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Neutral Citation No. [2024] EWCA Crim 232

IN THE COURT OF APPEAL
CRIMINAL DIVISION



CASE NO 202303005/A3

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday, 22 February 2024

Before:

LORD JUSTICE DINGEMANS
MR JUSTICE WALL
THE RECORDER OF NORWICH
HER HONOUR JUDGE ALICE ROBINSON
(Sitting as a Judge of the CACD)

REX
V
REECE SINGH-DIGWA

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MISS S PROBERT appeared on behalf of the Appellant
MR E ELTON appeared on behalf of the Crown

J U D G M E N T

LORD JUSTICE DINGEMANS:

Introduction

1. This is the hearing of an appeal against sentence with the leave of the single judge.
2. On 23 June 2023 in the Crown Court at Southampton before His Honour Judge Parker KC, the appellant, who was born on 3 January 2006 and was then aged 17, and is now aged 18 years, pleaded guilty to an offence of affray. The offence took place when he was aged between 15 and 16.
3. On 10 July 2023, having been convicted after a trial in the youth court for a robbery of a victim whose identity is protected under the relevant provisions, and after he pleaded guilty to other robberies in relation to three other victims, handling stolen goods, theft of motor vehicles and assisting an offender, the appellant was committed for sentence pursuant to section 16 of the Sentencing Act 2020 and section 20 of the Sentencing Act 2020. One of the pleas were made at a time when he was not entitled to full credit but it is apparent from reverse calculations that other pleas were made at a time when he was entitled to full credit.
4. The sentencing hearing took place on 4 August 2023 before the Resident Judge and the appellant was sentenced to a total sentence of four years two months' detention and a victim surcharge order was made.

The offences

5. So far as the first offence was concerned, this concerned a robbery and fraud by false representation. It occurred at 4.00 pm on 19 June 2021 when the appellant was aged 15 years and six months. The victim was with two friends who were aged 13. They were crossing a footbridge leading to West Quay in Southampton. They were stopped by a

large group of older boys, including the appellant. They were shouted at and intimidated. One of the group split them up and one of the victims was pinned against a wall and his man bag removed. The group took that man bag, an iPhone and a bank card. That was the card that was used in the course of frauds: £3 used at Poundland, £30 on two occasions at WH Smith and an unsuccessful attempt to use the card in Asda.

6. The victim of the robbery was asked what he had in his bag. He refused to let go but was man-handled and the bag removed. He had been shopping and had bought a hoody, £25 worth of shorts and a pair of shin pads which were taken. Another person managed to break free and run away.
7. The appellant was arrested for that on 11 December and interviewed but he answered no comment.
8. The robbery of two other persons took place on 13 July 2021 and the appellant pleaded guilty to this. This took place nearly a month later. Those two victims were on Eastgate Street at about 5.30 pm. A group of five youths, including the appellant, came out of the multi-storey car park and approached them. One demanded their belongings. The rest of the group stood by, acting in a threatening manner and had their hands in their tracksuit bottoms suggesting that they had weapons or knives. A bag was taken from one of the victims and he was punched. Another had his beanie hat taken from his head. They took a hand pump, speaker and wallet containing a provisional driving licence and bank card. The total value of the items taken was about £250. In the course of the robbery one of the victims was punched and kicked by members of the group and he went to A&E for treatment, with double vision, cuts, lumps and bruises. The group returned to the car park and the person who had one of the victims' bags looked through it and discarded anything that they considered not worth taking.

9. The appellant was interviewed about this on 29 September 2021 and again answered no comment.
10. The theft of the motor vehicles took place on 22 July 2021. Again the appellant pleaded guilty and this was about a week after the last robbery. A man had parked his Honda 125 motorcycle on Western Esplanade. Half an hour later, as he was walking back to where he had parked, he heard the sound of the exhaust he had fitted to the motorcycle. The appellant had stolen the motorcycle and drove it away, despite the efforts of the victim to give chase. The vehicle was recovered the next day but it had extensive damage which took more than two months and £1,000 to repair.
11. On the same day, acting with others, the appellant stole a motor vehicle belonging to another person.
12. On 24 July 2021, two days after those incidents, Owen Large parked his Yamaha motorcycle in a car park. He left the vehicle secured with a bike lock but when he returned the motorcycle had been stolen. A stolen motorbike Facebook group in Southampton were able to send a photo showing the appellant and his group using the stolen motorcycle. It was not recovered until April 2022 but many of the parts and all of the after-market parts which had been fitted were missing.
13. That brings us then to the robbery of another person which occurred on 6 September 2021, about a month-and-a-half after the last theft of the motorcycle. This was the robbery for which the appellant was convicted after a summary trial in the youth court.
14. There was a 14-year-old victim and his friend walking down the Western Esplanade towards the station. A group of 12 teenagers, including the appellant, crossed the road and stopped them. They had hoods up or had obscured their identities. One of the two tried to run through a gap between the group but he was grabbed and his Armani bag was

removed from his shoulder. He was too frightened to put up resistance. The group were shouting and began intimidating them. After they took the bag he was allowed to walk away. The other victim said that during the course of the incident he had been threatened with a knife. The bag had contained Apple Air pods, a bank card and house keys. The value of the items was about £240. The bag but not any of the contents was recovered from the appellant's bedroom at the time of his arrest on 29 September 2021.

