IN THE COURT OF APPEAL
CRIMINAL DIVISION

CASE NO 202300364/A2-202300489/A2
202300494/A2-202300556/A2-202300684/A2

[2023] EWCA Crim 900

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday 22 June 2023

Before:
LADY JUSTICE MACUR DBE

MR JUSTICE BRYAN

HER HONOUR JUDGE ANGELA MORRIS
(Sitting as a Judge of the CACD)

REX
V
GEORGE WILLIAM O'HARE
PETRIT AZEMI
ASHLEY MUNROE
DALE MCKEE
RICHARD BENJAMIN WALSH

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MR S FIDLER (SOLICITOR ADVOCATE) appeared on behalf of the Appellants O'Hare, Azemi & Walsh.
MR T KHARRAN (SOLICITOR ADVOCATE) appeared on behalf of the Appellant Munroe.
MR R AMARASINHA appeared on behalf of the Appellant McKee.

A P P R O V E D J U D G M E N T

MR JUSTICE BRYAN:

A. Introduction

1. These appeals against sentence, brought with the leave of the single judge, concern sentences for conspiracy to commit burglary, under section 9(1) of the Theft Act 1968 and section 1(1) of the Criminal Law Act 1977, as well as (in a particular case) aggravated burglary, under section 10(1) of the Theft Act, involving an organised crime gang committing high value commercial burglaries in Central London in 2019 and 2020. The core members and ring leaders were Richard Walsh and Dale McKee, who were each involved in a total of seven "ram raid" and "smash and grab" burglaries. There was, in effect, one commercial burglary a month between April and September 2019 committed by the gang (with two jobs having been committed in August 2019), targeting the luxury designer stores of Kensington and Chelsea.

2. The gang managed to evade the Police for that period by being extremely well organised and using sophisticated methods to avoid detection, including meeting up with changing groups at the home address of Walsh and McKee both before and after offences; conducting "recces" of the premises in the days beforehand; using multiple telephones with unregistered SIM cards; dropping telephones in the hours before the burglary and in the hours afterwards so that no cell site analysis could be conducted; using recently stolen vehicles and cloned plates on the mopeds used to commit the offences; disguises to conceal their identities and gloves to prevent DNA tracing; using lookouts and strategically placing members of the gang in locations in advance; entering the premises for only a short period of time, grabbing as many high value goods as possible; using high powered mopeds to circle the premises and ward off members of the public; making good their escape on fast motorbikes, likely using their knowledge of the local roads to avoid the police; quickly disposing of stolen items using a core of trusted "fences" in apparent legitimate venues such as Hatton Garden; and changing telephones between offences.

B. The Indictments and Sentences Passed.

3. The appellants were variously charged on an indictment (Indictment 1) containing three counts, namely 2 x conspiracy to burgle and 1 x aggravated burglary. McKee also faced an additional indictment containing a count of conspiracy to burgle (Indictment 2).

4. The courts of conspiracy to burgle on Indictment 1 were based upon three substantive offences executed by the gang. The aggravated burglary related to an offence involving a day-time raid. We detail the facts of the offences in due course below.

5. As we indicate below, two of the appellants were convicted after trial. The others pleaded guilty at various stages post PTPH. There were three other co-accused. They are not appellants and need no further reference in this appeal save in one respect which we will address later. Her Honour Judge Duncan (the trial judge) sentenced all the appellants.

6. The appellants were sentenced on 27 January 2023, as follows:-

(1) **O'Hare** - 25 months' imprisonment after plea for one offence of conspiracy to commit burglary from Tiffany & Co, A&H Page, Handbag Clinic - (This appellant had also been sentenced in August 2019 to 6 years' imprisonment for the substantive burglary at Tiffany &Co).

(2) **Azemi** - 7 years' imprisonment after plea for conspiracy to commit burglary from the Handbag Clinic and 7 years 7 months' imprisonment for conspiracy to commit burglary from Pandora, Hermes, and Joseph Ltd.

(3) **Munroe -** 7 years' imprisonment after trial, conspiracy to commit burglary from A&H Page.

(4) **Walsh** – after plea, 13 years' imprisonment for the aggravated burglary from Sutton & Robertson; 8 years' imprisonment concurrent for conspiracy to commit burglary (from Tiffany & Co, A&H Page, and Handbag Clinic) and 8 years' imprisonment concurrent for conspiracy to commit burglary at Pandora, Hermes, Joseph Ltd.

(5) **McKee** – after trial, 9 years 6 months' imprisonment for conspiracy to commit burglary (from Tiffany & Co, A&H Page, and Handbag Clinic), 9 years 6 months' concurrent for conspiracy to commit burglary (from Pandora, Hermes and Joseph Ltd). He was also sentenced to 3 years' imprisonment consecutive for conspiracy to commit burglary from Christian Dior.

7. Other, unobjectionable, ancillary orders were made.

C. The Appeal

8. The appellants have some different grounds of appeal, which we address below, but the single judge identified the main grounds of appeal as follows:-

> "1. There is an issue of principle potentially affecting all the defendants who are seeking leave to appeal that ought to be considered by the Full Court namely whether the judge's starting points for the two conspiracies to burgle were too high having regard to the commercial burglary sentencing guidelines, notwithstanding the earlier authorities on ram raiding offences, some of which related to offences of robbery.
>
> 2. There are subordinate points in some of these cases about whether delay in investigating these offences and bringing them to trial is a significant mitigating factor generally or in the cases where a defendant has served or is still serving a sentence for a specific offence that is subsequently relied on in the conspiracies."

D. Facts relating to the Offending

Indictment 1.

Count 1 - Tiffany & Co, A&H Page, Handbag Clinic

Tiffany & Co *(Richard Walsh, McKee, Tofts & O'Hare)*

9. The first offence occurred on 26 April 2019. At 2.46 am a flatbed truck, stolen two days before and on false plates, reversed into the front of the Tiffany & Co store on Sloane Street. That truck was escorted by three mopeds, two of which had pillion passengers and the third with only a driver so that the driver of the flatbed truck could later make good their escape as a pillion. Three people wearing motorcycle helmets entered the store and began smashing glass panels. They were in the store for under four minutes and stole 42 items with a retail value of £230,515. Significant damage was caused to the shop, with very substantial and expensive repairs being suffered. As a result, the store was closed from 26 April 2019 until 30 April 2019 inclusive, resulting in loss of trade of approximately £75,000. An axe and a hammer used to smash the cabinets were left at the store. O'Hare's blood was

later identified as a match to him, a cut likely caused by the violent smashing of the cabinets.

