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IN THE COURT OF APPEAL

CRIMINAL DIVISION

CASE NO 202303201/A1

NCN: [2024] EWCA Crim 556



Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday, 23 April 2024

Before:

LORD JUSTICE STUART-SMITH
MR JUSTICE HOLGATE
HER HONOUR JUDGE KARU
THE RECORDER OF SOUTHWARK
(Sitting as a Judge of the CACD)

REX
V
AJMER SINGH

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MR I SHAFI KC appeared on behalf of the Applicant

J U D G M E N T

1. MR JUSTICE HOLGATE: On 14 June 2023 in the Crown Court at Liverpool, the applicant pleaded guilty at the plea and trial preparation hearing to two counts of possessing class B drugs with intent to supply (counts 1 and 2) and 11 counts of possessing class C drugs with intent to supply (counts 3 to 11). They were all prescription drugs. The class B drugs comprised 21,000 tablets of codeine and dihydrocodeine. The class C drugs were a range of strong painkillers, sedatives, steroids and designer drugs. They included 25,500 diazepam tablets and 57,750 alprazolam tablets, which were tranquilisers for anxiety disorder and 772,000 tablets of zopiclone and 180,000 zolpidem tablets, both of which were sedatives. In all there were nearly 1.9 million class C tablets.
2. On 18 August 2023 the applicant was sentenced by His Honour Judge Aubrey KC to concurrent terms of imprisonment of five years three months on all counts. He renews his application for leave to appeal against sentence following refusal by the single judge.
3. On 2 March 2023 Merseyside Police searched an address linked to the applicant. In the garage they found prescriptions drugs in blister packs. A number of these tablets were in boxes which indicated that they had been imported from abroad, including Spain and China. The applicant was arrested by the police. In interview he answered no comment to the questions they asked.
4. In the Crown Court the defence stated that the drugs had a wholesale trading value of about £70,000 and a street value of about £904,000. The Crown said that the minimum value of the tablets was around £710,000 and the maximum street value was in the region of £1.4 million.
5. There was no pre-sentence report in the Crown Court. We confirm for the purposes of

section 30 of the Sentencing Act 2020 that no such report was or is now required in this case. We have read the applicant's character references and the information on the health of his wife.

6. The applicant was aged 44 at sentence. He had two convictions for five offences spanning from 11 October 2013 to 31 July 2017. His relevant convictions included three drugs offences (possession of cannabis, possessing a controlled class C drug with intent to supply and possessing a controlled class B drug with intent to supply) for which he had been sentenced to a total of 18 months' imprisonment on 31 July 2017.
7. In his sentencing remarks the judge said that the seriousness of the index offences was seriously aggravated by the applicant's previous conviction for a similar offence. The judge noted that the applicant was challenging another conviction arising from his employment as a sub-postmaster which had led to him being imprisoned and becoming bankrupt. He said that he would not count that conviction against the applicant.
8. The judge said that offences of this nature, where drugs were to be sold on the black market without any medical supervision to potentially desperate and vulnerable people, undoubtedly caused untold harm. The applicant had been trading in vast quantities of prescription drugs purchased from abroad and had been aware of what he had been doing. His wholesale operation had required organisation. The judge did not accept that the offending had been precipitated by the loss of the applicant's father and his subsequent depression. It had happened because of greed.
9. In relation to harm, the judge was satisfied that counts 1 and 2 fell within Category 2 of the guideline. The numbers of tablets in counts 3 to 11 could be described as being on an industrial scale and so, taken together, those offences fell into Category 1. On culpability the judge found that the applicant had played a leading role. It was a sophisticated

operation. The applicant was buying and selling on a commercial scale, the drugs were imported and the applicant had an expectation of substantial financial advantage. For counts 1 and 2 the starting point was six years' imprisonment within a range of four-and-a-half years to eight years' imprisonment. In relation to the class C drugs the starting point was five years, within a range of four to eight years' imprisonment. In addition the court had to apply the totality guideline to ensure that the overall sentence was just and proportionate to the overall criminality.

10. The judge referred to the character references. He said that the applicant was a dedicated father of two children. He took into account the letters about his wife's health, the applicant's letter to the court and all his mitigation. However he said the interests and concerns of the families of defendants had little significance at the most serious levels of criminality, referring to R v Welsh [2014] EWCA Crim. 1027. The applicant was entitled to 25 per cent credit for his guilty pleas.
11. The judge concluded by saying that the overall sentence after a trial would have been seven years' imprisonment. The concurrent sentences on each count would therefore be five years three months' imprisonment, which was the least that could be imposed for offences of this nature.
12. We are grateful to Mr Shafi KC for his written and oral submissions. In summary, he submits that the overall sentence was manifestly excessive because, first, the sentence after trial of seven years' imprisonment was not justified on the facts of this case. He says that the applicant's role had been significant, rather than leading. Secondly, he submits that apart from reducing the sentence to reflect the applicant's guilty pleas, the judge failed to reflect his compelling mitigation. The conviction as a sub-postmaster had a serious effect on the applicant's life. Imprisonment would have a profound effect

on the applicant's wife, his mother (for whom he was the primary carer), his nephew and his daughter. He had expressed genuine remorse for his actions and the character references spoke to his altruistic, compassionate side.

Discussion

13. Even if there were one or two other people above the applicant within the chain of responsibility, we see no basis for criticising the judge's decision to treat the applicant as having had a leading role. The reasons he gave amply justified that conclusion.
14. The judge had to pass a sentence in relation to a very large amount of 11 different class C drugs as well as the two class B drugs. Taking into account the relatively recent conviction for similar offending, in our judgment the overall sentence before allowing for mitigation had to be substantially in excess of seven years. For offending as serious as this, it is well-established in decisions of this court that the impact of imprisonment on family members is generally of little significance as compared with the public interest in the proper enforcement of the criminal law. Taking into account all the circumstances of this case, we are satisfied that a sentence after trial of seven years fully reflects all the mitigating factors available to the applicant. There is no criticism of the credit for the guilty plea which the judge allowed.
15. For these reasons, which accord with those given by the single judge, we conclude that it is not arguable that the sentences imposed were manifestly excessive or wrong in principle. Accordingly this renewed application for leave is refused.

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