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IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT READING

DISTRICT JUDGE WATTAM

CP Nos: 43SW0396322/43SW0754222

CASE NO 202401755/A2

Neutral Citation Number: [2024] EWCA Crim 1651

Royal Courts of Justice  
Strand  
London  
WC2A 2LL

Friday, 20 December 2024

Before:

LORD JUSTICE LEWIS  
MR JUSTICE GARNHAM  
MR JUSTICE CONSTABLE

REX  
V  
DUANE DUNN

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MISS A SCOTT appeared on behalf of the Appellant

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

LORD JUSTICE LEWIS:

1. On 16 April 2024, in the Crown Court at Reading, the appellant Duane Dunn was sentenced following a trial to seven years and five months' imprisonment for an offence of wounding with intent to cause grievous bodily harm. He was also sentenced to one year and 10 months' imprisonment for a second offence to which he had pleaded guilty of threatening a person with a bladed article in a public place. The total sentence therefore was one of nine years and three months' imprisonment. He appeals against sentence with the leave of the single judge.
2. The facts can be stated shortly. The first offence to occur in time was threatening a person with a bladed article. On 19 June 2022 Lance John was on Slough High Street when he saw the appellant. He suspected that the appellant was selling drugs to a group of youths. There was an argument and apparently £20 fell out of Mr John's pocket. The appellant picked up the cash and ran away. Mr John chased him to a block of flats. The appellant then came out of the flats carrying a knife which he used to make swiping movements in the direction of John. The appellant was persuaded by others to leave the area and Mr John called the police. The appellant was arrested and he indicated at the Magistrates' Court that he would plead guilty to that offence.
3. The second offence occurred on 3 December 2022. The victim, Shane Cooper, had spent the evening in Slough drinking. He met another man, Gary Higgins and they bought some cider and returned to Mr Higgins' home. They continued drinking. Mr Cooper fell asleep. He woke to find that a third man had joined them and the appellant then arrived with crack cocaine which he shared with Mr Cooper and one of the other men. The group spent some time playing music, watching television and talking. The appellant was in possession of a Stanley knife which he was playing with.

4. At some point Mr Higgins told Mr Cooper to "shut up". Mr Cooper responded that he was not a child and told Mr Higgins not to speak to him like that. Mr Higgins then slapped Mr Cooper a number of times and demanded that he leave. The appellant approached Mr Cooper and also told him to go. As Mr Cooper went to collect his things the appellant said, "No, get out now". The appellant then headbutted Mr Cooper and slashed his head with the Stanley knife. Mr Cooper stumbled into the kitchen. One of the other men followed him and saw blood everywhere. The appellant left a short time later.
5. Mr Cooper stayed at Mr Higgins' flat and eventually fell asleep. Officers spoke to him on 5 December and he was taken to hospital on 6 December. He had a cut to the left side of the back of his head measuring about six centimetres by five millimetres. He was left with a prominent scar.
6. The appellant was 45 years old at the time he was sentenced. He had 37 convictions for 67 offences covering a period from 5 September 1997 to 29 April 2022. The most relevant convictions included an offence of common assault in 1998, battery in 2000, three offences of possession of a bladed article in a public place in 2008, 2009 and 2017, affray in 2010 and two offences of possession of an offensive weapon in a public place in 2020 and 2022. The sentencing judge had a pre-sentence report and a psychiatric report from the appellant.
7. The judge held that this offence was Category A2 within the Sentencing Council guidelines on assault. It was Category A high culpability because of the use of the Stanley knife. The judge assessed the harm as Level 2 as the wound had left a permanent irreversible scar. The starting point therefore was seven years' custody with a range of six to 10 years' custody. There were aggravating features, notably the previous

convictions which included offences of violence and offences involving weapons and knives. The appellant was also subject to a community order at the time he committed this offence. Those aggravating features would require an upward adjustment in the sentence to one of about eight years' custody.

8. The judge noted the mitigation including the work that the appellant had done on remand to his credit and also the mental health diagnosis of schizophrenia. He considered that merited a downward adjustment of seven months and that resulted in a sentence for this offence of seven years and five months' custody.
9. In relation to the offence of threatening a person with a bladed article, the judge noted that the statutory provisions requiring a minimum sentence of at least six months applied. In the event he considered that a higher sentence was appropriate. Culpability was Category A within the relevant guidelines as the offence was committed using a bladed article. The harm was Level 1 as it was committed in a public place, Slough Town Centre, where vulnerable people including children were likely to be present. The starting point for a Category A1 offence is two years' custody, with a range of 18 months to three years' custody. There were aggravating features, including the previous convictions and the fact that the appellant was on bail at the time of this offence for the other offence of threatening a person with a bladed article. He was also in breach of a conditional discharge. Those factors would require an upward adjustment from the starting point of an additional 12 months which would have resulted in a sentence of about three years. But the judge gave some credit, three months, for the mitigating factors. He considered that the appropriate sentence before taking into account a reduction for a guilty plea was therefore 33 months' imprisonment. The appellant had pleaded guilty to this offence at the earliest opportunity and he was therefore eligible for

a reduction of 33 per cent. The appropriate sentence therefore was one of 22 months, that is one year and 10 months which the judge ordered the appellant to serve consecutively to the sentence for the first offence.

10. In her clear, concise and focused written and oral submissions on behalf of the appellant, Miss Scott focused on the ground upon which she had been granted leave, that is the question of totality. Miss Scott realistically accepted that the judge had referred to totality but he had not addressed the question as to whether or not two the lengthy sentences ordered to be served consecutively resulted in a total sentence which was not just and proportionate to the offence in question.
11. We see force in the submissions advanced by Miss Scott on behalf of the appellant. The judge was of course required to follow the Sentencing Council Guidelines on Totality, unless he was satisfied that that would be contrary to the interests of justice. First this was a case where he was entitled in principle to impose consecutive sentences. These were two separate offences, committed on different days at different locations and involving two separate victims. Secondly, however, the overall sentence should reflect all of the offending behaviour, together with the aggravating and mitigating features, and be just and proportionate.
12. These were two separate and very serious offences involving the use of a knife on each occasion. We have no doubt that a substantial custodial sentence was required to reflect the overall offending behaviour. We are satisfied however that some reduction is necessary to ensure that the overall sentence is just and proportionate to the offending. We consider that in the circumstances of this case it would be appropriate to reduce the overall sentence by nine months so that the overall sentence would be eight years and six months, not the nine years and three months that was imposed. We do that by reducing

the sentence for the offence of causing grievous bodily harm with intent from seven years and five months to a sentence of seven years' imprisonment. We reduce the sentence for threatening a person with a bladed article in a public place from one year and 10 months to one year and six months' imprisonment to be served consecutively.

13. We therefore allow the appeal, we quash the sentences of seven years and five months and one year and 10 months and we substitute sentences of seven years and of one year and six months to be served consecutively.

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

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