



Neutral Citation Number: [2022] EWCA Crim 1358

Case No: 202200553 A2 and 202200581 A2 and 20220556 A2

IN THE COURT OF APPEAL (CRIMINAL DIVISION)
ON APPEAL FROM LEICESTER CROWN COURT
Before His Honour Judge Spencer KC and a Jury
T20217314 and T20207248

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 19/10/2022

Before:

PRESIDENT OF THE KING'S BENCH DIVISION
MR JUSTICE JEREMY BAKER
and
MR JUSTICE SAINI

Between:

REFERENCE BY THE ATTORNEY GENERAL UNDER S.36 OF THE CRIMINAL
JUSTICE ACT 1988

202200553 A2 and 20220556 A2

HIS MAJESTY'S ATTORNEY GENERAL

Appellant

- and -

CHAY BOWSKILL

First
Respondent

- and -

ROCCO SANSOME

Second
Respondent

APPLICATION FOR LEAVE TO APPEAL
AGAINST SENTENCE

202200581 A2

CHAY BOWSKILL

Applicant

- and -

REX

Respondent

Ms S Przybylska (instructed by **His Majesty's Solicitor General**) for **His Majesty's Attorney General**

Mr R Howat (instructed by **Young Swistak**) for **Chay Bowskill**
Mr T Schofield (instructed by **TML Solicitors**) for **Rocco Sansome**

Hearing dates: 23 March 2022

Approved Judgment

This judgment was handed down remotely at 10.00am on 19 October 2022 by circulation to the parties or their representatives by e-mail and by release to the National Archives

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Dame Victoria Sharp, P:

Introduction

1. On 25 January 2022 at the Crown Court sitting at Leicester, following a trial before the Honorary Recorder of Leicester (the judge), Chay Bowskill was convicted of controlling and coercive behaviour contrary to section 76 (1) and (11) of the Serious Crime Act 2015 (count 1), kidnap contrary to common law (count 2) and perverting the course of justice (count 4). Bowskill was acquitted of causing grievous bodily harm with intent (count 3) and of an alternative count of inflicting grievous bodily harm contrary to sections 18 and 20, respectively, of the Offences Against the Person Act 1861. His co-defendant, Rocco Sansome was convicted on the same day of kidnap (count 2). At the date of their conviction both offenders were aged 20.
2. The victim of these offences was Angel Lynn (Ms Lynn), who at the time of the offending was Bowskill's girlfriend. The indictment period for the offence of controlling and coercive behaviour was 1 January 2020 to 18 September 2020. The kidnapping occurred on 17 September 2020 when Bowskill was 19, Sansome was 18 and Angel Lynn was 19. At the PTPH on 30 October 2020, Sansome pleaded guilty to driving a vehicle under the influence of a controlled drug, and possession of a controlled drug of Class B (cannabis).
3. On 26 January 2022, the judge sentenced Bowskill to a total of seven years and six months' detention in a young offender institution. Sansome was sentenced to a total of 21 months' detention in a young offender institution. The sentences on the individual counts were as follows. Bowskill was sentenced to three years and three months' detention for kidnap; two years' detention for controlling and coercive behaviour; and

two years and 3 months' detention for perverting the course of justice. All sentences were to run consecutively. A count of damaging property was ordered to lie on the file on the usual terms. Sansome was sentenced to 21 months' detention for kidnap; seven days' detention for possession of a class B drug, cannabis, concurrent (varied under the slip rule on 1 February 2022 to 21 days' detention concurrent); 7 days concurrent for driving whilst under the influence of a controlled drug, (varied under the slip rule on 1 February 2022 to 21 days concurrent); and disqualification from driving for 12 months. The 242 days Sansome had spent on tagged curfew was ordered to be credited towards his sentence.