10. Prior to the offence, at 5.16 pm on 25 April 2019, McKee called Jawad Hussain, who was a "fence" - someone the gang used to sell off their stolen goods, often immediately after the burglaries. On this occasion the 18-second call was likely to be McKee putting Hussain on notice of the impending burglary and the likely haul of stolen goods that would need to be disposed of. Walsh arrived back at Lots Road (Richard Walsh's address) at around 10.40 pm, and the stolen Ford also moved towards the area of Lots Road, where it stayed until it triggered an ANPR camera again near Lots Road at 2.41 am, just before the burglary. From 11 pm the cell site evidence showed that there was a gathering of the conspirators at Lots Road, where the planning and final preparations were put into place. McKee and Walsh were at Lots Road together until at least 12.10 am when McKee's telephone went dark. Walsh's telephone went dark at 2.22 am. This was a familiar tactic used in nearly every burglary by the pair, so that cell site could not track their telephones during that key timeframe. A taxi for five people was ordered from Lots Road to Fulham Palace Road at 2.13 am, about 30 minutes before the burglary. Those five people included Richard Walsh, O'Hare, Tofts and McKee, and they went to pick up the mopeds subsequently used in the burglary.

11. Following the offence all of the conspirators headed back into the direction of Sundew Avenue (McKee's address). McKee's telephone was used for the first time in 3½ hours at 3.46 to call his partner, likely to get her to let him into the block where they lived. Tofts, O'Hare and Richard Walsh's telephones were also cell siting in the vicinity of Sundew Avenue. At 4.09 am O'Hare booked a taxi to go to Lots Road from Sundew Avenue. At 7.28 am Jawad Hussain was on the telephone to McKee again, and later that afternoon McKee, Tofts and Richard Walsh went to Mayfair Gems in Hatton Garden to dispose of some of the £230,000 worth of jewellery just stolen in the burglary. Richard Walsh's telephone download painted a clear picture of the relationship between the criminal gang and Jawad Hussain ("Jay") and Christopher O'Shea, owner of Mayfair Gems.

A&H Page *(Richard Walsh, McKee, Munroe & O'Hare)*

12. The second offence occurred at 3.55 am on 15 May 2019. A silver Ford Transit, stolen eight days before, rammed into the front of A & H Page, a jewellery shop located in Gloucester Road, London, SW7. Once again, the stolen van arrived escorted by two mopeds, both with pillion passengers. One of the pillion passengers was observed by a bystander to be holding a large block. CCTV showed the moped passengers attaching a blue rope onto the shutters, and the van proceeding to pull the shutters away from the front of the store, leaving them displaced in the middle of the road. The blue rope used to pull the shutters away had Munroe's DNA on it. The front window and door of the shop were damaged, as were the internal glass display cabinets. A blue handled mallet and screwdriver were left in the store. Munroe's Honda Civic was hitting ANPR cameras in the vicinity of A&H Page before and after the burglary. It was likely, given there was no space on the mopeds, that the driver used this as a getaway vehicle after the burglary. Fifty-seven items, with a total value of £7,345, were stolen from A&H Page Jewellers. Repairs to the damage to the shop cost approximately £22,000.

13. In the hours before the burglary there was reconnaissance. Munroe, using the Honda Civic, attended A&H Page to conduct a recce with McKee at around 11 pm. Munroe was on the telephone to Richard Walsh at around this time. McKee and Munroe then left the area of A&H Page towards Ladbroke Grove, which co-ordinated with Richard Walsh ordering a taxi from Lots Road to Ladbroke Grove. All three men met there and McKee then got into the stolen Ford, to be used in the burglary in the coming hours, and drove alongside Richard Walsh back to the area of A&H Page for a further recce. ANPR evidence showed that Munroe appeared to be in convoy with the stolen van, also returning to the area of A&H Page. At that time O'Hare, who was at Lots Road, was calling both McKee and Richard Walsh. Following this second recce Munroe and McKee's telephones went dark in a co-ordinated fashion, at 12.45 and 12.59 am respectively. It was likely that all parties met up at Lots Road before the burglary, as was the usual pattern. Richard Walsh and O'Hare cell sited in the vicinity of Lots Road until 2.26 am, when Richard Walsh's telephone also went dark.

14. Following the burglary McKee and Munroe's telephones co-ordinated switching back on, being used at 4.16 am and 4.19 am respectively. Richard Walsh's first use was at 4.46 am. All telephones were using cells which served the Sundew Avenue area. As before, McKee's first call was to his partner. On 15 May 2019 Richard Walsh ordered a taxi at 5.00 am from Sundew Avenue, London W12 to Lots Road, W6, via Fulham Palace Road, W6.

Handbag Clinic *(Richard Walsh, McKee, Tofts, Azemi, O'Hare)*

15. On 18 June 2019 the third burglary took place. Once again, a stolen vehicle was used to smash the front of the shop, arriving escorted by two mopeds. The Golf had been stolen 18 days previously and was on false plates. It had the same blue webbing strap used in the A&H burglary tied around its back seats. The burglary was witnessed by a taxi driver. At 3.50 am he heard a loud bang and saw that the Golf had crashed into the Handbag Clinic and three men had entered the shop. He filmed the incident on his telephone, ducking at moments, scared that the intruders would see him. There was also good quality CCTV which showed three males entering the store. One went directly downstairs where he used an angle grinder to attempt to get into the area where the more expensive handbags were kept. The angle grinder was left in situ and later recovered by Officers. The three men were in the store for about two minutes while they filled laundry bags with items; 15 items were stolen from The Handbag Clinic with a total value of £15,745. Damage of £8,398.49 was caused to the building, there was loss of revenue of £123,000 and adjusters fees of £15,926.40. The repairs for the Golf GTE used in the burglary cost approximately £8,000. An expert determined that O'Hare's right shoe could have made a footprint mark found inside the store.

16. O'Hare's telephone download showed that before the burglary he was in contact with others discussing his need to make money. On 17 June 2019 he sent a message "*Yo g what you saying me you riks and pech hbc day time*." ("riks" is Richard Walsh and "pech" is Azemi, "hbc" stands for Handbag Clinic,). There was then discussion of conducting recces and sourcing laundry bags for the burglary. There was once again a gathering at Lots Road in advance of the burglary. Azemi drove the stolen Golf to Lots Road around 1.30 am. This accords with his cell site records and his DNA was found on the driver's door handles. During that journey he was in contact with McKee who was also at Lots Road. McKee left Lots Road at 3.16 am and shortly after that Richard Walsh tried to call him. This was the last call before McKee's telephone went dark. When Richard Walsh could not get through, he rang O'Hare who was using the same microcell on the Kings Road as McKee. That was the last call on Richard Walsh's telephone before the burglary. At 3.55 am O'Hare's telephone was using a microcell a short distance from The Handbag Clinic.

