IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2021] EWCA Crim 1671

CASE NO 202001906/A4

Royal Courts of Justice
Strand
London
WC2A 2LL

Wednesday 27 October 2021

Before:

LORD JUSTICE COULSON
MR JUSTICE JEREMY BAKER

REGINA
V
SUNNY TAIWO

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NON-COUNSEL APPLICATION

J U D G M E N T

LORD JUSTICE COULSON:

1 The applicant is now 41. On 4 February 2014 he was convicted at Inner London Crown Court, His Honour Judge Chappel and a jury, of a range of firearms offences. On 12 June 2014 he was sentenced by His Honour Judge Chappel ("the judge") to an extended sentence of 23 years pursuant to section 226A of the Criminal Justice Act 2003. That comprised a custodial term of 18 years' imprisonment and an extension, namely an extended period of licence, of five years. He seeks an extension of time of 2,204 days in which to apply for leave to appeal against sentence and to renew that application on its merits. Both of those applications were refused by the single judge.

2 The applicant's offending came to light in the winter of 2012/2013. His modus operandi was to store a different gun and ammunition with each of the various women with whom he was having a relationship. It is not intended to trivialise the offending if we say that, during this period, the applicant was a one-man gun crime wave, totally oblivious to those around him or the law relating to prohibited guns.

3 We summarise his offending below, although it is necessary to set that out in some detail so as to convey the reasons why the judge concluded that such a lengthy term of imprisonment was justified.

4 The applicant was in a relationship with Shereen Lawrence. When her home was searched in her absence in November 2012, officers found, in a cupboard in her

bedroom, a sawn-off shotgun and 82 shotgun cartridges. The shotgun was double-barrelled and the bottom barrel was in working order. It was a prohibited weapon. That gave rise to count 1, possession of a prohibited firearm, and count 2, possession of a firearm with intent to endanger life. The applicant was in contact with Miss Lawrence on her mobile after the police had asked her to go to the police station and before her arrest.

5 On 2 January 2012, police officers searched the home of a second woman, Merisha Lesforis, when she was there. On top of a wardrobe in her bedroom, officers found a box containing a Walther self-loading pistol. This had been a blank firing gun that had been converted and was able to fire 9mm bullets. Ms Lesforis said to the police: "That fucker has set me up. They're not mine, they must be his". Following her arrest, the applicant made five attempts to call her on her mobile phone. That gave rise to count 3, possession of a prohibited firearm. No ammunition was found.

6 On 7 January 2013, officers searched the home of a third woman, Leanne Anderson. There the police found a Baikal self-loading gas and blank firing pistol which had been modified to fire 9mm bullets. Seven live rounds and a silencer were also found. Examination of Ms Anderson's mobile phone showed that she too was in a relationship with the applicant. The messages also showed that she had threatened to kill her ex-partner and had asked the applicant for a gun. This gave rise to count 4, possession of a prohibited firearm; counts 5 and 6, possession of a firearm without a firearms certificate and possession of ammunition without a

firearms certificate; and count 7, possessing a firearm with intent to endanger life.

7 On 12 April 2013 officers searched the home of a fourth woman, Monique Dalling. She was in bed with the applicant at the time of their entry. The applicant told her not to say anything, but she did not know what he was talking about. The flat was searched and under the bed the officers found a converted 8mm Rohm self-loading blank firing pistol which was capable of firing live ammunition. That magazine had three blank cartridges which had been modified to contain lead. That gave rise to count 8, possession of a prohibited firearm; count 9, possessing ammunition without a firearms certificate; and count 10, possessing a firearm with intent to endanger life.

8 The applicant stood trial with Ms Lesforis and Ms Lawrence. Ms Lesforis was acquitted. Ms Lawrence was convicted of one count of possession of a prohibited firearm and was given a five-year term of imprisonment, the statutory minimum. Ms Anderson had previously pleaded guilty to the same offence and she too had been sentenced to the statutory minimum term of five years for possession of a prohibited weapon.

9 The applicant denied that he had had any involvement with the guns, which of course meant that he was blaming each of his co-defendants, and the other two women where the guns had been found, and suggesting that they were responsible for the illegal weapons.

10 Following his conviction, he was the subject of a pre-sentence report. In his interview with probation for the purposes of that report the applicant continued to deny any knowledge of or involvement with the guns. There was and has been no expression of contrition or remorse at any stage during this case.

11 When the judge turned to sentence the applicant, he concluded that he was dangerous within the meaning of section 226A of the Criminal Justice Act 2003. He rightly identified the three most serious offences as counts 2, 7 and 10, namely the counts of possessing a firearm with intent to endanger life. He passed a custodial term of six years consecutive on each of those counts, together with one extended sentence of five years. That made up the 23-year term imposed to which we have previously referred. The five-year term imposed in relation to counts 1, 3, 4 and 8 (namely the possession counts) and the one year terms imposed for counts 5, 6 and 9 (namely the absence of a certificate counts) were all made concurrent, as was the imposition of a one month suspended sentence which had been passed on the applicant and was still outstanding at the time of the sentencing hearing.

