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IN THE COURT OF APPEAL  
CRIMINAL DIVISION

[2023] EWCA Crim 1707



Case No: 2023/00321/B4

Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

Thursday 7<sup>th</sup> December 2023

**B e f o r e :**

**LORD JUSTICE DINGEMANS**

**MRS JUSTICE STACEY DBE**

**HIS HONOUR JUDGE DREW KC**

**(Sitting as a Judge of the Court of Appeal Criminal Division)**

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**R E X**

**- v -**

**LIAQAT HAYAT**

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Computer Aided Transcription of Epiq Europe Ltd,  
Lower Ground, 18-22 Furnival Street, London EC4A 1JS  
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

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Non-Counsel Application

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

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Thursday 7<sup>th</sup> December 2023

**LORD JUSTICE DINGEMANS:** I shall ask Mrs Justice Stacey to give the judgment of the court.

**MRS JUSTICE STACEY:**

1. The applicant renews his application for an extension of time (1,126 days) in which to apply for leave to appeal against conviction following refusal by the single judge.

2. On 3<sup>rd</sup> December 2019, in the Crown Court at Leeds, before His Honour Judge Davis-White KC, the applicant (then aged 45) changed his pleas to guilty to one count of putting a person in fear of violence by harassment (count 1) and to four counts of common assault (counts 2, 3, 4 and 7). Two counts of perverting the course of justice (counts 5 and 6) were left on the file on the usual terms.

3. The following day, on 4<sup>th</sup> December 2019, he was sentenced to 46 weeks' imprisonment on count 1 and to consecutive terms of three weeks' imprisonment on each of counts 2, 3, 4 and 7. The total sentence was therefore one of 58 weeks' imprisonment. He was given a release date of 5<sup>th</sup> January 2020, reflecting the time that he had spent remanded in custody. A Restraining Order was also imposed until further order.

4. However, the applicant was not released at the end of his sentence, but remained on immigration detention until his release after a total of 72 weeks' imprisonment.

5. The proposed grounds of appeal challenge the legal advice he received at the time and how it was that he came to change his plea to guilty on counts 1 to 4 and count 7.

6. The applicant has waived his legal professional privilege. In response, his counsel has provided a detailed note, supported by her contemporaneous records that demonstrate that she was fully prepared for a contested trial on 3<sup>rd</sup> December. However, on the day of the hearing she was duty bound to report to the applicant that the Crown Prosecution Service were prepared to offer no evidence on the two most serious counts on the indictment (perverting the course of justice), if the applicant were to plead guilty to the offences of harassment and assault. She did so and took detailed instructions from the applicant and explained the implications of both accepting and rejecting the prosecution offer. Her consultation with the applicant was assisted by the services of an interpreter.

7. In accordance with best practice, the applicant signed two notes confirming his freely made request for a *Goodyear* indication from the judge. Following receipt of the indication of the maximum sentence that he would receive were he to change his pleas to guilty, he signed a declaration that it was an unequivocal guilty plea, made of his own free will, without pressure and made independently.

8. The applicant now says that his counsel was ill-prepared; that he was rushed into making a decision and that his counsel countermanded his instruction to maintain his plea of not guilty by deleting part of his letter that he had written to the judge. He also states that he pleaded guilty because he was struggling with prison conditions and understood that he would receive a lighter sentence if he did, which sits uneasily with his assertion that his counsel failed to act on his instruction to maintain a not guilty plea. But, in any event, he is correct in his understanding of how a discount for a guilty plea would result in a shorter prison sentence than would otherwise be the case.

10. The substance of the defence that he now says he wished had been put forward on his behalf is that his ex-wife was motivated by unjustified malice towards him. She had

previously made up allegations against him of harassment and assault in order to have him deported. Her animosity stemmed from the fact that she now has a new partner called Usman and she wanted the applicant out of the way.

11. The applicant explains the delay in making his application was because of his continued incarceration beyond the end of the sentence imposed and the difficulty in obtaining legal advice or assistance, or receiving any help from the police.

12. The single judge refused leave to appeal, explaining that from the barrister's clear account the applicant was properly advised and made an unequivocal guilty plea after knowing the maximum sentence he would receive from the *Goodyear* indication, and that he had authorised his barrister to make the application and to mitigate on his behalf.

13. We agree with and adopt the reasoning of the single judge. The applicant's counsel acted professionally and appropriately at all times, as is well evidenced from her contemporaneous notes. There are no arguable grounds for an appeal to succeed. Accordingly the renewed application is refused.

14. Since the proposed grounds of appeal have no reasonable prospect of demonstrating that the applicant's conviction was unsafe, it would not be in accordance with the overriding objective in Criminal Procedure Rule 1.1, or the interests of justice, to allow the extension of time requested of 1,126 day (approximately three years and one month). In any event, the reasons for the delay are unsatisfactory and do not justify the length of time taken to lodge the appeal. Whilst we accept that it would have been difficult to obtain legal advice whilst in custody, and it is hard to navigate the system when English is not a first language, the length of time taken is excessive. It would have justified a short extension, but not the time sought.

15. Accordingly, the renewed application for leave to appeal against conviction and the application for an extension of time in which to apply for leave are both refused.

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

Tel No: 020 7404 1400

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