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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT WOOD GREEN

MISS RECORDER WEEKES KC CP No: 01MP1338623

Case No. 202401871/A2

Neutral Citation Number: [2024] EWCA Crim 1650

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday, 20 December 2024

Before:

LORD JUSTICE LEWIS  
MR JUSTICE GARNHAM  
MR JUSTICE CONSTABLE

REX  
V  
WARREN DAVIS

Computer Aided Transcript of Epiq Europe Ltd,  
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MISS N TURNER appeared on behalf of the Appellant

J U D G M E N T

LORD JUSTICE LEWIS:

1. On 23 April 2024 in the Crown Court at Wood Green, the appellant Warren Davis, who was then aged 38, was sentenced for four offences. He was sentenced to six years and four months' imprisonment for possessing a class A drug, namely heroin, with intent to supply to others. That was count 3 on the indictment. He was sentenced to four years' imprisonment to run concurrently for count 1, possessing a class A drug, in this case cocaine, with intent to supply to others. He was also sentenced to 16 months' imprisonment on count 2, which was possession of criminal property. That was to be served concurrently. No separate penalty was imposed in relation to the fourth offence. The total sentence therefore was one of six years and four months' imprisonment. He appeals against sentence with leave of the single judge.
2. The facts of the offences can be stated shortly. On 22 November 2023 a search warrant was executed at the appellant's home address, which was a flat in North London. Police found a large quantity of class A drugs in one room. A large amount of cash was also found. An Audi car associated with the appellant was found outside his partner's home. That car contained a quantity of class A drugs. The police also found and seized cash at his partner's house. High value designer goods were also seized.
3. The total amount of the heroin that was found and seized was 743 grams. The total amount of cocaine that was found and seized was 16.6 grams. The total value of the money that was found and seized was £69,570.
4. The appellant pleaded guilty to the three offences and in his basis of plea he accepted that he played a significant role in drug dealing. He was a trusted courier, as it was put. He was paid to hold cash and drugs for others and to transport drugs between locations. In the basis of plea he also accepted that designer goods valued at between £11,550 and

£14,750 were also bought as the result of the proceeds of criminal activity. That together with the cash that was seized amounted to a maximum of £84,320 derived from the criminal activity involving the drugs.

5. The appellant had one caution for possession of cannabis in 2004 and one conviction for possession of cannabis in 2010. He has had no convictions since and has no convictions in relation to class A drugs and no convictions in relation to possession with the intent to supply drugs, as opposed to the simple possession of cannabis.
6. The judge considered that in relation to count 3 (the heroin) the appellant performed a significant role in what the guidelines issued by the Sentencing Council categorises as a Category 2 offence. The starting point in sentencing for such offences is eight years' custody and the sentencing range runs from six years and six months to 12 years' custody. The judge decided to make that offence the lead offence and she increased the appropriate sentence to 10 years to reflect the offending in relation to the cocaine and the possession of criminal property. She then imposed concurrent sentences for those other offences. She reduced the sentence by 33 per cent to reflect the appellant's early guilty plea. That resulted in a sentence of six years and four months. She then imposed concurrent sentences of four years and 16 months for the other two offences.
7. In her clear and focused written and oral submissions, Miss Turner for the appellant advances the following grounds of appeal. First, she submits that the judge was wrong to take a starting point of eight years' custody. That is based on the offence involving a kilogram of heroin, whereas here the amount was 743 grams. Secondly, she submitted that the judge failed to give any credit for the mitigation that the appellant had. Thirdly, she submitted that it was disproportionate to move upwards from the starting point of eight years to 10 years to reflect the cocaine and the possession of criminal property.

Consequently, she submitted that the sentence of six years and four months was manifestly excessive.

8. We see some force in the first and the second grounds of appeal. On the first ground the amount of heroin involved was substantial - 743 grams of a class A drug, heroin. However, under the guidelines the starting point of eight years' custody for a significant role is based on an indicative quantity of one kilogram. In our judgment the starting point should have been adjusted to reflect the fact that the amount of heroin involved was below the one kilogram indicative quantity and the starting point in this case should have been somewhere in the region of six years or so. That would then have to be adjusted upwards to reflect the other offences involving cocaine and the possession of criminal property. We note that there were substantial starting points of three years and six months' imprisonment for the five grams of cocaine and 18 months' imprisonment for the possession of criminal property, as culpability was medium and given the money involved. Those would have been adjusted to reflect the particular aggravating and mitigating features in those cases. But in all the circumstances we are satisfied that the other offending would have justified an increase from a six year starting point to a sentence of about eight-and-a-half years.
9. There is in truth limited mitigation on analysis in this case. We do consider that the fact that the appellant has no previous convictions for possession with intent to supply and that the last offence was of possession of cannabis, which was not a class A drug and it occurred 14 years ago, does offer some mitigation. He had no relevant previous convictions which were recent. There is sadly little other mitigation. There were references from a number of other people, including his partner and his employer and he had been trying to get a job. He had had a young daughter born shortly before these

offences occurred and whom now he will not be able to see regularly for many years. But in truth those circumstances offer little mitigation for these offences, particularly bearing in mind the misery and the destruction of lives that are caused by the trade in heroin and cocaine in which the applicant chose to play his part.

10. The limited mitigation, in particular the absence of recent relevant convictions, would have resulted in the sentence being adjusted downwards to somewhere in the region of eight years. The appellant is entitled to a one-third reduction to reflect his early guilty plea. That would result in a sentence of five years and four months, not the six years and four months that was imposed. We would therefore allow the appeal to that extent. We see no reason to alter the sentences for the other offences.
11. We therefore allow the appeal. We quash the sentences of six years and four months on count 3. We substitute a sentence of five years and four months. The other sentences remain unaltered and are to be served concurrently.

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

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