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IN THE COURT OF APPEAL
CRIMINAL DIVISION

[2024] EWCA Crim 146



Case No: 2023/01480/B1

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 7th February 2024

B e f o r e :

LADY JUSTICE MACUR DBE

MRS JUSTICE STACEY DBE

HIS HONOUR JUDGE PICTON

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

R E X

- v -

COLIN HOFFMAN

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Non-Counsel Application

J U D G M E N T
(Approved)

Wednesday 7th February 2024

LADY JUSTICE MACUR: I shall ask Mrs Justice Stacey to give the judgment of the court.

MRS JUSTICE STACEY:

1. On 14th December 2022, following a trial in the Crown Cour at Guildford before Her Honour Judge Lees and a jury, the applicant was convicted of two offences of arranging the commission of a child sex offence, contrary to section 14(1) of the Sexual Offences Act 2003.

2. On 13th April 2023, the applicant (then aged 64) was sentenced by the trial judge to three years and nine months' imprisonment on each offence, to run concurrently with each other. A Sexual Harm Prevention Order was made for a period of 20 years. A Deprivation Order was made in relation to an iPhone seized by the police, and the necessary consequential orders that are automatic for offences of this type were made.

3. The applicant now renews his application for an extension of time (194 days) in which to apply for leave to appeal against sentence, and for a representation order after having been refused by the single judge.

4. The facts of the offences were that the applicant had been communicating online on Chatiw with someone he thought was the mother of two daughters aged 10 and 2. He explained to the "mother" his desire to have sex with her two children and was arranging through the "mother" to have vaginal sex with the 10 year old and oral sex with the 2 year old.

5. The "mother" was in fact an undercover police officer. He had had around 600 other conversations on the Chatiw website, which is known for its ability to enable users to remain anonymous. Many of those conversations were with mothers of young daughters.

6. It was common ground that both offences fell within category 1A of the guidelines, with a starting point of five years' custody. But the judge was able to reduce the sentence for personal mitigation and because the plans to meet the young girls were not far advanced – no meeting had been arranged and no pictures had been exchanged – and for his good character. She imposed the sentences concurrently to reflect the totality of the offending.

7. The proposed grounds of appeal are that the sentencing judge should have made a greater allowance in the reduction on sentence to take account of the fact that the applicant had taken no further steps beyond communicating his intentions and discussing general time and location in relation to the index offences. Nor was there any grooming of children directly, or possession of pictures. Secondly, it is said that the judge should have had further regard to the applicant's personal characteristics and his previous good character.

8. In further submissions, dated 10th January 2024, the applicant enclosed press cuttings about other cases in order to argue that he had been harshly sentenced, compared to other offenders and offences. Further grounds advanced are that he is struggling in prison with poor mental health; the prison conditions; and the lack of courses to assist with his rehabilitation.

9. The sentences for these offences are reached by considering the Sentencing Council guidelines for offences of this type. Sentences for wholly different offences with their own guidelines and their own particular facts are not relevant to the determination of the sentences for these offences. The press cuttings are therefore of no assistance in relation to the question

of whether the sentence for these offences was manifestly excessive.

10. The judge took into account all the mitigation and the facts of the offence and the totality principle to reach the shortest sentence commensurate with the seriousness of the offending. For the reasons given by the single judge, with which we agree, it is not reasonably arguable that the sentence was manifestly excessive.

11. Accordingly the renewed applications for leave to appeal against sentence and for legal representation are refused.

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

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