4. On 23 March 2022, we heard two applications arising out of the judge's sentences. First, the Solicitor General's application under section 36 of the Criminal Justice Act 1988 to refer the sentences imposed on both offenders for kidnap to this Court on the ground that the sentences were unduly lenient. Second, Bowskill's application for leave to appeal against sentence on the ground that the total sentence imposed of seven years and six months' detention was manifestly excessive. That application was referred to the Full Court by the Registrar.
5. For summary reasons given at the conclusion of the hearing on 23 March 2022, we granted the Solicitor General leave to apply for a review of both sentences. We allowed his appeal as regards Bowskill's sentence, which we held to have been unduly lenient. We, however, dismissed the Solicitor General's appeal against Sansome's sentence. We also refused Bowskill's application for leave to appeal against sentence. In addition, we made a number of further uncontroversial orders, correcting other aspects of the sentences imposed by the judge. These are our full reasons.

The Facts

6. Ms Lynn was in a relationship with Bowskill from summer 2019. They lived together at his mother's house. The relationship was emotionally and physically abusive. Bowskill monitored Ms Lynn's telephone. He prevented her from seeing her friends. He shouted and screamed at her and belittled her. On one occasion the victim became so upset that she had a panic attack. He discouraged her from paying attention to her appearance as he was jealous when others gave her attention. He punched and kicked her. On 9 July 2020, a neighbour was sufficiently concerned to call the police. He said that he had heard Bowskill verbally abusing the victim, then the sound of punching and slapping, followed by Bowskill's mother saying that they needed to call an ambulance as Ms Lynn was having a seizure. Bowskill took the money she earned and the benefits they were paid and left her with nothing. He locked her in the house. He threatened to hurt her if she told anyone what was happening. When her friend found out what was happening, Bowskill threatened to hit the friend and to smash her windows. Ms Lynn tried to leave him, and she went to her parents' house, but he brought her back. Text messages showed that Bowskill sought to end the relationship on several occasions in the period running up to September 2020. He rang her continually when she was away from him, abusing her, and sent her messages in similar terms. The victim's friends thought that she was upset and unhappy, but not depressed or suicidal.

7. The kidnap took place on 17 September 2020 on Loughborough Road, close to the A6 road near Loughborough. Ms Lynn was a cleaner and she worked early in the morning. When she left work at about 10am, she went to collect Bowskill, Sansome and a third man, Mason Cooper. She was driving Bowskill's brother's transit van. The van had three seats in the front and an open back containing two further seats, which could be

accessed either by climbing over the front seats, or by opening the sliding door at the side of the van. At about 10.30am, a witness saw the van standing on Loughborough Road with both doors open, in the area of a plant nursery. The van was shaking with movement. She saw Bowskill come from the passenger side, around the front of the van and into the driver's side. She did not see a woman in the van. As the witness drove on, she saw the van appear in her rear-view mirror, continuing to drive along Loughborough Road.

8. Another witness saw the progress of the van and it was caught on CCTV at 10.36am with sufficient clarity that the occupants could be seen. Bowskill was driving. The van swerved and then stopped, mounting the kerb at a roundabout by a garage. It had travelled about quarter of a mile from the plant nursery. A witness saw Ms Lynn get out of the van and cross the road. Bowskill pursued her. He lifted her up so that her feet were off the ground. He carried her across the road "like a doll" (according to the witness) and put her down by the door. She went into the middle seat of the van. Bowskill got into the passenger side. This interaction was also recorded on CCTV, which we have viewed.

9. Sansome was in the driver's seat and he drove off down Loughborough Road via a garage forecourt, before continuing. A CCTV image timed at 10.37am shows that Bowskill was in the front passenger seat. Ms Lynn was sitting between them, using her mobile telephone. Bowskill had his left hand on the dashboard. The prosecution invited the jury to conclude that he was blocking the victim's access to the door. The van drove back the way it had come to a public house in Rothley. At 10.39am CCTV shows the van arriving in the pub car park, where the third man, Mason Cooper, got out of the van

using the passenger side sliding door. At 10.41am CCTV shows the van turn around, drive back to a roundabout near the garage where it had previously stopped, and on to the dual-carriageway part of the A6. It travelled in the direction of Loughborough, and Ms Lynn's parents' house in Shelthorpe.