17. Following the burglary O'Hare and Richard Walsh were back in the vicinity of McKee's address, using cell sites in the area of Sundew Avenue. Richard Walsh ordered a taxi from Matthew Close to Sundew Avenue arriving at 4.28 am. By 4.50 am McKee had not yet turned his telephone back on. Post burglary Tofts went to Tottenham and Azemi went to Lots Road, but they were all attempting to call each other. At 6.23 am McKee sent a text message to Jawad Hussain, likely informing him of their night's loot and asking whether he would like to purchase any of it. There were then 40 calls and missed calls between them throughout the day. Jawad Hussain was also in contact with O'Hare.

Count 2 (Pandora, Hermes, Joseph Ltd)

Pandora *(Richard Walsh, McKee & Azemi)*

18. On 5 July 2019 a CCTV operator of a nearby apartment building to the Pandora Shop heard loud scooter engines and a security alarm of the shop go off. He called 999 and informed them that a burglary was in progress. CCTV showed that two mopeds arrived at the store, with one pillion passenger carrying a large concrete fence support. Two people then pulled up the roller shutters before they proceeded to smash the glass in the doors to gain access. Once inside they removed handbags and filled laundry bags. As this was happening the motorbike was parading up and down outside the shop. They were in the store for about 3 minutes before making good their escape on the mopeds. Twenty handbags were stolen with a total retail value of £37,809. Damage to the shop in repairs cost approximately £7,989 plus VAT.

19. Once again prior to the burglary there was a gathering at Lots Road, at around 10 pm. By 10.12 pm McKee had stopped using his telephone and he did not use it again until 2.52 am after the offence. Walsh stopped using his telephone at 1.21 am and did not use it again until 3.14 am. Azemi and Walsh went to the Sundew Avenue area just before the offence at 1.20 am. McKee's exact whereabouts were unknown as his telephone had gone dark.

20. Following the burglary Azemi went back to Sundew Avenue and at 3.28 am ordered an Uber from Sundew Avenue to Lots Road. Azemi appeared to have picked up Walsh in Shepherds Bush en route. At 10.35 the next day McKee sent a text to Jawad Hussain. There were then a further 11 texts, calls and missed calls between them by 2 pm. Richard

Walsh also had a 3 ½ minute call with Hussain that afternoon. All, once again, getting rid of their loot from the night before.

Hermes *(Richard Walsh, McKee, Daniel Walsh & Azemi)*

21. At around 3 am on 7 August 2019 a stolen van was driven through the front window of Hermes, marshalled by four mopeds. This incident was witnessed by a local resident and a number of security guards working in the area. One of these, Mr Kalay, was approached by one moped rider who shouted abuse at him, wanting to intimidate him. Mr Kalay also saw that one of the drivers of the moped had a long implement in his right hand. Another security guard, Mr Munir, observed that one of the moped riders looked to be holding a weapon across his body. The mopeds circled outside and mounted the pavements. Four suspects entered the store. One of those was Azemi wearing a distinctive "Replay" top, which he was also seen to be wearing in surveillance. Laundry bags are once again used to take items. The suspects were in the store for less than 3 minutes. The total value of goods stolen was £74,915. Damage to the shop totalled approximately £76,555. One of the mopeds used in the burglary, driven by Azemi, was on cloned plates. The true registration revealed that it was linked to Richard Walsh, as having been reported outside his sister's address on 23 July 2019.

22. By the time of the Hermes Offence, police officers had started conducting surveillance on the Lots Road address. Once again there was a gathering there prior to the burglary in order to plan it. Between visits to Richard Walsh's address, McKee went and carried out reconnaissance in the area of the Hermes store. Cell site evidence showed him in the vicinity just after midnight. Richard Walsh and McKee, in the hours before the burglary, were also both on the telephone to the same unknown numbers, likely one of the others who attended Hermes. Surveillance showed that the unidentified van driver and Azemi arrived at the Lots Road address, coordinating with the ANPR of the stolen van. Richard Walsh, Azemi and the driver then went, along with a petrol can, to fill up the van ready for the burglary. At 1.19 am McKee returned to Lots Road. As he arrived Richard Walsh was on the telephone to Daniel Walsh. Daniel Walsh then started to use the temporary number obtained specifically for use in the burglary. Richard Walsh was called by the number just after its activation to test it was working. Both McKee and Richard Walsh then left Lots Road at 2.07 am and went up to McKee's home address where they remained, co-ordinating

the burglary. Richard Walsh remained on the telephone to Daniel Walsh's temporary telephone throughout and McKee's telephone went dark.

23. After the burglary, at 4.40 am, Richard Walsh took an Uber from Wengham House to Lots Road alongside Azemi. Azemi then got an Uber at 6.48 am from Lots Road to Holland Road, near his home address. McKee was calling Jawad Husasin the following day, again to attempt to get rid of the nearly £75,000 worth of goods that had been stolen.

Count 3: Sutton & Robertsons *(Richard Walsh, Daniel Walsh & Omreet Hasan)*

24. This offence was different in so far as it took place during the day and was witnessed by a number of members of the public, including a family with their two young children having lunch opposite the venue. On 24 August 2022 three members of staff were in the store when at approximately 10.30 am they heard a loud bang and a moped ramming the door. The door was an electric door that could only be opened using a button inside the store. CCTV showed that one member of staff cowered under the desk and the other two ran to the back of the store. Two men in full motorcycle gear entered with hammers and smashed the cabinets taking items, while two mopeds circled outside. One of the moped drivers had a water bottle that the members of the public believed to be acid, which he was squirting towards members of the public to prevent them from intervening. The moped drivers were shouting "abusive language" at the public including "get the fuck away." The total value of goods stolen was £186,455. Damage to the shop door and cabinets cost approximately £805 to repair.

25. The day before the burglary Daniel Walsh had been at Richard Walsh's home address planning the burglary. Richard Walsh had a temporary telephone, as did Hasan and Daniel Walsh, all specifically obtained for use in this burglary. In total four temporary telephones were acquired and used. All the telephones cell sited in the vicinity of S&R during the offence. Cell site showed that Hasan and Daniel Walsh attended the area of S&R in advance as lookouts for the impending arrival of the mopeds. Mobile telephone footage from one of the bystanders showed that Daniel Walsh was brazen enough to film the burglary on his telephone and this was then sent around Snapchat and found on the telephones of Richard Walsh and Daniel Walsh when they were arrested.

