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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2022/03628/A4
[2023] EWCA Crim 199



Royal Courts of Justice
The Strand
London
WC2A 2LL

Thursday 9th February 2023

B e f o r e:

THE VICE-PRESIDENT OF THE COURT OF APPEAL, CRIMINAL DIVISION
(Lord Justice Holroyde)

MR JUSTICE COTTER

SIR NIGEL DAVIS

ATTORNEY GENERAL'S REFERENCE

UNDER SECTION 36 OF

THE CRIMINAL JUSTICE ACT 1988

R E X

- v -

JORDAN FRANK CROFT

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Mr J Smith appeared on behalf of the Attorney General

Mr B Aldred appeared on behalf of the Offender

J U D G M E N T
(Approved)

Thursday 9th February 2023

LORD JUSTICE HOLROYDE:

1. Jordan Croft, to whom we shall refer as "the offender", pleaded guilty to 65 offences, including sexual abuse and blackmail of 26 female victims, most of whom were children. On 11th November 2022, in the Crown Court at Lewes, Her Honour Judge Laing KC DL imposed an extended sentence of 26 years, comprising a custodial term of 18 years and an extended licence period of eight years.
2. His Majesty's Solicitor General believes that sentence to be unduly lenient. Application is accordingly made, pursuant to section 36 of the Criminal Justice Act 1988, for leave to refer the case to this court so that the sentencing may be reviewed.
3. Each of the victims is entitled to the lifelong protection of the provisions of the Sexual Offences (Amendment) Act 1992. Accordingly, during their respective lifetimes, no matter may be included in any publication if it is likely to lead members of the public to identify them as victims of these offences.
4. The offending was described in detail to the judge by counsel who appeared for the prosecution in the court below, and it has been very thoroughly and most helpfully summarised in the Final Reference submitted to this court. For present purposes it is sufficient to give the following outline.
5. Over a period of nearly two years the offender pursued a course of conduct in which he would trawl social media posing as a teenage boy (and in one case as a teenage girl) and engage in what were initially flirtatious online chats with potential victims. He used 20 different aliases across four social media sites. On one of those sites alone he targeted some 5,000 girls. He clearly had skill in the use of computer technology and he boasted of his ability to render his activities online untraceable.

6. We are concerned with 26 victims in relation to whom his targeting achieved his aims. Most of them were aged 13 to 15. The youngest was 12, and a few were young adults. Some were homeless; some had mental health issues. By a combination of lies and flattery, the offender persuaded each victim to provide him with her personal details and social media profile and to send him one or more nude pictures of herself. He then used threats of disclosing those images to the victim's friends and family to persuade her to engage in a variety of degrading, humiliating, and in some cases injurious, sexual acts. He required his victims to accept his rules of behaviour and to obey everything he said. He required them, for example, to seek his permission before going to the toilet. He successfully sought to dominate his victims and to make them do his bidding. He clearly derived sexual satisfaction from their distress and his tormenting of them. He showed particular sexual interest in anal penetration and in defecation. Nine victims were driven to engage in penetrating themselves with their fingers and with a variety of objects. The latter included commands from the offender that they insert increasingly large items into their anuses by way of "anal stretching". He showed a callous attitude to their pleas to be left alone: for example, in one case where his victim told him that she had previously been a victim of rape and was engaging in self-harm; and in another case where his victim was a trainee teacher who told him that she feared her career would be ruined.

7. In her sentencing remarks, the judge summarised the offending. Having referred to the majority of the victims being aged between 12 and 15 at the time of the offending against them, she continued:

"You were also in possession of numerous indecent images, not only of the complainants in this case, but other unidentified children.

Virtually all the sexual offences involved a course of conduct involving you blackmailing the child concerned in order to get her to do your bidding and to perform every more depraved acts for your pleasure. Nine of these victims were forced into penetrative sexual activity.

I bear in mind there were no actual direct contact offences involving you, but nonetheless you engaged in a lengthy, pre-meditated campaign of sadistic and manipulative abuse of many young girls, using social media and, by doing so, you caused almost all of them untold psychological harm.

I have read all the victim personal statements and listened to those read to me yesterday. They are extremely moving, demonstrating, as they do, that which this court knows only too well, the impact of sexual offending against children is profound and lifechanging."

8. We shall refer by way of an example to the manner in which the offender treated the first of his victims, who was aged 16. Once he had received the potentially compromising material from her, he revealed that he was not a teenage boy and was using a false identification, and said that he had taken every step to ensure that he could not be traced. He told her that if she did not do as he told her, he would post her nude images to others. He said that she must "serve" him for a week and that he would then delete her pictures. In fact, he retained "trophy" pictures of all of his victims. He said, "I have ruined eight other girls' lives because they tried to be brave and out me. I'm fine. They're not. I just want you to understand this, because I really don't want to ruin your life too".