10. At 10.47am, about two miles further up the A6, Ms Lynn exited the fast-moving van through the side door. At this point the A6 is a dual carriageway with a 70mph speed limit. Ms Lynn came to rest in the road. The van stopped about ten car lengths away. Bowskill jumped out and shouted, "Oh no, oh no, why did she do that?" Bystanders called the police and ambulance. Bowskill was shouting, "You've got to save her life." He was variously described as tearful, agitated and frantic. He said that she had jumped out of the van and that she must have tried to commit suicide, that they were arguing and that he was a bad person. He said that he had just told her he hated her and did not want to be with her anymore. Sansome was upset and crying. He told a police officer that he had been driving at approximately 70mph. Both were arrested at the scene. Sansome was in possession of three wraps of cannabis worth about £60 in total.

11. Ms Lynn was taken to hospital by air ambulance. A CT scan showed that she had suffered a traumatic brain injury with bleeding causing pressure on the brain and a complex skull fracture. She was taken immediately to have surgery where part of her skull was removed to allow space for her brain to swell and the blood causing pressure on her brain was drained. She was given a blood transfusion and admitted to intensive care. She was kept under sedation and artificially ventilated. After a time, doctors performed a tracheostomy to allow for long-term artificial ventilation without sedation.

12. Mr Lynn remained in a care facility. Her level of consciousness is still very low. She is severely brain damaged. She does not make purposeful movements. She shows little sign of being aware of her surroundings or interacting with them. She receives her nutrition through a tube straight into her stomach as she cannot swallow. She is doubly incontinent. She cannot communicate. She is very likely to be severely disabled, mentally and physically, for the rest of her life and will be dependent on others for all aspects of care.

13. Bowskill was interviewed under caution. He said that his relationship with Ms Lynn was turbulent, but she gave as good as she got. He said that he was verbally abusive to her but never violent. On the day of the kidnap, she picked him up in the van and they argued. She jumped into the back of the van, he heard the door open, and the next thing he knew she was rolling down the road. He denied kidnapping the victim.

14. Sansome was interviewed under caution. He was an old friend of Bowskill's. Ms Lynn picked them up after work. He said Ms Lynn and Bowskill were arguing and that at some point Bowskill told Sansome to drive so he and Ms Lynn swapped over and he drove off. He did not see Bowskill picking her up in the street. Later, on the A6, Ms Lynn got into the back, opened the door and jumped out. He denied kidnap but admitted being in possession of cannabis and driving after smoking cannabis. A sample of Sansome's blood was analysed. The results were consistent with the use of cannabis, with findings exceeding the specified limit.

15. Whilst remanded in custody, Bowskill made a series of telephone calls to his mother, a prosecution witness, who described his abusive behaviour towards Ms Lynn. She had

told him ten days before the first call that she had already tried to retract her statement. He instructed her to withdraw her statement and say that she was drunk when she made it. He said that it would be her fault if he was sent to prison and that he would never speak to her again if she gave evidence. He screamed down the telephone line, “You better shut your mouth you fat fucking cunt.” The first call was on 4 October 2020. The last was on 9 February 2021. These events gave rise to count 4.

Trial

16. At trial, Bowskill and Sansome denied kidnap. Bowskill said that when the victim got out of the van, he decided to pick her up and bring her back rather than driving off without her. He said that she did not protest and he did not think that he was carrying her against her will. Sansome said that he was in the back of the van when the victim got out, and he did not see Bowskill pick her up. He got into the front of the van and into the driver’s seat. He did not see the victim being put back into the van.
17. In relation to causing grievous bodily harm with intent, and the alternative count, the defence case was that Bowskill was in the front passenger seat and Sansome was driving. Ms Lynn got into the back of the van. Bowskill heard the door open. He looked back and saw her tumbling down the road.
18. Count 2, causing grievous bodily harm with intent, was left to the jury on the basis that they must be sure that Bowskill pushed Ms Lynn out of the van as it travelled along the road at speed, intending to cause her really serious harm. The alternative offence contrary to section 20 was left to the jury on the basis that they must be sure that Bowskill pushed Ms Lynn out of the van and intended to cause some harm. As

explained by Ms Przybylska for the Solicitor General, the jury were not invited to return a verdict on the section 20 offence on the basis that Bowskill's conduct in kidnapping Ms Lynn and imprisoning her in a van moving at speed caused her to jump in fear from the moving van, that being a reaction foreseeable by a reasonable person. We were told that this potential route to verdict was specifically raised by counsel for Bowskill at the close of the evidence and the prosecution confirmed that the case was pursued on the basis of a push by Bowskill, and that they did not seek a conviction on any other basis.

