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IN THE COURT OF APPEAL  
CRIMINAL DIVISION  
**[2021] EWCA Crim 1434**



No. 202102485 A4

Royal Courts of Justice

Friday, 10 September 2021

Before:

MR JUSTICE LAVENDER  
MR JUSTICE WALL

REGINA  
V  
LUKE RYAN VAUGHAN

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

MR JUSTICE WALL:

- 1 This case has been referred to the court by the Registrar.
- 2 The applicant was 39 at the time of sentence and had a history of offending.
- 3 On 30 December 2018 he went to the home of his ex-partner uninvited to see their child. He became angry when he realised that his ex-partner had her new partner at the house. She shut the door on him, to which he responded by forcing the door open again. This had the effect of pushing a plastic panel out of it and, thus, causing slight damage.
- 4 On 2 September 2020 he was sentenced to a term of six months' imprisonment suspended for two years for the offence of criminal damage.
- 5 This application for permission to appeal was lodged 309 days out of time. It is not opposed. The simple ground being that the sentence was unlawful as it exceeded the maximum term available for the offence. The charge had been committed for trial by the Magistrates' Court under s.51 of the Crime and Disorder Act 1998 along with a separate indictable charge, which in the end was not proceeded with. In that situation, the Crown Court is limited to the powers of sentence which the Magistrates' Court would have had. The maximum term they could have imposed would have been one of three months where the damage caused is valued at less than £5,000, as it was here.
- 6 In addition, the applicant pleaded guilty to the offence. This must be reflected in the sentence imposed.
- 7 Therefore, we grant permission to appeal and we reduce the custodial sentence to one of two months, which we suspend for two years as before. To that extent, this appeal is allowed.

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**CERTIFICATE**

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This transcript has been approved by the Judge.