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IN THE COURT OF APPEAL

CRIMINAL DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Tuesday 25 June 2019

B e f o r e:

LORD JUSTICE HADDON-CAVE

MR JUSTICE POPPLEWELL

HIS HONOUR JUDGE PATRICK FIELD QC

R E G I N A

v

AHMED ALI

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Mr Daniel Kersh appeared on behalf of the **Appellant**

J U D G M E N T

(Approved)

MR JUSTICE POPPLEWELL:

1. The appellant is now 24 and appeals against sentence with leave of the single judge, who granted an extension of time.

2. At a pre-trial review hearing on 12th January 2017 he pleaded guilty to an offence of conspiracy to rob. On the following day (13th January) he was sentenced by His Honour Judge Smith at Maidstone Crown Court to 13 years' imprisonment. The judge had recently finished presiding over a trial in which a number of defendants were convicted of the conspiracy. Others involved in the attack were subsequently tried and convicted.

3. The offence has been the subject matter of an appeal to this court by ten of those who were convicted, all of whose sentences were reduced for the reasons set out in the judgment of Treacy LJ at *[2018] EWCA Crim 1552*.

4. The facts of the offence are set out in the appeal court judgment and we do not need to repeat them in full here. In summary, at around 11.30 pm on 26th April 2016, a group of more than seventeen men attacked a traveller site at Wheat Gratton Stable Yard in Kent, at which they hoped to find substantial quantities of money. They wore dark clothing and face masks or balaclavas. They were armed with a variety of weapons, including crowbars, a baseball bat, a machete and knives. They brought cable tie handcuffs ready to restrain the victims. They stormed the site and attack victims in their homes. One of the travellers, Mary Pownell, was tied up with cable ties and threatened. She suffered significant psychological harm. Her husband, Phillip, was punched and tied up. Another, Moses Smith, who came out of his caravan when alerted to the attack, suffered blows to the head and stab wounds to his arms and leg which were treated in hospital. His wife and seven children were in the caravan. The caravan of Gerry Connor, his partner Cheri Powell and their four children was attacked, and they were tied up with cable ties. The occupants of the site responded to the attack by pursuing the attackers, driving at their cars (which were parked by the side of the road) and eventually driving the men from the site.

5. The attack involved groups from London, Essex and Sussex who came together to carry it out, with the communications hub of the planning being in Tunbridge Wells. The appellant was a representative of the London group. He travelled to Tunbridge Wells on the day before the attack (25th April) to meet others involved in the planning. The car he was using was involved in a reconnaissance journey to the site that day. He was also involved in buying gloves, masks and demolition bars at B&Q on the day of the attack, and a receipt for the purchase by others of cable ties, reinforced tape, torches and gloves was later found in the same car which was abandoned after the attack.

6. The appellant was 21 at the time of the offence. His relevant previous convictions were for robbery when aged 17, for which he received a 9-month referral order, and a conviction for street dealing class A drugs on two separate occasions, one of which was before the Wheat Gratton attack, for which he was on bail at the time. On 16th July 2016 he was sentenced to a total of 4 years' imprisonment for those drugs offences and a further week for a connected Bail Act offence, with the result that he was a serving prisoner at the date of his sentencing for the Wheat Gratton attack the following January. The judge's sentence of 13 years for that attack was to commence immediately and run concurrently with the sentence he was serving for the drugs offences.

7. In his sentencing remarks the judge explained that he drew no distinction between the roles of all those involved in the attack. He took account of the appellant's youth and personal mitigation. He said that the appellant had been brought up in difficult circumstances and had been drawn into offending by beginning to supply drugs. The judge had also been the sentencing judge for the drugs offences. The appellant had written a letter which was eloquent in its acknowledgment of wrongdoing and acceptance of responsibility. The judge took the appropriate sentence after a trial as being 16 ½ years and reduced it by about 20% to reflect his plea of guilty in arriving at the sentence of 13 years.

8. In the appeal court judgment allowing appeals by ten of the other participants, Treacy LJ explained that the circumstances of the offence were of particular gravity and themselves justified taking a starting point above the top of the category range of 16 years. He went on to say that it was, however, necessary to take some account of the different roles played by the appellants in those cases.

9. The two appellants with whom a useful comparison can be made in this case were Jenks and Issah, who were convicted following a trial. Jenks was involved in the purchases prior to the attack and had been in touch prior to the attack with Myers, who was described as the "communications hub" for the planning of the attack and whose custodial term of 18 years was upheld. Jenks was 22 at the time and had had a difficult childhood. He had what was described as a "limited record", involving a robbery, aged 14, and had had no recent convictions since one in 2011 for shoplifting. His sentence was reduced from 16 years to 14 years. Issah was also 22 at the time of the offence. He took part in the recognisance but was not otherwise involved in the planning or organisation. He had no relevant previous convictions. His sentence was also reduced from 16 years to 14 years.

10. This appellant was younger than both of those two and had significant personal mitigation. On the other hand, his involvement in the preparations prior to the attack itself was greater, his record was not as favourable, he was on bail when he committed the offence and a significant part of his sentence for the drugs offences was effectively forgiven by reason of the sentence for the attack being made to run concurrently.

11. In all the circumstances we consider that a sentence of 16 ½ years after a trial for this appellant was manifestly excessive and that a sentence of 14 ½ years would have been appropriate. After credit of

just over 20% for his guilty plea, that would fall to be reduced to 11 ½ years. We therefore quash the sentence of 13 years and substitute for it a sentence of 11 ½ years' imprisonment. To that extent the 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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