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[2025] EWCA Crim 208

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT BURNLEY

HHJ MATHIESON 04ZL3670623 06QQ0100619

CASE NO 202402786/A5

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 20 February 2025

Before:
LADY JUSTICE MACUR

MR JUSTICE DOVE

MR JUSTICE EYRE

REX
V
ABDUL NOOR

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MS E CALMAN appeared on behalf of the Appellant.

J U D G M E N T

LADY JUSTICE MACUR:

1. On 11 January 2024, in the Crown Court at Burnley, Abdul Noor (“the appellant”) pleaded guilty to conspiracy to commit dwelling-house burglaries with intent to steal, contrary to section 1(1) of the Criminal Law Act 1977. On 8 July 2024, he was sentenced to 7 years’ imprisonment consecutive to a sentence of 42 months’ imprisonment for two dwelling-house burglaries imposed in the Crown Court at Manchester on 24 May 2024. He appeals against sentence with the leave of the single judge:

“... on the narrow ground that, given the procedural history in your two cases, there should have been some modest reduction in your sentence for totality, reflecting the sentence passed in Manchester on 24 May 2024.”

The Facts in Brief

2. Between 9 September 2023 and 9 December 2023, the appellant and one Jamal Miah were involved in a conspiracy to burgle dwellings across Blackburn, Burnley and Nelson. A total of 13 houses were burgled. On most occasions the appellant would travel from his home in Nottingham and collect Miah from his address in Bolton. The appellant would travel in one of two vehicles, neither of which were registered to him nor insured. The pair would travel to Lancashire to commit the burglaries and then return to Bolton to divide the spoils before the appellant returned to Nottingham. It was estimated that the known financial value of items stolen from these burglaries came to more than £92,500. Some of the stolen items were however of great sentimental value.
3. There was cogent evidence of physical participation in the burglaries against both defendants. Also, both had been in contact with numerous jewellers and ‘Cash

Convertors' during the course of the conspiracy.

4. The appellant was arrested on 30 December 2023 in Nottingham. Several of the stolen items were recovered from his possession. This included jewellery, watches, iPads, mobile telephones and cash. Gloves and a torch were found in his car. Miah was arrested at his home address in Bolton. Stolen items were also found at his address. The appellant made "no comment" in his police interviews.
5. He was sent for trial on 14 December. He gave no indication of plea. The BCM form indicates that there was "Insufficient evidence to properly advise. Very early stages of complex case".
6. The indictment was drawn on 3 January 2024. A note on the DCS on 11 January indicates that the applicant would plead guilty and requested the case be transferred to Manchester for sentencing of all outstanding matters. His co-defendant Miah entered a late plea after the case had been listed first for trial and then for trial of an issue. He was sentenced to 9 years' imprisonment.
7. The appellant had 26 convictions for 66 offences between 2001 and May 2024. His relevant conviction for dishonesty included obtaining property by deception (in 2005 and 2006), attempting to obtain property by deception (in 2006), attempting a non-dwelling burglary with intent to steal (twice in 2008 and once in 2012) and a dwelling-house burglary with intent to steal in 2013 and dwelling-house burglaries twice in 2015 and twice in 2024.

8. The offences for which the appellant was sentenced in May 2024 concerned two dwelling-house burglaries, committed at night, with others (not Miah). These took place in March and April 2019. The houses had been ransacked after a forced entry. Monies and electrical items had been stolen together with personal papers, an air pistol and an air rifle. The appellant was convicted after trial. Since his previous convictions included two burglaries committed at a time when he was over the age of 18, it meant he was subject to a minimum sentence of at least 3 years' imprisonment by virtue of section 314 of the Sentencing Act 2020.

9. Sentencing the appellant and Miah, in July 2024 for the extant offences, the judge recognised the commission of the offences to fund the drug addictions of both defendants. He considered the offences to be:

“... planned, considered, targeted, because you knew what you were going after and the likely addresses that would yield the most rewards.”

The victims had suffered a loss of financial value items and items of great sentimental value and had been left feeling insecure by the trespass into their homes.

10. The judge recognised that there was the “slightest personal mitigation” in both cases but this stood against “the serious course of conduct” for which only an immediate custodial sentence of significant length was appropriate.

11. In the grounds of appeal which she settled, Ms Calman submits that the judge took too high a starting point of 10 years' imprisonment by comparison with the facts in *R v Gregory and Butler* [2017] EWCA Crim 1297, which involved greater value of damage and stolen property, and that also the judge failed to afford adequate credit for mitigation or regard for totality in light of the sentence passed only weeks earlier of 42 months' imprisonment. She relies on the Sentencing Council Overarching Guideline on Totality, more specifically the section concerning "Existing determinate sentence, where determinate sentence to be passed" which provides that:

"Generally the sentence will be consecutive as it will have arisen out of an unrelated incident. The court must have regard to the totality of the offender's criminality when passing the second sentence, to ensure that the total sentence to be served is just and proportionate."

Discussion

12. The attempt to draw factual comparisons with other cases which are not of sentencing principle or otherwise arising from the Attorney-General's reference is inevitably and understandably lamented by this Court. In this case, the comparison with the case of *Gregory & Butler* is in any event redundant. The appellants in that case had been involved in commercial burglaries. For the reasons which the judge identified, the execution of the overall conspiracy which involved the commission of 13 dwelling-house burglaries, with significant aggravating features, quite apart from the appellant's highly relevant previous convictions and antecedent history, merited a sentence, after trial, of at least 10 years.

13. There was, in our view, scant mitigation to reduce that figure further. We note that the

appellant was on bail for the 2019 offences when the 2023 offences took place. Seven of those burglaries in 2023 took place after he was awaiting sentence for the 2019 burglaries.

14. We also consider that the discount of 30 per cent for plea was generous. As we indicate above, the evidence against the appellant was compelling. There was no support for the contention that this was “a very complex case”.
15. There is no conceivable reason why this Court would have allowed an appeal against the appellant’s sentence of 7 years’ imprisonment as manifestly excessive if it had stood alone. We would have arrived at the same conclusion regarding the length of the sentence imposed in May 2024 if an appeal had been made from that case.
16. The only issue is that of totality. In his sentencing remarks the judge referred to the sentence of 24 May but did not address the point. The question for us therefore is whether the total sentence of 10 years 6 months is just and proportionate to reflect the offender’s overall criminality.
17. We note that there was an attempt to transfer sentence in this case to the Crown Court sitting in Manchester but understand that the position of the other co-defendants, different in each case, may have complicated such a listing. If it had been a feasible option, we are persuaded by Ms Calman’s written submissions that, although the court would reasonably impose a consecutive sentence, that some further reduction would and subsequently should have been made. However, the extent of this reduction is minimal if sentence is to

reflect the appellant's overall criminality, which is great.

18. Nevertheless, we allow the appeal and we quash the sentence handed down in July 2024 and substitute in its place a sentence of 6 years consecutive to the 42 month sentence imposed in May 2024, which makes a total of 9½ years. 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.

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