26. After the offence Richard Walsh's temporary telephone was using cell sites at Western Avenue, before he went back to Lots Road by 11.19 am. Surveillance showed him arriving back wearing full motorcycle gear. Richard Walsh tried to contact Hasan and Daniel Walsh. He then took two separate taxis on 27 August 2019 to Mayfair Gems, owned by Christopher O'Shea (at 11.37 am and 14.30 am). O'Shea, as was evident from the telephone download, was also someone that was used as a "fence" to dispose of their stolen wears. He was saved in Richard Walsh's telephone as "Chris Htn"

Count 2 Joseph Ltd *(Richard Walsh, McKee, Azemi & Patten)*

27. Just after 2.30 am on 30 September 2019 officers attended to reports of a burglary and found that a shop had been broken into. Two large laundry bags had been left behind. Four bags and 13 items of clothing were stolen from Joseph Ltd at Draycott Avenue, London, SW3. The total cost price of the goods was £6,490, with a retail price of £16,395. Damage to the shop resulted in repair costs of £3,682 and hiring of security guards of £5,763.

28. Before the burglary there was a meeting at the Lots Roads Road address, attended by Patten, McKee and Azemi. After that they carried out targeted reconnaissance on Joseph. At 1.11 am Richard Walsh ordered a taxi to Sundew Avenue. McKee's telephone went dark at 1.47 am in the area of Sundew Avenue and Richard Walsh's telephone was used at 1.29 am to place a call to McKee (also in the area of Sundew Avenue). McKee ordered a taxi at 2.09 am with a pickup from Sundew Avenue going to Walton Street, the adjoining street to the Joseph store, arriving just as the burglary started.

29. O'Hare and Richard Walsh were arrested on 18 June 2019 at the home address of Richard Walsh in Lots Road. A number plate for a moped (which was parked on Tadema Road bearing a false plate), a rucksack containing screwdrivers and a small hammer, a lump hammer and a pawnbroker's receipt dated 10/05/2019 for £1,063.01 was in Richard Walsh's name and those items were seized from that address. The main arrest phase was in October 2021.

T20211039: Christian Dior Offence *(Tofts & McKee)*

30. The offence was a conspiracy to burgle the Christian Dior store on Sloane Street between 21 September 2020 and 25 September 2020. The conspiracy included McKee, Tofts, another defendant who awaits trial and others unknown. The facts of the Christian Dior offence were strikingly similar to those contained within the main indictment. At 3.15 am on 24 September 2020 a red Citroen bearing false index plates reversed through the front window of the Christian Dior shop on Sloane Street, London. This store is a 2-minute walk on the opposite side of Sloane Street from the Hermes Store. The shop having been rammed, four males entered the premises with their identities concealed by crash helmets and non-descript clothing. They stole merchandise worth £40,000 and, in the process, caused £50,000 worth of damage to the store.

31. Thirty-two hours before the burglary, the Citroen C5 with its original plates had been purchased with cash by McKee and Tofts. The car had been advertised on Gumtree on 22 September 2020 and McKee, using an unregistered Pay-as-You-Go number topped up that day, answered the advert on the same day. The SIM had been purchased exclusively to facilitate the purchase of the vehicle to be used in the burglary and it was likely the handset was disposed of afterwards. Arrangements were made for McKee to buy the car for £350 and to attend the seller's address. McKee and Tofts were tracked on CCTV in the vicinity of the cashpoint used to withdraw the cash for the purchase. McKee used his partner's bank card to withdraw the cash. CCTV showed that it was McKee who was in possession of and using the unregistered telephone. The footage then tracked the men walking to the seller's home and later driving the Citroen away. They proceeded to register it with false details of Freddy Williams at 9 Baird Close. The seller confirmed two distinctive features for McKee, namely his pound sign tattoo and a grey patch of hair on the left side of his head. The seller was also asked by McKee if the car had enough petrol to get them to the White City Estate.

E. The Authorities on "ram raids"

32. As this Court recognised in *R v Lawlor* at [13], "Whichever form it takes and whether charged as theft, burglary or robbery, it is not easy to pigeon-hole ram-raiding within any particular guideline".

33. The Judge having identified the relevant sentencing guidelines, then referred to decisions of this Court in "ram raid" type cases, namely *R v Byrne & Ors* (1995) 6 Cr App R(S) 140; *R*

v McCaffery and McCaffery [2009] EWCA Crim *54;* [2009] 2 Cr App Rep (S) 392*; R v Delaney* [2010] EWCA Crim 988; [2011] 1 Cr App Rep (S) 117 and *R v Lawlor* [2012] EWCA Crim 1870.

34. In *R v Byrne* the Court dealt with such an offence charged as theft. In giving the judgment of the Court, Lord Taylor CJ said (at pp 141-142):

> "Counsel on behalf of the appellants have sought to suggest that this was only a case of attempted theft; it failed; it was a one-off offence; and the learned judge treated it all too seriously. In our judgment, that view cannot be sustained. This type of offending, which involves 'ram-raiding', taking vehicles belonging to other people in order to steal from a building, not just by breaking in and taking something, but by breaking down the building itself, has become prevalent and is extremely serious. The gravity can be stated in this way. First, it is almost always a composite offence: it involves the theft of other vehicles before the main theft is attempted. Secondly, it involves targeting a particular prize, and planning the offence with deliberation . . . . Thirdly, whatever may have been obtained by thieves by this method, or (in this case) whatever may have been attempted to be obtained, there will almost always be serious damage to property . . . .
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> A further aggravating feature is that this type of offence is aimed at defeating even the best of security. It is no use for the owners of buildings, the proprietors of banks or building societies seeking to apply all manner of security devices if a JCB digger is going to be driven boldly through the front window. It is a kind of military operation against whatever security precautions may be applied to any building.
>
> Finally, there is the element of breach of the peace. In the middle of the night in Herne Bay, there was an operation going on which roused people and put some of them in fear. It is an affront to civilised society; it is an outrageous offence. It transcends the ordinary type of attempted theft."

35. In *McCaffrey*, a conspiracy to rob case, the trial judge sentenced the defendants to 14 years' imprisonment indicating that it would have been 21 years' imprisonment after trial.

