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IN THE COURT OF APPEAL  
CRIMINAL DIVISION

Case No: 2023/02665/A5



NCN: [2023] EWCA Crim 1126

Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

Wednesday 20<sup>th</sup> September 2023

**B e f o r e :**

**LORD JUSTICE WILLIAM DAVIS**

**MR JUSTICE JACOB**

**MR JUSTICE GRIFFITH**

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**R E X**

**- v -**

**NATALIE BRYANT**

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**Mr J Rawson** appeared on behalf of the Appellant

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

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Wednesday 20<sup>th</sup> September 2023

**LORD JUSTICE WILLIAM DAVIS:** I shall ask Mr Justice Jacobs to give the judgment of the court.

**MR JUSTICE JACOBS:**

**Introduction**

1. On 24<sup>th</sup> January 2023, the appellant pleaded guilty to an offence of possession of cannabis (count 2). At a later stage, on 7<sup>th</sup> June 2023, she pleaded guilty to an offence of assault occasioning actual bodily harm, contrary to section 47 of the Offences against the Person Act 1861 (count 3). She had in fact previously indicated her willingness to plead to that offence back in January. She was then aged 26.
2. On 12<sup>th</sup> July 2023, in the Crown Court at Chester, she was sentenced by Mr Recorder Ford KC to two years' immediate imprisonment on count 3 (assault). No separate penalty was imposed on count 2 (possession of cannabis).
3. The appellant now appeals against sentence with the leave of the single judge.

**The Facts**

4. The assault was carried out on Miss Angela Williams. Miss Williams' former partner was Wesley Yarnold, who was the appellant's co-defendant. The appellant was Yarnold's current partner.
5. At 8 pm on 25<sup>th</sup> December 2022 (Christmas Day), Yarnold had visited Miss Williams at her home address after having argued with the appellant. He and Miss Williams had been separated for some years, but a daughter had been born as a result of that relationship. Yarnold had used his daughter's mobile phone to call the appellant. The two continued their argument on the phone. Yarnold then made his way to a social club. He accidentally took his daughter's mobile phone with him. Miss Williams and her daughter went to the club in order to retrieve the phone. Yarnold gave the handset back to his daughter. Miss Williams said "Hello" to the appellant who was also present. There followed a brief scuffle between the appellant, who appeared to be intoxicated, and Miss Williams who returned home with her daughter shortly after.
6. Miss Williams then returned to the social club to confront the appellant about her aggressive behaviour. There was a further confrontation between Miss Williams, the appellant and Yarnold. Other customers separated them and the appellant and Yarnold left the club. Miss Williams was advised to wait inside until the police arrived. Wanting to go home, Miss Williams instead left the club and began to make her way back home. En route she came across the appellant and Yarnold who knocked her from her bicycle. While she was on the ground, Yarnold told the appellant to "batter" her. He stamped on Miss Williams' head, and the appellant repeatedly punched Miss Williams. A witness stopped her car to try to stop the attack. The witness saw the appellant and Yarnold allow Miss Williams to get up before launching another attack, forcing her back to the ground. The appellant kicked her to the head and tried to gouge her eyes. Yarnold put his finger in Miss Williams' mouth and pulled her top lip. The pair continued to kick and punch Miss Williams. The appellant also bit Miss Williams' hand. Eventually Yarnold told the appellant "enough is enough" and they left. By this time the witness had called the police who attended the scene.

7. Miss Williams was seen by a doctor at Warrington Hospital on Boxing Day. She had severe bruising, tenderness, grazes and scratch marks. She described suffering from blurred vision and vomiting.
8. The appellant and Yarnold were arrested several hours later. The appellant was found in possession of a small quantity of cannabis.

### **The Sentence**

9. When sentencing, the recorder had two victim impact statements from Miss Williams. They described the severe impact that the assault had had on her physically and emotionally. There were photographs of the injuries caused to her head and the court has seen those photographs. There can be no doubt that the assault had a severe physical and psychological impact on Miss Williams.
10. The recorder also had the benefit of a detailed pre-sentence report prepared by Miss Dentith from the Probation Service. This indicated that there were a number of factors which had contributed to the appellant's involvement in the attack on Miss Williams which was out of character. The appellant had no previous convictions or cautions. Those factors included, principally, that she had had too much to drink. She had also been emotionally impacted by the recent adoption of her two children, and she found it difficult to cope when she saw other families out enjoying themselves at Christmas. There were other factors which were also relevant to her behaviour, but principally she had drunk more than she usually would. She told the author of the pre-sentence report that she was heavily intoxicated.
11. The author of the report also described how the appellant had experienced a considerable number of trauma-related events in her young life. These included: an alcoholic mother; the death of her boyfriend and best friend in separate motor bike accidents when she was taking her GCSE examinations; more recently, extensive abuse from a previous partner (not Yarnold), which had led to the appellant being housed in a women's refuge for her own safety; and finally, her children being taken into care, one of whom was taken into care at birth, and then being adopted.
12. In making suggestions as to sentence, the author of the pre-sentence stated that the appellant was aware that an immediate custodial sentence might be imposed and that she was fearful of imprisonment. The author proposed a number of alternatives to immediate custody should the court be so minded, including a rehabilitation activity requirement and unpaid work.
13. The recorder sentenced both the appellant and Yarnold on 12<sup>th</sup> July 2023. The recorder said that the appellant's level of intoxication played a large part in the violence. He referred to the nature of the injuries caused to the victim and the psychological impact on her. It was agreed at the hearing – and has been agreed for the purposes of this appeal – that the assault fell within category A1 under the relevant assault guideline. That provides for a starting point of two years and six months' custody, and a category range of 18 months to four years. It was category 1 harm because of the substantial and serious nature of the injuries, both physical and psychological. It was category A culpability, because the attack involved the use of feet as weapons (although the evidence indicated that the appellant herself did not attack with shod feet), and because of the prolonged and persistent nature of the assault. There were also certain aggravating features, in particular intoxication, and the fact that the attack had, at least as far as Yarnold was concerned, a domestic element.

