Neutral Citation Number: [2024] EWCA Crim 703

IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2024/01310/A1

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 12th June 2024

B e f o r e:

VICE PRESIDENT OF THE COURT OF APPEAL CRIMINAL DIVISION
(Lord Justice Holroyde)

MRS JUSTICE STACEY

HIS HONOUR JUDGE JOHN LODGE
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E X

- v -

COLIN HALL

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Mr J Hugheston-Roberts appeared on behalf of the Appellant

J U D G M E N T

Wednesday 12th June 2024

LORD JUSTICE HOLROYDE: I shall ask Mrs Justice Stacey to give the judgment of the court.

MRS JUSTICE STACEY:

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply to these offences. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of the offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.

2. On 19th January 2024, in the Crown Court at Birmingham, the appellant changed his pleas to guilty for seven offences of indecent assault on a male person, contrary to section 15(1) of the Sexual Offences Act 1956, which had been committed over a four year period in the mid-1980s against a young teenage boy. A further count of buggery was subsequently ordered to lie on the file against him in the usual terms.

3. On 2nd April 2024, in the Crown Court at Birmingham, the appellant (then aged 79) was sentenced by Her Honour Judge Sarah Buckingham to a total of 16 years' imprisonment, made up of a number of concurrent sentences (the longest of which was of eight years) for counts 1, 3, 5, 6 and 8, and a consecutive sentence of eight years for count 7. He was made subject to the required consequential provisions under Part 2 of the Act (notification to the police) for an indefinite period, and made liable to be included in the relevant list by the Disclosure and Barring Service under the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009.

4. The appellant pleaded guilty approximately one month before trial. The judge concluded that the guilty pleas had come very late and that his credit should be limited to "just over ten per cent". Although he had spared the complainant from giving evidence, he could have admitted guilt when he was first interviewed. The judge concluded that if he had been convicted after trial, and having regard to all aggravating features present, the overall sentence would have been in the region of 18 years' imprisonment. A reduction of one year should then be made for general mitigation and age, before applying a ten per cent deduction for the guilty pleas. She stated that the total sentence would therefore be one of 16 years' imprisonment.

The Appeal

5. The appellant appeals against sentence by leave of the single judge on the grounds that insufficient credit was given for his guilty pleas, and that in effect an arithmetical error has been made. The single judge refused leave on two further grounds: that the judge's starting points were too high; and that insufficient credit was given for the appellant's personal mitigation, including his age and state of health. Those further grounds are no longer pursued.

6. There is no dispute that the judge had in mind, and carefully followed, the Sentencing Council's approach to sentencing for historical sexual offences.

7. The narrow issue before the court is whether the judge failed to give effect to the little more than ten per cent discount that she had announced in respect of his guilty pleas.

8. In his excellently clear and succinct submissions Mr Hugheston-Roberts relied on *R v Paul, Dunn and Roberts* [2019] EWCA Crim 476 as an example of where a simple, but easily made mathematical error or slip had occurred, which had failed to give effect to the judge's

intentions and had resulted in a successful appeal.

9. We agree with Mr Hugheston-Roberts' submission. It is apparent from the clear and helpful sentencing remarks that the judge's intention had been to reduce the notional sentence of 17 years, had this matter gone to trial by a little more than ten per cent to reflect the appellant's late guilty pleas. By accidental slip, the deduction of one year to 16 years was less than ten per cent and therefore failed to give effect to the judge's stated intentions. It would be unfair to the appellant not to receive the sentence that the judge had intended to impose.

10. Accordingly, we allow the appeal to the extent that we quash the consecutive sentences of eight years' imprisonment on each of counts 3 and 7 and substitute on each a sentence of seven years and six months' imprisonment, to be served consecutively to each other and concurrently with the sentences on the other counts, to arrive at a total sentence of 15 years' imprisonment.