Sentences for Kidnap

19. This offence carries a maximum sentence of life imprisonment. It is a specified violent offence listed in Schedule 18, part 1, of the Sentencing Act 2020. There are no specific sentencing guidelines for kidnap offences. The judge was however referred to a number of sentencing decisions of this court.
20. The first was *R v Spence & Thomas* (1983) 5 Cr App R (S) 413 (*Spence*), a case decided nearly 40 years ago now, in which it was said that planned abductions for money or to secure a hostage, would seldom merit less than eight years. Sentences would be even longer where violence or firearms were used or where the victim was detained over a long period of time. The Court continued that at the other end of the scale, "those offences which can perhaps scarcely be classed as kidnapping at all", which "very often arise as a sequel to family tiffs or lovers' disputes" would seldom require anything more than 18 months and sometimes a great deal less. We will return to *Spence* below.
21. The judge was also taken to *R v Dzokamshure* [2009] 1 Cr. App. R. (S) 112, a case in which the offender had previously been in a relationship with the victim, which she

ended after finding out that the offender was married. Some months after the relationship ended, the offender learned that the victim was in a new relationship. He went to her home and forced his way in. He punched her twice in the face, causing injury. He dragged her out of the house and forced her into a car, saying that he wanted to teach her a lesson. Another man, who was unknown to the victim, was seated in the back of the car. The offender drove the car to a motorway. He prevented the victim from answering a call on her mobile whilst en route. Eventually he stopped on a slip road and allowed her to get out. The period of detention was unclear. A sentence of 18 months' imprisonment following admissions in interview and a guilty plea was upheld on appeal. The Court held at [18] that the case did not come within the category of less serious kidnapping offences, referring to the language used in *Spence*.

22. It must be emphasised that sentencing policy has clearly moved on since the comments made in *Spence*, as has the understanding of domestic abuse and controlling and coercive behaviour: see for example, the sentencing guidance given by the Sentencing Council in the Overarching principles on domestic abuse. Suffice it to say that all kidnapping offences are serious even if such offending inevitably varies as to the degree of seriousness. As the sentencing guidelines now make plain, the fact that an offence, including necessarily that of kidnap, occurs in the domestic context, and in particular, in the context of an abusive personal relationship, will be an aggravating factor; indeed it is likely to be a seriously aggravating factor, rather than a factor to be deployed or relied on in mitigation. Contrary to the suggestion therefore implicit in the use of language such as family tiffs or lovers' disputes, it is not helpful or appropriate to classify cases with a domestic element as less serious or at the other end of the scale, or as "those offences which can perhaps scarcely be classed as kidnapping at all". In

our view therefore the language used in *Spence* to describe cases of this nature and the classification of them, should no longer be followed. Instead, regard should be had to the general guidance on sentencing cases of kidnap given in *Attorney General's Reference (Nos 92 and 93 of 2014)* [2015] 1 Cr App R (S) 44, and to the guidance given by the Sentencing Council, where relevant, including for example on domestic abuse.

23. In *Attorney General's Reference (Nos 92 and 93 of 2014)* the court said this in relation to kidnap offences:

- i) A close analysis of the facts and circumstances was required in every case.
- ii) Relevant factors in accessing the gravity of cases of this type included:
 - a. the length of the detention;
 - b. the circumstances of the detention, including the location and any method of restraint;
 - c. the extent of any violence used;
 - d. the involvement of weapons;
 - e. whether or not demands were made of others;
 - f. whether or not threats were made to others;
 - g. the effect on the victim and others;
 - h. the extent of the planning involved;
 - i. the number of offenders involved;
 - j. the use of torture or humiliation;
 - k. whether or not what was done arose from, or was in furtherance of, previous criminal behaviour;
 - l. and any particular vulnerability of the victim whether by reason of age or otherwise.

The judge's sentencing remarks

24. The judge explained his sentence for Bowskill for kidnap as follows:

“I turn to kidnap. Of course, I accept that the kidnap in this case was absent many of the sort of aggravating features which appear in other kidnap cases. I also accept that this kidnap was short in duration in terms of time, whether one takes the view it began at the roadside by Hilltop and either ended in the forecourt or on the A6. However one measures it, it is still a short period of time. I accept that it is short, in terms of the distance she was taken. Again, whatever yardstick one uses, even if one takes it right to where she ended up on the A6, it is not, in the realms of offences of kidnap, the greatest distance. I am not sentencing you, Chay Bowskill, and I was never going to be sentencing you [SIC], Rocco Sansome, for causing her injuries. Had I been, Chay Bowskill, the sentence I will ultimately impose on you would have been way, way above what you are actually going to get today. But in trying to assess the level of seriousness of this kidnap, the ultimate consequences, in my view, cannot be ignored. They do not aggravate it in a direct sense, but it means that this kidnap is very far removed from the sort of category of case once described as the “lover's tiff” type of kidnap. It is very far removed from that. In your case, Chay Bowskill, the kidnap must be seen against the background of many, many months of controlling and abusive behaviour. Again, count 1 does not aggravate the sentence on count 2: to do so would be double counting, in my view. But it must inform where on the scale this kidnap lies. Again, I have to test sentence on the basis that you are of full age and full maturity and what would I give someone in those circumstances for this kidnap, with your sort of record. I have absolutely no hesitation in arriving at a figure between five and six years, probably towards six. Again, because of your age, I come way, way down from that. Here, I do factor in the personal mitigation. Again [Counsel] has put that extremely well. The sentence I have come to is one of three years and three months’ detention in relation to the kidnap...”

25. As regards Sansome, the judge said:

“...You have heard my remarks about the kidnap. It is a serious offence: it is far from the top of the range. Your role is clearly at a vastly different level to his. But you did engage yourself in a kidnap and a serious one at that. Because of your role, because of your lack of any previous convictions, I am satisfied you would not even be here were it not for him. Those factors as well

very much inform the level of sentence. But ultimately, the serious nature of this kidnap cannot be ignored and you cannot pray in aid any guilty plea, because you took this to the jury and they found against you. I have anxiously considered the very sensible submissions made by Mr Schofield about a suspended sentence. As I say, they are coherent and, in many ways, powerful. But ultimately, this level of criminality cannot properly be reflected by anything other than immediate custody and I must send you away today. From the sentence I am about to announce, there will be a concurrent sentence of seven days' detention in respect of the driving over the legal drug limit. From the sentence I am about to announce, I order that you be given credit for 240 days to reflect the time spent on monitored curfew. Stand up. It is very much less than the sentence on Chay Bowskill, for all the reasons I have indicated, but it must be 21 months' detention in a Young Offender Institution...".

Submissions: Bowskill

26. For the Solicitor General, Ms Przybylska submitted that the sentences imposed on Bowskill were unduly lenient for two reasons. First, the judge was wrong not to treat the harm suffered by the victim as a factor increasing the seriousness of the kidnap. Second, the judge gave too great a reduction in relation to all three sentences on account of the offender's youth.

27. Mr Howat for Bowskill argues that the judge's approach to harm was correct and that he was entitled to discount the sentence on grounds of the offender's age. He goes further however and submits, in support of his application for leave to appeal, that the sentence for kidnap was manifestly excessive. Mr Howat submitted that the judge fell into error by setting a starting point of between 5 and 6 years for the offence if committed by a mature adult offender. It was argued that the judge exceeded the guidance set by the Court of Appeal authorities by an unacceptable margin so as to create a manifestly excessive sentence on that count. In this regard, it was argued that the judge placed too much emphasis on Ms Lynn's injuries, particularly in the light of

the jury's unanimous acquittals on the GBH with or without intent alternatives of Count 3.

Analysis

28. We consider the Solicitor General's submissions to be correct, and we accept them. The judge recognised the kidnap offence and its sequelae were plainly part of and the culmination of the pattern of the serious abuse of Ms Lynn at the hands of Bowskill. In our judgment however, he fell into error in discounting the harm caused to Ms Lynn as an aggravating feature of the kidnap and in giving too great a discount to the sentence to reflect the age of the offender. In consequence, he passed a sentence for kidnap on Bowskill that was unduly lenient.

29. The judge seemed to have concluded that he was precluded from taking the serious harm suffered by Ms Lynn into account in assessing the harm caused by the kidnap offence because of the jury's verdict on the section 18 and section 20 counts. Both the section 18 and section 20 counts were left to the jury on the basis that in order to convict, they had to be satisfied that Bowskill had pushed Ms Lynn out of the moving van. The jury's verdicts necessarily implied they were not sure that Bowskill pushed her. Nothing in the jury's verdicts however (or any other finding of fact made by the judge for that matter) precluded the judge from finding what was, by necessary implication from the evidence, the only other tenable explanation for her exit from the van, moving as it was at high speed, which was that she jumped from the van out of fear. In those circumstances, it was incumbent on the judge to address the issue of harm, and, by virtue of section 63 of the Sentencing Act 2020 to take that harm into account when assessing seriousness. It was at the very least, a reasonably foreseeable consequence of

bundling someone against their will into a van which moves off at speed, that they will jump out and suffer serious injury. The harm Ms Lynn sustained and which Bowskill caused by his offending was extremely serious. It was a seriously aggravating feature of the kidnap offence which, because the judge seemingly discounted it, found no or no adequate reflection in the sentence that the judge ultimately passed.

30. As for the age of Bowskill, in our judgment, the reduction made by the judge because of the offender's age was excessive. The Sentencing Council's guideline on sentencing children and young people indicates that a reduction of half to one third may be appropriate for offenders aged between 15 and 17. Bowskill was 19 at the time of the offending and 20 by the time of sentence. He was not a child. His youth provided some mitigation but could not justify a reduction from three years to two on count 1, from six years to three years and three months on count 2, and from five years to two years and three months on count 3 (albeit the latter incorporated a reduction on account of totality).

31. Although the kidnapping was short in duration, this young woman, with her life ahead of her, was plucked from the street in broad daylight, forcibly picked up from the street when she was walking determinedly away from the van, and bundled, as though she was a parcel belonging to Bowskill, into the van. All this had to be seen against the background of the history of coercive and controlling behaviour, the detail of which was laid bare in the judge's detailed recitation of the evidence in his summing-up. We had regard in particular, to the vulnerability of Ms Lynn, to the harm she was caused, to the humiliating and degrading circumstances of the restraint itself, to the fact that at least two people were involved in Ms Lynn's abduction, and to the fact that the

offending was part of a history of criminal behaviour towards her. We concluded that, an overall sentence of 12 years in a young offender institution having regard to totality, was merited, with a minimal discount for age, taking into account all of the offending, that is the kidnap, the controlling and coercive behaviour and the offence of perverting the course of justice. Had we been sentencing for the kidnap alone, a sentence of 8 years and upwards would have been justified.

32. We therefore quashed the sentence for kidnap passed on Bowskill of 3 years and 3 months' detention and substituted one of 12 years' detention in a young offender institution for the kidnap offence. The sentences for coercive and controlling behaviour and of perverting the course of justice remained the same but were made concurrent to the sentence for kidnap. The consequence is that Bowskill must serve two thirds of that sentence of 12 years' detention before he can be released.