36. In that case Pitchford J, giving the judgment of the Court, stated at [7]-[8]:

> "7. Counsel submit that sentences of the current magnitude are reserved for offences which either comprise a series of robberies

> or involve the carrying of firearms or the infliction of actual physical harm upon victims. In their advices, we have been referred, in support of this submission, to previous decisions of the court which we have considered. In *R v Betson & Ors* [2004] 2 Cr App R(S) 270, the court was considering sentences imposed upon appellants convicted after a trial of conspiracy to rob the De Beers diamond exhibition at the Millennium Dome. Their target was jewellery said to be worth up to £200 million. The operation was planned. Two previous attempts had been made. It involved the ram raiding of the premises with an adapted JCB machine. The offenders carried smoke grenades and ammonia but did not use the ammonia. The robbery was foiled because they were under surveillance. The court acknowledged on that occasion the relevance of the assertion that ruthless violence was not contemplated and that no firearms were carried. A sentence of 18 years upon one of the ringleaders was reduced to 15 years' imprisonment following his trial. There are, we accept, comparisons to be made with the circumstances of the present case. This was a meticulously planned robbery involving a group of men who targeted high value goods by means of ram raiding and steaming into the premises invaded. Here, the appellants actually succeeded to the extent of stealing jewellery worth over £1.6 million.
>
> 8. In our judgment, the appropriate starting point, having regard to the age of these appellants absence of the use of firearms, was 15 years, after which full discount for pleas of guilty would result in a sentence of 10 years' imprisonment."

37. In *Delaney* the "ram-raiding" offences were charged as two substantive offences of burglary. The defendants had substantial previous convictions for dishonesty and the offending was 3 months apart. The sentences passed for the burglaries were ones of 4 years and 8 years' consecutive, a total of 12 years' imprisonment.

38. The Court rejected the suggestion that the appropriate total sentence in this case was 7 or 8 years:-

> "16. Mr Bindloss then submits that the total sentence of 12 years is simply too long, having regard to the principle of totality. He suggested that the appropriate total in this case was 7 or 8 years. We unhesitatingly disagree with that quantification. In *Attorney-General's References Nos 45, 46, 47, 48 and 49 of 2007 (Carl Kevin Callaghan & Ors)* [2008] 1 Cr App R(S) 88, this court carefully reviewed the cases in which ram-raiding had been considered, going back to *R v Percy* (1993) 14 Cr App R(S) 10 and Burn & Ors, to which we have already referred. At paragraph 40 of the judgment in the Attorney-General's Reference, the court said that the previous authorities:-

> "...suggest that in the context of a single ram raid offence, a starting point in the region of or approaching 7 years, following a trial, is implicit in all of them."”

39. In *Lawlor* the offence charged was one of conspiracy to rob. Lawlor was sentenced to 12 years' imprisonment after a trial, his co-defendant was sentenced to 9 years' imprisonment after plea. Both defendants in that case had previous convictions, but this was an escalation.

40. At [13] Gross LJ identified that:-

> **"**[13] The nature of ram-raiding can differ. Sometimes it involves a raid in the dead of night when no one is around and when, in truth, the attack is an attack upon property with no individuals at the receiving end. On other occasions it can take place in a crowded location with numbers of people present, whether in the premises attacked or outside. **…"**

He continued:

> "[15] … as explained in *R v Hibbert* [2008] EWCA Crim 1854 where Hughes LJ said this:
>
> '23 The guidelines are important and govern sentencing, but they are just that: guidelines. The category of offences described as less sophisticated commercial robberies is more appropriately targeted at the kind of corner shop robbery, which is significantly less grave than this kind of offence. Equally, this is not what is sometimes described as a *Turner* kind of offence, involving an armed raid on bullion vans or cash deliveries or the like. It seems to us that it is somewhere between the two.
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> 24 But there were important and grave features of this case . . . . The object of the exercise was to cause as much fright to the public as was possible in order to enable the offenders to complete the theft swiftly. It is not simply a case of menace or of actual force to the victim of the robbery; it is a case of general fear and threat. In the case of both offences, that was achieved by numbers and by the use of frightening implements. Whether they are better described as tools or weapons is perhaps a moot point. They were in a sense tools. They were certainly not used to injure any person, but they would have contributed very significantly to the fear that must have been caused.'"

41. After referring to *R v Thomas* [2011] EWCA Crim 1497; [2012] 1 Cr App Rep (S) 252 (in which Lord Judge CJ, considered sentencing levels for serious commercial robberies at the

top end of the sentencing range, and in which he concluded that the higher sentences for murder in recent years suggested higher sentences across the entire range of offences of violence the Court returned to the instant case before them in these terms (at [19] to [21]):-

> **"**19 Against that background, we return to the instant case. This was manifestly serious offending. It was entirely properly and sensibly charged as conspiracy to rob. The robbery was timed, as the judge recorded, for the emptying of the cash machine. It necessarily followed that there would be individuals on the premises at the time they were attacked. Hence the robbery charge – this was not burglary in the dead of night with no one present. The offence had a number of features:
>
> (1) There was sophistication and careful planning as to the bank targeted, the timing, and the availability of the cars stolen beforehand and professionally used.
>
> (2) A number of robbers were involved.
>
> (3) Masks or disguises were worn.
>
> (4) The Passat car was used as a weapon to gain entry into the premises. We reject the submission that no weapons were used; the vehicle was the weapon.
>
> (5) As is a hallmark of such offending, the tactic is speed and shock, so numbing individuals on the receiving end or in the vicinity. Moreover, the two Appellants have significant criminal records, even if not on the same scale as here.
>
> 20 The Appellants deserve no sympathy whatever. Serious offending must be met by substantial sentences. The only question is whether the sentences were out of line with the authorities. It would of course be wrong to sentence on a compartmentalised basis and it is always wrong to treat sentencing as a mechanistic arithmetical exercise. Nonetheless, we feel able to discern two broad categories in the decisions to which we were referred. The first, for offences of burglary (or theft), includes cases such as *Delaney* (supra), which attract a sentencing starting point in the region of seven years following a trial for a single ram-raid offence. The second, for offences of robbery, produces decisions such as *Hibbert* (supra) and *McCaffery* (supra), suggesting sentences of the order of 10 – 15 years for a single such offence after a trial. In our judgment, it is the second category which is clearly pertinent here. Moreover, decisions in that second category fall to be considered in the light of the higher sentence levels contemplated in *Thomas* (supra).
>
> 21 In all the circumstances of the case (as set out above) and bearing in mind (*inter alia*) that a sum in excess of £100,000 was involved, the Judge was entitled to sentence at a level

> between *Hibbert* and *McCaffery*. Although it may be right to regard the sentences of twelve years' imprisonment for *Lawlor* and nine years' imprisonment for Smith as being severe, we are quite unable to see them as manifestly excessive."

