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IN THE COURT OF APPEAL  
CRIMINAL DIVISION  
ON APPEAL FROM THE CROWN COURT  
AT NORTHAMPTON  
HIS HONOUR JUDGE HERBERT     T20217135 & T20220356



Neutral Citation Number:  
[2024] EWCA Crim 1135

CASE NO: 2023 02246 A3

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday 11 July 2024

Before:

LORD JUSTICE DINGEMANS

MR JUSTICE KERR

MR JUSTICE HILLIARD

REX

v

GEORGE PAVLOU

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Computer Aided Transcript of Epiq Europe Ltd,  
Lower Ground Floor, 46 Chancery Lane, London WC2A 1JE  
Tel No: 020 7404 1400; Email: [rej@epiqglobal.co.uk](mailto:rej@epiqglobal.co.uk) (Official Shorthand Writers to the Court)

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MR ADAM KING appeared on behalf of the Applicant

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

MR JUSTICE HILLIARD:

1. On 24 June 2022, in the Crown Court at Northampton, the applicant (now aged 29) was convicted of transferring a prohibited weapon and transferring ammunition, contrary to s.5(2A)(b) and 3(2) of the Firearms Act 1968.
2. On 28 February 2023 he pleaded guilty to being concerned in the supply of cannabis, contrary to s.4(3)(b) of the Misuse of Drugs Act 1971, and to possessing criminal property, contrary to s.329(1)(c) of the Proceeds of Crime Act 2002.
3. On 8 June 2023, he was sentenced as follows:
  - transferring a prohibited weapon, 14 years' imprisonment.
  - transferring ammunition, 4 years' imprisonment, concurrent.
  - being concerned in the supply of cannabis, 15 months' imprisonment to run consecutively.
  - possessing criminal property, 9 months' imprisonment, concurrent.Thus, the total sentence was one of 15-years-and-3-months' imprisonment.
4. Co-accused Dalston Phillips was sentenced to 10-and-a-half years' imprisonment for transferring a weapon, with a concurrent term of 3-and-a-half years' imprisonment for transferring ammunition, and to a consecutive term of 4 years' imprisonment for a separate drugs offence.
5. The applicant now renews his application for leave to appeal against sentence after refusal by the Single Judge. We grant leave.
6. The facts of the case were as follows. On 15 May 2021, the appellant, Dalston Phillips and another man met in Northampton where the appellant provided Phillips with a loaded fully functioning pistol. The appellant and Phillips had been in telephone contact the previous day and on the day of the transfer.
7. On 15 May, they were under police surveillance. Phillips travelled to Northampton. At about 2.45 pm, the appellant arrived at his mother's address. Shortly afterwards, Phillips was seen carrying a bag and walking to the address. He left the property about 25 minutes later. As he walked from the property, he put on a pair of gloves. He appeared to have

a heavy item in his right side trouser pocket. He was seen holding on to the waistband on the right side of his trousers as he jogged back to the vehicle he arrived in. He got into the rear passenger seat of the vehicle which was then driven away.

8. The vehicle was stopped by police a few minutes later. Phillips was searched and officers found a knife in a black sheath tucked into the back of his trousers. In the rear passenger seat footwell of the vehicle the officers found a converted Bruni Olympic .38 blank firing revolver which had been modified to allow it to fire live ammunition. The gun was successfully fired during a laboratory examination. It was loaded with rounds of live 9 mm ammunition. The appellant's DNA was found on the gun.
9. The appellant was arrested later that evening. An associate was in possession of £4,490 in cash (believed to be the proceeds of the sale of the gun). The appellant was in possession of £852 in cash.
10. The appellant was released under investigation and then arrested again on 13 July 2021 at an address in Northampton. A mobile phone was seized and found to contain selfie images of him apparently flaunting his wealth. There were a number of voice notes recorded between him and another male which evidenced the appellant's intention to sell firearms for money. Terms were used such as "sprayer" (slang for an automatic weapon); "bills" (slang for £100); "handies" (slang for handgun); and "Ting" (slang for firearm).
11. At his trial for the firearms offences, the appellant admitted in evidence that he was concerned in the supply of cannabis. In a written basis of plea, submitted in due course, he said that he sold cannabis for approximately 3 to 6 months. During this period he purchased about 3 kgs of cannabis and made a profit of £3,600.
12. The appellant had a number of previous convictions but none for drugs or firearms offences. In 2015 he had been sentenced to 5 years' imprisonment for conspiracy to burgle. There was no pre-sentence report and none was necessary then or now.
13. When he passed sentence, the judge said that the evidence showed that the appellant had been involved in sourcing firearms since December 2020 and that he had asked his contact in a number of messages to provide him with more than one firearm. He said it was clear he

was in the market for handguns and automatic weapons to sell on for profit to his own customers. The judge said that in his case the transfer was not an isolated incident. His involvement with firearms had been linked to his involvement with drug dealing. He said that the case fell into category 2B of the applicable sentencing guidelines. It was medium culpability B because the appellant had played a significant role in sourcing and acquiring a firearm over a period of time. There had been significant planning. He fell towards the top of culpability B. Harm was in category 2 because this was a medium-scale enterprise. The appellant was aware that Dalston Phillips wanted the firearm to use in connection with his drugs trade.

