

Neutral Citation No: [2019] EWCA Crim 1119

No: 201900484/A1

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

Royal Courts of Justice

Strand

London, WC2A 2LL

Wednesday, 26 June 2019

**B e f o r e:**

**LORD JUSTICE LEGGATT**

**MR JUSTICE NICOL**

**MR JUSTICE BUTCHER**

**R E G I N A**

**v**

**LIAM CLOUGH**

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**Mr C Dunn** appeared on behalf of the **Appellant**

**J U D G M E N T**

(Approved)

MR JUSTICE BUTCHER:

1. The appellant, Liam Clough, pleaded guilty on 6 August 2018, in the Crown Court at Leeds, to offences of burglary and of escape from lawful custody. On 21 December 2018 he pleaded guilty to inflicting grievous bodily harm on Christopher Saville, contrary to section 20 of the Offences Against the Person Act 1861 and to inflicting grievous bodily harm on Matthew Coultas, again contrary to section 20 of the 1861 Act.
2. For those offences he was sentenced on 23 January 2019, in the Crown Court at Leeds by His Honour Judge Mairs, as follows. For the two section 20 offences to 2 years' imprisonment, one consecutive to the other; for the burglary, 3 years' imprisonment consecutive; for the escape, 9 months' imprisonment concurrent to the burglary sentence. Thus the total sentence was one of 7 years' imprisonment. He now appeals against sentence with the leave of the single judge.
3. The facts of this offending may be summarised as follows. The first offence to have been committed was the section 20 offence against Christopher Saville. It arose in this way. The appellant had been barred from Christopher Saville's chip shop in Coldcotes Circus in Leeds as the result of an earlier incident. On 7 May 2018 Christopher Saville was leaving the shop to make a delivery when he saw the appellant and words were exchanged. The appellant and Mr Saville began to argue and grapple. Mr Saville was subsequently either punched to the face or pushed backwards by the appellant. He fell backwards into the chip shop and banged his head on the tiled floor. He lost consciousness. He recalled the appellant standing over him. His next memory was waking up in hospital. He had been admitted to a high dependency ward. He remained in hospital for four days. A CT scan indicated a small subdural haematoma

and an external scalp haematoma. He also had a laceration to his lip and bruises to his chest and arms. As the judge recorded, he sustained long-lasting effects. Although surgery was not required, months afterwards he was still suffering from dizziness. Furthermore his hearing was affected, he had been diagnosed with vertigo and his vertical imbalance was at least contributed to by this incident.

4. The appellant handed himself in after that incident. But while it was under investigation, there occurred the second group of offences, on 5 July 2018. On that date the appellant broke into a dwelling-house in Gipton in Leeds by climbing onto a wheelie bin and gaining entry through a bathroom window. The appellant searched some bedrooms and stole a tablet computer. A neighbour had seen the appellant acting suspiciously and challenged him and in response the appellant was threatening and abusive. A builder, Matthew Coultas, saw what was going on and came to assist the neighbour. The appellant said that he lived at the house which he had been seen coming from. The appellant proceeded to strike Matthew Coultas in the face twice in quick succession. The blows caused cuts to Mr Coultas' eyebrows. Mr Coultas attempted to restrain the appellant but the appellant bit Mr Coultas' hand. Mr Coultas had suffered wounds to both his eyebrows, which were also swollen and bruised, and he was left feeling dizzy from the blows to his head. The bite to his hand became infected and required antibiotics.
5. After the appellant was arrested at the scene he was taken to Elland Road police station where his health was seen to deteriorate. He was then taken in handcuffs to Leeds General Infirmary. He sought to use a hand sanitizer and to do so persuaded the officer to remove his handcuffs. As soon as that had happened the appellant said "see you" and ran off. That was somewhat optimistic behaviour as he was in bare feet and was

apprehended round the corner. That was the offence of escape from lawful custody.

6. The appellant has a large number of previous convictions. At the time of sentencing he was aged 26. He had 37 convictions for 94 offences. Those include offences for domestic burglary in 2004, 2008, 2009 (four offences, one of them being aggravated burglary), 2012 (two offences), 2014 (two offences) and 2016. In 2016 the sentence which was imposed was one of 30 months' imprisonment. That means that the assault on Mr Saville occurred while he was on licence for that offence. He has a series of further convictions for theft. He also has a sequence of convictions for violence: two offences of battery in 2005, an offence of robbery in 2007, racially aggravated assault in 2008, two battery offences in 2012, and an assault on a constable in 2016.
7. In sentencing the appellant the judge stated that the section 20 offence involving Christopher Saville should be regarded as a category 2 offence, with a starting point of 18 months and a range between 1 and 3 years. He said that this offending was aggravated by the appellant's antecedents, and by the fact that this offence was committed while the appellant was on licence. The judge he said that the sentence for this offence, after a trial, would have been 30 months. Allowing for the guilty plea he passed a sentence of 2 years. As to the second section 20 offence, the judge said that again the sentence after trial would have been 30 months, which again was reduced with credit for plea to 2 years. That sentence was to be consecutive to that for first section 20 offence. In relation to the burglary, the judge said that the sentence would have been 4 years after trial. That was reduced to 3 years for guilty plea to run consecutively. The sentence for the escape of 9 months would run concurrently.
8. Before us today Mr Dunn has argued attractively that the sentence imposed was excessive. The essence of his submission was that the principle of totality was

offended. He also submitted that for each of the section 20 offences the judge took too high a starting point. He submitted that the imposition of the burglary sentence as consecutive to the section 20 offence sentences meant that the total sentence was excessive.

9. We do not consider that there is any basis on which the judge can be faulted for imposing a sentence of 2 years for the first section 20 offence. It was a serious assault, significantly aggravated by the appellant's previous convictions and by the fact that it was committed whilst he was on licence. A sentence of 30 months before plea was fully justified.
10. Equally there is no basis on which the judge could be faulted for imposing a sentence of 3 years after credit for plea in relation to the burglary defence. The appellant is a recidivist burglar. It appears that he offends in this way without compunction or remorse.
11. We have carefully considered whether the imposition of a sentence of 2 years for the second section 20 offence to run consecutively was either itself manifestly excessive or produced a total which, having regard to the principle of totality, was manifestly excessive or wrong in principle. We conclude that it was not. The sentence was one which the judge could pass within the sentencing guideline for the offence. There were, as we have said, very considerable aggravating circumstances in the appellant's previous record. It was a serious assault on someone who was seeking to help prevent the appellant's criminal activity.
12. Standing back and looking at the matter in the round, while the sentence of 7 years may be said to be a severe sentence, it was neither manifestly excessive nor was it wrong in principle.

13. In those circumstances, the appeal is dismissed.

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

Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: [rcj@epiqglobal.co.uk](mailto:rcj@epiqglobal.co.uk)