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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 8th August 2018

B e f o r e:

LADY JUSTICE THIRLWALL DBE

MR JUSTICE ROBIN KNOWLES CBE

and

MRS JUSTICE O'FARRELL DBE

REGINA

- v -

MARTIN HARRIS

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Miss A Bright appeared on behalf of the Appellant

J U D G M E N T
(Approved)

Wednesday 8th August 2018

LADY JUSTICE THIRLWALL: I shall ask Mr Justice Knowles to give the judgment of the court.

MR JUSTICE ROBIN KNOWLES:

1. On 5th January 2018 in the Crown Court at Lewes the appellant, Martin Harris, pleaded guilty to misconduct in public office (count 1), possession of indecent photographs of a child (count 2) and making indecent photographs of a child (count 3). On 16th March 2018 he was sentenced by Her Honour Judge Henson QC to two years' immediate imprisonment on count 1 and to concurrent terms of one month and two months' imprisonment on counts 2 and 3 respectively. A Sexual Harm Prevention Order and a Restraining Order were also made.

2. The appellant now appeals against sentence with the leave of the single judge.

3. The appellant was a police officer. He joined the Sussex Police in 2002. In 2014 or 2015 he became a Sexual Offences Liaison Officer – a role for which he chose to apply. A Sexual Offences Liaison Officer is a specialist officer trained to deal with the first complaints from victims of serious sexual assaults. By 2017 the appellant was based at Brighton Police Station within the Safeguarding and Investigation Unit. Such units deal with vulnerable victims of domestic assault and serious sexual offences.

4. On 2nd April 2017 a woman reported to Sussex Police that she had been raped. The next day, in his capacity as a Sexual Offences Liaison Officer, the appellant took her and her mother to a Sexual Assault Referral Centre. He returned them home that evening. He became the contact point with the woman on behalf of the police. She had provided her password for her Facebook

account to an investigating officer. The appellant obtained the password and, without her permission, used it to access the woman's Facebook account. He then downloaded images of her. He saved seven images and a photograph of her when she was aged 13 and in her school uniform. He emailed these on 4th April 2017 to his hotmail account from his police account. He was later to say that he had saved images of her in school uniform because he found her attractive.

5. Following her return home from the Sexual Assault Referral Centre, the woman received notification at around midnight that someone was attempting to access her email account. She feared that it was the rape suspect. She notified the appellant and he informed her that the police had accessed the account for the purpose of their investigation. In an interview for the preparation of a pre-sentence report, the appellant accepted that it was he who had sought to access the email account whilst the woman was being assessed at the centre.

6. When she later learned that the appellant had personal images of her, the woman described the complete breach of the trust she had placed in him.

7. In police interview the appellant admitted that he had accessed pages of other victims who had gone to him and had also saved their images.

8. He was dismissed from the Police Force in January 2018.

9. In grounds of appeal of his own composition, the appellant had referred to a number of authorities in which, on different facts, lower sentences had been imposed. Those authorities do not assist because each such case will depend on its own facts. With the advantage now of the services and advice of Miss Abigail Bright of counsel, the appellant no longer relies on

comparisons with other authorities.

10. Instead, the focus of the appeal presented to us by Miss Bright is on the disproportionality of sentence. The submission is that the type of sentence passed was wrong in principle; that in particular an immediate custodial sentence was wrong; that a sentence of two years' immediate imprisonment was disproportionate; and that the sentence calls for correction.

11. The submissions of Miss Bright have focused on the long career of the appellant since 2002, in the course of which he performed his daily duties as a police officer. On many occasions he was tested for his skills and expertise. His "fall from grace" occurred in 2017, after a commendable track record. Significantly greater recognition should have been given by the learned judge, submits Miss Bright, to the personal consequences that the appellant has already experienced following his admission of misconduct. He has lost his vocational occupation and he has lost his reputation. She refers to disciplinary sanction by way of regulatory censure. She draws our attention to the loss of relationships, both marital and family. The appellant has served some time in prison. There is remorse, and a degree of candour can be seen from the admission by the appellant that he had accessed the pages of other victims.

12. The question of suspending the sentence of imprisonment has been raised by both the appellant and by Miss Bright on his behalf today. The appellant had criticised some of the things said by the author of the pre-sentence report and had pointed to his willingness to engage with the issues behind his offending. Miss Bright adds that there is an opportunity that he earnestly wishes to take for himself and his family, despite the breakdown in the past, to reconcile and to move on. The appellant adds that he can no longer misconduct himself in public office because he has been removed from the Police Force. He and Miss Bright on his behalf point to the restrictions that both the Register of Sex Offenders and the Sexual Harm

Prevention Order will have on his conduct and will thereby offer protection to the public.

13. In our judgment, the appellant's offending was so serious that only a sentence of immediate imprisonment was appropriate. He was in a public office which carried a great responsibility to those who were particularly vulnerable. The standard of trust expected of him was shown by the provision to him of the password. He abused that trust by his use of that password for his personal sexual gratification. Although we recognise that the episode with the woman was limited, the appellant mentioned other episodes in interview.

14. The wider consequences for the public interest are large. The fact that a single police officer is prepared to abuse his position in this way risks the loss of confidence by other vulnerable people to work with the police. This could not be more serious where the areas of investigation relate to domestic assaults and serious sexual offences. The offence of misconduct in public office was planned, manipulative and serious. It undermines the confidence of those who trust the police to protect them; it also invades their privacy at a time of great vulnerability. Deterrent sentences are to be expected for such offending.

15. A sentence of two years' immediate imprisonment, after a reduction of 25 per cent for a plea of guilty, was well within the range of sentences properly open to the sentencing judge. The judge will also have had regard to the fact that she was passing concurrent sentences for the counts concerning the possession and making of indecent photographs of a child.

16. This sentence was neither wrong in principle, nor manifestly excessive. Accordingly, and for all those reasons, we dismiss this appeal against sentence.

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