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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202301853/A4

[2024] EWCA Crim 328



Royal Courts of Justice

Strand

London

WC2A 2LL

Wednesday, 13 March 2024

Before:

LORD JUSTICE EDIS
MRS JUSTICE FARBEY DBE
THE RECORDER OF SHEFFIELD
HIS HONOUR JUDGE JEREMY RICHARDSON KC

REX
V
CORNELIUS CORRIGAN

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MR C JEYES appeared on behalf of the Applicant

J U D G M E N T

MRS JUSTICE FARBEY:

1. On 25 July 2022 in the Crown Court at Lincoln before His Honour Judge Hirst, the applicant (then aged 53) pleaded guilty to one offence of conspiracy to fraudulently evade a prohibition on the importation of goods, namely class A drugs, contrary to section 1(1) of the Criminal Law Act 1977.
2. On 12 May 2023 before the same judge the applicant (then aged 54) was sentenced to 12 years' imprisonment. Other counts on the indictment were ordered to remain on the file in the usual terms. The applicant renews his application for leave to appeal against sentence after refusal by the single judge.

Facts

3. Operation Farrier was a police investigation into the supply and distribution of class A drugs - cocaine and methamphetamine - in Lincoln. The head of the conspiracy was Patrick Lawless. In 2020, using an EncroChat device, Lawless began communicating with an individual in the Netherlands. He arranged for the purchase of drugs from the Netherlands in kilogram quantities which were dispatched to the United Kingdom using the postal system. The drugs were secreted within games, books, musical instruments and sound equipment. They were delivered to the homes of some of the conspirators or family and friends of the conspirators using maiden names or the names of previous occupants of the properties. The network of conspirators set up by Lawless would accept delivery of the packages and pass them to individuals who would re-package the items in order to send them to addresses in Australia and New Zealand. Lawless received payment in Crypto-currency. He was expected to make a profit of £2,500 per kilogram of cocaine and £1,750 per kilogram of methamphetamine. The amount of drugs involved over the indictment period, which was 1 January 2019 to 12 May 2021, was around 40 kilograms.
4. The applicant was linked to three of the import delivery addresses and was involved in collecting 14 deliveries between 6 January 2021 and 11 March 2021. He and a co-conspirator Arthur Dunn were observed under surveillance on 13 March 2021 when the applicant was the passenger of a vehicle driven by Dunn. They were arrested separately, albeit on the same day. Two packages collected from the applicant's children's addresses were seized from Dunn's vehicle and were found to contain two kilograms of class A drugs.
5. Following his arrest the applicant's home address was searched. The police seized £6,200, approximately five grams of cocaine, packaging and digital scales.
6. The applicant had four previous convictions accrued from 1991 to 2019 which included two old convictions for possession of cocaine.

Sentence

7. The applicant was sentenced at the same time as nine other conspirators. Owing to a failure of the court recording equipment there is no transcript of the judge's sentencing remarks. The judge made a full written note of his remarks. Mr Jeyes, who appears on the applicant's behalf and who appeared below, does not take any issue with the note's accuracy. We shall therefore treat the note as an accurate record of the remarks delivered by the judge before pronouncing his sentence in court.
8. The judge described the broad hierarchy of the conspiracy in the following way:

“Patrick Lawless – head of this organised crime group

Arthur Dunn – the right hand man for Patrick Lawless

[the Applicant] & Thomas Warman – trusted lieutenants

Luke Robinson & Andrew Tant – in charge of repackaging and posting to Australia and New Zealand

Joanne Collins – allowed her property to be used for parcels to be delivered and recruited Roxanne Frankman

Patrick Taylor – allowed his premises to be used for parcels to be delivered to

Michelle Thornhill & Chantelle Goddard – allowed their premises to be used for the storing of drugs.”
9. The judge's approach was to consider the overall conspiracy and then to adjust the sentence of each conspirator to reflect the individual roles. He applied the relevant sentencing guidelines.
10. As regards culpability, the judge concluded that the applicant had a significant role. In reaching that conclusion the judge relied on a number of the factors that indicate a significant role in the guideline. The applicant had played an operational role within the conspiracy because he had persuaded his children to allow their addresses to be used for the delivery and collection of parcels. He was expected to gain a significant financial advantage. He had a very clear awareness and understanding of the scale of the operation. Given these different factors, the judge concluded that the applicant's offending fell at the top end of significant role. As regards harm the offence fell within Category 1 which has an indicative quantity of five kilograms.
11. The starting point for a Category 1 significant role offence is 10 years' custody with a category range of nine to 12 years' custody. The judge made an upward adjustment to 12 years to reflect the top end of the range for significant role and then made a further

adjustment to 15 years to reflect the quantity of drugs involved in the conspiracy which was around eight times the indicative quantity for Category 1.

