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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NOS 202201280/B3 & 202201463/B3

Neutral Citation Number: [2023] EWCA Crim 1329

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday, 19 October 2023

Before:

LADY JUSTICE ANDREWS DBE
MRS JUSTICE STACEY DBE
HER HONOUR JUDGE DHIR KC
(Sitting as a Judge of the CACD)

REX
V
JAMIE LEE PARSONS

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NON-COUNSEL APPLICATION

J U D G M E N T

1. MRS JUSTICE STACEY: This is a renewed application for an extension of time and for leave to appeal against both conviction and sentence following refusal by the single judge.
2. On 1 March 2022 in the Crown Court at Lewes before Mr Recorder Roques the applicant Mr Parsons pleaded guilty to the common law offence of public nuisance following a *Goodyear* indication (a reference to *R v Goodyear* [2005] EWCA Crim 888). A count of sexual assault was ordered to lie on the file. He received a sentence of eight months' immediate imprisonment and a restraining order was imposed.
3. Mr Parsons requires an extension of time of 27 days in which to seek leave to appeal against conviction and 42 days in respect of the appeal against sentence.

The facts and the proceedings

4. On 16 October 2021 Mr Parsons was arrested and charged with sexual assault, namely sexual touching of a named female complainant between 20 and 25 August 2021, contrary to section 3 of the Sexual Offences Act 2003. He was remanded in custody and committed to the Crown Court. At the Magistrates' Court he did not indicate a guilty plea or give any indication that he would plead guilty to an alternative lesser charge.
5. At the plea and trial preparation hearing Mr Parsons faced a two count indictment and he pleaded not guilty to both counts, count 1 being the section 3 offence and count 2 on the indictment was the offence of causing a nuisance to the public. The particulars on count 2 were that between 1 May 2021 and 14 October 2021 he had caused a nuisance to the public by approaching and following people and making lewd sexual and inappropriate comments.
6. The prosecution evidence was that Mr Parsons frequently loitered outside Sainsbury's and the Co-op on Lewes Road in Brighton. He would frequently approach young women

members of staff of both shops and members of the public asking for their telephone numbers or social media contact details, he would complement them on their appearance and invite them to become involved in a relationship with him. On some occasions he made inappropriate, sometimes lewd, sometimes sexual or crass comments to them that were distressing and unsettling. There were statements from four employees of both shops recounting at least ten incidents. The shop manager had witnesses members of the public and staff feeling scared from their encounters with Mr Parsons and of him following members of the public who were trying to get away from him who had come into the shop. He could not follow them as he had been banned from both stores. Staff were scared to arrive and leave work, particularly at night, for fear of encountering Mr Parsons and being followed and accosted by him.

7. The victim personal statements evidenced considerable harm to the complainants from their encounters with Mr Parsons. They were fearful, concerned for their personal safety and extremely distressed by his behaviour and comments.
8. On 1 March 2023, the day of trial, before the jury were sworn, Mr Parsons' counsel obtained the prosecution's agreement not to proceed with count 1 if Mr Parsons were to plead guilty to count 2. On instruction from his client his counsel then sought a Goodyear indication from the Recorder. At 1.20 pm the Recorder indicated that he would be minded to pass an immediate custodial sentence of eight months on count 2 and impose a restraining order on Mr Parsons.
9. The Recorder put the case back to 2.30 but the defence team did not need all that time and by 1.33 pm defence counsel asked Mr Parsons to be re-arraigned. He duly pleaded guilty to causing a public nuisance as set out in count 2 and later that afternoon at 2.56 pm he was sentenced in accordance with the indication given.

10. Under the terms of the restraining order he was ordered for an indefinite period not to loiter or enter near the Co-op or Sainsbury's store in Lewes Road, Brighton, not to follow any members of staff, not to loiter in areas highlighted on attached maps and not to contact directly or indirectly or follow 10 named complainants.
11. In sentencing, the Recorder took into account Mr Parsons' 29 convictions for 54 different offences. Of particular relevance were battery of a female victim in 2014, sexual assault by penetration in 2016 and his most recent offences of section 4 public order and common assault in 2019 which had resulted in a six-month custodial sentence.
12. In his sentencing remarks, the Recorder took note of Mr Parsons' mitigation and references but considered that this was a serious offence committed over a lengthy period which crossed the custody threshold. He explained that if Mr Parsons had been found guilty after trial the sentence would have been nine months' imprisonment but he deducted just over 10 per cent credit for the guilty plea and he acknowledged that the effect of Mr Parsons' behaviour was unintended which enabled him to reach the sentence that he did.

The appeal grounds

13. The initial grounds of appeal against conviction set out in Mr Parsons' many, many letters to the Court of Appeal Office stating that his conviction was unfair, unsafe and a nullity can be distilled into three grounds. First, that the prosecution evidence was not credible as the prosecution witnesses had conspired to protect the store security guard and their accounts were exaggerated by the police who took their statements. Secondly, there was insufficient evidence to proceed with count 1 but it was being used unjustly as a device to pressure Mr Parsons into pleading guilty to count 2. Thirdly, Mr Parsons had not seen all the prosecution statements when he entered his guilty plea. He was pressurised and

rushed by his barrister and he was unclear as to the basis upon which he had been sentenced.

