IN THE COURT OF APPEAL

CRIMINAL DIVISION

ON APPEAL FROM THE CROWN COURT AT SHEFFIELD

HHJ DAVID DIXON CP No: 14XQ1071823

CASE NO 202400876/A5

NCN: [2025] EWCA Crim 141

Royal Courts of Justice
Strand
London
WC2A 2LL

Tuesday, 28 January 2025

Before:

LADY JUSTICE WHIPPLE DBE
MR JUSTICE MURRAY
HIS HONOUR JUDGE LEONARD KC
(Sitting as a Judge of the CACD)

REX
V
LEWIS STACEY

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MISS E MUIR appeared on behalf of the Appellant

J U D G M E N T

LADY JUSTICE WHIPPLE:

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply to this offence. Under those provisions, where a sexual offence has been committed against a person, no matter relating to that person shall, during that person's lifetime, be included in any publication if it is likely to lead members of the public to identify that person as the victim of that offence. This prohibition applies unless waived or lifted in accordance with section 3 of the Act.

Introduction

2. On 23 August 2023 the appellant pleaded guilty at Sheffield Crown Court to four offences of rape against C1. Two counts of rape were left to lie on the file. The appellant was sentenced on 8 February 2024 by His Honour Judge David Dixon to a special custodial sentence of eight years and six months for an offender of particular concern, pursuant to section 278 of the Sentencing Act 2020. That sentence comprised a custodial term of seven years and six months and a further one year licence period. Various ancillary orders were imposed in relation to which no issue now arises. The appellant was 20 when he committed the offences. He was 21 at sentence. He now appeals against sentence with the leave of the single judge.

The facts

3. On 8 July 2022, C1 attended Moss Way Police Station with her mother to report that she had met a male whom she knew as Jordan Mapleton. She had met him through a friend. The male had told her he was 15. She said that he had committed a number of sexual

offences against her after they met in person following telephone contact. C1 was aged 12 at the time.

4. C1 had actually been in contact with the appellant who was using the false name of Jordan Mapleton.

5. C1's account to the police detailed two offences committed on 7 July 2022. In that account she told police that she had engaged in a sexual conversation with Mapleton on Snapchat and that she had told him that she would have sex with him if he met her. C1 then skipped school and met with the appellant in local woods. The appellant led C1, still dressed in her school uniform, to some bushes. The appellant penetrated C1's vagina with his penis. He did not wear a condom. This became count 5 on the indictment. The appellant also sucked on C1's neck leaving a mark. The appellant told C1 to get on her knees. He held C1's head and put his penis into her mouth before ejaculating into some bushes. This became count 7. This incident lasted around 45 minutes. C1 saw her local general practitioner the next day to obtain the morning after pill.

6. C1 told police that this was not the first time she had met Mapleton. In early May 2022 she had met up with him and he had asked her whether she wanted to have sex with him. He had asked C1 if she was a virgin and she confirmed that she was. She agreed to have sex with him. This had taken place in the same location as the offences reflected in counts 5 and 7. On that occasion in May 2022 the appellant penetrated C1's vagina with his penis (that became count 1) and penetrated her mouth with his penis (that became count 2). He did not ejaculate on that occasion.

7. C1 attended Sheffield Children's Hospital and underwent a full medical examination. Forensic swabs were taken and the clothing that C1 had been wearing during the latter encounter was seized. DNA attributable to the appellant's semen was found following forensic testing.

8. In interview the appellant denied contact with C1 but he was positively identified by C1 following a police identification procedure that took place on 14 December 2022. The appellant gave no comment in a further police interview.

9. The appellant entered his guilty plea at the plea and trial preparation hearing. His plea was on the basis that C1 had not asked him to stop what he was doing, that he thought he was in a relationship with her and that his autism had affected his behaviour.

Sentence

10. The judge had a pre-sentence report before him. That PSR highlighted the appellant's lies in the messages that he had exchanged with C1 on Snapchat. In some of those messages he had said he was 18, when in fact he was 20. He had said that he was called Jordan Mapleton when that was not his real name. The author of the PSR suggested that these features could indicate predatory and manipulative behaviour. The author of the PSR said that he had extremely low IQ and developmental features such as autism and ADHD and that those might make him present with less maturity than his peers but also concluded that the appellant was aware that his conduct was illegal and that he presented a high risk of harm to children.

