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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2022/03764/A2
[2023] EWCA Crim 679



Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 9th June 2023

B e f o r e:

LORD JUSTICE DINGEMANS

MRS JUSTICE STACEY DBE

MR JUSTICE SWEETING

R E X

- v -

ROHAIL HASEEB

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Mr G Parsons appeared on behalf of the Applicant

J U D G M E N T
(Approved)

Friday 9th June 2023

LORD JUSTICE DINGEMANS: I shall ask Mrs Justice Stacey to give the judgment of the court.

MRS JUSTICE STACEY:

1. On 27th October 2022, following a trial in the Crown Court at Leeds before His Honour Judge Bayliss KC and a jury, the applicant (then aged 22) was convicted of possessing a firearm with intent to endanger life, contrary to section 16 of the Firearms Act 1968.

2. On 24th November 2022 he was sentenced by the trial judge to an 18 year extended sentence, comprising a custodial term of 13 years and an extended licence period of five years.

3. The facts are these. At approximately 10.55 pm on 22nd March 2022, the applicant drove at least two others to an address in Fixby, Huddersfield, the home of the Kooner family. One of the passengers exited the vehicle and discharged a loaded shotgun from the front garden into the downstairs window of the sitting room area of the house. The occupants were already upstairs, having gone to bed at approximately 10.30 pm, and no one was injured. Mr Kooner was asleep and did not hear anything, but his son, who was just going to sleep, heard a loud smash and then heard the revving of a car engine outside. He saw a hole in the front window of their sitting room. The sitting room curtains were not drawn and the lights were off.

4. The judge sentenced the applicant on the basis that he had driven the car used in the shooting and that he had led the group involved. The firearm was never recovered.

5. Prior to the offence the applicant had hired an Audi motor vehicle informally from an acquaintance. The vehicle, which had been fitted with a tracking device by its owner, was used for reconnaissance the day before the offence and also transported the gunman to the location on 22nd March. The applicant acquired false number plates which he used to disguise the identity of the vehicle. The day after the offence, he had the vehicle cleaned thoroughly to remove any potential forensic evidence.

6. The judge concluded that the applicant led and organised the group, and that the offence involved considerable planning. There were at least two others involved. An hour before the shooting three people were seen in the vehicle which was parked close to the premises where the false licence plates were obtained. A third person removed the false plates when the vehicle returned to the rendezvous point immediately after the shooting.

7. The applicant was arrested on 1st April 2022 by firearms officers. He was interviewed twice. In the first he declined to comment. In the second he gave an account in which he claimed to have re-hired the Audi to others who must have carried out the offence.

8. The applicant, who was aged 21 at the time of the offence, had seven convictions for 12 offences spanning from 8th September 2014 to 9th September 2019. His relevant convictions included offences of using threatening words or behaviour with intent to cause fear or provocation of violence, committed in both 2015 and 2016; possession of an offensive weapon in a public place in 2015, and two further convictions for the same offence in 2017; affray in 2017; and possession of a bladed article in a public place in 2018.

9. The applicant himself had been the victim of a double stabbing in 2018, when he was aged 17, which had left him with long-term injuries.

10. There were no victim personal statements.

11. A pre-sentence report assessed the applicant as posing a high risk of harm to members of the public, and a medium risk to known adults. The report also briefly assessed maturity and considered that there may be low levels of psychosocial maturity.

12. The judge concluded that there were multiple features of high culpability since the firearm was discharged and there was significant and careful planning by the applicant who had played a leading role. He concluded that it was purely fortuitous that no one was seriously injured and that there was a high risk of death or severe physical or psychological harm. He rejected a submission that the firearm was deliberately discharged into an empty room. He therefore assessed the offence as category A culpability and level 2 harm under the sentencing guidelines, with a starting point of 14 years' custody. He reduced the starting point by one year for the applicant's age, the prison conditions during the pandemic, and the impact of his past experiences of having himself been a victim of crime.

13. The judge accepted the conclusion expressed in the pre-sentence report that the applicant was dangerous and ordered an extended licence period of five years. He said that he would have reached the conclusion that the applicant was dangerous, even without the benefit of the pre-sentence report. He did not explain how he had arrived at the length of the protective order.

14. The proposed appeal relies on three grounds: firstly, that the judge erred in assessing level 2 harm, as it was not proved to the criminal standard that there was a high risk of death or severe psychological harm; secondly, that although the fact of the assessment of dangerousness was not criticised per se, the extension period was too long; and thirdly, that no proper discount had been applied for the applicant's age and role.

15. Leave to appeal against sentence was refused by the single judge. The applicant now renews his application for leave and also seeks an extension of time of nine days in which to apply for leave to appeal. The applicant's solicitors have explained that shortly after being convicted, unbeknownst to them, their client had been moved from HMP Leeds to HMP Manchester, and by the time their letter of advice had been forwarded onto him and he had given instructions to lodge an appeal, the deadline had been missed.

16. We are extremely grateful today for Mr Parsons' exceptionally clear, succinct and helpful submissions on behalf of the applicant.

Conclusion

17. The trial judge was best placed to assess the level of risk of harm, having watched the CCTV and listened to all the evidence. Even if it could be argued that there was some doubt as to whether there was a high risk of death because the occupants of the house had gone to bed and the ground floor lights were off, there was undoubtedly a high risk of severe psychological harm from shooting into the living room of a family home whilst the occupants were upstairs. The judge was therefore entitled to conclude that the offence fell within category 2A, with a sentencing range of 11 to 17 years' custody and a starting point of 14 years. Nor can he be criticised for reducing the starting point by one year to reflect the mitigation and the applicant's youth.

18. The judge carefully set out his reasons for concluding that the applicant had a leading role which was firmly based on the evidence. There is no realistic challenge to the 13 year custodial term, which was neither manifestly excessive nor wrong in principle.

19. Whilst the reasons for imposing the maximum extension period of five years were not

fully explained, the facts and circumstances speak for themselves. The high level of culpability, planning and leadership displayed by the applicant is inconsistent with a plea of immaturity. Similarly, it goes without saying that the imposition of a five year extension period for leading and organising a group of men to fire off a shotgun into an occupied home at close range, in a residential area at night in the dark, against the background of the applicant's antecedent history, is not manifestly excessive. There was sufficient evidence for the judge to conclude that an extension period of five years was required to reduce the future danger posed by the applicant.

20. Accordingly, the renewed 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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