14. A further proposed ground was added in December 2022 after His Honour Judge Mooney had made a dismissal ruling in a subsequent case against Mr Parsons of a like offence. In the case before him, His Honour Judge Mooney had ruled that on the evidence the prosecution had not established a common injury to members of the public and they had therefore not made out the public element of the criminal offence of public nuisance. Additionally, the allegations better fell within the Public Order Act 1986, sections 4 and 5.
15. The grounds of appeal against sentence are two-fold. First, Mr Parsons should have received a one-third reduction for his guilty plea as the prosecution had not previously indicated that they would accept a plea to count 2 only. Secondly, insufficient account was taken of the fact that Mr Parsons did not intend his behaviour to have the effect which it did.
16. On ground 1 of the conviction appeal, it is too late now for him to raise issues concerning the credibility of the witness evidence. Those would have been matters for the jury but Mr Parsons chose not to take that risk since he accepted the evidence of the witnesses by his guilty plea to count 2 on a full fact basis.
17. As to the second ground, the witness statement of the female complainant contains the evidence of sexual touching which, on the face of it, amounted to the offence of sexual assault as contained in count 1 of the indictment. It was therefore not improper for the prosecution to have made this charge initially. In any event Mr Parsons was not convicted on that particular count because the prosecution did not proceed with it following his guilty plea to count 2.

18. Turning to the third ground, the accounts from trial counsel set out both in his attendance note on the day of sentence and his statement of 22 December 2022 (after his client had waived privilege) together with a record of proceedings on 1 March 2023, show that the guilty plea was unambiguous and made willingly. The public nuisance count reflects the inappropriate behaviour towards young women that cause distress and alarm but Mr Parsons was not guilty of sexual touching as would have been clear to him by his plea. It is apparent from his lengthy and detailed defence case statement that Mr Parsons was fully aware of all the evidence against him. It is also clear from the court log that Mr Parsons took an active and very engaged part in each of the preliminary hearings prior to the trial date. His solicitors would not have been able to prepare such a detailed defence case statement without full instructions and he can only have given those by being conversant with all the evidence against him. It is therefore not accurate that he had not seen the statements or that he was rushed or that he misunderstood.
19. Finally, the fourth ground. There are two difficulties with the proposed additional ground. First, the case before Recorder Roques was specific to the evidence in that case. The evidence could have supported a conclusion by a jury that Mr Parsons repeated, persistent and indiscriminate behaviour in and around Lewes Road over the spring and summer of 2021 towards young women constituted a public nuisance. By contrast, the dismissal ruling of His Honour Judge Mooney in a subsequent case was based on the facts specific to that subsequent case. It does not follow that because the prosecution evidence in the case before His Honour Judge Mooney did not establish sufficient evidence to form the basis of a public nuisance complaint, that it necessarily means that the evidence before Mr Recorder Roques was also deficient.
20. Secondly and crucially, by his guilty plea made with the benefit of legal advice in full

knowledge of the evidence against him, Mr Parsons accepted his guilt of having caused a public nuisance from May to October 2021. He had ample opportunity throughout the morning on the day of trial to receive and consider counsel's advice.

21. Mr Parsons has waived privilege and his counsel has confirmed that he entered an unequivocal plea of guilty after a Goodyear indication. His counsel was dubious that a jury would consider the approaches to two young women in the Lewes Road and around Sainsbury's and the Co-op as merely a series of individual acts but rather a campaign of propositioning girls so as to cause a public nuisance. The principal goal at the hearing had been to ensure that Mr Parsons was released from custody, which was achieved by the eight month sentence presaged in the Goodyear indication. He had been remanded in custody for a little over four months by the time of sentence and would therefore be eligible for immediate release on licence. He chose not to take the risk of being found guilty after trial.
22. There are therefore no arguable grounds to challenge the conviction and the applications are therefore refused.
23. Had there been arguable grounds, we would have allowed the extension of time sought. We would have accepted that the problems of receiving correspondence whilst in custody and obtaining the necessary information in prison were sufficient to justify the four week delay that was required.
24. On sentence there are no guidelines for the offence of public nuisance. A sentence must consider both culpability and harm and be broadly consistent with similar offences. The Recorder accepted that the effect of Mr Parsons' behaviour were unintentional but the harm was very real indeed to a number of people. A number of complainants were considerably traumatised by the harassment and were very fearful of encountering Mr

Parsons in and around the area and now avoided places for fear of seeing him. The complainants were all vulnerable as young women. The shop workers were particularly vulnerable as he was intimidating them at their work place and they had no choice but to continue going to and from work to earn their living.

25. As the Recorder pointed out, the offending took place over a long period of time and affected a number of people, the specific complainants as well as the wider community of shop workers and the public regularly in the area. The mitigation was limited and the antecedents, especially of public order and common assault in 2019, were aggravating features.
26. Arriving at a nine-month sentence after trial, although harsh was not manifestly excessive given the harm the behaviour caused and the repeated attempts the store and staff managers had made to get him to desist. Mr Parsons was not entitled to a one-third reduction to his sentence. Prior to the day of trial he had given no indication that he would plead guilty to a lesser offence. All the witnesses had come to court. Some were fearful of giving evidence and special measures had been ordered to minimise their distress. A final sentence therefore of eight months' immediate custody was justified. Leave to appeal against sentence is refused.
27. The extension of time application is also refused since there is no explanation why it took a full six weeks further after the expiry of the time limit to apply for leave when he was able to apply for leave in the conviction appeal in a shorter period.
28. In any event, since the appeal has no underlying merits the interests of justice are not well served by allowing an extension of time. All the applications are refused.

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

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