

**WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.**

**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.**



Case No: 202303440/A3

IN THE COURT OF APPEAL  
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT  
WOLVERHAMPTON  
DISTRICT JUDGE (MC) LOWER 20WS1175423 &  
20SW1417622

Neutral Citation Number: [2024] EWCA Crim 973

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Tuesday 16 July 2024

Before:

LADY JUSTICE ANDREWS

MRS JUSTICE CUTTS

HER HONOUR JUDGE MUNRO KC  
(Sitting as a Judge of the CACD)

REX

V

ANN O'HALLORAN

---

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 S WORLOCK appeared on behalf of the Applicant.

## **J U D G M E N T**

MRS JUSTICE CUTTS:

1. With the leave of the single judge the appellant appeals the total sentence of 6 years 3 months and 1 week (expressed by the judge as 328 weeks' imprisonment), imposed upon her at Wolverhampton Crown Court on 25 September 2023. It was made up in the following way. First, 78 weeks' imprisonment (18 months) for an offence of robbery, to which the appellant had pleaded guilty on 6 July 2023, and secondly, 125 weeks' imprisonment (which equates to a little under 2 years 5 months) for each of two offences of domestic burglary, to which she had pleaded on 29 June 2023, all sentences to run consecutively with each other. Ancillary orders were made.

### ***The Facts***

2. The robbery offence was first in time. On 29 June 2022, the appellant approached John Barker (aged 94 years) in a supermarket car park. She put her arm around his neck and knocked his wallet from his hand, from which she removed £20 and a bank card before returning it to him. He cancelled the card and so suffered no further loss. The appellant was identified on CCTV and arrested on 2 September, following which she refused to be interviewed. She was released for the police to make further enquiries.
3. The appellant had not been charged with the robbery offence by the time she committed the two burglaries in April 2023. In each case, she tricked her way into the home of an older person by use of a false lanyard. The first took place on 19 April 2023, at

approximately 8.30 pm. Ms Elson (aged 68 years) was alone in her flat when the appellant came to the door claiming to be from the DWP. She asked if there was anything she could help Ms Elson with before asking for a glass of water. She followed Ms Elson to the kitchen without invitation and left when asked to do so. Ms Elson subsequently realised that her purse was missing; it contained £45 and bank cards which Ms Elson cancelled.

4. Two days later, on 21 April 2023, at around 3.15 in the afternoon, in the same block of flats, the appellant went to the door of Mr Anslow's home. Mr Anslow was aged in his 70s. There she claimed to be from a Walsall Housing Group. She asked if Mr Anslow needed any help. When he said "no", she asked for a glass of water and followed him into the property. Mr Anslow left the appellant in the sitting room for a brief time to get the water. She left very shortly afterwards, having stolen a purse from Mrs Anslow's bag. This contained £15.50 in cash and bank cards amongst other items. A bank card was used almost immediately with goods purchased from a number of shops to a total value of £253.29. The appellant was again identified on CCTV. She was arrested and again refused to be interviewed.
5. All three victims provided impact statements. As with so many victims of his age, Mr Barker, who had been independent and active prior to the robbery, was badly affected by what had happened. He no longer went out by himself, he felt vulnerable and had changed how he lived his life. Ms Elson had also changed how she kept and used cash following the incident. Mr Anslow had become worried and anxious in his own home, wary of letting people in and always checking that his home was secure.

### *Information before the judge*

6. The appellant was aged 42 years at the time of sentence, with a criminal record seen all too frequently with those with drug addiction. She had 17 convictions for 38 offences between 2010 and 2022 (23 of these were for theft and like offences). In 2018, she was sentenced to 18 months' imprisonment for a domestic burglary, and in 2020 to 3 years' imprisonment for a like offence. She therefore fell to be sentenced for the burglary offences subject to this appeal as a third-strike burglar, with a minimum term of 3 years' imprisonment, pursuant to section 314(2) of the Sentencing Act 2020. At the time of the commission of the burglary offences the appellant was subject to post sentence supervision.
  
7. The appellant accepted responsibility for all offences in the pre-sentence report before the court. She said that she had been in a domestically abusive relationship with a man who coerced her into abusing Class A drugs. She claimed that she had gone to the address of each burglary to obtain help to get away from her partner, opportunistically stealing items when there. She had been a Class A drug user for 2 years but had detoxed whilst on remand. She represented as motivated to remain abstinent.
  
8. The author of the report considered that the offences presented escalating acquisitive behaviour on the appellant's part. They had involved the targeting of elderly victims evidencing premeditation and planning. She had committed the offences during the post-sentence supervision. Her compliance with the Probation Service had been poor since her release. Her record showed poor compliance with court orders. The author proposed

a custodial sentence, which would lead in time to licence conditions in place, in order to ensure her risk was managed in the future and to aid compliance.

### ***Sentence***

9. Although not specifically stated, it is clear that the judge placed the robbery offence within category 2C of the relevant Sentencing Council Guideline, affording a starting point of 2 years and a range of 1 to 4 years' imprisonment. It fell within lesser culpability as minimum force was used to knock the wallet from Mr Barker's hand. The offence was aggravated by the appellant's previous convictions for offences of dishonesty. The judge found little mitigation in terms of the offence but took account of the appellant's personal circumstances as set out in the pre-sentence report.
  