11. The judge also had a psychological report from Dr Mazda Beigi dated 16 October 2023. Dr Beigi said that the appellant had an IQ of only 66, which is extremely low and which put him in the range of low intellectual functioning, although she did not consider him to have a learning disability. She said he presented with significant symptoms of autism and ADHD. He was likely to have been suffering a depressive episode at the time of the assessment, as well as having a history of anxiety. He had significantly less ability than other people his age and would present as less socially mature.

12. C1 had filed a victim personal statement to which the judge had regard. C1 recorded feeling isolated and said that she was now being treated differently by family members. She regretted sexual contact with the appellant. She had wanted her first sexual experience when she was older and with someone she thought was special. She felt bad about herself and felt that the appellant had just used her body.

13. The judge put this offending in harm Category 3. He put culpability on the cusp of Category A and B because the appellant's lies about his age and name suggested grooming or significant planning or both. The starting point for Category 3A was 10 years' custody in a range of eight to 13 years. The judge said that the starting point for each admitted rape if taken alone would be 10 years. Given the four offences the notional sentence would increase to 13 or 14 years. The judge balanced against that the fact that the appellant had not been in trouble before, that he had "very real issues" and that he would find custody particularly difficult. In the context of the appellant's particular difficulties the judge said that "whether those difficulties are related to the

offence or I just should take account of them in accordance with the mental health guideline, it seems to me the effect of that is to reduce sentence on a totality and rolled-up type basis to one of 10 years on each of those particular counts". He gave the appellant 25 per cent credit for his guilty plea.

14. The resulting sentence on each count was seven-and-a-half years, with all sentences to be served concurrently. The judge said the appellant was an offender of particular concern, although not dangerous. That led the judge to impose the extended sentence totalling eight-and-a-half years.

Grounds of appeal

15. By her grounds of appeal, Miss Muir, who represented the appellant below and in this court, submits that the sentence was manifestly excessive for two reasons: first, because the learned judge had erred in his categorisation of the offence which should have been placed within culpability B rather than straddling culpability A and B; and secondly, because insufficient weight was given to the appellant's particular difficulties.

16. In focussed oral submissions for which we are grateful, Miss Muir emphasises these two criticisms of the judge's conclusions. She notes that the appellant's course of conduct was not typical grooming. She submits that his actions fall squarely within Category 3B and that in any event the judge went straight to Category 3A rather than straddling the two categories as he had indicated that he would. She argues that the appellant's multiple psychological problems provide a compelling explanation for his criminal offending on these two occasions and predispose him to a peculiarly difficult experience in prison,

noting that he has indeed suffered aggression from fellow prisoners while he has been in custody.

Discussion

17. We find both of the appellant's grounds of appeal difficult to reconcile with the facts of this case. The appellant lied about his age and his name. He knew what he was doing was wrong. He knew he could be punished if he was found out. He knew that C1 was very young, being only 12 years old. These factors are all clear from the Snapchat messages.

18. In light of those facts, which were foremost in the sentencing judge's mind, it was reasonable for the judge to characterise this offending as planned, alternatively as containing an element of grooming, even if the grooming behaviour was not typical of offences of this kind. Those elements were evident from the way the appellant went about his contacts with C1. The author of the pre-sentence report talked about the appellant's behaviour being manipulative or predatory which is to make the same point.

19. We see no error in the judge's approach to categorisation, putting culpability on the cusp of Category A, or within Category A given the presence of planning or grooming behaviour such as was undoubtedly exhibited by this appellant.

20. The judge reduced the sentence to reflect the appellant's "very real issues" and "difficulties" and in doing so he referred in terms to the mental health guideline. Paragraphs 9 to 15 of that guideline address mental health and culpability. Paragraph 11

states that: "Culpability will only be reduced if there is sufficient connection between the offender's impairment or disorder and the offending behaviour." The judge did not find a sufficient connection and as far as we can see there is no evidence to support the existence of such a connection. Certainly Dr Beigi's report does not go that far. There was evidence of a lack of maturity and other problems such as his autism and his ADHD which provide some explanation (not excuse) for this offending. There was also reason to conclude that the appellant would find prison conditions particularly hard. It was appropriate for the judge to address those matters as mitigation and to reduce the notional sentence before credit for plea by three or four years, in other words to give around a 25 per cent reduction to reflect those points.

21. In the circumstances, we see no flaw in the judge's approach or conclusion and we reject the proposition that the sentence imposed was manifestly excessive.

22. This appeal is dismissed.

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

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