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IN THE COURT OF APPEAL

CRIMINAL DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Tuesday, 16 April 2019

B e f o r e:

LADY JUSTICE SHARP DBE

MR JUSTICE WILLIAM DAVIS

HIS HONOUR JUDGE LEONARD QC

(Sitting as a Judge of the CACD)

R E G I N A

v

CLAIR BENNETT

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Mr P Evans appeared on behalf of the **Appellant**

J U D G M E N T

(Approved)

1. MR JUSTICE WILLIAM DAVIS: Claire Bennett is now aged 45.

2. Before she appeared in the Crown Court at Aylesbury on 19 October 2018 she had no convictions. However, on that day she pleaded guilty to four offences: misconduct in a public office; supplying a controlled drug of Class B; possession with intent of a controlled drug of Class B; conveying a List A article into a prison.

3. On 2 November 2018, at the same court, she was sentenced to a period of 78 months' imprisonment in respect of the offence of misconduct in a public office. Concurrent sentences of 32 months were imposed in relation to the other three offences.

4. She appeals against her sentence with leave of the single judge.

5. In July 2016 the appellant commenced employment as a prison officer at Aylesbury Young Offender Institution. She had previously served as a police officer between 2002 and 2006 and before that she had been in the Royal Air Force. Her training as a prison officer took 3 months, where thereafter she assumed full duties. She worked throughout at Aylesbury, an institution which houses around 400 young males aged between 18 and 21.

6. There were three aspects to the appellant's misconduct in a public office. First, she engaged in wholly inappropriate and, at times, sexual contact with four different prisoners. We shall refer to the prisoners by their initials. ML was the prisoner with whom the appellant was most closely associated. From January 2017 she regularly messaged him and he her with messages of sexual content. On at least one occasion they kissed in his cell. The messages thereafter recalled that sexual encounter.

7. MM was housed at Aylesbury in the early stages of the appellant's full duties as a prison officer.

8. The appellant kissed him on occasion. When he was transferred to another institution the appellant frequently wrote to him. Those letters were not re-covered but accordingly to her they were "quite personal" and "intimate". MN did not write letters in response but he did text her. The content of the texts were highly sexual.

9. CM was someone to whom the appellant wrote in similar terms to the letters she had written to MN. He responded in like terms. One of his letters, in due course, was found in the appellant's bedroom. His letter described significant sexual contact between the two of them. The final individual was TA. A letter to him from the appellant setting out the significant sexual contact they had had was found in his cell after her arrest.

10. The second part of the appellant's misconduct arose from and was connec-ted to this inappropriate contact. The appellant used her position to do favours, of one sort or another, for these various young men. ML had committed the offences for which he was incarcerated with others. Initially his co-accused were housed at some different institution but they were then due to be moved to Aylesbury. He wanted them to be on the same wing as him. The appellant, when she learned of this, advised him as to which manager he should approach and, more particularly, to whom he should not speak in seeking to obtain his friends' presence on the same wing as him. There were apparently security concerns in respect of all of these young men being lodged on the same wing. Her advice was designed to circumvent these security concerns.

11. Further, she forewarned inmates of points at which their cells might be searched. Not unsurprisingly, the system at Aylesbury was that cells of inmates were liable to be searched without notice to them. The staff, on the other hand, would have advance notice. The appellant checked dates of searches of ML's cell on order to give him warning of searches.

12. Finally, in May 2017, Aylesbury introduced a system whereby there was a signal blocker for illicit mobile telephones in use at the institution. The appellant told ML about this. She explained to him how the blocking system worked. She explained when it would be in operation and she explained which parts of the institution would be covered.

13. The third limb of her misconduct related to her bringing drugs into prison. That misconduct also reflected by the other three counts on the indictment. It was her bringing drugs into the prison which led to her misconduct being discovered.

14. On 1 June 2017 colleagues became aware of a strong smell coming from a prison officer's jacket in a staff restroom. The smell was the smell of cannabis. Just over 58 grams of skunk cannabis wrapped in a condom were in a pocket of the jacket. The jacket turned out to be the appellant's. She was spoken to. She accepted that it was her jacket and she immediately accepted that the drugs had

been brought in by her with the intention of passing them to a prisoner, namely ML.

15. The police were informed and the appellant was arrested.

16. When she was interviewed, she admitted again that she had brought the drugs into the prison on that day. She said she had done the same the previous day and given the drugs to ML. Both those drugs and the drugs seized from her came from a contact of ML whom she, the appellant, had met outside the prison. She also informed the police of another package at her home. When her home was searched, in a sock in her bedroom, there was a total of 123 grams of synthetic cannabinoids. The overall value of all the various drugs which she admitted bringing into the prison or intending to bring into the prison was of the order of £10,000 when sold within the prison.

17. The appellant said in her interview this:

> "I brought these drugs into jail knowingly to give them to that specific prisoner. I'm well aware of the situation I find myself in now and that is something I could have prevented much earlier. But I was stupid not to take the opportunity not to prevent this and end up in this situation."