14. The judge said that the category B2 offence had a starting point of 10 years' imprisonment, with a range of 8 to 14 years' imprisonment. The judge took a raised starting point of 12 years' imprisonment. He said that the offence was then further aggravated because the appellant had been involved with serious criminality before and because he had also supplied ammunition. He took account of what had been said on the appellant's behalf and of the delay that there had been in his case. He concluded that the appropriate sentence for transferring the firearm would be one of 14 years' imprisonment. The judge said that the appellant's role in supplying drugs fell between leading and significant, and the harm fell into category 3 because he was a street dealer. Category 3 leading role has a starting point of 4 years' custody. Significant role has a starting point of 1 year's custody, and a range extending up to 3 years. The judge said that the appropriate starting point was one of 3-and-a-half years' imprisonment. He reduced that by 25 per cent because of the guilty plea to 30 months' imprisonment. He then reduced it to 15 months on account of totality because the sentence would run consecutively.
15. It is now argued on the appellant's behalf that the judge sentenced the appellant for a wide-ranging conspiracy to trade in firearms of which he had not been convicted. It is said that the judge did not properly weigh the aggravating and mitigating features. Fourteen years' imprisonment for the transfer of one loaded firearm is said to be manifestly excessive. Counsel argues that the starting point for the drugs sentence was far too high.

The appellant was a street dealer, running his own operation, and should have been treated as having had no more than a significant role. We are grateful to Mr King, who has appeared for the appellant and has argued the points persuasively.

16. In our judgment there is force in the submissions. The judge was of course required when considering the categorisation of harm for the firearms offences to look at the nature of the enterprise that the appellant was involved in. In doing so, the judge was entitled to look at messages which the appellant had been sending since December 2020 in an effort to acquire firearms for customers. The appellant was saying, for example, that he had contacts who had large numbers of machine guns available; he spoke of needing as many guns as possible; he said on one occasion that he had located a firearm; he told someone to get whatever was available. This material was, in our judgment, sufficient to justify the judge in categorising the case as one of category 2 for harm and the appellant's role as being a significant one. There was not, however, evidence on which to base a conclusion that the appellant had been involved in the actual transfer of more than one firearm, nor, more importantly, was he charged with any further offences of this kind. In these circumstances, the judge was entitled to go to the category B2 starting point of 10 years' imprisonment, but there was no sufficient basis for him to take an increased starting point of 12 years.

Thereafter, the offence was aggravated by the appellant's previous record and by the fact that ammunition was provided with the gun. We see no basis for criticising the increase of 2 years' imprisonment which the judge applied for these factors. Any mitigation was limited. The result would be a sentence of 12 years' imprisonment rather than 14 for the transfer of the firearm.

17. So far as the drugs are concerned, it seems to us that a starting figure of 3-and-a-half years' imprisonment was too long. The appellant was engaged in his own enterprise. Once he obtained the supplies, he did not involve anyone else. His was a significant role in his own dealing operation, but no more than that. He fell squarely within significant role culpability and category 3 harm, which has a starting point of 1 year's custody. Some increase was warranted because of the appellant's previous record and for the period of time over which

he had been offending. He was then entitled to a reduction of 25 per cent for his plea of guilty. The end result, in our judgment, would have been a sentence in the order of the 12-month starting point. This offending represented separate criminality and the judge was right to pass a consecutive sentence. With an allowance for totality, we have concluded that the appropriate consecutive sentence was one of 6 months rather than 15 months' imprisonment.

18. Accordingly, we quash the sentence of 14 years' imprisonment and substitute for it a sentence of 12 years' imprisonment. We quash the consecutive sentence of 15 months' imprisonment and substitute for it a consecutive sentence of 6 months' imprisonment. All the other sentences will run concurrently. Thus, the result is a total sentence of 12-and-a-half years' imprisonment rather than one of 15-years-and-3-months' imprisonment. To that extent this appeal is successful.

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Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE  
Tel No: 020 7404 1400 Email: [Rcj@epiqglobal.co.uk](mailto:Rcj@epiqglobal.co.uk)