



THE COURT OF APPEAL

**Birmingham J.
Sheehan J.
Edwards J.**

23/15

The People at the Suit of the Director of Public Prosecutions

Respondent

V

Paul Cummins

Appellant

Judgment of the Court (ex tempore) delivered on the 13th day of October 2015 by

Mr. Justice Sheehan

1. On the 1st November, 2013, at the Dublin Circuit Criminal Court, the appellant, Paul Cummins pleaded guilty to robbing €350 from a Centra Shop on the 6th July, 2013, when armed with a knife.
2. On the 17th November, 2014, he was sentenced to four years imprisonment for this offence, the sentence being backdated to the 1st February, 2014.
3. He now appeals against severity of sentence and contends that the learned trial judge erred in law in failing to construct a sentence which took account of the sentencing goal of rehabilitation and further that the sentence that was imposed was unduly severe.
4. In order to consider these two grounds of appeal it is necessary to set out briefly the background to the offence.
5. On the night in question the appellant, following a domestic dispute left his girlfriend's home and went to the local Centra shop. There he produced a knife putting the young female attendant behind the counter in fear when he forced her to open the till. He took €350 and left.
6. The appellant who was intoxicated at the time was arrested a short while later and €310 was recovered.
7. According to his counsel the appellant was addicted to drugs, he never had a father figure in his life and due to the drug addiction of both his parents had been brought up by his maternal grandmother. He was now 28 years old and his counsel pointed out that he had spent over nine of the previous eleven years of his life in prison.
8. Notwithstanding that he had a 132 previous convictions, including twelve for theft, three for robbery and five for burglary and had only been released from prison in April 2012, following a lengthy sentence, the sentencing judge nevertheless, postponed sentence in this case and gave the appellant two opportunities to avail of different drug treatment programmes. At the time the sentencing judge had the appellant's rehabilitation at the forefront of her mind in endeavouring to construct an appropriate sentence.
9. Unfortunately the appellant was unable to avail of either opportunity and accordingly when he appeared for sentence he received a prison sentence of four years imprisonment. The court considers that there was little to be gained by the sentencing judge in further exploring the question of the appellant's rehabilitation or indeed of incorporating a rehabilitative element into the sentence. In view of the appellant's previous convictions and ongoing drug addiction, this Court considers that the trial judge did not impose an unduly severe or excessive sentence when she imposed a sentence of four years imprisonment and accordingly the appeal is dismissed.