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IN THE COURT OF APPEAL  
CRIMINAL DIVISION

Royal Courts of Justice  
The Strand  
London  
WC2A 2LL

ON APPEAL FROM THE CROWN COURT AT CHESTER  
(HIS HONOUR JUDGE BERKSON) [T20217050]

Neutral Citation Number: [2025] EWCA Crim 118

Case No 2022/03196/B4  
2025

Friday 31 January

**B e f o r e :**

**LORD JUSTICE LEWIS**  
**MR JUSTICE ANDREW BAKER**  
**MRS JUSTICE YIP DBE**

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**R E X**

**- v -**

**JASON JOHN ELLIS**

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Court)

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Non Counsel Application

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

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**LORD JUSTICE LEWIS:** I shall ask Mrs Justice Yip to give the judgment of the court.

**MRS JUSTICE YIP:**

1. This is a case to which reporting restrictions under the Sexual Offences (Amendment) Act 1992 apply. No matter relating to the victim of the offences with which this application is concerned shall during her lifetime be included in any publication if it is likely to lead members of the public to identify that person as the victim of the offences. This prohibition applies unless waived or lifted in accordance with section 3 of the Act. In this judgment we shall not refer to the victim by name so that her anonymity is protected.

2. On 5 September 2022, in the Crown Court at Chester, the applicant was convicted of three counts of rape, one count of assault by penetration, and one count of sexual assault. He was sentenced to a total of 16 years' imprisonment.

3. The applicant sought leave to appeal against conviction. He would have required an extension of time to bring his appeal. Having considered the merits of the proposed grounds of appeal, the single judge refused his application and gave reasons for doing so.

4. Approximately 11 months out of time, the applicant sought to renew his application to the full court. He also seeks leave to amend his proposed grounds of appeal and to introduce fresh evidence. Further, he has made an application for bail.

5. The applicant and the victim of the offences had been in a relationship. On 2 August 2020, the victim reported to the police that the applicant had raped her the previous night. She was interviewed and her evidence was video recorded.

6. During the interview, the victim described two other allegations of rape in January 2020.

The account of what had happened on the night of 1 August into the early hours of 2 August included rape, digital penetration of the victim's vagina and non-consensual sexual touching. The victim also described the applicant masturbating while kneeling over her, ejaculating, and then wiping his semen onto her pyjama top.

7. The applicant denied the offences. He maintained that all sexual activity between him and the victim had been consensual. It was his case that the victim had made the allegations up because she was jealous that he had remained in contact with his ex-partner.

8. The jury heard the evidence of the victim and of the applicant. They also received evidence of messages and call data obtained from mobile phones. The jury heard a recorded message which had been left for the victim in which the applicant had said that he might be "a controlling rapist".

9. Other evidence before the jury included evidence of injuries the victim had when she attended the police station, recent complaint about the January rapes, forensic evidence which was consistent with the victim's account about the applicant wiping semen on her pyjama top, and bad character evidence.

10. The trial was vigorously contested. The victim was cross-examined, including about matters that did not reflect well on her.

11. The applicant gave evidence. The jury were properly directed by the judge.

12. By his original proposed grounds of appeal, which the applicant prepared himself, he contended that his counsel was not medically fit to proceed; that evidence which should have been put to the victim was not put; and that witnesses who could have given evidence on his

behalf were not called.

13. A response was obtained from trial counsel. That response is thorough and considered.

14. The single judge considered the original grounds and counsel's response. She gave full reasons for rejecting those grounds.

15. Having carefully reviewed the papers, we entirely agree with the single judge's reasoning. We need not say more about the original grounds.

16. Following the refusal of the original application, the applicant has produced a vast amount of additional material. We have considered all of that material. There is nothing within it which, even arguably, satisfies the test for admission of fresh evidence, which is set out in section 23 of the Criminal Appeal Act 1968. In effect, the applicant seeks to re-argue matters that were advanced at trial. The applicant wishes to rely on evidence from a witness, Mary Finemore. There is no proper explanation for why Mrs Finemore was not called at trial; but, in any event, her evidence is not such as would affect the safety of the convictions. It does not add materially to matters that were explored at trial in any event.

17. Complaints are made about disclosure. However, it is apparent that disclosure requests were properly responded to. Disclosure of mobile phone evidence was the subject of an application heard and determined before trial. There is nothing within the material before us to suggest that there was any material withholding of evidence.

18. We have considered whether there was, arguably, any flaw in the trial process such as to render it unfair. We are satisfied that there are no arguable grounds for complaint. The competing claims of the victim and the applicant were properly explored at trial. The jury's

verdicts show that on the key issues they believed the victim and disbelieved the applicant. There was ample evidence to support the victim's account. Our review of all the material put forward by the applicant does not give rise to any doubt about the safety of the convictions. We are entirely satisfied that there is no proper basis to contend that the convictions are arguably unsafe.

19. In those circumstances we would have refused the renewed application for leave to appeal, even if it had been submitted in time.

20. The applicant submitted the form requesting renewal well outside the time limits allowed. He has not provided any sufficiently good reason for that. Had he in fact had new evidence which casts doubt on the safety of his convictions, and/or had his new grounds been meritorious, we might have explored the reasons for the delay further. As it is, there is no purpose in extending time or in granting leave to amend the proposed grounds of appeal and to rely on fresh evidence because we have concluded that we would refuse the renewed application for leave to appeal in any event.

21. Given that conclusion, the question of bail falls away.

22. All applications relating to this appeal against conviction are accordingly refused.

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