9. He was to go on to make similar statements to later victims, steadily increasing the number of others whose lives he said he had ruined. He told one victim that that number stood at 100.

10. The offender required the first victim to send pictures of herself inserting items of increasing size into her anus, defecating, urinating and masturbating. He ignored her visible pain and distress, and her indications that she was feeling suicidal. After several days he told her that he wanted her to find him a replacement girl, who must be under 14. He also told her that he wanted her to film herself having sex. She referred to doing so with a man, but the offender insisted it be with a woman. When the girl protested, he said, "You're being blackmailed, why does it matter?"

11. We will mention some other examples of the offender's actions and attitudes. A later victim told the offender that she was only 13. He replied, "Okay, that's fine". He showed a similar indifference to the age of another girl, who was aged 12. He told another 12 year old (the victim of count 14) that she must have sex or find him another girl aged under 13. He threatened to kidnap her. The girl believed that the offender knew where she lived and suffered from nightmares as a result.

12. Another of his victims was with a friend when the offender was communicating with her. He demanded that they both pose for him in their knickers. The victim said that she was having a panic attack and that her friend had left. The offender told her that she was lying and that he was going to distribute her nude images. The friend then sent some images from the bathroom, which the offender rejected as not being good enough. When he suspected that the victim had told her parents, he threatened them too. He boasted that he was completely untraceable and required them to reply to him "if you want to stop your daughter's nudes from being spread around her school". Their alternative, he said, would be "a lifetime of bullying".

13. About a year after these offences had begun, the offender created a WhatsApp group, to which he added two 14 year old girls whom he had targeted. He required them to engage in a competition with each other, to complete the sexual activities which he required of them. For one of the activities, he told them that the winner would be the girl who could show him the biggest item in her anus. On a later occasion he discovered that one of these two girls was babysitting for a 7 year old child, and he demanded that she supply him with nude images of the child.

14. In relation to another victim, aged 13, the offender created an Instagram account under the alias of a girl's name, which he used to increase the pressure on his victim to do as he wished. He later used a similar technique with a victim aged 15.

15. The offender himself posed as a girl when he made contact with another victim who was exploring her sexual orientation.

16. Finally in this brief summary, we note that one of the victims asked the offender why he wanted to expose people. He wrote in reply: "I expose people because it's the best way to get a meaningful sub-dom relationship. I know it's wrong and fucked up, and I obviously feel guilty when I do it, but if I want to get what I want, sometimes I have to. x"

17. By diligent investigative work, the police were able to identify the offender. He was arrested in September 2019. Images of and communications with some of his victims were found on the phone which he was using. Also seized from him was a second phone which contained 900 "trophy" images of his victims in an encrypted section. These had been catalogued by name and age of victim, and by type of image. Other devices seized from him included a USB stick containing many indecent images of children, which the offender was able to view without creating a record on his hard drive. The offender was also in possession of 222 prohibited images of children.

18. When interviewed under caution the offender made no comment. However, he indicated guilty pleas at his first appearance in a magistrates' court, and he pleaded guilty at the first Crown Court hearing. The 65 counts on the indictment comprised: three counts of causing or inciting a child under 13 to engage in sexual activity, contrary to section 8 of the Sexual Offences Act 2003; 28 counts of causing or inciting a child to engage in sexual activity, contrary to section 10 of that Act; four counts of causing or inciting a child exploitation, contrary to section 48 of that Act; 23 counts of blackmail; six counts of making indecent photographs of children, contrary to section 1(1)(a) of the Protection of Children Act 1978; and one count of possession of prohibited images of children, contrary to section 62 of the

Coroners and Justice Act 2009.

19. At the sentencing hearing, the judge heard Victim Personal Statements from 21 of the victims, which very vividly described the enduring harm which the offender had caused. Several of those statements were read by the victims themselves; others by prosecuting counsel. In her sentencing remarks the judge summarised them as follows:

"The victim personal statements made distressingly similar listening or reading. All of those targeted by you speak of the long-lasting and ongoing impact of these offences on them, their loss of trust in people, their difficulties in forming meaningful relationships with new people, their fractured relationships with family and friends, the impact on their education, their social anxiety and panic attacks, and very distressingly those who did and still contemplate harming themselves or taking their own lives. All of that damage caused by you for the sake of your sexual gratification."

20. A pre-sentence report had been prepared. It showed, amongst other things, that the offender had been in a relationship with an adult female partner at the time of the offences. The author assessed the offender as posing a high risk of further sexual offending and a high risk of causing serious harm.