42. We are quite satisfied that these observations remain equally apposite to the type of offending under consideration on this appeal and that the judge was right to have regard to those authorities.

F. The Sentencing Guidelines

43. The Non-Domestic Burglary Guideline was not designed for, and is not particularly apt in the context of, the sentencing of very serious offending involving an organised crime gang committing high value commercial burglaries involving "ram raid" and "smash and grab" tactics. In so far as it does apply, the present offending would be Category A High Culpability (a significant degree of planning and/or organisation, and in many cases also weapons carried) and Category 1 Harm (theft of and damage to property causing a substantial degree of commercial/economic loss to the victim with extensive damage to property) (whether economic, commercial, cultural or of personal value). Category 1A has a starting point of 2 years' imprisonment and a range of 1 to 5 years' imprisonment.

44. We note that even in the context of a single instance of such offending as here, a sentence considerably in excess of 5 years would be merited, for all the reasons that are highlighted in the authorities we have referred to which the Judge had regard to. Whilst in the majority of cases to which a sentencing guideline applies, the citation of decisions of the Court of Appeal on their interpretation and application is generally of no assistance – (see *R v Thelwall* [2016] EWCA Crim 755 and *R v Griffin* [2019] EWCA Crim 563), the same is not true in the context of authorities which address such serious offending as here.

45. There is nothing heretical about the continued use, and assistance, of such authorities in that context, and there are parallels in other areas, most obviously in the sentencing of very serious drugs conspiracies involving quantities of drugs, and overall criminality, above that addressed in the Drug Guidelines.

46. Ultimately, every case is to be sentenced on its own particular facts, but the authorities we have identified continue to offer valuable guidance to which a sentencing judge will no doubt wish to refer.

47. In the present case the Judge was also sentencing particular offenders for more than one offence. The User Guide to the Sentencing Guidelines itself expressly recognizes, in the context of sentencing for multiple offences, that

> "where an offender is being sentenced for multiple offences – the court's assessment of the totality of the offending may result in a sentence above the range indicated for the individual offences, including a sentence of a different type."

G. The Appeals

48. The sentencing judge was well placed to identify the respective roles of the various defendants having presided over the trial of McKee and Walsh. In her careful and detailed sentencing remarks, and as is further addressed in relation to particular defendants in due course below, she also had express regard to the personal mitigation available to individual defendants and differentiated between defendants in the sentences she passed.

49. We are satisfied that the Judge did not err in principle in the approach she adopted to identifying the starting point by reference to the guidelines and the authorities concerning "ram-raid" type offending by serious organised crime gangs such as the present.

50. In this regard the Learned Judge rightly identified, amongst other matters, the following pertinent features at 6G to 8A of her Sentencing Remarks:-

> "Features common to all or many of the offences in this particular case are; that temporary unregistered telephones were used to evade police detection. For those who organise this operation the phones were changed on a regular basis like clockwork. Taxis were booked, giving false names and addresses when the groups assembled and moved around before and after the offences. Each job was meticulously planned, as is evident from the ruthlessly efficient way in which it was carried out. Everyone knew exactly what their role was on the job and where they were supposed to be. A group was assembled. Meetings were held beforehand. Tools were used, having been obtained specifically for each operation. We know this because they were simply left behind as a matter of policy, so that the group could carry as many stolen goods as they could and get away as quickly as possible. Reconnaissance missions were frequently undertaken prior to the offences. Bags were carried

> to the scenes of the crime in order to carry away as much as could be taken. Faces s were covered and obscured. Gloves were sometimes worn. Fences were lined up for the stolen goods to go to prior to the jobs and the goods were moved on very quickly. None of the goods were ever recovered. Very high value items were targeted – either expensive diamonds and jewellery, branded watches and designer handbags which retail for thousands. Stolen vehicles on number plates were used to smash the shop fronts and gain entry and, on occasion, concrete blocks were carried to the scene in order to make sure that entry was indeed attained. Frequently, despite the time of the offences – around 2.00 or 3.00 am in the morning – there were people around – security guards, members of the public going home or simply out and about. As I've said, almost mostly around 2.00 am this was in an area of London that is never deserted. The drama of the offences, the way they were carried out, the speed and a great deal of force means that anyone witnessing would have been extremely scared and alarmed. I agree with the Prosecution categorisation of this offending as 'simply brazen'. It was not deserted country villages that were targeted where there may be no-one around and it was hoped that there would be no-one around. This was central London. It was your speed, force, noise and menace of numbers that allowed you to carry out these offences."

51. We also note that the Learned Judge also expressly confirmed that she had, "taken different approaches to all defendants because of the differing levels of their previous criminality, their ages, their different roles, the different levels of involvement and the offences themselves" and that she had, "borne in mind throughout totality and parity and the sentences that [she had] decided reflect you all as individual people, as well as your individual involvement in this series of offences".

52. It is clear to us that the individual sentences that followed were carefully crafted with regard to each individual appellant, their involvement and their personal circumstances and associated mitigation. In the above circumstances and for the above reasons, we are satisfied that the Learned Judge did not err in her approach to sentencing having regard to the guidelines and the relevant authorities. Accordingly, the main ground of appeal is dismissed.

53. Turning to the other points of general application across the appeal that is raised, namely delay, we can deal with this point much more shortly.

54. It is well-established that delay may, on the facts of a particular case, justify a reduction in the sentence passed (see, for example, *R v Phillips* [2015] EWCA Crim 427 and *R v Kerrigan and Walker* [2014] EWCA Crim 2348). We do not consider this ground of appeal bears examination and it is without merit on the facts of this case.

55. As will be apparent from the particular features of the offending identified by the Judge, there would necessarily and inevitably be a very complex police investigation in relation to a conspiracy that spanned an extended period of time, involved multiple defendants and multiple burglaries, and all set against the backdrop of the multiple features of the defendants' deliberate conduct to evade detection including temporary unregistered phones, the use of false names and addresses, the rapid onward "fencing" of the goods taken and the like, necessitating detailed consideration and assimilation of each defendants movements and use of cell site data and ANPR hits to build an overall picture of the conspiracy and those involved in it. A conspiracy is often referred to as a web from which there is no escape. It takes a considerable amount of time in a case such as this, with multiple defendants, spanning multiple offences and a long period of time for that web to be constructed. It is hardly surprising that both the investigation and the time taken to prosecute were of the order that they were. Thereafter some defendants pleaded not guilty and trials were inevitable before sentencing of all defendants. In those circumstances, we do not consider this ground of appeal is of any merit on the facts of this case and dismiss the appeal in relation to the issue of delay.