She also admitted having inappropriate relationships with several prisoners and communicating with them by mobile telephone and letters. She admitted putting prisoners in danger. If they bought drugs from an inmate to whom she had supplied them the prisoners would be in debt and possibly would suffer retribution, intimidation and violence as a result. She further agreed that her conduct had put her colleagues in danger because they would be the ones who would have to deal with any violence should it ensue. She further explained her position in these terms:

> "I felt under pressure by [ML] on the wing for some time and was backed into a corner by him and other prisoners and [ML] had made comments that he knew personal things about me and I felt I should do what he tells me to do."

18. In the pre-sentence report it was recounted that the appellant considered that she had been "groomed" and placed in an unsafe situation. She gave that as the explanation for her behaviour which was so out of character. The judge also had character evidence from relatives and friends of longstanding. All of the evidence spoke highly of her and explained how the course of conduct in which she had engaged was simply not the person whom these various witnesses knew.

19. The judge further had a letter from the appellant's general practitioner. In July 2018 the general practitioner noted that the appellant had been diagnosed with anxiety and depression because of events in 2017. She had completed a course of therapy. She was taking antidepressants.

20. The judge in sentencing said this:

> "Listening to that account, somebody may be thinking that you are standing there before me as a 21 year old, straight out of school or university, in their first job, naive about the way of the world, meek and mild and not able to look after yourself. I accept that you were a probationary officer and you were only eight months into job. I accept that you were struggling to cope. I accept you were suffering from depression as a result of a breakdown of another relationship... But you are 44 years of age. You previously worked in the military... Between 2002 and 2006, you were a police officer.
>
> ... at an early stage, you recognised that you were being groomed... you had passed up so many opportunities to tell somebody what was going on. In March 2017 ... you requested a ... transfer... That was turned down. All you had to do at that stage was to say that you were focus of unwanted attention. You would not necessarily ... have been moved off the wing. But you did not.
>
> I accept that you had got swept up into something, but I do not accept that you were powerless to do anything about it... You had good abilities and good life skills... with a good support network at the prison... and had been giving training about conditioning, manipulation and corruption prevention awareness..."

21. Taking into account all the facts of the case the judge concluded that this was a case which required a severe sentence and consequently imposed the overall sentence of six-and-a-half years' imprisonment.

22. The grounds of appeal are two-fold. First, by reference to other reported authorities, the starting point taken by the judge, which was somewhere in the order of nine-and-a-half years, was too high. Second, the sentence imposed gave insufficient weight to personal mitigation.

23. We note that the judge gave full credit for the plea. The plea was not indicated at the lower court. In strict terms, the credit for plea should have been 25% rather than one-third. However, the appellant made full and immediate admissions to the police and the prison authorities of everything that she had done. Those matters amounted to significant mitigation. Rather than attempting to recalibrate the approach of the judge, on a pragmatic basis we shall consider the sentences imposed on the basis that a discount of one-third was appropriate.

24. The judge was referred to various authorities: *R v McDade and Reynolds [2010] EWCA Crim 249*; *R v Youngman [2016] EWCA Crim 2224* ; *R v Bozkurt [2017]* EWCA Crim 1415. The judge, in sentencing, referred in some detail to <u>Reynolds</u>, which involved the provision of telephones and Class A and B drugs over a 2-month period. The judge noted that, in that case, the court had said that sentences up to 10 years on conviction were appropriate for prison officers

committing offences of this kind for personal gain. Insofar as the judge used Reynolds to justify a starting point in excess of 9 years it is argued that this was inappropriate. It is pointed out that the drugs in this case were Class B drugs rather than Class A drugs, they were taken into the prison over a relatively short period of time and there was no apparent financial gain.

25. We acknowledge that there is a valid distinction to be drawn between the facts in Reynolds and the circumstances of this case. However, the distinction relates to the types of drugs involved. What we have to consider is the overall criminality revealed by this appellant's offending. We remind ourselves of what was said by the court in Reynolds in relation to the general position of the prison officers committing this type of offence.

> "A corrupt prison officer is much better placed than an outsider to find ways of defeating a prison security system. The effect of this activity is twofold. First, the discipline and order of the prison is undermined and with it the safety and human rights of the inmates... Secondly, those prison officers who are true to the trust imposed in them, and resist such attempts to corrupt them will suffer. They will come under suspicion themselves. They will be subject to closer scrutiny and checks. They will also naturally resent the rewards their corrupt colleagues enjoy.
>
> For both these reasons, therefore, the deterrent function of sentencing as articulated in section 142(1)(b) of the Criminal Justice Act 2003 plays a prominent part in sentencing such officers when they appear in court for offences of this nature."

26. The judge in this case had to reflect each of the aspects of misconduct committed by the appellant. The bringing into prison of drugs and sexual misconduct with prisoners are features found in other cases. This case is unusual because of the information that this appellant was prepared to give to prisoners in relation to the security measures being taken at the prison. That fundamentally undermined the security of Aylesbury Young Offender Institution in a way that is not to be found in the other authorities to which we have been referred.

27. This was a very severe sentence. But it was severe because of the need for deterrence and the different ways in which the appellant failed in her duty as a prison officer. Nowithstanding cogent submissions that have been made to us, we are unpersuaded that the sentence was manifestly excessive.

28. In the circumstances, we dismiss this appeal.

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

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