21. The offender had only one previous conviction: an offence of harassment committed against a former partner after the commission of the offences with which we are concerned.

22. In her commendably clear sentencing remarks, the judge described the offender as being "only too happy" to exploit the vulnerability of his adolescent victims. She referred to the fact that he had invaded the privacy of their homes and their bedrooms, causing many of them to fear that they no longer had any safe place to which they could retreat.

23. The judge addressed the Sentencing Council's guidelines applicable to the various sexual offences, whilst making it clear that she would structure her sentencing by treating count 14 (the only one of the offences which carried a maximum sentence of life imprisonment) as the lead offence and would reflect the overall seriousness in the sentence on that count, with concurrent sentences on all other counts.

24. She identified as aggravating factors the significant degree of planning; the initial grooming of the victims; the significant age disparity between the offender and his victims, and his lies to them about his age; the humiliating and degrading nature of the activities in which he made them engage; the overall period of the offending; the actual distribution of images in some cases; and his requiring some victims to recruit others.

25. As to mitigation, the judge did not accept the submission that she should take into account a lack of maturity on the offender's part, given the repeated and predatory nature of his offending. She took the view that his lack of empathy with his victims was attributable to a deep-rooted character flaw, rather than to immaturity. She allowed full credit for the guilty pleas.

26. The judge found the offender to be a dangerous offender and concluded that an extended sentence was necessary for the protection of the public. On the lead offence (count 14), she indicated that the commensurate sentence, before reduction for the guilty plea, would have been 12 years' imprisonment. Treating that as the lead offence, she imposed an overall custodial term of 28 years, which she reduced to 18 years after credit for the guilty pleas. In addition, she ordered an extended licence period of eight years. On each of the other counts she imposed concurrent prison sentences of between six months and four years, the details of which may be seen in a table annexed to this judgment. She also made a number of other orders about which we need say no more.

27. On behalf of the Solicitor General, Mr Smith makes no criticism of the approach adopted by the judge, but submits that the total sentence was unduly lenient. He submits that the offender was guilty of a premeditated campaign of sadistic and manipulative abuse, with the many aggravating features which the judge identified, and with no mitigation other than the credit given for the guilty pleas. He makes submissions about the application of the guidelines for the individual offences and the totality guideline. His overarching submission is that the judge failed properly to reflect the nature of the offending and the aggravating features, and that she failed properly to weigh the totality of the offending when she determined the extent to which the sentence on count 14 should be increased above the appropriate sentence for that offence alone.

28. Mr Smith refers to three decisions of this court: *R v Falder* [2018] EWCA Crim 2514, [2019] 1 Cr App R(S) 46; *R v Wilson* [2021] EWCA Crim 839; and *R v AYO* [2022] EWCA Crim 1271, [2022] 4 WLR 95. The first two of those cases (but not the third) had been cited to the judge. Mr Smith suggests that there are a number of factual similarities between this case and some of those earlier cases. In his written submission, he advanced such an argument in relation to the case of *R v Elahi*, which was considered in *AYO*; but his oral submissions make plain that he accepts that the present case is less serious than that. He does, however, argue that the custodial term in this case should have approached the level of the sentences imposed in both *Falder* and *Wilson*.

28. Mr Aldred, who represents the offender in this court as he did below, submits that the judge carefully considered all relevant factors, and that the total sentence she imposed was within the range properly open to her. He makes submissions as to the caution which is necessary in seeking to compare the facts and circumstances of one case with those of another. In so far as comparisons may be considered helpful, he submits that the facts of all of the cases relied on by the Solicitor General differed in significant respects from the facts here.

29. We are grateful to both counsel for their written and oral submissions.

30. This was, on any view, a very serious course of offending. It caused great harm to the many vulnerable victims whom the offender targeted over a long period. Even the brief summary which we have given suffices to show that the offending involved a shocking level of premeditated depravity, accompanied by a boastful belief that the offender would never be caught. It is, therefore, relevant to recall that in *AYO* at [21] to [22] the court emphasised that the court is required by section 231(2) of the Sentencing Code to impose the shortest term which, in the opinion of the court, is commensurate with the seriousness of the offending, however grave that offending may be. The court also emphasised that an extended sentence achieves the purpose of protecting the public by extending the period of licence, not by increasing the length of the custodial term beyond that which is appropriate, in accordance with section 231(2).

31. We pay tribute to the thoroughness and care with which the judge approached this lengthy and difficult sentencing process. We have no doubt that she had very well in mind the harm caused to the many victims, from most of whom she had heard. Whilst it was, of course, necessary and appropriate for her to consider the relevant offence specific sentencing guidelines, the judge's focus was rightly on the totality of the sentence. That necessitated an assessment of the overall seriousness of the offending.

