

IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202300549/A3

[2023] EWCA Crim 1342



Royal Courts of Justice

Strand

London

WC2A 2LL

Tuesday, 31 October 2023

Before:

LORD JUSTICE WILLIAM DAVIS  
MR JUSTICE HOLGATE  
HER HONOUR JUDGE DE BERTODANO  
(Sitting as a Judge of the CACD)

REX  
V  
LIAM BROWN

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NON-COUNSEL APPLICATION

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J U D G M E N T

1. MR JUSTICE HOLGATE: On 26 September 2022 in the Crown Court at Sheffield, before His Honour Judge Dixon, the applicant pleaded guilty to one count of witness intimidation between 2 September 2021 and 22 March 2022, contrary to section 51 of the Criminal Justice and Public order Act 1994.
2. On 30 January 2023 before Her Honour Judge Wright and a jury, the applicant was convicted of assault occasioning actual bodily harm (count 2) and putting a person in fear of violence by harassment between 30 August and 3 September 2021, contrary to section 4 of the Protection from Harassment Act 1997 (count 3).
3. On 31 January 2023 the judge sentenced the applicant to an overall term of five years' imprisonment, comprising consecutive sentences of 21 months for the assault, 12 months for the harassment and 27 months for the witness intimidation. He renews his application for leave to appeal against sentence following refusal by the single judge.
4. The complainant, Olivia Jackson-Parry had been in a relationship with the applicant since May 2020. The relationship was not a happy one and there were frequent arguments. On 31 August 2021 there was a heated dispute which resulted in the complainant fleeing her home and the police being called. The applicant left before the police arrived.
5. Following this incident the complainant was in contact with the applicant over the phone and on 1 September 2021 at around 11.30 pm he asked if he could come round to her house to have a bath. She agreed as she thought it would cause less trouble if she did so.
6. While the applicant was there, he looked at the complainant's phone and falsely accused her of cheating on him. The applicant pushed the complainant up against a wall, put his hand on her throat and squeezed, at least twice, applying pressure which made it difficult for her to breathe (count 2). When the assault stopped, the complainant was so scared she asked the applicant for permission to go out for a cigarette. When she returned the

applicant grabbed her hair and said: "Do you not understand what you are doing to me?" She asked the applicant to leave but he refused and stayed the night. In the morning she again asked him to leave but he refused, saying he had nowhere to go.

7. That evening the complainant felt unwell and was passing blood. She wanted to get some rest and see how she felt in the morning but the applicant insisted that she receive medical attention immediately. He contacted the NHS helpline, shouting that she was "pissing blood out of her arse" and "well if she dies, she dies." He then put the phone down, came over to the complainant and punched her in the face and pulled her hair.
8. They went to hospital and whilst the complainant was being treated by a nurse and away from the applicant she told the nurse what had happened. The police were contacted and the applicant was arrested.
9. He was interviewed on 3 September 2021 and charged with the assault. He was released by the court on bail with conditions not to contact the complainant or attend her address. However he did contact her and tried to put her under pressure not to go through with the court case. As a result she made a statement to the police on 4 October 2021 saying that although the content of her original statement remained true, she wished to withdraw her support for the case. She wanted to move forward with her life and put the incident behind her. However the prosecution decided to proceed and to summons the complainant to court to give evidence.
10. When the applicant found out about this he tried to get the complainant to say that she had lied about the assaults. Eventually 1 March 2022 she provided a further statement to the police setting out what had happened over the intervening months.
11. She said that they had been in contact since September 2021. She had initiated some of the contact and some of the conversations had been pleasant. However the applicant had

put her under pressure to call the police and tell them that she had lied in her original statement. She was unwilling to do this. He visited her address and called her and sent text messages. In one call he asked, "When are you putting a fucking statement in? I'm gonna come round there with a fucking knife and fucking butcher you like a pig." In another call he told the complainant that he was "the boss" and threatened her with "another throttling". He also messaged her, saying: "I'll go wild if you do this to me and I'll have nothing to lose". He sent her another message telling her what he wanted her to put in the new statement to the police.

12. There was Ring Doorbell footage of the applicant attending her premises and recordings and screen shots of calls and messages showing that he was trying to get her to change her evidence.

