

[2019] EWCA Crim 1492
No: 2019 01358/A2
IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Friday 19 July 2019

B e f o r e:

LORD JUSTICE MALES

MR JUSTICE JAY

MR JUSTICE EDIS

R E G I N A

v

RICHARD BRAY

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)

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Non-counsel application

J U D G M E N T
(As approved)

MR JUSTICE EDIS: This is a renewed application for leave to appeal against sentence after refusal by the single judge.

1. On 18th March 2019, in the Crown Court at York, Richard Bray was sentenced to a term of 21 months' imprisonment for the offence of having an offensive weapon, contrary to section 1(1) of the Prevention of Crime Act 1953. That conviction and sentence placed him in breach of the terms of the suspended sentence order of 6th February 2019, and the term of imprisonment which had then been suspended of 8 weeks' imprisonment was activated in full and ordered to run consecutively.
2. The applicant has the benefit of the reasons for refusal given by the single judge and is of course well aware of the facts of the case against him and the reasoning of the sentencing judge. In essence, he had a Swiss army knife for use as a weapon with him on a train. The staff saw it, called the police, who arrested him. He said various unpleasant and threatening things to the police, including that he had been going to use the knife to stab two people to death.
3. The judge referred to the very extensive criminal record of this applicant (which we do not need to set out in full) and referred also to the fact that the present offence occurred only weeks after a suspended sentence had been imposed for another offence of making threats to people in a public place. He gave 25% credit for the plea of guilty. No criticism is made of that.
4. The grounds of appeal were that the sentence of 21 months' imprisonment for the offence in relation to the knife did not take into account the fact that no direct threat was made to any person and that the judge erred in failing to have regard to the guidelines. It is also said that the judge had insufficient regard to the personal mitigation put forward on behalf of the applicant.
5. The single judge said:

"I have considered the papers in your case and your grounds of appeal. The judge was entitled, bearing in mind the circumstances of the case, and your previous convictions, to conclude that the present case fell, before credit for plea, at the top of the category 1A range. The credit for plea was appropriate and your grounds do not contend otherwise. In the circumstances it is arguable that your sentence was manifestly excessive."

6. We agree and add only this: the top of the relevant category range in the guideline is 30 months. The judge imposed a sentence of 28 months before plea discount, which was, therefore, within the appropriate guideline range. It is simply impossible to say that he did not have regard to the guidelines since he followed them. Secondly, the judge, it is true, did not refer to any matters of personal mitigation; the grounds of appeal do not refer to any matters of personal mitigation either. In truth, there are not any, and the judge's treatment of personal mitigation was therefore entirely correct. For these reasons this application is refused.

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

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