12. The judge considered aggravating and mitigating factors. It was an aggravating factor that the applicant had used his adult children to receive packages when they were otherwise innocent. He had used a number of sophisticated measures to avoid detection. By way of mitigation the judge confirmed that he had read the sentencing note prepared by counsel, the letter to the judge from the applicant, the various certificates which the applicant had obtained while in prison and the letters from prisoners who had been assisted by the applicant. The judge also kept in mind the length of time that the applicant had been in custody during the difficult conditions of the Covid-19 pandemic and waiting for sentence.
13. Taking into account the aggravating and mitigating factors, the judge reduced the sentence from 15 years to 14 years' imprisonment. He applied a 14 per cent discount for the applicant's belated guilty plea. In this way he reached the sentence of 12 years.
14. In light of the nature of the grounds of appeal it is necessary to deal with the sentences that the judge imposed on the applicant's co-conspirators. For ease of comparison we shall set out each of their sentences before the individualised discounts applied by the judge for their guilty pleas. Some of the co-conspirators pleaded guilty to more than one count on the indictment. We shall focus on their overall sentences as the judge treated the various counts on the indictment as relating to one operation.
15. On this approach, Patrick Lawless was sentenced to 22 years' imprisonment. Arthur Dunn was sentenced to 16 years. Thomas Warman was sentenced to 11 years three months. Luke Robinson was sentenced to 11 years. Andrew Tant was sentenced to 10 years. Joanne Collins was sentenced to 10 years. Patrick Taylor was sentenced to eight years. Chantelle Goddard and Michelle Thornhill were sentenced respectively to a suspended sentence order and a community order, the details of which are irrelevant to our decision.
16. The judge imposed these sentences on the basis that Lawless and Dunn had leading roles in the conspiracy. Thomas Warman, Luke Robinson, Andrew Tant and Joanne Collins were each found to have had a significant role. Patrick Taylor, Michelle Thornhill and Chantelle Goddard were found to have had lesser roles.

Grounds of appeal

17. Mr Jeyes submits that the sentence imposed on the applicant was manifestly excessive and disproportionate when compared to the other conspirators. Firstly, the judge incorrectly increased the applicant's sentence to 15 years before considering aggravating and mitigating factors. It was unclear why the judge took that approach and there is no justification on the face of the sentencing remarks. He did not take this approach to any of the other conspirators with significant roles. Secondly, the sentence is disproportionate relative to the sentence imposed, particularly, on Warman.

18. Thirdly, the judge made factual errors in determining that the applicant had hired cars for the conspiracy and was involved in many meetings between the co-conspirators. The applicant did not drive and had no vehicle. He had had less contact with other parties than other more senior conspirators.
19. Fourthly, the judge wrongly concluded that the applicant was involved in a greater quantity of deliveries than others. The applicant was involved in 14 deliveries. It is submitted that the others were involved with similar or greater numbers of deliveries or that their roles made them responsible for the conspiracy as a whole.

Discussion

20. As we have mentioned, the applicant's offending involved a number of the culpability factors that are listed in the sentencing guideline as demonstrating a significant role. The judge was therefore entitled to make an upward adjustment from the 10-year starting point in order to reflect the level of the applicant's culpability. He was entitled to make a further significant upward adjustment, outside the category range, to reflect the quantity of drugs involved in the conspiracy. We see no error in his approach to the seriousness of the offence or to the aggravating and mitigating factors. In particular, it was open to the judge to conclude that the applicant's exploitation of his own children, who were otherwise innocent and not part of the conspiracy, was a serious aggravating factor.
21. We note that Warman's sentence before discount for plea was lower than the applicant's. Warman had made nine trips with Lawless to the Netherlands when the route for the imports was being set up. The applicant had no involvement in this travel. Warman recruited Thornhill and Goddard, paying Thornhill £50 per week to store drugs. However, as regards disparity the question is whether right-thinking members of the public, with knowledge of the relevant facts and circumstances, would consider that something had gone wrong with the administration of justice: R v Balfour Beatty [2007] 1 Cr.App.R (S) 65. That is a high test.
22. The judge carried out a thorough sentencing process for all 10 defendants. He had all of the facts of the conspiracy before him. He carefully considered the overall conspiracy, the individual roles of each conspirator, the aggravating factors relevant to each of them and the mitigating factors relevant to each of them, including their individual circumstances. Even assuming that Warman by his travels abroad and by his other conduct breathed greater oxygen into the conspiracy than the applicant, it is not arguable that something has gone wrong with the administration of justice.
23. In relation to the conspirators other than Warman, there is no realistic challenge to the hierarchy that we have set out and we see no merit in any argument on disparity. The applicant could expect the judge to take a different approach to their cases. There are no arguable grounds to interfere with his conclusions.
24. Nor do we regard any of the alleged factual errors as having any material bearing on

whether the sentence was manifestly excessive. There is no proper challenge to the judge's view that the applicant had a significant role in what was beyond doubt a sophisticated, well-organised conspiracy. Given the seriousness of the applicant's offending it is not arguable that his sentence was manifestly excessive or wrong in principle.

25. For these reasons, while we are grateful for Mr Jeyes' skilful submissions, this application is refused.

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

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