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IN THE COURT OF APPEAL

CRIMINAL DIVISION

[2023] EWCA Crim 711



No. 202100417 B1  
202100986 B1

Royal Courts of Justice

Wednesday, 10 May 2023

Before:

LORD JUSTICE POPPLEWELL

MRS JUSTICE FARBEY

MR JUSTICE HILLIARD

REX

V

CONNOR PETER CRAWFORD

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

**MRS JUSTICE FARBEY:**

- 1 On 25 November 2019 in the Crown Court at Liverpool, before HHJ Sophie McKone, the applicant pleaded guilty to possessing a prohibited firearm contrary to s.5(1)(aba) of the Firearms Act 1968 (Count 2 on the indictment) and possessing a firearm when prohibited contrary to s.21(1) of Act (Count 4). On 18 September 2020 in the same court, before HHJ Garrett Byrne and a jury, the applicant was convicted of possessing a firearm with intent to endanger life contrary to s.16 of the Act (Count 1) and possessing ammunition without a firearm certificate contrary to s.1(1)(b) of the Act (Count 3).
- 2 On 9 October 2020 he was sentenced to 10 years' imprisonment on Count 1, six years' imprisonment on Count 2, three years' imprisonment on Count 3 and three years' imprisonment on Count 4. All sentences were ordered to run concurrently. The total sentence was therefore 10 years' imprisonment.
- 3 The applicant now applies for an extension of time of 17 days in which to renew his application for an extension of time of 83 days in respect of conviction, and 72 days in respect of sentence, in order to seek leave to appeal following refusal by the single judge.
- 4 The facts may be shortly stated. On 26 October 2019 police officers stopped a Mercedes car on Bowring Park Road in Liverpool. Following the stop, the applicant got out of the front passenger seat. He had in his hand a handgun. He jumped over a fence and was seen to throw the handgun into the undergrowth before being detained and arrested. The firearm was recovered and was found to be a 9 mm calibre Baikal self-loading pistol which contained ammunition. There were three live rounds in the magazine. The pistol and ammunition were in working order and ready to use. All four counts on the indictment related to the same firearm and ammunition, but they represent different aspects of the applicant's criminal conduct.
- 5 It was the prosecution case at trial that the jury could infer that the applicant had an intention to endanger life from all of the evidence in the case. The applicant was in a car in the street travelling with a loaded working pistol on him. The pistol was ready for the applicant to use, if and when the occasion arose, in a way that would endanger life. The prosecution called expert evidence that the applicant's DNA was recovered from some internal and less accessible parts of the pistol in order to support their case that he must have known it was loaded.
- 6 To prove the case, the prosecution relied on, among other things:
  - (1) Witness statements from three police officers stating that they stopped a Mercedes car, the applicant got out of the front passenger seat, jumped over a wall and threw a firearm into some bushes.
  - (2) Expert evidence from Rebecca Giles about the discovery of the applicant's DNA inside the magazine housing and internal mechanisms of the firearm.
  - (3) The applicant's failure to answer questions in interview.
- 7 The applicant's case was that he was minding the pistol due to pressure, threats and violence and did not know it was loaded. On the day the police stopped him he had been told to move the pistol and simply had it in his pocket. He had panicked when stopped and ran away to throw the gun away. He sought to explain the scientific findings by transference of his DNA from either the cleaning of the pistol or it having been in his pocket.

- 8 The applicant gave evidence. Dr Scott Bader gave expert evidence on his behalf questioning the prosecution expert's findings on DNA. A statement was read on his behalf from his father who said he went to the applicant's house on 31 October and saw that the applicant's Land Rover had been damaged.
- 9 The applicant has raised a number of grounds of appeal which he has supplemented with written submissions sent to the court on various dates. We have given independent consideration to everything that he has written. We do not however accept that there is any merit either in his conviction appeal or in his sentence appeal.
- 10 In relation to his conviction, the applicant says that the judge cast doubt on the evidence by saying the following words to the jury in his summing-up: "Whatever the truth of circumstance of which Crawford came to have the weapon". As the prosecution points out in the Respondent's Notice, it is unclear which words from the summing-up the applicant is referring to. Even if the judge did say these words, the strong evidence against the applicant means that they would not make his convictions arguably unsafe.
- 11 The applicant makes a number of points about the evidence in order to submit that he was not guilty of possessing a gun with intent to endanger life. However, it was the jury's task to reach findings about the evidence and no arguable grounds of appeal arises.
- 12 The applicant makes a large number of serious criticisms of his solicitor's and counsel's conduct of the case. We have read their responses to the allegations made against them. We accept that what they say is correct and accurate. There is no substance to any of the criticisms made of them.
- 13 The question for this court today is whether the applicant's convictions were arguably unsafe. We do not accept that this test is met. There are no arguable grounds of appeal against the convictions. We refuse an extension of time to apply for leave to appeal because it would serve no purpose and we would refuse leave to appeal against conviction.
- 14 As regards sentence, the judge applied the relevant law in a methodical way. He took into consideration the conclusion of the pre-sentence report that the applicant satisfied the statutory criteria for an extended sentence on grounds of dangerousness. He concluded, however, that the imposition of a determinate sentence was sufficient to protect the public. He made plain that there was no evidence that the offences were gang related. He applied the appropriate 25 per cent discount for the guilty pleas to Counts 2 and 4 which had been entered at the PTPH, but made plain that he would treat Count 1 as the lead offence and that he would impose a sentence on Count 1 that reflected the overall seriousness of the applicant's offending. In our judgment, the judge cannot be faulted for this approach.
- 15 The applicant submits that his sentence was much longer than other sentences about which he has read in Archbold and that he should not have been treated as a serious violent offender. He has told us that tragically the mother of his children was killed in a serious car accident and so he needs to be at home to care for his children. He submits that his sentence should be reduced because he has suffered in prison from the strict regime imposed under the conditions of the Covid 19 pandemic.
- 16 While we do not underestimate the effect of imprisonment on the applicant's children, the judge was sentencing him for very serious offending, such that he could expect a very substantial sentence. There are no grounds for considering that the overall length of the sentence was arguably manifestly excessive or wrong in principle. We refuse to extend time to apply for leave to appeal as it would serve no purpose and we would refuse leave to appeal against sentence.

- 17 We note however that under s.161A of the Criminal Justice Act 2003 the court was required to make a surcharge order. In the transcript of the judge's sentencing remarks no surcharge order appears to have been imposed or mentioned at all. As it is part of the sentence it must on well-established principles be pronounced in open court. The surcharge order in the sum of £181 has been recorded by the Crown Court on the record sheet and court log. In so far as it must have been added administratively, it was unlawful. We shall therefore direct that the Crown Court record be amended to remove reference to the £181 surcharge order as the record does not represent any part of the sentence imposed by the judge.
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**CERTIFICATE**

Opus 2 International Limited hereby certifies that the above is an accurate and complete record of the Judgment or part thereof.

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This transcript has been approved by the Judge