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IN THE COURT OF APPEAL
CRIMINAL DIVISION



CASE NO 202200452/B5
[2023] EWCA Crim 815

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday 4 July 2023

Before:

LADY JUSTICE ANDREWS DBE
MR JUSTICE BRYAN
HER HONOUR JUDGE MUNRO KC
(Sitting as a Judge of the CACD)

REX
V
JOSEPH RONAN

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NON-COUNSEL APPLICATION

J U D G M E N T

1. MR JUSTICE BRYAN: On 22 April 2021 in the Crown Court at Luton (before Her Honour Judge Tayton KC) the applicant, then aged 32, pleaded guilty to Putting a Person in Fear of Violence by Harassment, contrary to section 4(1) of the Protection from Harassment Act 1997 (Count 3) and Assault Occasioning Actual Bodily Harm, contrary to section 47 of the Offences Against the Person Act 1861 (Count 5).
2. Between the plea and sentence, the applicant sought to vacate the guilty pleas but eventually abandoned that course and served the following basis of plea:

"1. I, Joseph Ronan, accept that I am guilty of the Counts (3 and 5) to which I pleaded guilty on 22.04.21 before HHJ Tayton. I am sorry for any inconvenience caused by the raising of an application to vacate pleas. It has taken time for me to make my instructions clear to my new solicitors and counsel. Now that I have been able to do so, I confirm, unequivocally, that I do not wish to apply to vacate either of the two pleas entered on 22.04.21.

2. In relation to Count 3, I wish to make the following clear: I do not accept (and have, in fact, never accepted), the activity on SIM cards ending 502 and 259 was me. This activity (in terms of exhibits) is represented at **pp J65 to 67 DCS**. These SIM cards were not in my control at the relevant time.

3. I explicitly accept that the remainder of the activity alleged in relation to this count (including the Instagram messaging) is behaviour for which I am responsible."

3. Paragraph 2 of the basis of plea document was not accepted by the Crown. However, it was not litigated as it was not thought to make a material difference to the sentence on Count 3 overall. On 26 August 2021, before the same Court (Her Honour Judge Herbert), the applicant was sentenced to 64 months' imprisonment on Count 3 and a concurrent sentence of 18 months' imprisonment on Count 5. He was made the subject of a

Restraining Order indefinitely and ordered to pay the statutory surcharge of £181.

4. The Judge directed that a not guilty verdict be entered on a count of Unlawful Wounding (Count 2) which was in the alternative to Count 5. A further count of Assault Occasioning Actual Bodily Harm (Count 1) and Breach of a Non-Molestation Order (Count 4) were ordered to lie on the file against him in the usual terms. An application for leave to appeal against sentence settled by Mr Bloomer of counsel, was lodged by Messrs. Alexander Bennett Solicitors but abandoned before the section 31 procedure.
5. The applicant renews his application for an extension of time (266 days) in which to seek leave to appeal against conviction, following refusal by the single judge. He also applies for leave to adduce fresh evidence pursuant to Section 23 of the Criminal Appeal Act 1968 in relation to a statement of Zoe Benjamin dated 1 April 2021.
6. Turning to the facts, the applicant and the complainant, Sanna Majeed, met and began a relationship in February 2019. Within a short period of time, the applicant moved into the complainant's home where she lived with her young son. The prosecution case was that by September 2019, the relationship had broken down, in part due to the applicant's aggressive behaviour when he had been drinking. The applicant set up a fake social media profile posing as someone else and entered into a conversation with the complainant. On 19 September 2019 he was at the complainant's flat and accused her of cheating on him. He became violent and punched her, kicked her and pursued her through the flat for approximately 40 minutes. The applicant took the complainant's phone and when she tried to leave, he hit her over the head with it causing her to fall to

the floor. The complainant wounded her head which subsequently required hospital treatment (Count 5).

7. The applicant took the complainant to collect her son from school and then onwards to his sister's house, who eventually took the complainant to hospital. The wound required stapling and she had bruising to her hands and ribs. The applicant threatened that she would lose her son if she told the hospital how she had been wounded, so she lied to the medical staff about what had happened.
8. The applicant then began a persistent campaign of stalking and harassing the complainant by phone and on social media which lasted for several months. The applicant sent messages to the complainant from a variety of telephone numbers and false social media profiles. He left voice messages and sent images of himself and images from outside the complainant's flat.
9. In November 2019, the applicant turned up outside the complainant's flat. On another occasion he attacked her in her car and banged on the window causing her to experience a panic attack. The police were called on both those occasions. The complainant and her son had to move house as a result of the applicant's behaviour. This conduct formed the subject matter of Count 3.
10. At sentence, the case was opened by the Crown without reference to the messages emanating from mobile phone numbers 502 and 259 (messages sent to the complainant in circa June and July 2020). They were not opened and did not feature as part of the

Crown's case. As part of the police investigation a statement was taken from a Theodore Thomas, a friend of the complainant, who gave evidence of complaint and to whom the complainant had sent photographs of her injuries.

11. In terms of the application for an extension of time in which to seek permission to appeal against conviction, the applicant asserts that he was misled and wrongly advised by his legal representatives with regard to his right to appeal. In the light of the applicant's allegations against those instructed by him there was a waiver of privilege.

12. The applicant's Grounds of Appeal, as considered by the Single Judge, are contained within two Easy Read Form NGs, one dated 31 January 2022 and one dated 18 March 2022, as well as a further undated set of submissions and a 23-page "Principal Grounds" document entitled: "Application for leave to appeal against conviction on the principal ground of a procedural irregularity and misrepresentation", received by the CAO on 13 June 2022 (following comments on the applicant's grounds lodged by his trial representatives).

13. The original grounds included allegations:

- (1) That the Crown had committed "multiple cases of bad faith, prejudice and irregularities in procedure to secure his conviction".
- (2) Counsel had misled him as to his basis of plea.
- (3) He had "fresh evidence".
- (4) His right to a fair trial had been violated of which criticism can be had of his former solicitors and counsel.

- (5) He received bad legal advice from his former solicitors.
- (6) He had been poorly represented by his previous solicitors.
- (7) There were failures as to disclosure (in fact the evidence that was served); and
- (8) The prosecution sentencing note contained "blatant lies". In particular the victim personal statement was unsupported by medical evidence.

14. In the subsequent "Principal Grounds" there were numerous complaints made against his previous legal teams, an assertion that he had been denied access to evidence of disclosure and he also sought to rely as "fresh evidence" the evidence of a Zoe Benjamin who it was said was asked to lie by the complainant about harassment.

15. In the light of the allegations made by the applicant, a waiver of privilege was sought and given, and a detailed response was received from Minal Rajshankha of Healey Colbon Solicitors and James Bloomer of counsel by way of rebuttal of the allegations made against them.

16. The Crown also put in both a Respondent's Notice and an addendum Respondent's Notice (addressing the Principal Grounds). At the heart of these documents was a submission that the applicant by his guilty pleas had unequivocally admitted the offences within Counts 3 and 5 and that even within the principal grounds he continued to admit the offences, stating: "I accept liability for the ABH and I did send the Instagram messages between November 2019 till February 2020." It was submitted that he was in due course sentenced in line with the basis of plea and the prosecution complied with all of their duties to the court and any suggestion of a conspiracy was utterly unfounded.

17. The single judge refused leave to appeal, giving the following reasons:

"1. You pleaded guilty and now you are trying to undo those guilty pleas. A plea of guilty is an admission of guilt. Having pleaded guilty you originally tried to change those pleas in the Crown Court but you abandoned that attempt. The evidence against you was strong and there is no basis to suggest that you only admitted something you had not done because you were under the influence of drugs or any form of improper pressure.

2. There is no evidence of any conspiracy between the counsel for the prosecution, your own counsel and the complainant. The evidence against you was set out clearly and there is no ground to say that any of the evidence against you, or the written basis of your guilty plea, was obtained improperly.

3. Your solicitor has given a very detailed account of the requests made for the telephone data and your instructions. You accepted that the relevant messages had been sent from your number/SIM card but alleged that the complainant had stolen your card and used it to send the messages to herself. You had been given all the relevant data and further matter would not have assisted you on that point.

4. Fresh evidence. The witness you now want to call has known you for 10 years. She was in touch with your solicitors before the trial and you discussed with them whether she would attend to give evidence. In her witness statement, (made in February 2021 and signed 1/4/2021) she says she saw you with the complainant but did not recognise you. In her statement she says that the complainant was telling people at the time that she was being assaulted by her boyfriend. She was highly likely to have been an unreliable witness even if she had been willing to attend.

5. You were properly advised throughout this process and you were faced with a strong case against you. You cannot show that your pleas of guilty were based on any failure by your counsel, your solicitor or the court. You discussed this plea on different occasions and there is no basis for saying you were incompetent to enter a valid plea. You were interested to find out what reduction in sentence you would obtain by pleading guilty.

6. There is no merit in any of the individual grounds you are trying to argue, there is no merit in the combination of all the points you make. If there had been a point you could have properly argued I

would have considered the request for a lengthy extension of time. You have not shown any arguable grounds and it is not necessary to decide that application."

18. Notwithstanding those sentiments that were expressed in refusing the application, the Single Judge did not initial the box to indicate that the application was considered to be wholly without merit.

19. Following the decision of the Single Judge, the applicant lodged further submissions and documents in support of those submissions. The Registrar directed the applicant to consolidate his grounds of appeal and provide an index of documents lodged in support. In response the applicant has provided: "Consolidated Grounds of Appeal against Conviction" with an index list of documents to which he refers. Within the Consolidated Grounds of Appeal drafted by the applicant the following grounds are advanced:

- (1) Disclosure failure: The applicant's defence team, Healey Colbon Solicitors, failed to disclose in full the police interview transcripts; unused material; data reports; IPA disclosure; statements and screenshots from the defence witness Zoe Benjamin.
- (2) Wrongful admission of evidence: There were errors in the applicant's Defence Statement. The applicant's concerns in that regard were ignored by solicitor Minal Rajshankha and not corrected.
- (3) Counsel James Bloomer made a wrongful admission of evidence. The applicant signed the basis of plea believing he was only admitting to some Instagram messages in retaliation to the complainant and Theodore Thomas harassing the applicant. The basis of plea was vague and signed in the

absence of full disclosure.

- (4) Misrepresentation: There was professional misconduct of the applicant's defence team and deliberate abuse of process which made it impossible for the applicant to have a fair trial.
- (5) Irregularity in Procedure: There was a conspiracy by the prosecution who removed and failed to disclose 34 pages from the IPA Disclosure for the number ending in 716. Those pages would have shown the complainant was in regular contact with the harassing number in the form of outgoing and incoming calls.
- (6) The defence team were part of the conspiracy and failed to provide the applicant with the material which would have assisted the defence case.

20. Further submissions were also provided within a letter from the applicant received on 25 November 2021, which was originally lodged as part of his sentence application which was subsequently abandoned.

21. The applicant also seeks disclosure of the 34 pages from the IPA disclosure for the number ending in 716. The applicant also applies under section 23 of the Criminal Appeals Act 1968 to admit as fresh evidence the statement of Zoe Benjamin dated 1 April 2021 and copies of messages in March 2021 between a Lianne Salam of Colborn Solicitors and Ms Benjamin.

22. We have given careful consideration to the consolidated grounds of appeal and the associated documentation relied upon. In material respects they are simply a

"repackaging" of the previous grounds. The consolidated grounds of appeal do not raise any arguable ground of appeal against conviction. We endorse the views expressed by the Single Judge which remain apposite. The applicant entered unequivocal guilty pleas to Counts 3 and 5. Such pleas are also consistent with the admissions in the Principal Grounds. There is no substance in the allegations the applicant makes in relation to the Crown and his former solicitors and counsel. The points made in relation to the defence statement and the basis of plea do not go to conviction. The documents referred to and sought do not disclose and do not undermine the safety of the convictions, and the alleged "fresh evidence" is neither fresh nor reliable, as rightly noted by the Single Judge. In any event it does not go to the assault (which is evidenced) or the course of harassment (which is also readily evidenced).

23. No good reason for the delay in applying for permission to appeal against conviction has ever been given and the extension of time sought is refused. In any event, there is no arguable ground of appeal against conviction and the applications are accordingly refused.

24. We consider that the application for permission to appeal against conviction is wholly without merit and no attempt has been made to address the grounds of refusal of the Single Judge.

25. When warned of the possibility of a loss of time order, the applicant made the following representations:

"Material facts existed which have not been previously presented

and heard, which in the interest of justice requires vacation of the conviction and charge that was instituted by Luton Police or State or Government. The Luton Crown Court has acted wrong in law where they have failed in having jurisdiction to perform any duty, as purported in elements of the Magna Carta 1297, Petition of Rights 1627, The Bill of Rights 1688 and the Habeas Corpus Acts 1640, 1679 and 1816, where their actions denied me my fundamental human rights."

26. The application is considered to be wholly without merit and the representations made do not provide any good reason why we should not make a loss of time order. Accordingly, and in accordance with the observations in *R v Gray and others* [2014] EWCA Crim 237 we make a loss of time order whereby 28 of the days spent in custody will not count towards the time spent in custody. It is by making such orders that unmeritorious applications, such as the present, which waste the time of this court, are to be discouraged.