of previous good character. He was clearly under substantial emotional and financial pressure at the material time and his state of mind at the time of the offence was very different from his usual state.
5. The judge concluded that the aggravating features substantially outweighed the mitigating factors and he increased the appropriate sentence to one of 19 years' custody.

6. In renewing his application the applicant has waived legal professional privilege and has provided this court both with his trial advocate's advice and grounds of appeal and with a copy of an advice subsequently obtained from other counsel. In the documents which the applicant himself has submitted to this court he explains he has used his time in prison to study law and he now regards the grounds of the appeal which was previously put forward as having missed the key points. He submits that the judge was wrong to increase the sentence by 3 years because the applicant had received the caution in October 2012, which the applicant says means that he has been punished twice for the same offence. He further submits that his sentence was too long when compared with sentences in other cases in which much more serious injuries had been inflicted. He has provided us with a copy of the sentencing remarks of another judge sentencing in an unrelated case in 2012.
7. The applicant has clearly put a lot of work into this application. He has stated his arguments clearly and courteously. His two principal points are however based on misunderstandings. As to the first, it was both lawful and appropriate for the judge to treat the October 2012 incident as an aggravating feature. To do so does not involve double punishment for the 2012 offence. Rather, it is the identification of a factor which significantly increases the seriousness of the later attempted murder, and so makes it appropriate to increase the sentence for that later offence.
8. As to the second point, it must be remembered that all cases are different. In the unrelated case which the applicant has put before us the judge appears to have been dealing with offenders who were significantly younger than this applicant and had not been convicted of attempted murder. Reference to the sentences imposed in that case therefore simply cannot assist this applicant to challenge his own sentence.
9. In those circumstances the fresh grounds of appeal which the applicant wishes to put forward would have no prospect of success even if he could surmount the high hurdle of justifying both the long delay and his wish to depart completely from the original grounds of appeal. It is therefore unnecessary to consider those aspects of the case in further detail because an appeal would, in any event, be doomed to failure. We should add that in fairness to the applicant, we have considered whether there is any point in his favour which may not have been apparent to him, acting as he is in person. We are however satisfied that the sentence of 19 years' imprisonment was neither wrong in principle nor manifestly excessive.
10. For those reasons the applications for an extension of time and for leave to appeal against sentence are refused.

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