10. The judge found there to have been planning in the burglary offences, shown by the false identification that the appellant wore on each occasion and the targeting of older people who lived in the same block of flats. This represented *some*, as opposed to a *significant* degree of planning, and therefore fell in medium culpability category B within the guideline. The judge placed the offences within category 1 harm as in each case the householder was present. This categorisation also afforded a starting point of 2 years and a range of 1 to 4 years' imprisonment. These offences were also aggravated by the appellant's previous convictions for dishonesty including for domestic burglary, by the fact that she was subject to post-sentence supervision at the time of their commission and by reason of the targeting of the block of flats. For the robbery offence, the judge arrived at the notional sentence, following a trial, of 104 weeks. Allowing 25 per cent credit for the appellant's guilty plea, he came to the final sentence of 78 weeks. The judge stated

that for the burglary offences the appellant was subject to the minimum sentence of 3 years' imprisonment by reason of her previous convictions for domestic burglary. Affording her the permissible 20 per cent credit for her guilty pleas, the judge came to a sentence of 125 weeks' imprisonment for each offence. The judge did not accept the submissions of the appellant's counsel that, if made consecutive to the term of imprisonment for the robbery, the sentences for the burglaries should be made concurrent with each other. Stating that he had considered the guideline on totality, the judge took into account that there were two domestic burglaries in respect of people who were home alone within a short time of one another at the same block of flats. For these reasons he considered all sentences should be consecutive.

### *Appeal*

11. In clear and helpful submissions, Mr Worlock takes no issue with either the length of the individual sentences imposed by the judge or with the categorisation of the offences within the guidelines. The single ground of appeal is that the judge failed to give proper consideration to the principle of totality, leading to an overall sentence which was too long to the extent of being manifestly excessive. Mr Worlock submits to us, as he did to the judge, that for reasons of totality, as they were to be properly consecutive to the sentence on the robbery, the sentences for the burglary offences should have been made concurrent to each other.

12. In his written submissions, Mr Worlock submitted that the sentence of 203 weeks (effectively 3 years and 5 months) arrived at by an overall sentence of 125 weeks for the burglaries consecutive to the sentence for the robbery would have been commensurate

with the seriousness of the offending and offered the appellant positive encouragement towards achieving her own rehabilitation. Mr Worlock realistically does not pursue that argument today and confines his submissions to the question of totality. He recognises that, if the sentences were to be concurrent for the burglary offences, there would necessarily have to be an uplift to reflect that there were two offences. Mr Worlock points out that the appellant had made strides towards achieving her own rehabilitation by ending her abusive domestic relationship, connecting with her family whilst on remand and becoming abstinent from drugs with motivation to so remain.

### ***Discussion***

13. These were unpleasant offences targeting, as the appellant did, older and vulnerable people, either on the street or within their own homes. The impact on the victims has understandably been significant. As is rightly conceded, a lengthy sentence of imprisonment was entirely justified. As is again rightly conceded, the judge properly categorised the offending within the relevant guidelines and correctly identified the aggravating factors, in particular, the appellant's previous convictions and the fact that she was on post-sentence supervision at the time of the commission of the burglaries.
  
14. It is clear from the judge's sentencing remarks that he had considered the question of totality. The issue in this appeal is whether he had properly applied that principle in reaching the overall sentence that he did. We have come to the conclusion that he did not. As the Totality Guideline makes clear, there is no inflexible rule as to how a sentence is structured. However, if consecutive, it is usually impossible to arrive at a just and proportionate sentence simply by adding together notional single sentences.

Ordinarily some downward adjustment is required. That did not happen in this case, leading, in our view, to a sentence which was manifestly excessive.

15. We therefore see force in the appellant's submission that the sentences imposed on the burglary offences should have been concurrent to each other. Indeed, in our view, the reasons given by the judge for consecutive sentences for the burglaries - that they took place within a short time of each other, were in the same block of flats and that in both cases the person who lived there was present, were reasons leaning towards concurrent rather than consecutive sentences.
  
16. We accept that the appellant is now motivated to change and acknowledge her mitigation. But, if passing concurrent sentences for the burglary offences, the overall sentence must reflect the fact that there were two offences. The notional sentence for a single offence would not adequately reflect the overall offending and an upward adjustment is required. In our judgment, the total notional sentence for both burglary offences, after trial, taking into account the appellant's previous convictions, the fact that she was on post-sentence supervision and her mitigation, should have been one of 4½ years' imprisonment. Affording in the region of 20 per cent credit for plea, the sentence therefore would be one of 3½ years' imprisonment. We give effect to that conclusion by quashing the sentences on the burglary offences and substituting a sentence on each of 3 years and 6 months' imprisonment. These are to run concurrently with each other but consecutive to the sentence imposed for the robbery, making a total sentence of 5 years' imprisonment. Although we have increased the sentence on the burglary offences, we have complied with section 11(3) of the Criminal Appeal Act 1968, as the appellant's overall sentence



has been reduced. To that extent, this appeal is allowed.

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

Lower Ground, 46 Chancery Lane, London WC2A 1JE

Tel No: 020 7404 1400

Email: [rcj@epiqglobal.co.uk](mailto:rcj@epiqglobal.co.uk)