13. This intimidation led to the complainant's retraction and to her disengagement with the court process, necessitating a summons. She had contacted the police on multiple occasions asking for the court case not to go ahead.

14. On 17 March 2022, just before the original trial date, the complainant agreed to meet with the applicant and he attended at her home. When she answered the door the applicant pushed past her and went into the living room. He told her that she needed to make a statement to the police telling them that she had lied about the assaults. When she refused, he said: "You will do it." He pushed her onto the sofa and when she started to cry he called her a baby. The complainant told him she would call the police later and then the applicant left.

15. On 18 March she did contact the police again and said she was not happy with the court case continuing. The applicant continued to send messages telling her, "You need to contact and write this in your statement". He told her what to write and to make out that

the witness in the trial was a compulsive liar. There were messages telling her, "Do as you're fucking told" and that he would strangle her if he was there. In one message he said, "Stupid fat bitch, I'll come and slash your throat". In one message she said to him, "You've made me feel afraid in my home". He said he felt like "banging her head against a fucking wall" and then warned her not to call the police about them.

16. We have read the complainant's victim personal statement which describes the serious harm that she has suffered as a result of the offences.
17. The applicant was aged 30 at sentence. He had five convictions for 10 offences spanning from 2012 to 2020. His early offences included threatening behaviour, theft, arson and racially aggravated criminal damage. In 2013 he was sentenced to nine months' imprisonment for affray. In 2020 he was fined for sending a threatening communication.
18. For the purposes of section 33 of the Sentencing Act 2020 we consider that no pre-sentence report has been necessary at any stage of these proceedings.
19. In her sentencing remarks, the judge said that the assault fell within Category A culpability because there had been strangulation and the complainant was vulnerable. The harm was either Category 1 or very high Category 2. The harassment was a high culpability offence because the applicant intended to maximise fear and distress. The complainant suffered a very high level of distress amounting to category 1 harm, alternatively, the harm was at the high end of Category 2.
20. The judge referred to certain of the antecedents as an aggravating feature. She explained why she would allow 25 per cent credit for the guilty plea for the witness intimidation. She said that she had applied the totality principle by reducing the sentence for each of the three offences and in addition had reduced the sentence for the harassment to reflect the fact that the assault had formed part of that continuing offence.

21. In the grounds of appeal settled by counsel, it was submitted that:

1. The sentence imposed for the witness intimidation based upon a sentence after trial of three years was manifestly excessive.
2. The sentence for the harassment should have been concurrent rather than consecutive in order to respect the totality principle.
3. The overall sentence of five years failed to accord with the totality principle and was manifestly excessive.

22. We have also read the renewed grounds drafted by the applicant himself. In our judgment he does not show any arguable point to justify granting leave to appeal. He repeatedly seeks to minimise the gravity of his offending and fails to appreciate how serious it was. We agree with the single judge that the proposed grounds of appeal against sentence are unarguable.

23. The guideline on totality recognises that consecutive sentences are ordinarily appropriate where the offences committed are dissimilar in nature (e.g. the witness intimidation), or where they are similar but the overall criminality would not be sufficiently reflected by concurrent sentences. The guideline gives as an example the commission of offences of domestic violence for sexual offences against the same individual. But the court must consider whether the aggregate of the series of consecutive sentences is just and proportionate to the overall criminality.

24. The totality principle may be satisfied where consecutive sentences on each count had been reduced relative to the sentence that might otherwise have been passed if they had stood alone. That is the approach which the judge took here.

25. The harm for the section 47 assault and for the harassment stood on the cusp of categories 1 and 2. Bearing in mind the aggravating features of the case, sentences of around 30

months and 18 months after trial could have been justified if treated separately. In our judgment the sentences imposed of 21 months and 12 months satisfied the totality principle.

26. The witness intimidation in this case involved high culpability and serious harm. It was committed over many months and serious threats were made causing the victim to seek to withdraw her support for the prosecution on several occasions. She was also put under pressure to lie. The object was to prevent the prosecution of serious offences. Even after allowing for the totality principle it cannot be argued that the consecutive term imposed of 27 months after credit for plea is manifestly excessive, or that the overall sentence was manifestly excessive.

27. Accordingly, for these reasons, the renewed application for leave to appeal against sentence is 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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