56. The other issue to which the single judge referred related to offenders who had served or are still serving a sentence for a specific offence that is subsequently relied on in that conspiracy (O'Hare). We do not consider that this ground of appeal has any merit either. The approach adopted by the Learned Judge of deducting the determinate burglary sentence from the sentence that would otherwise have been passed in respect of O'Hare was entirely appropriate, and adequate to deal with the point, nor do we consider that the points in relation to totality (which the Learned Judge expressly had in mind) are of any merit when considering other offending of particular defendants.

57. We turn then to the remaining points raised by particular defendants. None of them formed part of the specific bases on which permission was granted but we have taken the permission to relate to all the grounds advanced.

O'Hare

58. We do not consider that the Learned Judge in adopting a sentence of 9 years' imprisonment (before 10% appropriate credit and taking account of the 6 years substantive sentence) erred in principle. O'Hare was being sentenced in respect of involvement in a sophisticated conspiracy in relation to three burglaries carried into effect (Tiffany & Co, A&H Page and Handbag Clinic) bearing the features identified above. The substantive sentence in respect of the Tiffany & Co burglary of 6 years was entirely appropriate and permission to appeal that was refused by the single judge and not renewed. The approach adopted by the Learned Judge to give credit for that sentence was the appropriate course.

59. It is clear that in arriving at the sentence of 9 years' imprisonment the Learned Judge had regard both to the aggravating and mitigating factors in relation to O'Hare's offending. In this regard the Learned Judge expressly stated (at 12E-G of her Sentencing Remarks):-

> "Mr O'Hare, you are in your 30s. You have 45 offences, starting in 2007 – thefts, drugs, burglaries. You have also completed a great deal of work in prison in fitness and cleaning, as well as having a mind to the future and how you might be able to get a job when you are released. You have shown remarkable maturity in a letter addressed to me where, in fact, you say that the prison sentence you received earlier was one of the best things that could have happened to you. You have a nine year old son and you have a supportive family, as do many of you. That speaks volumes and shows to me that all of you have another side to you, which is reassuring and which I take into account."

60. As to the remaining points raised in O'Hare's grounds, we have already addressed delay (and he was himself a serving prisoner), and we consider that the overall credit given was appropriate. The sentence passed of 25 months' imprisonment (after credit for the substantive Tiffany & Co sentence) is not manifestly excessive and the appeal of O'Hare is dismissed.

Azemi

61. We do not consider that the Learned Judge in adopting a sentence of 8 years and 6 months' imprisonment on count 2 (reduced to 7 years 7 months' imprisonment after appropriate credit for guilty plea) in circumstances where he also passed a concurrent sentence on count

1 of 7 years' imprisonment amounted to either erring in principle or a manifestly excessive sentence. Azemi was being sentenced in respect of involvement in a sophisticated conspiracy in relation to four burglaries carried into effect (Handbag Clinic, Pandora, Hermes and Joseph Ltd). This was not one individual "ram-raid" burglary but four burglaries across two counts.

62. The Learned Judge had careful regard to Azemi's involvement and personal mitigation, stating at 12H-13D of her Sentencing Remarks:-

> "Mr Azemi, you're 27. I sentence you for Count 1. You admit the Handbag Clinic job, but not Tiffany or A&H Page, but in relation to Count 2 you were involved in all three, so four separate jobs. You have said that you did not use violence and you yourself didn't take anything and you were not part of the disposal or fence liaison team. I take that into account. I accept that basis. You have only two previous convictions in 2011 and you were a youth at the time, albeit they are relevant. You have a medical condition as a result of long- term drug use. Imprisonment is, I am quite sure, going to make your medical care a worry to you and you have an ongoing severe drug problem, probably as a result of a complete lack of parental guidance as you grew up. You attended school, but left with no qualifications, experienced bullying at school and started using drugs as a teenager. Your drug use has damaged your kidneys. You are younger than the other defendants, particularly when of course the offences were committed. I take into account all of that, together with everything in the letter that you addressed to me."

63. The matters taken into account are consistent with the contents of the Pre-Appeal Report to us which we have had regard.

64. The Learned Judge also stated, when passing sentence said (at 16D to 16E):-

> "Count 1 the Handbag Clinic, Count 2 Pandora, Hermès and Joseph. You are very likely convicted, but you were involved in separate jobs. Taking everything into account what I have decided to do is make them concurrent, but bear in mind your level of involvement – on Count 1, seven years; on Count 2, eight and a half years. Bearing in mind your plea of guilty, the sentence on Count 2 is reduced to seven years and seven months."

65. Such an approach was an entirely appropriate one to reflect Azemi's involvement and the totality of his offending.

66. We are satisfied that the Learned Judge had proper regard to the available mitigation, and we have also had regard to the Pre-Appeal Report. There was no error in principle in relation to the approach to sentencing or the overall sentence passed. We have already addressed the issue raised in relation to delay. It is without merit. The sentence passed of 7 years and 7 months' imprisonment (after appropriate credit for guilty pleas) is not manifestly excessive and the appeal of Azemi is dismissed.

Munroe

67. We do not consider that the Learned Judge in adopting a sentence of 7 years' imprisonment (on conviction) erred in principle. Munroe was being sentenced in respect of involvement in a sophisticated conspiracy involving the burglary at A&H Page, and bearing the features identified above.

68. Again the Learned Judge had careful regard to the particular circumstances of Munroe, as identified at 14E-G of her Sentencing Remarks:-

> "Mr Munroe, you're 35 years of age and you were convicted after a trial. You have 19 previous offences, starting in 2006 going up to 2019, including around the offending before me today – burglaries, drugs and theft and some low level violence. You have a daughter. Your partner stands by you. You're currently serving for the supply of Class A. You have a history of depression and that is almost certainly down to a constant use of cannabis and psychotic drugs. These have led to episodes of psychotic symptoms. I read a letter that you wrote to me and I take into account everything that you said. I accept that you were simply desperate and to an extent vulnerable, albeit that vulnerability was of your own making. Despite having pleaded not guilty and being convicted by a jury, you do now express your regret. It's a shame that this did not arise earlier and result in a guilty plea which would have allowed me to reduce your sentence significantly."

