



Neutral Citation Number: [2024] EWCA Crim 1630

CASE NO: 202400598/B3

IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT MAIDSTONE

MR RECORDER FOWLER CP No: 46XY1086023

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Thursday, 19 December 2024

Before:

LORD JUSTICE LEWIS  
MR JUSTICE GARNHAM  
MR JUSTICE CONSTABLE

REX  
V  
DUNCAN FREDERICK FRIEND

---

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)

---

NON-COUNSEL APPLICATION

---

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

1. MR JUSTICE CONSTABLE: The applicant brings a renewed application for an extension of time of 124 days and leave to appeal against conviction having been refused by the single justice.
2. The applicant faced an indictment containing three counts. On 17 April 2023 the applicant pleaded guilty to count 3, namely possession of a bladed article. On 12 September 2023 the applicant changed his not guilty plea in respect of count 1, stalking involving serious alarm or distress, to one of guilty. The plea was accompanied by a signed basis of plea and a letter of remorse to the sentencing judge. As a result of this change of plea the prosecution did not proceed with the more serious offence count 2, threatening a person with an offensive weapon in a public place.
3. The applicant was sentenced to 27 months on count 1 with 15 months' imprisonment on count 3 concurrent. He was made the subject of a restraining order for seven years. He was ordered to pay a victim surcharge.
4. The fact that the applicant has pleaded guilty is not determinative of the appeal against him. We must still consider whether the conviction is unsafe. However, as the Court of Appeal made clear in the case of Asiedu [2015] EWCA Crim 714 a defendant who has admitted facts which constitute an offence by an unambiguous and deliberately intended plea of guilty cannot ordinarily appeal against conviction since there is nothing unsafe about a conviction based on his own voluntary confession in open court.
5. We agree with the detailed reasons given by the single justice that it is not arguable that

the applicant's plea was not voluntary, deliberate and unambiguous, entered in the face of overwhelming evidence against him and in the context of a plea bargain in which a more serious offence against the applicant was left on the file. The evidence provided by the prosecution, the defence solicitors and defence counsel, including a detailed contemporaneous attendance note and a record of the messages passing between defence counsel and counsel for the prosecution in the period leading up to the applicant's trial date, all demonstrate unequivocally that the applicant's contention that he was seriously misadvised or blackmailed by an incompetent legal team on the day of the trial is simply not credible.

6. In respect of count 3 the applicant was captured on a Ring doorbell video waving a machete around in the street. In respect of count 1 the substance of the stalking was borne out in messages and telephone records referred to by the sentencing judge. It is entirely unsurprising to us that in the face of this evidence the applicant's legal advisers offered a guilty plea to count 1 if the prosecution would drop count 2. Contrary to the applicant's grounds of appeal, which suggest that he was coerced into pleading guilty on the day of trial, the evidence demonstrates that he agreed to offer a guilty plea to count 1 in return for dropping count 2 at a conference with his counsel and solicitors on 11 July 2023, over two months before the trial. Screen shots of the messages between the applicant's counsel and counsel for the prosecution demonstrate as a result of the conference the guilty plea was offered in return for dropping count 2 the following day. This was initially rejected by the prosecution, as indicated by counsel for the prosecution on 31 August 2023, but it is plain that it was offered again and then accepted. The applicant signed a full basis of plea, together with a lengthy handwritten letter expressing

remorse to the judge. These are wholly inconsistent with the grounds now advanced.

7. To the extent that it is relevant, it is not remotely credible that the applicant was unaware that he was attending trial on 12 September 2023 in circumstances where he was aware that the case was in a two week warned list and he had gone to Maidstone Crown Court the day before and the hearing had been adjourned to the following day. As such, we agree with the single justice that there is no credible basis for contending that the applicant did not voluntarily plead guilty or that he had in some way been blackmailed into doing so.
8. The applicant has raised generalised allegations of fabrication of statements and of transcripts of phone calls and text messages and of concealment of evidence by the police. There is no detail to these allegations and no evidential basis is provided for.
9. Other concerns raised about the physical and mental health of his immediate family are not relevant to the voluntary and unambiguous nature of the applicant's guilty plea.
10. It follows that the applicant's guilty plea is not arguably unsafe and the application for an extension of time and for leave to appeal are both refused.

**Epiq Europe Ltd** hereby certify that the above is an accurate and complete record of the proceedings or part thereof.

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

Tel No: 020 7404 1400

Email: [rcj@epiqglobal.co.uk](mailto:rcj@epiqglobal.co.uk)