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IN THE COURT OF APPEAL
CRIMINAL DIVISION

CASE NO 202302068/A5



Neutral Citation Number:
[2024] EWCA Crim 51

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday 17 January 2024

Before:

LORD JUSTICE COULSON

MRS JUSTICE FOSTER

MR JUSTICE HILLIARD

REX

V
KEMANI DUNN

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 R DAVIES appeared on behalf of the Appellant.

J U D G M E N T

MR JUSTICE HILLIARD: On 15 June 2023, in the Crown Court at Wood Green, the appellant (then aged 42) was convicted of four offences and sentenced as follows. For three offences of possessing a controlled drug of Class A with intent, 6 years' imprisonment on each count; for possessing criminal property, no separate penalty. She also pleaded guilty to an offence of possessing cannabis and received no separate penalty. All the sentences were ordered to run concurrently, making a total sentence of 6 years' imprisonment. A number of days spent on a qualifying curfew were specified to count towards the sentence. She now appeals against that sentence with the leave of the single judge.

The facts of the case were as follows. In the afternoon of 4 June 2022, police officers saw the appellant sitting in a parked car in London N18. When the officers approached, she drove off. She was pursued by the police. She stopped the car and ran off. She was detained. Inside the vehicle, the police found quantities of crack cocaine, weighing 1.4 grams, 1.36 grams, 5.87 grams, 0.083 grams and 0.02 grams; cocaine weighing 30.7 grams of 86 per cent purity; heroin in packages weighing 4.2 grams, 1.95 grams, 0.9 grams and 1.01 grams; 9.27 grams of cannabis; £1103 in cash and a number of mobile telephones. The wholesale value of the drugs was between £1,850 and £2,500, with a street value between £3,765 and £4,365. She had convictions for possessing controlled drugs of Class A in 2013 and 2017 and for possessing controlled drugs of Class B in the same years.

There was no pre-sentence report, and it is not necessary for us to have one. When he passed sentence, the judge said that it was agreed between the parties that the appellant had a significant role in category 3 street dealing for the purposes of the Sentencing Guidelines. Her role was significant because she had the prospect of significant financial advantage and an awareness of the scale of the operation. Such an offence has a starting point of 4½ years' imprisonment and a range of 3½ to 7 years' imprisonment. The judge said that he

accepted the offences were not at the top end of the range but nor were they at the bottom end. This was because of the quantity of drugs and different drugs, the presence of a bulking agent used to make crack cocaine and the substantial sum of money.

It is now argued by Mr Davies on the appellant's behalf that the sentence was manifestly excessive. Attention is drawn in particular to the fact that the appellant has no previous convictions for supplying drugs, and that she had problems in her own life as a drug addict and was no doubt supplying to feed her own habit. We are grateful to him for his helpful submissions. It is a short point, and we acknowledge that it has force.

Plainly the judge was right to conclude that the offences required a substantial prison sentence in accordance with the Sentencing Guidelines. He was also right to say that the factors he referred to required some increase from the starting point. We differ only in respect of the extent of that increase. The appellant had not previously received a sentence of imprisonment, and it is to be hoped that she will learn her lesson from this one. Nor had she been convicted of supplying drugs previously. Her convictions reflected her own addiction to drugs.

In our judgment, in this particular case, those factors did serve to moderate the increase which would not in any event have been very substantial. Having considered the matter for ourselves, we have concluded that the sentences of 6 years' imprisonment were manifestly excessive. We quash them, and substitute for them concurrent sentences of 5 years' imprisonment. To that extent this appeal is allowed.

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Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk