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IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2020] EWCA Crim 466



No. 201902932 A2

Royal Courts of Justice

Friday, 13 March 2020

Before:

LORD JUSTICE HADDON-CAVE

MRS JUSTICE CARR DBE

MR JUSTICE PEPPERALL

REGINA

V

GARY KEVIN SMITH

Computer-aided Transcript prepared from the Stenographic Notes of
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Official Court Reporters and Audio Transcribers

5 New Street Square, London, EC4A 3BF

Tel: 020 7831 5627 Fax: 020 7831 7737

CACD.ACO@opus2.digital

**REPORTING RESTRICTIONS APPLY:
THE SEXUAL OFFENCES (AMENDMENT) ACT 1992**

J U D G M E N T

MRS JUSTICE CARR:

- 1 Following his earlier guilty pleas, the appellant was sentenced on 30 July 2019 in Nottingham Crown Court to a total sentence of 10 years' imprisonment on three offences of sexual activity with a child family member and two offences of inciting a child family member to engage in sexual activity.
- 2 The provisions of the Sexual Offences (Amendment) Act 1992 apply to this offence. Where a sexual offence has been committed against a person, no matter relating to that person shall during that person's lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with s.3 of the Act.
- 3 This is the appellant's appeal against sentence with limited leave: the matter is before us for the sole purpose of clarifying the sentence methodology. At the conclusion of his sentencing remarks, the Judge stated that looking at the totality of the case, had the appellant been convicted after a trial, the total sentence would have been 15 years' imprisonment made up of 10 years on the lead offence on Count 5, five years' imprisonment concurrent with each other, but consecutive to the ten years on Counts 1, 2 and 4 and three years' imprisonment concurrent on Count 3. Giving credit for the plea, the sentence was reduced to ten years' imprisonment. The Judge therefore failed to make clear the discount for plea on each of the sentences on each count.
- 4 The necessary corrections which we make are as follows. Taking each sentence as imposed and applying a full one-third credit for guilty plea, on Counts 1, 2 and 4 the previous sentences will be quashed and reduced to 40 months on each. On Count 3 the previous sentence will be quashed and reduced to 24 months. On Count 5 the previous sentence will be quashed and reduced to one of 80 months. The sentence structure remains the same. Thus, the sentences on Counts 1 to 4 are to run concurrently with each other, but consecutively to the sentence on Count 5. The overall sentence of 10 years' imprisonment stands.

CERTIFICATE

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge.