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IN THE COURT OF APPEAL

CRIMINAL DIVISION

Royal Courts of Justice

Strand

London, WC2A 2LL

Thursday, 25 July 2019

B e f o r e:

LADY JUSTICE HALLETT DBE

(VICE PRESIDENT OF THE CACD)

MRS JUSTICE MCGOWAN DBE

SIR JOHN ROYCE

R E G I N A

v

WILLIAM DEO

Computer Aided Transcript of the Stenograph Notes of Epiq Europe Ltd, Lower Ground, 18-22 Furnival Street, London EC4A 1JS, Tel No: 020 7404 1400 Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

Mr G Wise appeared on behalf of the **Applicant**

J U D G M E N T

(Approved)

1. MRS JUSTICE MCGOWAN: This is a renewed application for leave to appeal against sentence following refusal on the papers by the Single Judge.

2. On 27 November 2018 the applicant was convicted of a series of offences in the Crown Court sitting at Snaresbrook and on 17 December 2018 he was sentenced by His Honour Judge Del Fabbro as follows.

3. For an offence contrary to section 29 of the Offences Against the Persons Act 1861 of throwing a corrosive fluid over the victim he was sentenced to 15 years' detention in a Young Offender Institution. For a second similar offence he was sentenced to a term of 12 years detention, they were ordered to run concurrently.

4. For two offences of robbery contrary to section 8 of the Theft Act 1968 he was sentenced to 12 years' detention in a Young Offender Institution.

5. For an offence of assault occasioning grievous bodily harm, contrary to section 18 of the Offences Against the Person Act 1861, a term of 15 years' detention in a Young Offender Institution, and for an offence of assault occasioning actual bodily harm, contrary to section 47 of the Offences Against the Person Act 1861 a term of 2 years' detention; all those sentences being order to run concurrently, making a total term of 15 years.

6. There were other accused tried with him. Two in the ordinary course of events. One who was unfit to stand trial through mental ill health was found to have committed the acts by the same jury and also convicted on all the counts.

7. The facts of these offences make extremely chilling and unpleasant reading. Two young men who had met at university, Mr Raymond and Mr Dubois, had decided to set up a music video production company. They did not have their own premises but they would go to a location chosen by a customer or client and when there produce a music film video for the client.

8. One of these accused, Mr Okwu-Brewis, referred to in sentencing by the learned judge as the mastermind, had at some point in 2017, towards the end of the year, contacted the two victims in order to ask them to produce a music video for him and his partner, Ms Makayla Hajaig. Having set up the arrangement to make the video, part of it was recorded but at some point during the arrangement the parties fell out and the video was never completed.

9. Mr Okwu-Brewis and Ms Hajaig decided that they would take their revenge and agreed upon a very sophisticated and well organised revenge attack. They set up a fake Instagram account in the name of a female singer called Stafia Star. Ms Hajaig used that account to contact Mr Dubois. There was a series of exchanges between them and as a result of that a meeting was set up to take place on 13 June 2018 at an address in Argyle Road in Ilford. It was clear when police subsequently went back through Ms Hajaig's phone that she, at the same time as making these arrangements, had been researching online for the provision of ammonia.

10. Mr Okwu-Brewis then enlisted two friends - this applicant and another man, Mr Badejo - to assist him in what was planned to follow. The three men met at the property in Argyle Road on the day and went inside. The female defendant, Ms Hajaig, waited outside for the arrival of the two victims, Mr Raymond and Mr Dubois. They arrived at about 9.30 in the evening. She met them. She told them that she was the sister of Ms Star, the contact they had come to meet. She told them that her sister was in the building upstairs getting ready for the video shoot. They waited around outside for about 30 minutes and she then led the two victims into the property. She led them through the hallway and began the assent of the staircase, taking them up to where she had told them her sister was waiting.

11. When she was on the staircase, she told the two victims to remain where they were and she would go ahead and make sure her sister was ready. She made her way up the stairs, the two victims waited, as instructed. Mr Okwu-Brewis jumped out of a cupboard in the hallway, apparently some sort of store cupboard, and threw ammonia into the face of Mr Dubois. The three male defendants were wearing balaclavas, which made it impossible for the victims to see their faces. At that stage a second man joined the attack. He seemed, so far as the victims could see, to have come from somewhere in the stairwell. Ammonia was also squirted into the face of Mr Raymond.

