



Case No: 202203325 A1
[2023] EWCA Crim 1285

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM IPSWICH CROWN COURT
HHJ D PUGH

Royal Courts of Justice
Strand, London, WC2A 2LL

Date of Judgment: 31/10/2023
Date of Ruling: 1/11/2023

Before:

LORD JUSTICE DINGEMANS
MR JUSTICE JAY
and
MR JUSTICE GOSS

Between:

KIERAN GRAY

Applicant

- and -

THE KING

Respondent

Hannah Webb for the Appellant

Hearing date: 31st October 2023
Costs application determined on written submissions: 1st November 2023

RULING ON COSTS

MR JUSTICE JAY:

1. Following the refusal of leave to appeal against sentence in this case on 31st October, Ms Hannah Webb for the Applicant applies in writing, pursuant to a direction given at the conclusion of the hearing, for her costs to be paid out of central funds.
2. Ms Webb submits that the Court has jurisdiction to award costs in her favour. Although, through oversight, she was not formally appointed by the Crown Court to represent the interests of the Applicant, she has proceeded to act on his behalf both here and below. Her appointment is therefore deemed: see *R v Roberts* [2019] EWCA Crim 1270. On the facts of *Roberts* itself (see paras 52 and 53), this Court awarded costs out of central funds even though leave to appeal was refused.
3. We do not doubt that we have jurisdiction to award costs out of central funds notwithstanding that leave to appeal was refused. The facts of *Roberts* were somewhat unusual inasmuch as the Registrar had (wrongly) granted counsel a legal aid representation order to appear at the hearing. *Roberts* does not specify the factors that this Court should consider before determining whether or not to make a costs order in circumstances such as these.
4. We think that the principles governing what may be described as “standard” applications for leave to appeal to this Court should also apply to applications made under section 16A of the Criminal Appeals Act 1968, namely where the Crown Court has made a hospital order. The practice of this Court in cases where section 11(1) applies (i.e. in cases where leave is required in relation to proposed appeals against conviction and/or sentence) is not to award costs out of central funds in the normal or ordinary course. Some particular reason is required, and in our judgment none exists in all the circumstances of this case. Although Ms Webb valiantly represented the Applicant’s interests at the hearing and we were grateful for all her assistance, we were in no doubt that her application for leave should fail.
5. The application for an order for the payment of costs out of central funds is, therefore, refused.