

This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.



IN THE COURT OF APPEAL
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT KINGSTON
UPON THAMES
HIS HONOUR JUDGE ANTHONY LEONARD KC T20227013

CASE NO: 2022 01118 A2

[2024] EWCA Crim 1665

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday 18 December 2024

Before:
LADY JUSTICE ANDREWS
LORD JUSTICE STUART-SMITH
MR JUSTICE BRYAN

REGINA
v
ILLYAAS MAALIN

Non-counsel application

A P P R O V E D J U D G M E N T

MR JUSTICE BRYAN:

1. On 1 June 2021, in the Crown Court at Kingston-upon-Thames, the applicant (then aged 22) pleaded guilty to a count of violent disorder.
2. On 10th March 2022, at the Central Criminal Court before His Honour Judge Anthony Leonard KC and a jury, the applicant (then aged 23) was convicted of manslaughter.
3. On 17 March 2022 the applicant was sentenced by His Honour Judge Leonard to 10 years and 9 months' imprisonment in respect of the manslaughter and 2 years and 3 months' imprisonment in respect of the violent disorder consecutive, a total sentence of 13 years' imprisonment.
4. In addition to time spent on remand in this country, the Learned Judge also stated that 69 days spent in custody in Holland would count towards sentence.
5. The applicant applies for an extension of time of 834 days in which to renew his application for leave to appeal against sentence after refusal by the single judge. The only issue raised in the renewed application concerns the calculation of the time on remand in Holland under section 327 Sentencing Act 2020.
6. In this regard, in September 2024, when the applicant was due to be transferred to the Netherlands under the Additional Protocol to the Council of Europe Convention, on the Transfer of Sentenced Persons, the transfer had to be cancelled as it transpired that at the time of sentence the Dutch authorities had incorrectly stated the time on remand in the Netherlands as 69 days when in fact it was 92 days for the period of 29 May 2019 to 6 August 2019 and 18 February 2021 to 11 March 2021, and the applicant could not be transferred without the release date in the United Kingdom being corrected, which would necessitate an appeal as it could not be corrected administratively.
7. The applicant accordingly applies for an extension of time of 834 days in which to renew his application for leave to appeal against sentence, but solely to correct the number of days spent on remand in the Netherlands so as to count.
8. We consider that in such circumstances, there was a good reason why the applicant did not renew his application earlier. Accordingly, we grant the application for an extension of time and grant leave to appeal against sentence, and treat this hearing as the hearing of the appeal.
9. Under section 327(3) the court must specify in open court the number of days for which the prisoner was kept in custody whilst awaiting extradition. At the sentencing hearing this was specified as 69 days.
10. The Crown have confirmed with Openbaar Ministrie/EAB Amsterdam that their records show the applicant was detained in the Netherlands from 29 May 2019 to 6 August 2019 and from 18 February 2021 to 11 March 2021 awaiting extradition to the UK, and therefore that the number of days which ought to have been credited was 92 days rather than 69 days.
11. Accordingly, we declare that pursuant to section 327, the number of days that the applicant was kept in custody whilst await extradition is 92 days. This is to enable section 48(3)(a) of the Prison Act 1952 to operate as a direction to the Prison Service that account should be taken of that time in calculating the period for which the applicant is liable to be detained.
12. Accordingly, and to the extent of the declaration we have made, the appeal against sentence

is allowed.