

Royal Courts of Justice

Tuesday, 8 November 2022

Before:

LADY JUSTICE WHIPPLE

MR JUSTICE JAY

HER HONOUR JUDGE KARU

(Recorder of Southwark)

REX

V

MICHAEL ANJORIN

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MS A L TASCAN appeared on behalf of the Appellant.

JUDGMENT

MR JUSTICE JAY:

1 On 9 May 2022, Michael Anjorin was sentenced, following his guilty plea, by Judge Shaw sitting at Norwich Crown Court for his role in two conspiracies to supply class A drugs, namely heroin and cocaine. For those matters, he received concurrent sentences of two years and four months.

2 He appeals against sentence with the leave of the single judge.

3 The leader of the conspiracies, Christopher Morrison, was not before the court on that occasion for sentencing. Other co-conspirators were sentenced and we will touch on the sentences they received.

4 The facts were that between 31 May 2020 and 24 March 2021, and at various dates within that over-arching period, Christopher Morrison, Amenemhet Asante, Tessa Bolan and Michael Anjorin were involved in conspiracies to supply heroin and cocaine. This order reflects the hierarchy of conspirators set out in the judge's detailed sentencing remarks and, for present purposes, it is not in dispute that Mr Anjorin's role was at the bottom end. Rhian Westgate, described by the judge as being in a slightly different position from the others, supplied diamorphine, crack cocaine and cannabis and converted criminal property.

5 When warrants were executed at their respective home addresses on 23 March 2021, mobile telephones were recovered which evidenced drug dealing across a number of mobile telephone lines. The principal line was the "Taylor line" and there were two telephone numbers associated with that line. The other drug lines were the "YB line" in use until July 2020 and the "Georgie line" in use from 30 September to 17 October 2020.

6 In his sentencing remarks, the judge described this as a substantial and sophisticated county lines operation. Although the prosecution had briefly mentioned county lines in the written sentencing

note, our attention has not specifically been drawn to evidence showing that the conspiracies operated outside the Norwich area, although nothing really turns on that.

7 It is unnecessary for present purposes to consider the role of Mr Asante, whose case has been adjourned by us to another occasion nor do we need address specifically the position of Tessa Bolan.

8 Michael Anjorin was at university when police executed the warrant at his family home in Norwich. Mobile phones that had been regularly in contact with the later "Taylor line" and the 455 line were seized. Messages saved on Mr Anjorin's personal mobile telephone were consistent with him selling drugs under the direction of Messrs Asante and Morrison. There was evidence that he had used the later Taylor line himself for a short period, one of about four or five days, during 28 January and 2 February 2021 and he had purchased top-ups for it. Michael Anjorin pleaded guilty on a basis that was not accepted by the prosecution, although they did not seek a Newton Hearing on the issue. It was accepted that his involvement was relatively short and the drugs in which he dealt at street level were small.

9 Michael Anjorin was of previous good character. He has just turned 23. The pre-sentence report in his case assessed his risk of re-offending as low. At the time of his offending, Michael Anjorin was undertaking a business management and finance course at the University of Norwich. He did not start his second year in September 2021, owing no doubt to the existence of these proceedings, but at the time of the report he was completing a software development course. He told the Probation Officer that his offending started when he was experiencing financial difficulties at university. He had the benefit of a character reference from his uncle, a consultant, which refers to his feelings of guilt and the fact that he has now found solace in the Christian faith.

10 In Mr Anjorin's case, the judge in his very detailed sentencing remarks concluded that this was a Category 3 case in which he was involved for about a week. The least post-trial sentence he could have imposed was three years, reduced by 20 per cent for the plea to 28 months. In those circumstances, the judge said that no possibility of suspending the sentence arose.

11 Mr Anjorin's grounds of appeal are that the judge failed to give him any discount for his age, good character, personal mitigation and remorse. It is also said that the judge ignored the guidance note in the sentencing guidelines that states that sentencers should be aware that a higher proportion of black and other ethnicity offenders than white offenders receive immediate custodial sentences. The third ground, very much linked to the second, is that of disparity and attention is drawn to the sentences which the judge imposed in relation to Rhian Westgate and Tessa Bolan. The former was sentenced to three years' imprisonment. The latter received a Community Rehabilitation Order.

12 In her well-focused oral argument, Ms Tascon emphasised that her first ground was that it is clear from the judge's approach to the guideline that no discount could have been given to the powerful personal mitigation in this case. That mitigation was not limited to her client's status as a university

student. She pointed out, with some force, that he withdrew from the conspiracies of his own volition on 2 February. That was not the position in relation to his co-defendants. If one looks at the guidelines, submitted Ms Tascon, with a starting point of three years for Category 3 lesser role, it seems clear that the judge started and finished at the starting point, as it were, and did not go downwards to reflect the personal mitigation.

13 Ms Tascon also developed other grounds, but it is unnecessary for us to place much weight on those in the light of the force we can give to her first ground.

14 We have carefully considered the submissions which have been advanced both in writing and orally. The judge did say in terms that the starting point in the guideline would require some uplift to reflect the existence of the conspiracies. That was correct in principle. However, there were no other aggravating factors and given Michael Anjorin's overall position in the hierarchy and limited knowledge of the conspiracies as a whole, the upwards adjustment should have been slight. Furthermore, there was compelling mitigation, including this appellant's previous good character, the matters set out in the pre-sentence report and his relative youth.

15 We are driven to the conclusion that the sentence the judge imposed was manifestly excessive. In short, the judge could not have given sufficient weight to those powerful factors in mitigation. Taking the mitigation into account should have brought the sentence down to approximately two and a half years' imprisonment before credit, two years after credit for the guilty plea of 20 per cent. We do not consider that the other matters raised in the grounds and in oral argument really add to this appellant's case in his particular circumstances.

16 It is strongly pressed on this court that the sentence should be suspended and we of course have power to do that. We take into account the factors listed in the Sentencing Council's guideline on the imposition of community and custodial sentences, as well as the advice in the Equal Treatment Bench Book covering important aspects of fair treatment and disparity of outcomes for different groups in the criminal justice system. We can take judicial notice of those matters. It is unnecessary for us to consider any statistical evidence.

17 The factors in the guideline indicating that it would not be appropriate to suspend a custodial sentence include, first, that the offender presents a risk danger to the public; secondly, appropriate sentence can only be achieved by immediate custody and, thirdly, there is a history of poor compliance with court orders. On the facts of this case, it is clear that items one and three do not apply. We will have to return to the second one.

18 The factors indicating that it may be appropriate to suspend a custodial sentence include, first, realistic prospect of rehabilitation; secondly, strong personal mitigation and, thirdly, the impact of custody will result in significant harmful impact on others. Items one and two do apply here, but item three does not.

19 This is not a case of aggregating the factors in favour of suspending the sentence. We have to consider the matter in the round. In a case such as this, the factors in favour of suspension naturally have to be weighed against the second item in the first list, namely that appropriate punishment can only be achieved by immediate custody. That is an important factor in the circumstances of this case, but considering the matter in the round, as we are required to do, we have come to the conclusion that it would be right to suspend this sentence.

20 Accordingly, the appeal of Michael Anjorin is allowed to this extent. The sentence of two and a half years' imprisonment is quashed and for it is substituted a sentence of two years' imprisonment concurrent on both conspiracies on both counts, but each of these sentences is suspended.

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