IN THE COURT OF APPEAL
CRIMINAL DIVISION

Case No: 2023/01585/B5
[2024] EWCA Crim 740

Royal Courts of Justice
The Strand
London
WC2A 2LL

Friday 14th June 2024

B e f o r e:

LORD JUSTICE WARBY

MRS JUSTICE STACEY DBE

HIS HONOUR JUDGE JOHN LODGE
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E X

- v -

LEE PARDOE

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Non-Counsel Application

J U D G M E N T
(Approved)

Friday 14th June 2024

LORD JUSTICE WARBY:

1. The applicant, Lee Pardoe (now aged 36) renews his application for an extension of time in which to apply for leave to appeal against conviction, following refusal by the single judge.

2. This is an old case. Its origin goes back eight years to 25th June 2017, when the applicant was 29 years old. On that date police arrested the applicant, searched his home and seized a laptop computer. On the laptop they found indecent images of children, both moving and still. There were 198 indecent images in categories A, B and C, and 56 prohibited images of children. The children involved were of Asian ethnicity, aged between 4 and 13.

3. In an initial interview the applicant provided a prepared statement demanding the return of his devices and denying that he had an interest in children. In a second interview, he accepted that he had viewed indecent images of children, but also claimed that others had accessed his laptop.

4. However, on 6th April 2018, in the Crown Court at Southampton, the applicant pleaded guilty to three counts of making indecent photographs of children, contrary to section 1(1)(a) of the Protection of Children Act 1978, and one count of Possession of Prohibited Images, contrary to section 62(1) of the Coroners and Justice Act 2009. The applicant was then interviewed by the Probation Service in order to prepare a pre-sentence report. He made extensive admissions. He accepted that he was attracted to Asian people and that he had viewed the images for sexual gratification over a period of some two months. He sought to minimise and excuse his behaviour.

5. On 27th April 2018, the applicant was sentenced by His Honour Judge Parker to a suspended sentence order, comprising in total 12 months' imprisonment suspended for two years, with a requirement to carry out 240 hours of unpaid work, a rehabilitation activity requirement, and a requirement to participate in the Horizon Programme. That sentence was fully served by 27th April 2020.

6. It was not until 28th April 2023 that the applicant filed his Form NG seeking leave to appeal against his conviction. The application was out of time by 1,834 days (approximately five years). Accordingly, the first question for consideration by the single judge was – and the first question for us today on this renewed application is – whether it is in the interests of justice to grant the necessary extension of time.

7. The applicant has offered a multi-stranded explanation for the delay. He maintains, among other things, that he did not know that he could appeal, or that he could appeal without a lawyer; that he was told that it was not possible to make an application for leave to appeal; that his mental health was poor; that he was fearful that seeking help might endanger him; and that he was too busy completing his doctorate.

8. The single judge's response to these reasons was as follows:

> "The points advanced for explaining the delay do not begin to justify so long a delay …"

9. We agree. The applicant's claims are hard to reconcile with one another and lack cogency and credibility. They also lack any supporting evidence. Information about rights of appeal is readily available online and elsewhere, and the applicant had more than ample time and opportunity to pursue an application. We reject any suggestion that he was unable to do so.

10. That would be enough to dispose of this application. But the single judge went on to assess the merits of the proposed appeal and concluded that there were no arguable grounds of appeal against conviction. We also agree with that conclusion.

11. First, although it is possible to appeal against conviction after a guilty plea, the circumstances in which that can be done are limited. The applicant has provided the court with no basis for supposing that this is such a case.

12. To succeed on an appeal against conviction, it must be shown that the conviction is unsafe. The onus lies on the applicant. Ordinarily, a plea of guilty by a defendant who knows what he did or did not do amounts to a public admission of the facts, which itself establishes the safety of the conviction. That will not be so if it is shown that the guilty plea was vitiated in some way, or if the proceedings were in some way unlawful or an abuse of process or, exceptionally, if it is shown that the defendant did not commit the offence – in other words, that the admission was a false one: see *R v Tredget* [2022] EWCA Crim 108, [2022] 4 WLR 62 at [148] and following.

13. We have considered the applicant's proposed grounds of appeal and all his subsequent communications in the light of these principles.

14. Although the original grounds of appeal described the applicant's guilty plea as "unintended", it is not arguable that his plea was vitiated. He pleaded guilty at the plea and trial preparation hearing when he was represented by solicitors and experienced counsel. No doubt he was under a degree of stress, but there is no reason to doubt that he had capacity; that he knew what he was doing; and that his guilty plea was made when he was fit to plead. His guilty plea was evidently unequivocal, voluntary and informed. Although at one stage he

suggested that he had been pressurised or intimidated into pleading guilty, he has never credibly identified any misconduct by the police. He has also made clear that he makes no criticism of his counsel or his solicitors who, we infer, gave him the standard advice not to plead guilty if he was maintaining is innocence. Moreover, the applicant further accepted his guilt in what he said to the Probation Service following his guilty pleas. In these circumstances it is plain that the applicant exercised a free choice as to his plea.

15. The applicant has made a number of criticisms of the way the police conducted their arrest and interview of him, and the way in which the prosecution was conducted. As we have indicated, none of these criticisms casts any doubt on the voluntary nature of the guilty plea. The points have all been answered convincingly by the prosecution in its Respondent's Notice. Our conclusion is that there is no credible basis for suggesting that the proceedings were in any way unlawful or an abuse of process.

16. Nor does the material before us begin to indicate that the applicant might be able to bring his case within the third, exceptional and residual category that we have identified. He maintains his innocence, but he does not attempt to demonstrate this evidentially. At best, his argument is that the prosecution case was insufficient or weak and that he had some answers to it which, if he had put them forward, might have led a jury to doubt his guilt. *Tredget* makes clear that this is not enough where, as here, the applicant has entered an unambiguous guilty plea which is not vitiated in any way.

17. We have, nonetheless, considered the points the applicant has made, including some which have been put forward for the first time since the decision of the single judge. Having done so, and having had regard to the Respondent's Notice, we consider it is clear that the prosecution case was a strong one. We see no arguable merit in any of the points advanced by the applicant before or after the decision of the single judge.

18. Accordingly, the renewed applications 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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