12 The first question for this court on the renewed application is whether or not the applicant is entitled to an extension of time. The single judge thought not, pointing out that the applicant had sought leave to appeal against conviction, which had been refused on 11 July 2014 and was not renewed. There was nothing to explain or justify the delay that has occurred in respect of any application for permission to appeal against sentence from that time onwards.

13 On that point we are bound to agree with the single judge. The applicant knew that any applications for permission to appeal had to be dealt with promptly because he was aware of his own application for permission to appeal against conviction and knew, at least by 2015, that it had been refused. There is no explanation anywhere in these papers which seeks to explain how or why the applicant allowed the best part of another six years to go by before making the application which we are considering today. Although there are vague references to Covid, which of course did not begin until 2020, and the applicant's changes of prison, none of that begins to explain the enormous delay that has occurred in this case.

14 On that basis there is no proper ground on which we could extend time and the extension of time is therefore refused. On one view that is the end of this renewed application, but we go on to deal with the merits in case we are wrong to refuse the extension.

15 In order to discharge our function of considering this renewed application on its merits, we have read, amongst other things, the applicant's original application dated 20 July 2020, his supplementary grounds dated 30 July 2020 and his short submissions dated 30 October 2020. We shall refer to those as "the applicant's written materials".

16 The first complaint is that the judge was wrong to find the applicant dangerous. We have considered the material available to the judge. In our view it is not

arguable that the judge erred in any respect in finding the applicant dangerous. The applicant had been convicted of four separate sets of offences involving four separate women and four separate guns. Two of those women had lost their liberty as a direct result of his criminality and all of them had suffered significantly in various ways. In addition to the instant offences, the applicant had a bad record of previous relevant convictions. He had previous convictions for robbery and for possession of a prohibited firearm, and he also had a more recent conviction for a section 20 wounding, in which he had put a glass into a woman's face which had needed 72 stitches. He was the subject of a suspended sentence at the time of the trial and sentence hearing which had been imposed for his part in an affray.

17 In those circumstances the judge, who presided over the trial and was best placed to form a view of the applicant and his conduct and demeanour, was quite entitled to conclude that the applicant was dangerous.

18 There is a linked complaint that the extended sentence was incompatible with Article 7 of the Human Rights Act. Although that argument is not developed in the applicant's written materials, it is in our view misconceived. That is because the applicant was sentenced in accordance with section 226A of the 2003 Act, the sentencing practice current as at 2014, and by reference to various decisions of this court which were identified by the judge during the course of his sentencing remarks. As the single judge noted, none of those were or could be incompatible with the applicant's Article 7 rights.

19 The applicant next complains that the sentence was manifestly excessive. We again disagree. We have explained how the judge arrived at the sentence. It was carefully calibrated to reflect the entirety of the applicant's offending. Moreover, it is important to note that the judge did not simply adopt an arithmetical exercise. He expressly concluded that a reduction had to be made in order to reflect the principle of totality and he explained and calculated the amount of the reduction he was making to honour that principle.

20 Of course, we accept that the overall term imposed on the applicant was a stern one, but the applicant's offending, set against a bad record for violence, was deliberate, sustained and of the utmost gravity. Furthermore, deterrent sentences are always necessary in cases of this type. This was an individual who already had one conviction for possession of an illegal firearm and was being sentenced for possession of four more and being sentenced for possession of those firearms with intent to kill or endanger life. In all those circumstances, we do not consider that the term was manifestly excessive.

21 The applicant suggests that there is a disparity between the sentence imposed on him and the sentence imposed on Ms Lawrence. Of course there is a difference: Ms Lawrence was only tried on one count of possession of a prohibited firearm. As we have said, the five-year term imposed on her was the statutory minimum for that offence. The applicant on the other hand was facing nine further charges, including three much more significant counts, namely possession of a firearm with intent to endanger life. It was inevitable that Ms Lawrence was going to receive a

term of imprisonment that was a fraction of the term imposed on the applicant. That is entirely consistent with their different culpability and the facts of their separate offending.

22 Having been through the applicant's written materials, those observations address all of the principal points that he makes. Other matters are, on analysis, either repetitive of those points or do not disclose any arguable ground of appeal. In particular, we note that the authorities to which the applicant has referred are not only fact-specific cases of possession of firearms, but none of them involve criminality on the same scale as that of this applicant.

23 For those reasons, this renewed application for permission to appeal against sentence is refused.