12. Both victims, unsurprisingly, having had what transpired to be industrial strength ammonia sprayed into their faces, fell to the ground. They were both repeatedly stamped upon by the male defendants and told to hand over their backpacks, which they did. Mr Dubois was pushed into the corner of the hallway and further punched in the stomach. He was told by one of the men shouting at him to open his mouth. He complied with that request and as he did one of the men poured ammonia into his mouth. Another held his head back whilst that was happening. The female defendant, Ms Hajaig, was not physically taking part but standing to the side watching what was going on. The four accused left the property immediately afterwards, taking with them the backpacks which had been taken from the two victims. They drove away in two different cars. The victims were left there.

13. Mr Dubois had the presence of mind and courage to carry his friend, Mr Raymond, upstairs into a flat and asked that they be allowed to use a shower, which they were able to do within minutes. It was clear from later evidence that the immediate use of the shower reduced the damage caused by the ammonia.

14. Police were called. The victims were taken to the Queen's Hospital in Romford. Mr Raymond spent two weeks in hospital. It was clear that he had been forced to swallow a significant amount of acid, which had corroded his trachea, oesophageus and the upper part of his stomach. He was seen to have swelling of the soft tissue of the lips, tongue, pharynx and epiglottis. He had to be intubated and ventilated. He was moved to the intensive care unit, where he was kept under medical sedation and continued to be ventilated. He required to be fed intravenously and remained in intensive care until 26 June.

15. By the time of his movement from intensive care into an ordinary ward of the hospital the oedema and swelling had significantly resolved. It was feared at that stage that he would continue to have problems eating and drinking. He had also suffered broken ribs and a dislocated shoulder, that was count 5.

16. Mr Dubois was found to have irritation to his eyes and throat. He was discharged from hospital after the initial assessment and that was charged as the assault occasioning actual bodily harm, which formed the substance of count 6.

17. Counts 3 and 4, the two counts of robbery, reflected the stealing by force from the two victims of their backpacks. It transpired that a camera valued at about £800, along with a camera lens and a video camera which had a value of over £12,000 and other items of equipment, had all been taken. A mobile phone was also taken. None of that property was ever recovered.

18. In due course, an examination was undertaken of the property and this applicant's fingerprints were found on the inside surface of the cupboard in the hallway, which led to the suggestion that he was the man who had appeared out of that cupboard when the two victims had entered the premises. He was traced to a hotel in the Seven Sisters Road but he had dyed his hair and staff at the hotel were unable to assist the police because they did not recognise him from the photograph provided to them.

19. Soon after, he was seen in North London. He attempted to escape but the police were able to catch him. He was arrested. He made no comment in interview. He provided a prepared statement in which he denied having been involved in the incident. He said he thought at the stage at which he had been picked up by the others that the plan was that they should all go to a local gym. He had not realised that they were going to an address in Argyle Road. When he got there, there was a stranger present. He had no warning of what was about to happen. Had he known, he would have left immediately and when the incident began he simply stood to one side watching on in shock.

20. The learned judge set out the factors that he took into account in passing sentence and reflected, unsurprisingly, the appalling circumstances of the facts of this offence. He found that the defendants had jointly played a part in the entire incident and that this applicant, whatever he had physically done, was a full party to the planned incident and the carrying out of what was on any view a shocking and appalling assault.

21. It was a matter of sheer good fortune that the physical injuries caused had not had a permanent physical effect. But it was clear from the statements of the victims and the impact statements from other family members that this had been a long-lasting and profoundly affecting incident for both the two young men involved and their families. All the defendants in the view of the learned judge had been party to the plan. The plan was to lure the two unsuspecting victims to a location and then carry out the attack. The attack had been planned some considerable time in advance. Research had been done into the provision of what turned out, as the learned judge was to find, to be industrial strength ammonia, not simply a household product, and it was clear that the individuals had sought such a high strength acid to cause maximum damage. A false identity had been set up on the internet and a location not directly connected to any of the four individual defendants had been found in order to set up the attack. The attack was to overwhelm and beat the victims, as the learned judge was to describe it, into handing over their equipment.

22. The female defendant had played her part in luring the two men there, in encouraging them to wait and in persuading them that the person they had gone there to meet was in fact on the premises and that they were there genuinely to film the video which would be used in due course.

23. The male defendants had prepared for the incident by procuring and wearing appropriate clothes: a combination of tracksuits, hoodies, facemasks and gloves.

24. As the learned judge pointed out, this was a terrible weapon. The weapon was deliberately squirted into the faces of the victims and one of the young men was forced to open his mouth and swallow a substantial quantity of ammonia. This was all caused by the unhappiness of the principal defendant that a commercial deal which had gone wrong. The learned judge described them as cold, callous and cruel. The learned judge went on to say that he did not detect any remorse or regret on the part of the defendants.

25. Dealing specifically with this applicant, he was 20 years of age at the time sentence was passed. He clearly had a very difficult and troubled background. It was, however, as the learned judge said, no excuse for the pain and suffering that he had jointly inflicted on others. He had a lengthy and serious criminal record, albeit it did not disclose any offences of violence or any offences involving the use of a weapon. It is, however, relevant to point out that he had only been released from custody approximately 10 days or so before becoming involved in this plan to commit these offences.

26. The other two defendants who were sentenced at the same date as this applicant had also a number of things to be said both for and against them. The older male defendant, Mr Badejo, had a very unpleasant record of criminal offences, which the learned judge summarised and described as amounting to a violent streak.

27. The female defendant was slightly younger than this applicant: 19 at the date of sentence. She too had had a very difficult background. She had no previous convictions, which was a matter of substantial mitigation, and was the mother and carer of a young child.

28. The learned judge considered whether these defendants were dangerous and we observe that it was very much to their good fortune that he did not reach the conclusion on the facts of these offences alone that they were in fact dangerous and that they would pose a risk in the future. He did not, however, reach that conclusion.

29. He had reference to the relevant sentencing guideline. He took the view that this was a higher level of culpability given the planning, the use of a weapon and the nature of that weapon, also the use of such significant force. The level of harm caused to one victim also fell into the highest category.

30. He set the sentences, as we have observed, at 15 years for the two male defendants and 10 for the female defendant.

31. Mr Wise, who appeared before the court below and appears before us today, has both in writing and in argument before us put this matter forward in an extremely skilled and impressive way. His submissions, advanced succinctly, amount to this: that no proper distinction was made between the two male defendants given the significant distinction in their age and/or maturity: this applicant, 20; Mr Badejo 30 at the time of sentence.

32. He further says that a greater distinction should have been made to match the difference in their previous records, both having significant records but this applicant having nothing for violence or the possession of weapons.

33. His third point is that no sufficient reduction was afforded to this applicant to reflect the significant features of personal mitigation available to him.

34. We accept the submission that Mr Wise makes that a greater distinction might have been made to reflect the distinction in ages between these two defendants, but we say immediately that that appears, in the view of this court, to have been to the advantage of the older defendant rather than the disadvantage of this applicant.

35. Equally a distinction might be made in terms of their previous convictions. Again, it may be that the older defendant received the benefit of that distinction.

36. We accept the personal mitigation available to this applicant but equally it was right to say that there was much to be said on behalf of Mr Badejo by way of character references and the like. And, of course, in respect of the third defendant, Ms Hajaig, she had no previous convictions at all and was the mother and carer of a young child.

37. The learned single judge in assessing this matter on the papers makes reference to the fact that the judge, having presided over a trial which lasted for almost three weeks, had seen and was best placed to make an assessment of the individuals concerned.

38. She goes on to reflect the fact that a lower sentence for the female defendant could be explained by reference, amongst other things, to her good character and young child and that the judge had been entitled to pass the same sentence on this applicant as he had upon Mr Badejo based on his assessment of all the evidence.

39. We accept the remarks of the single judge as being absolutely correct in this case.

40. We accept the submission that Mr Wise has made that a greater distinction might have been made to reflect the difference in ages. But had that been made on the facts of this case, it would merely have achieved a greater sentence for the older defendant.

41. Looking as we must at whether the sentence passed on this applicant for these offences can properly be described as either manifestly excessive or wrong in principle, it is the view of this court that those are not arguable submissions. A sentence of 15 years for the total offending on this case following a trial given his record notwithstanding his age cannot arguably be said to be manifestly excessive and despite the skill with which Mr Wise has put forward his submissions this morning, this application must be refused.