33. It follows that Bowskill's own application for leave to appeal in relation to the sentence for kidnap falls away. For completeness, we record that we rejected as unarguable his contention that the judge's sentence on count 4 (perverting the course of justice) was manifestly excessive. The submission made was that the sentence of 2 years and 3 months for threatening a witness who was already trying to retract her statement, exceeded the "bracket" of sentencing by an unacceptable margin. The submission is misconceived. There is no specific sentencing bracket for such conduct. Nor is it clear why, as was submitted on his behalf, threatening a witness who was trying to retract her statement, is less serious than threatening a witness. Indeed, a person falling into the former category might be more vulnerable to intimidation than one who is resolute. Either way however, this was serious offending of its kind, involving as it did a

sustained and determined effort to deprive the prosecution of key evidence in support of the allegation of controlling and coercive behaviour.

34. Accordingly, we refused Bowskill's application for leave to appeal against sentence.

Sansome

35. On behalf of the Solicitor General, it was said that the judge wrongly assessed the harm caused by the kidnap, and hence the seriousness of the kidnap. Ms Przybylska argued that just as the sentence imposed on the lead offender, Bowskill, was unduly lenient, so too was the sentence imposed on Sansome. It was also argued that no detailed reasoning was given by the judge for the sentence of 21 months' detention. It was submitted that the sentence must have been based on his view that he was not entitled to reflect the harm caused to the victim by her exit from the van.

36. Mr Schofield, counsel for Sansome, submitted that his role was much less than that of Bowskill and the test of "undue" leniency was not met. It was argued that the fact that the sentence could have been longer did not make it unduly lenient: *Attorney General's Reference (No.4 of 1989)* 11 Cr App R (S) 517 at 521. Further, unlike Bowskill, his conduct since detention had been exemplary.

35. In our judgment, the judge provided sufficient reasons for his sentence on Sansome, who fell into a somewhat different category to Bowskill in relation to his offending and in view of the mitigation available to him. We considered that his role was very much

a subsidiary one in the kidnap itself and he was somewhat younger than Bowskill. Although he contested the charge at trial, he was remorseful, and the aggravating features of the domestic abuse of Ms Lynn were absent. Unlike Bowskill too he was of previous good character.

36. At the time of the hearing, Sansome was on the cusp of release. We accepted that the sentence passed on him could well have been longer. We decided however,, in all the circumstances, to leave his sentence for the kidnap offence unchanged.

Additional matters

37. There are three additional matters. First, the judge did not state in open court as he should have done, the surcharges. Instead, they were imposed by administrative action and that was unlawful. We imposed surcharges of £181 for Bowskill and £156 for Sansome.

38. Secondly, the judge should have announced in open court the variations he made under the slip rule in respect of Sansome's driving and possession of drug offences. We recorded therefore in open court that the sentences for the section 51 Road Traffic Act 1988 offence was 21 days concurrent with Count 1 (kidnapping) and the sentence for the possession of a controlled drug under Count 4 was also 21 days concurrent with Count 1 (kidnapping).

39. Thirdly, the judge's disqualification of Sansome from driving for 12 months was an unlawful sentence because disqualification from driving for a period not less than 12 months (for certain offences) in the absence of special reasons is obligatory: see section 34 Road Traffic Offenders Act 1988 (the RTOA). These include drug driving offences

under section 5(1)(a) Road Traffic Act 1988. Thus, the Court could not reduce Sansome's disqualification below the statutory minimum. Sections 35A and 35B of the RTOA required the judge to extend the period of driving disqualification to ensure that the person who is also sentenced to custody does not serve all or part of their disqualification whilst in custody: see *Archbold 2021*, §32-269. In *R v Needham and others* [2016] EWCA Crim 455 this Court provided guidance on these provisions including the need to impose an "extension" period to achieve an effective disqualification. Pursuant to section 35A RTOA the imposition of an extension period was mandatory but was not imposed by the judge. Unfortunately, his attention was not drawn to *Needham*. The judge was required to have regard to the diminished effect of disqualification as a distinct punishment and consider an increase to the discretionary period of disqualification to offset the period of time the offender would be detained in custody whilst subject to the disqualification. Accordingly, we quashed the 12-month disqualification from driving, and applying the *Needham* principles, we imposed a total period of disqualification of 22.5 months made up of 12 months (called the "discretionary" period in *Needham*) plus an "extension" of 10.5 months.