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[2024] EWCA Crim 1476

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT CANTERBURY

MR RECORDER FOWLER T20227039

CASE NO 202402029/A2

Royal Courts of Justice
Strand
London
WC2A 2LL

Thursday, 21 November 2024

Before:

LORD JUSTICE WILLIAM DAVIS
MR JUSTICE HILLIARD
HIS HONOUR JUDGE LEONARD KC
(Sitting as a Judge of the CACD)

REX
V
CHRISTINE JULIE HANDS

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

MR G CARSE appeared on behalf of the Appellant

J U D G M E N T

1. MR JUSTICE HILLIARD: On 26 January 2024, in the Crown Court at Canterbury, the appellant, now aged 41, pleaded guilty on re-arraignment to an offence of stalking involving fear of violence (count 1) and to an offence of attempted arson (count 2). On 10 May 2024, she was sentenced to consecutive terms of 20 months' imprisonment for each offence. She was also made the subject of a restraining order for a period of five years. She was not to contact the victim of her offences, directly or indirectly, and she was not to enter the street where he lived. No order was made that the appellant should pay the statutory surcharge, although it should have been. She now appeals against sentence with leave of the single judge.
2. The offending took place over the period 15 July 2019 to 15 February 2020. The complainant Brian Green had met the appellant a number of years before that because they were neighbours. He invited her to go and watch television with him at his house on four or five occasions. He gave her his telephone number and email address. He did not see himself and the appellant as anything other than friends. They had consensual sex twice. He told her that they were just friends. The appellant appeared to be fine with this at first but then her attitude towards him changed. She would knock on his door throughout the day and evening and would appear outside his premises without his knowledge. She would be outside his home when he returned from work. To try and avoid this he began parking his car away from his home. He tried to stay friendly towards her and on occasions would buy her breakfast and coffee on the high street in Broadstairs. During this time she behaved as if they were in a committed relationship, which they were not.
3. She began sending him sexually explicit text messages. She then moved to Ramsgate and he helped her and bought her a house-warming present. He hoped the harassment

would stop but it continued and got worse. Within a short amount of time she moved back to a flat in Broadstairs. He noticed that she would regularly walk past his home holding an Asda carrier bag. He told police that she was clearly going out of her way to get to Asda to ensure that she passed his address and there was a far more direct route. She would stop and look up at his window. He would try and move back from the window when he was working from home.

4. She also attended a public house that he would frequent and she would demand his attention. He left to get away from her. He stopped going there for a while but she still attended and looked for him. On occasions he told her that he would not engage with her, but she would still get a drink, sit alone and look at him. He decided to cease all communication with her as he was feeling threatened by her behaviour. He told her that he did not want anything to do with her. Despite this she sent numerous emails and text messages, some of which were sexually explicit, and would still approach him in the street which he would try to avoid.
5. She told the complainant that she had set light to his wheelie bin and when he looked there were cinders inside which frightened him. She returned gifts that he had given her and told associates of his that they were in a relationship.
6. In September 2019, she was in the public house used by him. She came up to him and put her face close to him in an aggressive manner. He left the public house. The next day he saw her in Broadstairs and begged her to leave him alone. She screamed and shouted obscenities at him and then he did not hear from her for eight or nine days.
7. On 10 or 11 September, police attended his home address and arrested him on suspicion of rape. This was because of a false complaint which she had made. After two months, she began contacting him again, apologising for the rape allegation and asking him for

forgiveness. She continued to send text messages and emails to him. He did not respond to those messages and they became nastier and more threatening. He also believed that she had signed him up to loan companies, sex aid sites and dating companies as he was receiving unsolicited content from them. Eventually he contacted the police because the nature of the messages and the resulting concern had escalated. The messages included threatening to harm him, threatening arson and telling him to kill himself.

8. She was arrested on 23 January 2020. In interview she said that they had become friends approximately two years earlier and the relationship was sexual. Even though he had told her they would only be friends, and she had accepted this, they had continued seeing each other. She denied turning up at his address unannounced or going out of her way to walk past his address. She said that she used the same public house as him and would meet her friends there. She said he had told her to limit contact to one message a day and at no time was she told to stop contact altogether. She accepted that she had made the false rape allegation and said she had done that as he was controlling. When asked in what way he was controlling, she replied that he would tell her to stop drinking too much. She admitted sending emails and text messages apologising to him and to setting fire to his wheelie bin. She also admitted apologising for being obsessed with him but denied sending threatening messages. She was released under investigation.
9. On 15 February 2020, he was on his way out of his home when he noticed a partially opened box of matches on the floor by his front door. On the inside was the remnant of a partially melted sandwich bag. He also noticed the remains of a burnt kitchen sponge or scourer and when he opened his front door he noticed tiny fragments of the sponge which had been posted through his letter box. Police reviewed CCTV footage and saw the appellant was in the area of his property at the relevant time.