14. The recorder accepted that the appellant had shown some level of remorse, but he considered that the appellant's best point in mitigation was that she pleaded guilty, thereby attracting credit of 25 per cent. There is no suggestion that the recorder erred in the amount of credit to be afforded. The recorder said that he had had regard to the appellant's life experience, as set out in the pre-sentence report, but that he could not ignore the fact that this was a savage, prolonged and sustained attack which could have caused far more injuries than it in fact did. He had no doubt that it was a category 1 offence and that it fell at the higher end of category 1.
15. In relation to Yarnold, the judge said that his starting point was three years' custody, which he reduced to 30 months by reason of 15 per cent credit for the guilty plea. The recorder's stated starting point of three years in relation to Yarnold took into account the fact that Yarnold had some relevant, albeit relatively old, previous convictions and was not a person of good character.
16. In relation to the appellant, the recorder stated that the sentence, after application of 25 per cent credit for the guilty plea, was 24 months' custody. Although it was not stated, that implies a sentence of 32 months prior to credit for plea. It is apparent from the Recorder's sentencing remarks that the difference in sentence for Yarnold (36 months prior to credit for plea) and for the appellant (32 months prior to credit for plea) reflected Yarnold's previous convictions and the appellant's previous good character and good work record. The recorder was unwilling to suspend the sentence. He said that the gravity of the offence was too serious to justify the imposition of anything other than immediate custody.

#### **The Submissions on behalf of the Appellant**

17. It is submitted by Mr Rawson on behalf of the appellant that the Recorder's sentence prior to credit for the guilty plea was too high. The appellant had been barefoot in the attack, but, more importantly, she had no previous convictions, was remorseful, and the attack was not premeditated. The pre-sentence report provided details of various traumatic events in the appellant's life, including her children being taken into care. He submits that insufficient regard was given to the background detailed in the pre-sentence report, the lack of aggravating features, including the fact that this was not a premeditated attack, and the appellant's previous good character. He also submitted that the factors in favour of suspension outweighed the factors which militated against it, and that the recorder should have suspended the sentence. Reliance was also placed on the relatively small difference between the sentence imposed on Yarnold, who was not of good character and did not have the mitigation available to the appellant, and the sentence imposed on the appellant.

#### **Discussion**

18. We consider that there is force in the submission that the recorder's sentence, prior to credit for the guilty plea, was too high in relation to the appellant. This was, indeed, a very nasty and prolonged assault by two people on a single woman. We can understand that the circumstances of the assault and the nature of the physical and psychological injury, as well as the aggravating circumstances, would mean that, prior to consideration of mitigating factors and credit for plea, a sentence of three years' custody would be warranted. Indeed, Mr Rawson in his submissions did not suggest otherwise. Three years was the recorder's sentence, prior to credit for plea, for Yarnold who, as we have said, had relevant previous convictions and as far as we can tell, and as far as the recorder's sentencing remarks indicate, had no material mitigation available to him.

19. However, the mitigating factors in relation to the appellant, to which we have referred, should, in our judgment, have resulted in a material reduction from the sentence of three years' imprisonment that might otherwise have been imposed after trial on someone with little or no mitigation. We do not consider that the recorder's reduction, which in practical terms was only four months by way of differentiating the positions of Yarnold and the appellant, was sufficient, and we consider that this resulted in a sentence which is manifestly excessive.
20. We consider that the appropriate sentence on the facts of this case, prior to credit for the guilty plea and taking into account both aggravating and mitigating circumstances, was 24 months' imprisonment, and that a 25 credit for plea reduces that to 18 months' imprisonment.
21. We will therefore allow the appeal to the extent of substituting 18 months' imprisonment for the sentence of 24 months imposed.
22. This leaves the question of suspension. We do not consider it appropriate to interfere with the recorder's exercise of judgment on this issue. He took the view that the gravity of the offence was simply too serious to justify the imposition of anything other than immediate custody. That was a view which he was fully entitled to take on the facts of this case. Indeed, it is a view which we share.
23. Accordingly, the sentence will remain one of immediate custody, but will be reduced to 18 months.

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