IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2024] EWCA Crim 1668

Case No. 202403489 A1

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday, 11 December 2024

Before:

LADY JUSTICE WHIPPLE
MR JUSTICE BRYAN
MRS JUSTICE THORNTON

REX

v

LACEY LANGTON

Computer Aided Transcript of Epiq Europe Ltd,
Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

MR P PARHAM appeared on behalf of the Applicant.
The Crown were not represented.

J U D G M E N T

LADY JUSTICE WHIPPLE:

1. The appellant was sentenced on 24 September 2024 to a total of 14 months' imprisonment, following a guilty plea to one count of perverting the course of justice and one count of possessing an identity document. The sentencing judge was HHJ Mouseley King's Counsel sitting at Bournemouth Crown Court. The appellant now appeals against that sentence with the leave of the single judge.

The facts

2. The appellant was in a relationship with a man called Ashley Fulton. On 21 February 2023 Fulton and an associate committed a robbery at the home of Kerry Aitchison and her daughter Emily Aitcheson. The two women were robbed at gunpoint in their home. They were threatened with shooting. At least one victim was tied up with cable ties. The victims were asked for access to the safe, which they could not give. Property worth over £200,000 was stolen from the address.

3. Following that robbery, Fulton managed to evade capture for around 3 months. On 22 February 2023 he applied for a false passport using his son's name. The appellant collected that passport for him. Before his arrest Fulton used that passport to travel outside the United Kingdom on multiple occasions. The appellant was involved in making some of the travel arrangements, and accompanied Fulton on holidays abroad, including to Morocco. She communicated to others Fulton's movements and that the police were actively looking for him. There was evidence that she had assisted him in avoiding detection and knew that he was wanted by the police. The couple were arrested in the early hours of Sunday, 14 May 2023 at the Mercure Hotel at Heathrow.

4. In her police interview the appellant said she was about to go on another holiday with Fulton. She gave no explanation as to why he had a passport in the name of someone else, and confirmed that she had collected the passport for him from Peterborough.

5. The appellant pleaded guilty on an accepted basis, including this, that she "had no knowledge of the armed robbery". Rather, she had thought Fulton was wanted by the authorities to be recalled on his licence for prison. For that reason, she had collected the false passport, arranged flights and corresponded with others by messages, intending to impede his apprehension by the police.

Sentence

6. The appellant was 23 years old (very nearly 24) at the date of sentence. She was of previous good character. The judge said he was sceptical about the basis of plea but was bound to accept it as representing the facts on which she was to be sentenced. The judge applied the guideline for perverting the course of justice. He put the culpability in category A, given that this offending took place over a period of several months and because the underlying offence was very serious. The judge added this: "I must reflect, as I do, that your culpability is far lower than it would have been if I were sentencing you on the basis that you knew about the armed robbery that had taken place."

7. He said the harm was level 2. The starting point under the guideline was 2 years in a range of 1 to 4 years' imprisonment. The judge did not find any factors to increase sentence but identified factors to reduce sentence, namely that the appellant had no previous convictions, that she was still young, that some of her actions were under the

direction of her boyfriend at the time and that she had experienced difficult personal circumstances by being a victim of crime around 4 years earlier. The notional sentence after trial was 18 months, to which the judge applied a 20 per cent discount for her guilty plea to arrive at a sentence of 14 months on the lead offence of perverting the course of justice, with a concurrent sentence of 8 months on the other offence concerning false identification documents. The judge considered whether a community order would be capable of providing sufficient punishment. He acknowledged that rehabilitation could be achieved by that form of punishment but thought that a community order would not be an appropriate reflection of what the appellant had done. The judge considered whether to suspend the sentence, noting that there was a realistic prospect of rehabilitation, but concluded that this offending was so serious that an immediate term of imprisonment was required.

Grounds of appeal

8. By grounds of appeal drafted by Mr Parham, who did not appear below, the following grounds are advanced: first, the judge took too high a starting point, and secondly, the sentence should have been suspended.