69. At the heart of Munroe's grounds is the issue of principle in relation to the relationship between the guidelines and the authorities, and as to the starting point even for a single

"ram-raid" type burglary that has already been addressed. Munroe's submission that *R v Delaney* is authority for 3 years' imprisonment being appropriate for a first such offence is misplaced, as is apparent from the extracts quoted above, including from *R v Delaney* itself.

70. We are satisfied that the Learned Judge had proper regard to the available mitigation. There was no error in principle in relation to the approach to sentencing or the overall sentence passed. We have already addressed the issue raised in relation to delay. It is without merit. The sentence passed of 7 years' imprisonment is not manifestly excessive and the appeal of Munroe is dismissed.

McKee

71. The Learned Judge rightly considered that the overall operation was that of McKee and Walsh and in that context McKee played a leading role in the overall conspiracy. McKee stood to be sentenced across three counts in respect of no less than seven separate completed burglaries (Tiffany & Co, A&H Page, Handbag Clinic, Pandora, Hermes, Jospeh Ltd and Christian Dior). The sentence passed was one of 9 years 6 months' imprisonment in respect of each of counts 1 and 2 on indictment T20227085 (following conviction), and a consecutive sentence of 3 years' imprisonment on count 1 on indictment T20211039 (with credit for guilty plea) a total sentence of 12 years and 6 months' imprisonment.

72. Issue is again taken with the approach adopted to "ram-raid" burglaries by the Learned Judge which we are satisfied is of no merit for the reasons we have given. Even without regard to the aggravating features of McKee's offending, we are satisfied that the Learned Judge did not err in principle in the sentences passed which demanded sentences of the levels imposed for what was very serious offending over an extended period of time by an organised crime gang of which McKee was one of the two leaders.

73. We reject the suggestion that the Learned Judge failed to have adequate regard to McKee's personal mitigation. Once again, it is clear that she had careful regard to such mitigation. The Learned Judge addressed such matters at 11D-12A of her Sentencing Remarks:-

> "Mr McKee, you're 33. You had a trial. I have already explained what I consider your role to be. You have 23

> offences committed between 2009 and 2017, mainly burglaries, both residential and commercial. This is an escalation. You do not have the benefit of any credit for a guilty plea. As I've said, you maintained your innocence and spent quite some time in your trial giving aggressive and, in the main, dishonest evidence. You do have some mitigation though. You have four children with your partner of five years. You have taken on her two stepchildren and have two children aged one and three. You missed the birth of the youngest and the eldest has some developmental issues that will be difficult for your partner to address and manage on her own. I take that very much into account in deciding on the appropriate sentence for you. I only wish you had taken all of that into account when you decided to carry out these offences because ultimately the responsibility is yours and not mine. I am told that you are a strong influence in their life and they will, I am quite sure, miss you. You have, I am pleased to hear, put your time in prison to good use. You are a listener. You completed a course in money management, as well as restorative justice and you have an eye to the future and what you can do upon your release."

74. We do not consider that there is any merit in the suggestion that there was insufficient differentiation with the sentence passed in respect of Richard Walsh. The overall sentence in his case was driven by the lead offence of aggravated burglary that related to him with other sentences being concurrent and being treated as aggravating features of the latter. Nor do we consider that there is merit in the suggestion that there should have been a greater reduction in the sentence passed in respect of the Christian Dior offence in line with the sentence passed on the co-defendant Billy Tofts. Billy Tofts pleaded guilty to two counts of conspiracy to commit burglary (Count 1 on T20227085 – Tiffany & Handbag Clinic - and Count 1 on T20211038 – Christian Dior) and was sentenced in total to 8 years and 4 months' imprisonment. The Learned Judge made an appropriate reduction to McKee's sentence having regard to the totality of his offending, and the total sentence passed in respect of his offending was just and proportionate to the totality of his offending.

75. The sentence passed of 12 years and 6 months' imprisonment is not manifestly excessive and the appeal of McKee is dismissed.

Richard Walsh

76. As already noted, the Learned Judge rightly considered that the overall operation was that of McKee and Richard Walsh and in that context, Walsh played a leading role in the overall

conspiracy. Walsh also stood to be sentenced for the very serious aggravated robbery in respect of Sutton & Robertson, committed in broad daylight in the circumstances that have been identified.

77. Walsh stood to be sentenced across three counts in respect of no less than six separate completed burglaries (Tiffany & Co, A&H Page, Handbag Clinic, Pandora, Hermes and Joseph Ltd, as well as the aggravated burglary in respect of Sutton & Robertson. The sentence passed in respect of the latter was 13 years' imprisonment (with credit for guilty plea), with concurrent 8-year sentences of imprisonment in respect of the conspiracy counts.

78. Issue is again taken with the approach adopted to "ram-raid" burglaries and aggravated burglaries by the Learned Judge which we are satisfied is of no merit for the reasons we have given. Walsh, by virtue of the aggravated burglary in respect of Sutton & Robertson fell within the more serious category as identified in the authorities (and also had to take into account as aggravating factors the two conspiracy counts), and we are satisfied that the Learned Judge did not err in principle in relation to the sentences passed. Delay is again relied upon and is a point of no merit for the reasons we have given.

79. Once again the Learned Judge had careful regard to the aggravating and mitigating factors relating to Walsh's offending, stating at 11A-D of her Sentencing Remarks:-

> "Richard Walsh, you're 32. You were involved in all the offences. You played a leading role. You were at the centre of communications, gatherings, organisation and disposal. This was, in my judgement, having heard a great deal of evidence, your operation run jointly with Dale McKee. You have 33 previous offences between 2009 and 2020. They include handling stolen goods, theft, burglaries and assisting in a serious robbery involving an axe. You were until recently or, indeed, still are a serving prisoner. I have taken account of the fact that your mother is very unwell. You have my sympathy and I know that that will make your incarceration more difficult and more stressful and the impact of your incarceration will be more stressful on your family. A baby has been born since your imprisonment and you will miss a great portion of that child's childhood."

80. Walsh says that the Learned Judge failed to take into account, in the context of totality, a sentence he had already received in respect of stealing a high value watch and the time he had served in prison in relation to that. We do not consider there is any merit in this point.

This was totally unrelated offending and of a different type. Walsh was sentenced separately for that. We are in no doubt that when passing sentence upon Walsh the Learned Judge had proper regard to totality, and that the overall sentence passed of 13 years' imprisonment was just and proportionate having regard to the totality of his relevant offending.

81. The sentence passed of 13 years' imprisonment is not manifestly excessive and the appeal of Richard Walsh is also dismissed.