



Neutral Citation Number: [2024] EWCA Crim 1631

CASE NO: 202403789/A1

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT LEWES

HHJ JEREMY GOLD KC CP No: 47EH2210524

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday, 20 December 2024

Before:

LORD JUSTICE LEWIS  
MR JUSTICE GARNHAM  
MR JUSTICE CONSTABLE

REX  
V  
LEE BRIAN MARK WOODS

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Computer Aided Transcript of Epiq Europe Ltd,  
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MISS R CROOK appeared on behalf of the Appellant  
MISS R WILLOUGHBY appeared on behalf of the Crown

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

1. MR JUSTICE CONSTABLE: The appellant pleaded guilty to one count of inflicting grievous bodily harm pursuant to section 20 of the Offences Against the Person Act 1861, one count of criminal damage and one count of intentional strangulation. He was sentenced to 40 months' imprisonment following a reduction of one-third to account for his plea at the earliest opportunity, made up of 25 months for the grievous bodily harm and 15 months for the intentional strangulation running consecutively and one month concurrent to the criminal damage. The appellant appeals with leave of the single justice. Before credit the sentence of 40 months equates to a total sentence of 60 months or five years.
  
2. The appellant had been in a relationship with the complainant for around 10 years when the offending had occurred on 20 August 2024. The appellant had been out the night before with a mate, taking cocaine and drinking alcohol and had not come home. The appellant then came home at around 9.30am on 20 August when the complainant had been making breakfast for their five-year old daughter. The appellant entered the flat and accused the complainant of having an affair with the neighbour that he had been out with. A short verbal altercation ensued after which the appellant punched the complainant to the right side of her face, causing her to see black and to fall to the floor. The appellant initially apologised and the complainant went to her room as she did not want their daughter, nor indeed the young nephew who was staying with them, to see what was happening.
  
3. The appellant followed the complainant and the complainant hit the appellant with a dog lead to defend herself while the appellant punched the complainant repeatedly and threw

her against a wall. Whilst the complainant was on the floor, the appellant placed both of his hands around the complainant's neck and squeezed very hard for around 5 to 10 seconds, causing the complainant to stop breathing and to fear that she was going to die and that she would never see her children again.

4. The complainant thereafter kicked the appellant in his genitals which caused him to let go of her neck. The appellant thereafter tried to kick the complainant in the face but she was able to put her arms up to her face to prevent him from doing so. The complainant was kicked to the arms and punched repeatedly to the ribs. The appellant threatened to kill the complainant. She went to check on her children and the appellant kicked the complainant to the upper thigh. Her daughter appeared shocked at what had been going on. The complainant's nephew had been wearing headphones and appeared unaware of the events.
5. The complainant attempted to barricade herself in a bathroom but again the appellant got into the bathroom and swung the complainant around causing her to fall into the bathtub and hit her head. The appellant began to back off. The complainant got up and began throwing the appellant's belongings out of the house, stating that she was going to call the police. The appellant began hurling abuse at the complainant, calling her a "snitch" and a "slag".
6. As a result of this brutal, sustained and persistent attack the complainant's injuries included bruising to her face, markings along her neck and to her jaw, bruising to her forearms, broken ribs, bruising to the right upper back and left side of her torso, bruising

and grazing to her upper thigh, bruising to her knee, a lump to her head where she had been pushed into the bath and bruising to her finger joints on both hands.

7. The appellant's counsel, Miss Crook recognises that in accordance with the sentencing guidelines for section 20 offences culpability is high, that is in light of the prolonged and persistent nature of the assault. The fact that no weapon was used does not detract from high culpability. Strangulation is not a factor to be taken account of at this stage in assessing where it should lie given that it is being sentenced separately. In light of the number and seriousness of the injuries, including the broken ribs, Miss Crook's contention that harm should be Level 3 is, in our view, entirely unrealistic. This is Level 2 harm. The guideline indicates a starting point of three years and a two to four-year range. The maximum sentence for section 20 offences is five years.
8. In light of the significant aggravating features, namely the appellant's past convictions, albeit including only one relatively minor offence against the person, his having committed this offending on licence and, importantly, the domestic context and the presence of children, a sentence prior to credit for plea and ignoring the strangulation element towards or at the top of the four-year range for Category A2 would not have been manifestly excessive.
9. The strangulation formed a very serious and separate aspect of the appellant's offending and was different in kind to the section 20. In these circumstances the judge was entitled to take the view that it was necessary to sentence the section 20 and the strangulation consecutively.

10. There is not yet a sentencing guideline for intentional strangulation although a draft, which should not presently be used for sentencing, has been adopted following consultation and will be effective from 1 January 2025. In R v Cook [2023] EWCA Crim 452, the court said that pending that guidance the starting point for an offence of intentional strangulation was one of 18 months' immediate custody. In R v Yorke [2023] EWCA Crim 1043, this court imposed a sentence in the order of two years and nine months' imprisonment prior to a plea in the context of intentional strangulation in a domestic context in not dissimilar circumstances. It follows that in the present case a sentence of two years would not have been manifestly excessive considering the strangulation alone and prior to the application of credit.

11. It is of course right that totality must be taken account of. In the present case the sentencing judge's sentence of five years prior to the application of credit represents a reduction of one year from the six years calculated by considering each offence separately, that is four years for the section 20 and two years for the intentional strangulation. As such, there was a proper reflection of totality and the resulting sentence of five years' imprisonment reduced to 40 months for the plea was not manifestly excessive. The appeal is therefore dismissed.

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

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