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No: 201902740 A1; 201902786 A1; 201902883 A1
IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
Strand
London, WC2A 2LL

Wednesday, 16 October 2019

B e f o r e:

LORD JUSTICE SIMON

MRS JUSTICE COCKERILL DBE

HIS HONOUR JUDGE BATE
(Sitting as a Judge of the CACD)

R E G I N A

v

LEON CHARLES JAMES SQUIRES
BEN MICHAEL PICKERING
ZAC MARTIN HIGGINS

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Mr P Byrne appeared on behalf of the **Appellant Squires**
Ms C Dudley appeared on behalf of the **Applicant Pickering**
Ms K Riekstina appeared on behalf the **Appellant Higgins**

J U D G M E N T

LORD JUSTICE SIMON:

1. On 20 June 2019, in the Crown Court at Leeds, the appellants, Leon Squires and Zac Higgins, and the applicant, Ben Pickering, pleaded guilty to various counts on an indictment. On 19 July they were sentenced by Ms Recorder Turner as follows: Squires, aged 20 at the date of sentence, (count 2) assault occasioning actual bodily harm contrary to section 47 of the Offences Against the Person Act 1861, a term of 9 months' youth detention; (count 3), assault by beating contrary to section 39 of the Criminal Justice Act 1988, a consecutive term of 1 month. Pickering, aged 18, (count 2) section 47 assault, a term of 9 months' youth detention. Higgins, aged 19, (count 1) inflicting grievous bodily harm contrary to section 20 of the Offences Against the Person Act 1861, 2 years and 3 months' youth detention, (count 2), section 47 assault, a consecutive term of 9 months. The overall terms were therefore as follows: Squires 10 months; Pickering 9 months and Higgins 3 years' youth detention.
2. Squires and Higgins appeal against that sentence with the leave of the single judge and Pickering seeks leave to appeal against his sentence, his application having been referred to the Full Court.
3. The charges arose out of an incident that occurred on 2 February 2019, shortly after 10.00 pm. Violence erupted at Leeds railway station involving Squires, Pickering and Higgins. The three of them had entered Leeds railway station together and began what started as a relatively good natured exchange on the concourse with two other young men, James Pearson and Lewis Longstaff. There was an initial exchange between Higgins and Lewis Longstaff in which the latter kicked out at Higgins in an act which the Recorder described

as "horseplay". Squires, Higgins and Pickering then approached and spoke to Lewis Longstaff and the CCTV recording shows that the group laughed and joked at this point. Lewis Longstaff then kicked at Pickering as he walked away and a mêlée then ensued. Squires, Higgins and Pickering moved towards James Pearson and Lewis Longstaff and Higgins threw a punch. James Pearson pushed Higgins and Pickering away. Pickering then threw an uppercut to James Pearson, and Squires punched Lewis Longstaff to the back of the head. Following this Pickering kicked James Pearson and Squires threw a punch at him which did not connect. At this point James Pearson was alone and being set upon. Eventually he and Lewis Longstaff backed away from three others, following which Higgins ran up and hit Lewis Longstaff with a punch which knocked him unconscious. Members of the public were in the vicinity and witnessed what had occurred.

4. Police officers arrived on the scene and Squires, Pickering and Higgins were later arrested.
5. The victim of the section 20 assault, Lewis Longstaff, was taken to Leeds General Infirmary. He was unconscious on arrival. He was incubated and underwent ventilation. An initial CT brain scan showed a number of acute haematomas and he was transferred to a Neuro Intensive Care facility where an intracranial pressure bolt and wire were inserted. He was sedated for two days in an induced coma. A further CT scan showed a chronic subdural hematoma with mass effect.
6. Subsequently his health showed some improvement but he still required significant input from health care professionals including physiotherapy and assistance to stand. He was

undergoing speech and language therapy and was unable to swallow safely or adequately and had cognitive problems. A neurosurgical Registrar was of the opinion that he would require extensive further rehabilitation.

7. Squires, Higgins and Pickering were interviewed by the police. Higgins gave a largely "no comment" interview. Squires and Pickering said they had been out drinking. Pickering said he had been acting in self-defence. Squires accepted that the victim had not been a threat to him and he was not in fear for himself. When he was told how seriously Lewis Longstaff had been injured he expressed remorse.
8. There was a basis of plea entered on behalf of Squires to the section 47 offence which, although acceptable to the prosecution, was internally inconsistent and in the light of Mr Byrne's concession we need say no more about it.
9. The court had two victim personal statements, both dated 7 June (4 months after the crimes were committed). Alison Pyman (Lewis Longstaff's mother) described being summoned to her son's hospital bed, seeing him in an induced coma and being told that if he survived he could have sustained permanent brain injury. She gives an account of the weeks spent in hospital, the setbacks, the pneumonia and the further bleeds to the brain which needed to be operated on and of an uncertain future now that her son was at home and the limiting effects on his enjoyment of life as a result of the assault.
10. Lewis Longstaff remembered nothing of the assault but recalls the slow and frustrating process of rehabilitation. He described the effect on his ambitions as a cricketer and on

his personal life. It is in the light of that evidence that the photographs of him looking cheerful, put before the Recorder, must be read.

11. Each of Squires, Pickering and Higgins were young men of previous good character and there were references which spoke of their good qualities. There were oral pre-sentence reports in relation to Squires and Pickering, of which we have seen transcripts.
12. The report on Squires noted his sense of shame and that he had clearly given thought to his behaviour on the date of the offence. He had attended college and had completed a level 2 NVQ in accountancy and was working with a civil engineering company which remained supportive. He was physically well but frightened at the prospect of custody.
13. The report on Pickering recorded that he had indicated his remorse and recognised that he should have reacted differently as events unfolded. He was involved in property renovation with his brother. He had suffered from mental health problems since his formative teenage years. He was physically well and could undertake an unpaid work requirement.
14. In passing sentence the Recorder remarked that on 2 February 2019, at the railway station in Leeds, the lives of five young men (the three offenders and the two victims) and their families had changed forever. Squires, Pickering and Higgins were before the court for their participation in acts of violence in the course of an ugly incident. They had all been drinking and had let themselves and their families down by their involvement in the incident.

15. The violence had had catastrophic consequences for Lewis Longstaff who was still unable to return to work. There had been some relatively minor injuries to James Pearson. The offending would have been extremely alarming for those members of the public who had witnessed the crimes.
16. The Recorder noted that Lewis Longstaff could have died after what happened to him that night and his problems continued. James Pearson's injuries could not be overlooked although they were less serious, including a black eye, bruising, abrasions to his face and bumps to the back of his head. There was no victim personal statement from him and the Recorder assumed he had made a complete and satisfactory recovery. Prior to the offending none of the offenders had had any previous convictions. Each had had the good sense to plead guilty to the respective counts they faced.
17. The Recorder bore in mind the ages of the offender and that the offending had been short lived with consequences far beyond those they could have imagined. She bore in mind the principle of totality and proportionately and strived to achieve parity between offences. She allowed a 25% discount as a consequence of the pleas which had been tendered at the plea and trial preparation hearing by each defendant. In relation to the section 20 offence the Recorder remarked that Higgins had been alone when he had thrown the punch that floored Lewis Longstaff. However, she indicated each of the offenders had at various stages played a leading role in the overall violence.
18. The section 20 offending fell into category 1, with a starting point of 3 years' custody and a range of two-and-a-half to 4 years following a trial. The starting point after a trial could

be contained at 3 years' custody, the resulting sentence therefore was a term of 2 years and 3 months' detention in a young offender institution.

19. Count 2, the section 47 offence, had been committed jointly by the three defendants and the Recorder saw no reason to distinguish between them. The starting point, after a trial, would have been a term of 12 months' imprisonment. The sentences were therefore sentences of 9 months' youth detention; in the case of Higgins that would be consecutive to the sentence on count 1.
20. In relation to count 3 the sentence for Squires was a consecutive term of 1 month's detention consecutive.
21. For Leon Squires Mr Byrne makes what are essentially three points. First, the Recorder erred in appearing to treat the section 47 offence as more serious because of the consequences of the section 20 offence with which Squires was not charged. Secondly, the Recorder erred in placing the assault occasioning actual bodily harm into category 1 of the Sentencing Guidelines rather than category 2, and third, the Recorder erred in failing to distinguish the appellant from the other offenders on the basis of his agreed bases of plea. As we have already noted, that point was not developed.
22. For Pickering, Ms Dudley submitted first that the Recorder was wrong to conclude each of the offenders played a leading role in the relevant offences and sentenced them all on the basis of the serious injuries sustained by Lewis Longstaff. In doing so she failed to recognise the role played by Pickering. It was acknowledged that Pickering had in fact

kicked the victim, Pearson, in relation to the section 47 count and that this placed the offending in category 2. Secondly, she submitted that by failing to suspend the custodial sentence the Recorder had failed sufficiently to acknowledge the mitigation that was presented on behalf of her client.

23. For Higgins, Ms Riekstina submitted first, that the sentence of 3 years on count 1 was manifestly excessive. The offending in relation to the section 20 offence did not form part of a group activity and accordingly the offending should have placed within category 2 of the sentencing guideline for the offence. Secondly, the sentence in relation to count 2, the charge of actual bodily harm, should have been ordered to be served concurrently with the sentence imposed on count 1, as the offences had arisen within a very short time of each other in the same location. In any event the Recorder should have had regard to the principle of totality, and should have paid more regard to the appellant's good character and age at the time of the offence.

24. We have considered all these submissions. The offences occurred late at night on the public concourse of Leeds station, when exuberance (no doubt fuelled by drink) developed into hostility and the sudden eruption of violence in which the two young victims were assaulted, and in the case of Lewis Longstaff suffered serious and long-lasting harm. Although all three were involved in the violence it was only in respect of count 2 (the section 47 offence) that they were jointly charged. So far as the section 20 charge is concerned, this was, in our view, a category 2 offence. Higgins was the only one charged with this offence and the fact that he was with others who were not participating when he committed the offence did not make it one of higher culpability - it was however one of the

greatest possible harm. Category 2 has a range of 1 to 3 years and the predictable head injuries, and in this case the catastrophic consequences to Lewis Longstaff justified increasing the starting point towards the top of the range of 3 years. In addition, there was the section 47 assault against James Pearson in which Higgins participated and which increased the seriousness of his offending. Against this there was his youth and good character to be weighed. In our view, the sentence on count 1 of 2 years and 3 months, with 25% credit for the plea, was a stern sentence but it was not manifestly excessive. We are however persuaded that the sentence on count 2 (the section 47 offence) should have been ordered to be served concurrently.

25. As to the section 47 offence with which each three defendants were charged, the most significant aggravating features were that it was a group attack, fuelled by alcohol, against a single victim, in a public place and witnessed by members of the public. We are quite satisfied that the Recorder was entitled not to suspend the sentences in relation to this offending. However, in our view, the appropriate sentence to reflect these features, but also the mitigation, should have been a term of 8 months' custody and with 25% credit the sentence should have been a term of 6 months.
26. Finally, the sentence in count 3, the offence by Squires of an assault by beating of Lewis Longstaff, in our judgment, should have been a concurrent sentence.
27. We give effect to these views as follows: on the appeal of Squires we quash the sentences imposed and replace with terms of youth detention of 6 months on count 2 and 1 month concurrent on count 3. The total sentence of 6 months' detention will replace the sentence

of 10 months imposed.

28. On the application of Pickering, we grant leave, quash the sentence of 9 months imposed and replace it with a sentence of 6 months. On the appeal of Higgins, we quash the sentence on count 2 and replace it with a 6-month sentence to be served concurrently with the sentence on count 1 which will remain undisturbed. The total sentence in his case will be a term of 2 years and 3 months in place of the sentence of 3 years' detention. To this extent, the appeals are allowed.