9. So far as starting point is concerned, Mr Parham notes that prosecution and defence at the sentencing hearing thought that this offending fell within culpability B, which would have had a starting point of 12 months' imprisonment under the guideline. The judge disagreed, and put it in the higher culpability bracket. Part of the judge's reason for doing so was the seriousness of the underlying offence, but Mr Parham argues that that offending should have been left out of account, given that the appellant was being

sentenced according to her basis of plea in which she stated that she had not known about the underlying offence. Further, he argues that there are cases where the perversion goes on for much longer than the 3 months which was at issue here, so the duration of this offending was not sufficient to put this into the top culpability bracket. He submits that the judge should have put this offending in category 2B or possibly at the bottom end of category 2A, where 12 months' imprisonment is indicated. In addition or alternatively, he submits that the judge should have reduced the sentence to reflect the substantial mitigation in this case, noting in particular the appellant's vulnerability. She had recently been subject to an incident involving a breach of trust by a friend, she had some psychological problems and had a possible diagnosis pending of bipolar affective disorder. Further, Fulton was much older than she was and at least some of her own offending was at his direction. All this meant that the notional sentence after trial of 18 months was manifestly excessive.

10. Mr Parham also submitted in his written grounds that the judge should have suspended sentence. The Pre-sentence Report contained a recommendation for an intensive community based rehabilitation programme tailored to the appellant's needs. The author of that report said that she presented a low risk of re-conviction and harm to the public, noted that she had complied with her bail, and said she was not suitable for unpaid work due to her poor mental health, nor was she suitable for a home curfew given the suggestion of relationship issues with her mother with some she shared her home. Those factors, Mr Parham submitted, were reasons to keep her out of prison and should have led to the sentence being suspended. Finally, he argued that the judge should have considered the pressures on prisons at the current time. The factors set out in the

imposition guideline favoured suspension and the judge was wrong to conclude that appropriate punishment could only be achieved by immediate custody.

11. We are grateful to Mr Parham for his submissions both in writing and today and for the realistic focus he has given to them.

Discussion

12. The judge concluded that this was culpability category A on the basis of two factors in the guideline. First, the conduct in question was over a sustained period of time, and secondly, the underlying offence was very serious.

13. We find no fault in his reasoning. The conduct was sustained over a period of some months, and that factor is plainly met even if there may be offences of longer duration which would also fall within this category.

14. The underlying offence was very serious. The judge described it as "a terrifying ordeal" for the two victims. Knowledge of the underlying offence is not a requirement for this factor to be relevant in the assessment of culpability for this offence. Plainly, if the appellant had known about the underlying offence, that would make her conduct in perverting the course of justice even more serious, but the judge was right to take the seriousness of the underlying offence into account in assessing culpability even though the appellant did not know about it. Further, the judge was well aware of the appellant's asserted lack of knowledge of the seriousness of the underlying offence, because that point was made prominently in the basis of plea. He did not go behind that basis of plea,

as is clear from his sentencing remarks from which we have already quoted.

15. This offending properly fell within culpability category A, respecting the basis of plea and considering all the facts of the case. There is no dispute about the harm which falls within category 2. That meant that the starting point under the guideline was 2 years.

16. The judge took the notional sentence down to 18 months to reflect the mitigation. In our judgment, that was reasonable. There was compelling mitigation here, and it was appropriately accounted for by the judge. The notional sentence of 18 months' imprisonment before reduction for guilty plea was, in our judgment, well within the permissible range for this offending and cannot be characterised as manifestly excessive.

17. The only issue which remains is whether the judge ought to have suspended sentence. We are not persuaded that he should have done. A custodial sentence will be inevitable in the great majority of cases where a charge of perverting the course of justice is established. That is to reflect the long-established principle that such offences are very serious and almost always require custodial sentences (see *R v Feve* [2024] EWCA Crim 286 at paragraphs 20 and 21). It was recognised in that case that that an immediate custodial sentence may well be imposed because appropriate punishment can only be achieved by immediate custody, even in cases where the offender has an immediate prospect of rehabilitation (see paragraph 23).

18. The judge approached the question of suspension with the imposition guidelines squarely in mind and his conclusion not to suspend cannot be faulted.

19. This appeal must therefore be dismissed.

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

Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE
Tel No: 020 7404 1400
Email: rcj@epiqglobal.co.uk