32. In *AYO* at [24] the court listed a number of cases to which it had been referred, including both *Falder* and *Wilson*, and continued:

"The facts and circumstances of cases inevitably differ. The assistance to be gained by comparing sentences in other cases is therefore limited. Those cases show, however, that it will be comparatively rare for the total custodial term of an extended sentence for multiple sexual offences to

exceed about 30 years after a trial. Sentences of greater length have been reserved for particularly serious offending."

The phrase "particularly serious offending" must, of course, be read in its context. The court was there dealing with cases involving multiple, serious sexual offences for which long custodial sentences were inevitable.

33. Mr Smith does not seek to go behind that decision. In the light of it, it seems to us that his challenge to the total sentence imposed here requires this court to consider whether this is one of the cases of "particularly serious offending", which called inescapably for a sentence in excess of about 30 years after a trial. In our judgment, it is not. The court does not underestimate the seriousness of these offences. Nor does it underestimate the extent of the harm which has been caused to many victims. But, unhappily, the court is from time to time faced with even more serious cases, for which the longest sentences must be reserved.

34. In short, serious though this offending undoubtedly was, it must be viewed in the context of the yet more serious cases which sometimes come before the courts.

35. Without seeking to engage in a detailed comparison of the facts of differing cases, we accept Mr Aldred's submission that the cases we have mentioned, in which longer sentences were imposed, involved even more offences against more victims and/or serious aggravating factors going beyond those which exist in this case. We are unable to accept the submission of Mr Smith that the seriousness of these offences is of the same level as the seriousness of the offending in *Falder* or in *Wilson*. We remind ourselves that in the later of those two cases, the court rejected a submission that recent case law had mandated an increase in the level of sentencing.

36. The judge was therefore not required to impose a much longer sentence than she did. She could not have been successfully challenged if she had taken a slightly longer total sentence before giving credit for the guilty pleas. We remind ourselves, however, of the familiar statement of Lord Lane CJ in *Attorney General's Reference No 4 of 1989* [1990] 1 WLR 41, at 46A, that a sentence would only be unduly lenient "where it falls outside the range of sentences which the judge, applying his mind to all the relevant factors, could reasonably consider appropriate". We accept Mr Aldred's submission that the total sentence imposed by the judge, clearly after careful reflection, was within that range and was not unduly lenient.

37. For those reasons, grateful though we are to Mr Smith, we refuse leave to refer.

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

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ANNEX: TABLE OF SENTENCES IMPOSED

Count on indictment	Offence	Sentence	Maximum
1, 43	Causing or Inciting Child Sexual Exploitation (contrary to s48(1) Sexual Offences Act 2003)	4 years imprisonment	14 years imprisonment
2, 12, 23, 33, 44, 47	Blackmail (contrary to s21(1) Theft Act 1968)	4 years imprisonment	14 years imprisonment
3, 22, 27, 29, 30, 32, 35, 38, 39, 46, 49	Causing or Inciting a Child to Engage in Sexual Activity (contrary to s10(1) Sexual Offences Act 2003)	2 years imprisonment	14 years imprisonment
4, 52, 57, 50, 58	Blackmail (contrary to s21(1) Theft Act 1968)	2 years imprisonment	14 years imprisonment
5	Causing or Inciting Child Sexual Exploitation (contrary to s48(1) Sexual Offences Act 2003)	52 months imprisonment	14 years imprisonment
6	Blackmail (contrary to s21(1) Theft Act 1968)	52 months imprisonment	14 years imprisonment
7, 9, 19	Causing or Inciting a Child to Engage in Sexual Activity (contrary to s10(1) Sexual Offences Act 2003)	3 years imprisonment	14 years imprisonment
8, 10, 20	Blackmail (contrary to s21(1) Theft Act 1968)	3 years imprisonment	14 years imprisonment
11, 21, 31, 45, 48	Causing or Inciting a Child to Engage in Sexual Activity (contrary to s10(1) Sexual Offences Act 2003)	4 years imprisonment	14 years imprisonment
13	Causing or Inciting a Child Under 13 to Engage in Sexual Activity (contrary to s8(1) Sexual Offences Act 2003)	32 months imprisonment	14 years imprisonment
14	Causing or Inciting a Child Under 13 to Engage in Sexual Activity (contrary to s8(1) Sexual Offences Act 2003) ¹⁵	Extended Determinate Sentence of 26 years	Life
15	Causing or Inciting a Child Under 13 to Engage in Sexual Activity (contrary to s8(1)	4 years imprisonment	14 years imprisonment