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No: 201804108/A2

IN THE COURT OF APPEAL

CRIMINAL DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Wednesday, 10 April 2019

B e f o r e:

LORD JUSTICE FULFORD

MR JUSTICE SWEENEY

MR JUSTICE DINGEMANS

R E G I N A

v

ROLAND JUNIOR MEADE

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Mr E Hollingsworth appeared on behalf of the **Applicant**

J U D G M E N T

(Approved)

1. LORD JUSTICE FULFORD: The applicant, who is now aged 49, was committed for sentence, pursuant to section 3 of the Powers of Criminal Courts (Sentencing) Act 2000, in respect of an offence of burglary, contrary to section 9(1)(b) of the Theft Act 1968. On 22 August 2018, in the Crown Court at Harrow, Ms Recorder Horwood Smart sentenced him to 3 years' imprisonment (the minimum term) and she made a victim surcharge order in the sum of £170.

2. Prior to this case the applicant had accrued many convictions spanning the years 1984 to 2015. His relevant convictions had amongst them some 38 theft and similar offences including a series of dwelling and non dwelling house burglaries. In particular, there were burglaries of dwellings for which he was sentenced in 1987 and May 1994, and a further dwelling burglary and an aggravated burglary, for which he was sentenced in September 1994. More recently, there were burglaries of domestic premises leading to sentences on 12 October 2000, 17 November 2010 and 14 September 2011, which made him subject to the provisions of section 111 of the Powers of Criminal Courts (Sentencing) Act 2000 ("PCC(S)A").

3. Given the sole issue that arises on this appeal it is convenient, at this point, to set out the relevant statutory provisions. Section 111 PCC(S)A is entitled "**Minimum of three years for third domestic burglary**" and contains the following relevant provision:

1. "(1) This section applies where
2. a person is convicted of a domestic burglary committed after 30th November 1999;
3. at the time when that burglary was committed, he was 18 or over and had 2 relevant domestic burglary convictions; and
4. one of those other burglaries was committed after he had been convicted of the other, and both of them were committed after the relevant date.
1. (2) The court shall impose an appropriate custodial sentence for a term of at least three years except where the court is of the opinion that there are particular circumstances which
 1. relate to any of the offences or to the offender; and
 2. would make it unjust to do so in all the circumstances.
2. [...]"

4. The relevant date was 30 November 1999.
5. Section 144 of the Criminal Justice Act 2003 ("CJA 2003") provides for a reduction to a minimum sentence under section 111 where there has been a guilty plea:

1. **"Reduction in sentences for guilty pleas**
1. In determining what sentence to pass on an offender who has pleaded guilty to an offence in proceedings before that or another court, a court must take into account
 1. the stage in the proceedings for the offence at which the offender indicated his intention to plead guilty, and
 2. the circumstances in which this indication was given.

1. In the case of an offender who
 1. is convicted of an offence the sentence for which falls to be imposed under a provision mentioned in subsection (3), and
 2. is aged 18 or over when convicted,
 2. nothing in that provision prevents the court, after taking into account any matter referred to in subsection (1) of this section, from imposing any sentence which is not less than 80 per cent of that specified in that provision."

6. Section 111(2) of the PCC(S)A is listed in subsection (3) of section 144 of the Criminal Justice Act 2003.

7. In a letter to the Court of Appeal, dated 12 October 2018, the applicant explained that his solicitors wrote to him 32 days after his sentence which caused the delay in making his application. He was waiting for advice from his solicitor which was to the effect that he had no grounds on which to appeal the sentence.

8. His application for an extension of time of 14 days and for leave to appeal against sentence has been referred to the Full Court, on a limited basis, by the single judge.

9. The applicant had settled his own grounds of appeal, in essence suggesting that his sentence was harsh. The single judge refused leave on this basis and instead referred the issue of whether the applicant should have been afforded credit for his guilty plea. The applicant, who is now represented by counsel assigned by the Registrar, Mr Hollingsworth, for whose assistance we are grateful, does not renew the application for leave on the applicant's original grounds of appeal and instead he succinctly addresses the single issue on which leave was granted.

10. The applicant was arrested on 15 July 2018, after his fingerprint and palm print were found on a window ledge of a ground floor flat in Dartford Road NW2, which had been burgled on 28 May 2018. The

applicant lent into a window which had been left ajar. He took a computer, with an estimated value of £900 to £1049 and two bank cards which were on the kitchen table. In interview the applicant admitted that he had lent into the window and taken the items. It was unclear whether the occupant was present at the time of the offence.

11. In passing sentence the Recorder observed that the offence was at the lower level of domestic burglary but nevertheless it was someone's home. The judge was unable to accept the applicant's submission, advanced during mitigation, that it would be unjust to comply with the requirements of the Act, but she accepted that the applicant was entitled to all the credit that could be given to him for his co operation with the police and the very frank way that he accepted responsibility in court.

12. Inevitably the judge focused on the applicant's history of offending. As recently as 2013, he received a sentence of 2 years' imprisonment for offences of burglary and there had been a further burglary in 2015. There was no suggestion that the applicant was suffering from any illness and the judge expressly determined that there was no statutory provision which could mitigate the sentence from 3 years' imprisonment which was the minimum term that could be imposed.

13. With respect to the learned Recorder, she fell into error in that she overlooked the provisions of section 144 of the Criminal Justice Act 2003. As the single judge observed, even bearing in mind the applicant's bad record and the fact that he offended whilst high on cocaine or was drunk, or both, the instant offence was not of particular seriousness. We agree with the observation of the single judge that there was no reason to take the starting point, before credit for plea, any higher than the statutory minimum of 3 years. Indeed there is nothing in the Recorder's sentencing remarks to suggest that she intended a higher starting point. As just set out, she said that given the applicant's co operation with the police and his frankness with the court, he deserved "all the credit can be given to you".

14. The applicant appears to have admitted his guilt from the outset and pleaded at the first available opportunity and he is therefore entitled to the maximum credit that is available under section 144, namely a reduction that does not take the sentence below 80% of the "third strike" minimum of 3 years. We give leave and allow the appeal, to the extent that we quash the sentence of 3 years' imprisonment and substitute a sentence of 2 years 5 months (29 months).

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