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IN THE COURT OF APPEAL  
CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT CHELMSFORD  
MR RECORDER HALLAM KC 42MR2380923  
[2024] EWCA Crim 1503  
CASE NO: 2024 01654 A5

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday 4 October 2024

Before:  
LADY JUSTICE WHIPPLE  
MRS JUSTICE MCGOWAN  
HER HONOUR JUDGE ANGELA MORRIS

REGINA  
v  
LEWIS PEACOCKE

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

MR R MILNE appeared on behalf of the Applicant

J U D G M E N T

## LADY JUSTICE WHIPPLE:

1. This is a renewed application for leave to appeal against sentence.
2. The applicant pleaded guilty to an offence under s.20 Offences Against the Person Act 1861. No evidence was offered against him on count 1, which was a section 18, and in relation to count 1 a 'Not Guilty' verdict was entered. On the section 20 (which became count 2 on the indictment) he was sentenced at Chelmsford Crown Court on 10 April 2024 by Mr Recorder Hallam KC. He was sentenced to a term of 4 years and 4 months' imprisonment and was disqualified from driving for a period of 62 months. That is a disqualification period of 3 years with a 26-month uplift.
3. The facts are set out in the Criminal Appeal Office summary which the applicant has seen. Only the bare essentials need to be repeated here. The offence occurred on 7 September 2023. The applicant was being pursued by police. He got into his van and drove away. PC Oliver Pailes followed on foot and tried to open the door of the van which the applicant was driving. At that point the applicant turned around and reversed out, knocking PC Pailes off his feet. The applicant certainly came into contact with PC Pailes and (by PC Pailes' evidence) went over his leg. The applicant drove past the other police vehicles and then drove away. His van was later found in Blind Lane, Billericay. He was arrested later that day. He declined to answer questions in his police interview. PC Pailes sustained a number of injuries. We shall come to those shortly but these formed an important part of the sentencing exercise.
4. When it came to sentence, the materials before the Recorder included the applicant's previous convictions. He had four convictions for five offences spanning the period from 23 September 2010 to 15 May 2019. His previous convictions included an offence of driving a motor vehicle with the proportion of specified controlled drug above the specified limit. That was in 2017.
5. There was a pre-sentence report which indicated, in the view of the author, that the applicant was at low risk of reoffending but posed a high risk of causing serious harm to staff. The applicant had told the author of the PSR that he had not realised that PC Pailes was a police

officer. Other reasons for what happened were put forward short of accepting that the fault lay with the applicant. The author doubted the applicant's version of events because PC Pailes had said in terms that he was shouting that he was a police officer so it seemed likely that the applicant should have realised that. The PSR recorded the applicant's remorse for what had happened.

6. The sentencing judge also had before him a number of character references which were provided in support of the applicant. He had the benefit of a victim impact statement and a witness statement from PC Pailes setting out the events according to PC Pailes' recollection. Those statements also detailed PC Pailes' injury. There were two streamlined forensic reports which listed the injuries, with details taken from the hospital notes following PC Pailes' attendance there, and outlining his follow-up for dental treatment.
7. When it came to sentence the Recorder put the offending in the high culpability category under the guideline because of the use of the vehicle as a highly dangerous weapon. He put the harm in category 1 on the basis of PC Pailes' witness and victim impact statements describing the injuries. Those injuries as described by PC Pailes were, in the Recorder's view, permanent and had a substantial and long-term effect on PC Pailes' normal day-to-day activities or ability to work.
8. The Recorder noted that category A1 starts at 4 years' imprisonment. He found that there was a profoundly aggravating feature of the offence in that it was committed against a police officer acting in the course of his work. The mitigation did not amount to a great deal. The Recorder concluded that the notional sentence after trial was around 56 months. He accorded a 10 per cent discount on the basis that the guilty plea had been entered on the morning of trial to arrive at a sentence of 4 years and 4 months' imprisonment.
9. By Grounds of Appeal drafted by Mr Milne, who did not appear for the applicant at his sentencing hearing, it is argued that the sentence is manifestly excessive for two reasons. First, that the Recorder wrongly categorised the harm. He submits that there was no substantial and long-term effect on the victim's ability to carry out his normal day-to-day activities or ability to work. He suggests that this was not category 1 harm but somewhere

between category 2 and 3. Secondly, he submits that the Recorder failed to give sufficient credit for plea, given that count 2 was only added to the indictment on that day and the plea was entered on that same day. In oral submissions Mr Milne has helpfully concentrated on his first ground of appeal.

10. The Single Judge refused leave, and the applicant has seen the Single Judge's reasons. In short, we agree with those reasons.
11. In so far as Ground 1 is concerned, in our judgment the Recorder had a sufficient evidential basis for his conclusion that the harm fell within category 1. He had a signed witness statement from PC Pailes detailing his experience during this incident, and, importantly, detailing the injuries he received at the time. Those injuries were evidenced by the streamlined forensic reports which reflected contemporaneous medical evidence. He submitted a victim impact statement which set out the ongoing difficulties he was having with those injuries and the effect that they had on him. The injuries he recounted were: broken cheek bones, a broken elbow, missing teeth which would require implants, fractures to other teeth which would require ongoing dental treatment and wounds to his legs and ankles. PC Pailes indicated that the elbow injury was particularly significant. He had had to undergo reconstructive surgery to fix the elbow fracture. The consequence of that was that his elbow would not now straighten and his arm could not be held straight. That impacted on his ability to continue his career as a firearms officer.
12. Mr Milne's central suggestion was that medical evidence was required in this case, at least as to prognosis. We are not persuaded by that submission. There was no doubt about the injuries that were inflicted; they were evidenced by PC Pailes and in the streamlined forensic reports which drew on medical and dental notes. As to the consequences of these injuries for PC Pailes, that was something about which PC Pailes could speak.
13. There was lay and medical evidence to corroborate the injuries and the Recorder was entitled to take account of PC Pailes' own view about the consequences of those injuries for him and to infer that those injuries would interfere with PC Pailes' career as a firearms officer. The elbow injury was, of course, highly pertinent to that.

14. Even in the context of really serious harm, the predicate for a section 20, these injuries were appropriately placed in harm category 1 for the reasons given by the Recorder. We therefore reject the first ground.
15. The Recorder was entitled to conclude that credit of 10 per cent for the late plea was appropriate. The applicant had been negotiating with the prosecution and that resulted in the section 20 being added late in the day. He pleaded to that count on the day that it was added. He could have pleaded to section 20 at an earlier date but had not done so. We are therefore not persuaded that there is any merit in the second ground.
16. We refuse this application.

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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)