15. That takes us to 25 October 2021, which was about a month after the last robbery. The appellant pleaded guilty to handling stolen goods. A person had left his e-scooter secured behind a locked, coded door at his student accommodation block and when he returned afterwards it had been stolen. CCTV showed that the scooter was stolen by a member of the appellant's group, and the appellant was part of the group of four. The following day the appellant was stopped riding the stolen scooter. He was with the person identified as having removed it. Both were wearing identical clothes to the ones they had worn when removing the scooter.

16. The appellant was interviewed on 27 October 2021 but denied knowing the e-scooter was stolen and said it had been lent to him.

17. On 24 May 2022, some seven months after the last offence and when the appellant was now aged 16 years and four months, the appellant committed the affray. There was an altercation between one family and co-defendants of the appellant. The issue was whether there had been a theft of moped keys by three of the co-defendants. The three co-defendants took offence at the allegation that they had taken the keys and they summoned reinforcements, which included the appellant. The group, some seven strong and hooded or masked, returned to the location armed with bats, clubs, pieces of wood and a golf club taken from a skip outside a block of flats. There was then an affray

during which the victims were struck and one of them was hit hard on the left forearm and the left rib cage and left with a puncture wound to his arms and cuts and abrasions to his left kidney and grazes to his rib area. One of the victims spent five days in hospital recovering from injuries. Another was hit in the ribs by wood and another ran away. The appellant was hooded and masked and armed with a weapon from the skip. He was one of the persons who chased one of the victims away.

18. That brings us to 18 July 2022, so some two months after the affray and an offence of assisting an offender to which the appellant pleaded guilty. The appellant was one of four young men riding around Southampton on stolen motorcycles. One of the other men crashed his motorcycle and killed his passenger. The appellant drove that motorcyclist from the scene and his motorbike and helmet.

19. In interview on 29 July and in March 2023 the appellant answered no comment. The motorcyclist who had caused the death by dangerous driving was sentenced to a nine-year extended sentence.

The sentence

20. When sentencing, the judge had the benefit of a pre-sentence report, which we have also seen, which made a recommendation for a youth rehabilitation order of 18 months' duration, with supervision requirements, electronically monitored curfews, prohibited activity requirements and exclusion requirements, as well as activity requirements. The judge stated that he considered that the matters were so serious that only a sentence of detention could be justified. The judge identified that there would need to be a long period of detention, notwithstanding the appellant's youth, but the judge recorded that he would still give the appellant a significant discount for youth.

21. So far as the sentences were concerned, the judge chose the robberies as the lead offences

and imposed no separate penalties on the other offences but said that he had taken them into account in assessing the overall sentence.

22. So far as relevant guidelines were concerned, the judge expressly referred to the “Robbery-Sentencing Children and Young People” and to the “Sentencing Children and Young People” guidelines.
23. So far as the first victim was concerned, in relation to the robbery that took place on 19 June 2021 the judge took a sentence after trial of four years, halved it for youth to two years and then reduced it by 25 per cent because there was a later plea of guilty to give a sentence of 18 months. That was ordered to run concurrently with the other sentences.
24. So far as the robbery of the two individuals was concerned which took place on 13 July 2021, the judge took a sentence before discount for age and plea of five years, gave a discount of one-half (to take it down to two-and-a-half years) for youth and then a third discount for plea, ending up with a sentence of one year and eight months, or 20-months.
25. So far as the robbery for which the appellant had pleaded not guilty, which occurred on 6 September 2021, the judge took a sentence of six years which he then reduced to five years to take account of age. The judge did not explain why he had not given the same discount for age that he had given in relation to the other matters, namely a discount of one half, and we note that the robbery that occurred on 6 September 2021 was chronologically very close to the other robberies for which the appellant was sentenced. The judge then made a further reduction of six months for totality, leaving an overall sentence (because there was no guilty plea to be further deducted) of four years six months, to which he added the one year eight months, giving an overall sentence of six years two months.

This appeal

26. In written and oral submissions before us, Miss Probert effectively takes two points. First, that there should have been a discount for age in relation to the main sentence. Rather than the simple reduction of one year it should have been one-half. Second, that the judge should have imposed a youth rehabilitation order rather than a sentence of detention.
27. On behalf of the prosecution, Mr Elton reminds us that this was a very experienced Resident Judge who had given appropriate discount for age in relation to two of the matters and was probably structuring the sentence so as to take account of the separate affray and assisting an offender, both of which were serious matters and which otherwise would not have been marked by the offending.
28. We can deal with Miss Probert's second point first. In our judgment the judge was plainly entitled and indeed right to conclude that only a sentence of detention would reflect the serious offending carried out by the appellant, notwithstanding his youth and notwithstanding all of the important matters identified in the sentencing children and young people guideline.
29. The first point is more difficult. In our judgment there is no good reason why the judge should not have taken the same reduction for age as he had taken for the other offences of robbery. If we do that the sentence of six years is reduced to one of three years. We take Mr Elton's point that there is other offending which was marked in all of these matters and therefore we will not make a further reduction as the judge had done for totality, because it is already reflected in the fact that no separate penalties were imposed for the other offences. There is no discount for plea to be made. That on our calculations gives two sentences which are effective and amount to the overall sentence which the appellant

will receive, that is the one year eight months for the robbery of two persons and the consecutive three years in relation to the robbery to which the appellant had pleaded not guilty. That gives an overall sentence of four years and eight months' detention.

30. Having stepped back and considered, as we must, the issues of age and proportionality, we consider that that is a proportionate sentence to be imposed upon the appellant.

Therefore the appeal succeeds to the extent that the overall sentence is reduced from one of six years and two months to one of four years and eight months' detention.

31. We should conclude by thanking both Miss Probert and Mr Elton for their very helpful submissions.

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

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