10. The appellant was arrested and interviewed in respect of the attempted arson and denied responsibility. She put forward an alibi saying that she was with her new boyfriend at the time and nowhere near the complainant's home.
11. Mr Green made a victim personal statement. He said that the last two years had been the most dreadful and terrifying of his life. He spoke about the trauma of being falsely accused of rape. He said that her stalking and harassment of him had truly changed his life. Her actions had affected his life in a negative and terrifying way and had defined how he had lived his life.
12. The appellant was of previous good character. She told the author of a pre-sentence report that she had been going through a particularly difficult part of her life at the time of her contact with Mr Green. Her son, who was in foster care, was very unwell and she had not been allowed to see him for a period. Her son had sustained significant brain damage at birth. He passed away in 2020. She was misusing alcohol on a daily basis. She had been drinking when she set the fires. She said she was sorry for her behaviour. The report writer thought that she had limited awareness of the impact of her actions and that there was a medium risk of her reoffending and a high risk of serious harm if she did so.
13. She had been assessed by a psychiatrist. He reported that she had been diagnosed with epilepsy at a young age. For periods of time she had been dependent on alcohol. She had suffered from depression and anxiety and had had suicidal thoughts. She displayed clear features of an emotionally unstable personality disorder which is characterised by a tendency to act impulsively without consideration of the consequences and unpredictable moods. Whilst on remand she had struggled with her mental health in the prison environment.

14. When he passed sentence the judge said that the offence of stalking fell into Category B1 of the applicable sentencing guidelines. It was Category B for culpability because there was persistent action over a prolonged period and her conduct had been intended to maximise fear and distress. It was Category 1 for harm because very serious distress had been caused to the victim. He had suffered significant psychological harm and had had to make considerable changes to his lifestyle to avoid contact. A Category B1 offence has a starting point of 30 months' custody and a range of one to four years' custody.
15. The judge said that the offence of attempted arson fell somewhere between Categories B2 and B3 in the guideline. She was reckless whether life was endangered and there was a risk of serious harm and endangerment of life if the house had caught fire. He said he would be careful to reflect that the offence was one of attempted arson rather than the completed offence. He noted the absence of previous convictions, the bereavement she had suffered, her mental health conditions which had affected her decision making and the time which had elapsed since the offending. He said that he had adjusted the total sentence to take account of totality. He concluded that consecutive sentences of two years' imprisonment were appropriate, which he then reduced by just over 15 per cent because of the pleas of guilty. He also made the restraining order.
16. It is now argued on the appellant's behalf that a sentence of two years' imprisonment for attempted arson before credit for plea was too long and that the judge did not take sufficient account of the appellant's personal mitigation, the age of the offences and the principle of totality.
17. Mr Carse for the appellant also submits that a restraining order was not necessary, underlining that the appellant had not offended against Mr Green for a long time by the

time she was sentenced. We are grateful to Mr Carse for his submissions.

18. So far as the restraining order is concerned, we are satisfied that the judge was right to make it and that the need for it was made out against the background of the offending and of the appellant's mental health conditions and alcohol abuse. There were obvious reasons for her to stay away from Mr Green whilst court proceedings were pending. That imperative is no longer there. The order in our judgment is necessary and proportionate.
19. No complaint is made about the length of the sentence for stalking, save for whether the overall sentence takes sufficient account of totality. A B2 offence of arson where there is a significant risk of serious harm has a starting point of four years' custody. A B3 offence where there is a low risk of serious harm has a starting point of 12 months' custody. We agree with the judge that the offence fell between Categories B2 and B3. The assessment is then made more difficult because fortunately matters did not proceed very far and an allowance has also to be made for the fact that this was an attempt only.
20. More generally, the judge did not have an easy task in a case where the seriousness of the offending on the one hand and the very particular circumstances of the appellant on the other pulled in different directions. The category range for a completed B2 offence extends down to two years' custody. The custody range for a completed B3 offence extends up to two-and-a-half years' custody. In our judgment, the offence here merited a sentence in the order of two years' imprisonment before making allowance for aggravating and mitigating features. The offence was aggravated by the fact that it was committed after the appellant had been released under investigation. There was then significant mitigation to be found in the appellant's mental disorder which undoubtedly had a sufficient connection to the offending. There was also the absence of previous convictions.

21. In our judgment, the offence merited a sentence of 18 months' imprisonment before credit for plea; 15 per cent credit for the plea of guilty results in a sentence of 15 months' imprisonment which we then reduce to 12 months on account of totality. We are satisfied that a total sentence of 32 months' imprisonment is just and proportionate for all the offending in this case. The judge had already taken account of totality in passing the sentence of 20 months' imprisonment for the offence of stalking which was a bad offence of its kind.
22. Accordingly, we quash the sentence of 20 months' imprisonment for attempted arson and substitute for it a consecutive sentence of 12 months' imprisonment. The total sentence is therefore one of 32 months' imprisonment, rather than 40 months' imprisonment. To that extent this appeal is allowed.
23. Because we have reduced the total sentence of imprisonment, we can and do make the order that the appellant pay the statutory surcharge in the sum of £181. Overall, she is of course not being dealt with more severely.

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Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE

Tel No: 020 7404 1400

Email: rcj@epiqglobal.co.uk