

**WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice.**

**This Transcript is Crown Copyright. It may not be reproduced in whole or in part other than in accordance with relevant licence or with the express consent of the Authority. All rights are reserved.**

Neutral Citation No. [2022] EWCA Crim 1670

IN THE COURT OF APPEAL  
CRIMINAL DIVISION



CASE NO 202203207/A4

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday 8 December 2022

Before:

LORD JUSTICE DINGEMANS  
MRS JUSTICE MCGOWAN DBE  
HIS HONOUR JUDGE PICTON  
(Sitting as a Judge of the CACD)

REX  
V  
IBRAHIM SARJO

---

Computer Aided Transcript of Epiq Europe Ltd,  
Lower Ground, 18-22 Furnival Street, London EC4A 1JS  
Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

---

MR J NUTTER appeared on behalf of the Appellant

---

**J U D G M E N T**

LORD JUSTICE DINGEMANS:

1. This is an appeal against sentence. The appellant is now a 19-year-old man whose date of birth is 4 October 2003. He was before these incidents of good character and in employment.
2. On 22 September 2022 in the Crown Court at Liverpool the appellant pleaded guilty to offences committed on 17 June 2022, when he was aged 18 years, and those were two offences of unlawful wounding, contrary to section 20 of the Offences Against the Person Act 1861 and one offence of having an offensive weapon (a knife) contrary to section 1(1) of the Prevention of Crime Act 1953. The appellant was entitled to 25 per cent credit given the stage at which the guilty pleas were entered.
3. On 14 October 2022, Her Honour Judge Bond sentenced the appellant to 18 months' detention in a young offender institution on counts 2 and 4 and nine months' detention in a young offender institution on count 5, all of the sentences being concurrent, therefore making an aggregate sentence of 18 months' detention.
4. The appellant sought leave to appeal and leave to appeal was granted and the hearing of the appeal has been expedited. The appeal raises the issue of whether the sentence of detention should have been suspended and the effect of the Sentencing Council's Definitive Guidelines for the Imposition of Community and Custodial Sentences.
5. On 17 June 2022 at 7.30 pm, so when it was still light, the appellant was walking through Liverpool City Centre with some female companions. As the appellant walked past Anthony Sweeney and Raymond Watkins, who had been visiting Liverpool and drinking, Mr Sweeney racially abused the appellant, saying: "Girls like white boys better than black" and called the appellant a "nigger". This was properly described by the prosecution before the judge as "ugly, shameful and highly provocative".

6. The appellant ignored the abuse and continued to walk on but was pursued by Mr Sweeney who then called the appellant a "faggot". The appellant continued to walk away, telling Mr Sweeney: "Go away, you're a grown man" and mentioning that there were others around. Mr Watkins initially appeared to try to call Mr Sweeney back from confronting the appellant, before Mr Watkins then also started following the appellant.
7. The appellant was then pursued by both Mr Watkins and Mr Sweeney and there was further racial abuse of the appellant. The appellant was chased into the road and Mr Sweeney kicked out at him and there was a physical confrontation which followed. During this the appellant produced a knife and stabbed both complainants before running off. Mr Watkins dropped to the floor and shouted, "I'll get you nigger." The appellant ran away from the scene, chased by Mr Sweeney who then racially abused the appellant further shouting, "If I catch you, you black bastard, I'm going to kill you." Mr Watkins got up from the floor and joined in the chase of the appellant. CCTV footage captured the incident and we have seen that CCTV.
8. Mr Sweeney sustained a stab wound in the chest and lost a lot of blood. He was treated with staples and was in hospital for seven days before being discharged. Mr Watkins sustained puncture wounds which were treated with staples. Mr Watkins was in hospital for 10 days. Neither Mr Sweeney nor Mr Watkins provided a further victim personal statement updating the court about their injuries.
9. The appellant was traced by police. After being arrested he gave a no comment interview. In the course of the preparation of the pre-sentence report the appellant reported that he was in possession of the knife because he had taken it from a young person earlier that day, the brother of a former girlfriend, intending to hand it to the police. The prosecution did not dispute this.

10. When sentencing, the judge set out the relevant guidelines, applied mitigation and discount for guilty plea before coming to the final sentence. It was common ground that the offences were high culpability cases because of the use of a knife and grave injury harm making these Category 2A offences. Each of the wounding offences justified a three-year starting point with a range of two to four years. After adjusting for aggravating and mitigating factors a discount for plea was then added. No criticism is made on the appeal about the length of the sentence imposed by the judge.

11. The judge considered whether to suspend the sentence, saying that she had given the matter "very, very careful consideration". The judge said:

"The custody threshold has been passed. I accept that you are considered low risk to the public. You have no previous conviction. There is no suggestion you would not comply with any order the court makes and it has to be said there is a real prospect of rehabilitation and strong personal mitigation. You have a supportive family and you are in employment, but, sadly, it is unavoidable that a sentence of imprisonment must be imposed. You had a knife with you that day and ultimately you used that knife on two people and a custodial sentence is the appropriate sentence."

12. The relevant sentencing guideline highlights factors indicating that it would not be appropriate to suspend a custodial sentence. These include: offender presents a risk/danger to the public, appropriate punishment can only be achieved by immediate custody and history of poor compliance with court orders. It also sets out factors indicating that it may be appropriate to suspend a custodial sentence including: realistic prospect of rehabilitation, strong personal mitigation and immediate custody will result in a significant harmful impact upon others.

13. In this case it is apparent that the judge, who had considered this case with obvious care, considered that appropriate punishment could only be achieved by immediate custody,

notwithstanding the agreed facts that there was a realistic prospect of rehabilitation and strong personal mitigation and the judge therefore felt compelled to impose a sentence of immediate detention.

14. In our judgment, in the exceptional circumstances of this case, the judge was wrong to find that appropriate punishment could only be met by immediate detention where: (1) the prosecution accepted that the appellant was carrying a knife having removed it from a younger person, although it was common ground that this did not amount to a reasonable excuse; (2) the appellant had been subjected to very serious racist abuse and had walked away from any confrontation and had done all that he could to avoid the incident; (3) the appellant had been chased into the street and kicked before he had used the knife in what it was common ground was excessive force for self-defence, meaning that he was guilty of the offence but in circumstances where it was also common ground that the appellant had not intended to cause really serious harm to Mr Watkins or Mr Sweeney; (4) the appellant was still young, being 18, was of previous good character, in employment, with a supportive family and with every prospect of rehabilitation.
15. Therefore, in the exceptional circumstances of this case, we consider that appropriate punishment could have been met by suspending the period of detention which the judge had imposed. It is apparent that the judge would have suspended the sentence if the judge had not considered that appropriate punishment could only be achieved by immediate custody. We will therefore allow the appeal to the extent of suspending the period of detention of 18 months for a period of 24 months. We will accept the recommendation made in the pre-sentence report of 30 days' rehabilitation activity requirement because this will assist in the rehabilitation of the appellant. There was also a recommendation in the pre-sentence report of unpaid work requirements. We take

account of the fact that the appellant has already served the equivalent of nearly four months' imprisonment and will not impose that additional factor in this case. To that extent this appeal succeeds.

**Epiq Europe Ltd** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

Lower Ground, 18-22 Furnival Street, London EC4A 1JS

Tel No: 020 7404 1400

Email: [rcj@epiqglobal.co.uk](mailto:rcj@epiqglobal.co.uk)