



**THE COURT OF APPEAL**

**Birmingham J.  
Sheehan J.  
Mahon J.**

**The People at the Suit of the Director of Public Prosecutions**

**V**

**Aaron Shattock**

**102/15**

**Respondent**

**Appellant**

**Judgment of the Court delivered on the 26th day of February, 2016, by**

**Mr. Justice Sheehan**

1. Aaron Shattock was sentenced to three and a half years imprisonment with the final eighteen months suspended having pleaded guilty to assaulting Yassir Saoud at the M50 exit 11 pedestrian walkway at Tallaght on the evening of the 21st August, 2013, contrary to Section 3 of the Non fatal Offences Against the Person Act 1997. The maximum sentence for this offence is five years imprisonment.
2. He now appeals the severity of the said sentence.
3. The factual background to this assault is that the injured party and his cousin were talking to a girl at the pedestrian walkway when the appellant and a friend of his, who knew this girl, stopped and engaged in conversation with them. A short time later a group of about twelve to fifteen young people arrived and members of this group started calling the injured party and his cousin "Paki's". The appellant threw a stick forcibly at the injured party causing such an injury to his right eye that he has lost his sight in that eye.
4. This happened in the course of a general attack on the injured party and his cousin in the course of which following the throwing of the stick, the injured party grabbed the appellant and they both fell to the ground, whereupon the injured party was set upon and punched and kicked by others. The appellant got up and again punched the injured party in the ribs and into his right eye. He then ran off.
5. The appellant was arrested three days later and he made a full statement about his involvement in the offence. The appellant is the only person to have been convicted and sentenced for this offence. A co-accused who had originally been charged and indicted had the charge withdrawn and was dealt with under the juvenile Liaison Scheme.
6. The injured party had great difficulty in accepting his injury. It shattered his confidence and as a result of this he has dropped out of college. He fears that he will lose the sight in the other eye and this has stopped him playing various contact sports and other sports where hand to eye coordination is required.
7. The personal circumstances of the appellant are that he was seventeen years old at the time the offence occurred and nineteen years old when he was sentenced in the Circuit Court. He lives with his mother and has completed secondary education and was at the time of sentence employed full time in a warehouse in Dublin. He has no previous convictions.
8. The grounds of appeal lodged on behalf of the appellant can be summarised by saying that the sentencing judge had failed to give the appellant sufficient credit for the mitigating factors namely:
  1. The plea of guilty.
  2. The young age of the appellant.
  3. The absence of previous convictions.
  4. The remorse of the appellant.
  5. The appellant had become a productive member of society at the time of sentence.
9. Counsel for the respondent while not disputing the significant mitigation in the case contended that the sentence imposed was proportionate and disclosed no error in principle.
10. The offending behaviour in this case has had appalling consequences for the injured party who lost the sight in one eye as a result of the attack on him. In a moving victim impact statement, this young immigrant reflects on the fact that he has lost sight in one of his eyes and recounts how this has adversely impacted on his self confidence and resulted in him being unable any longer to participate in contact sports. At the time of the attack, he was looking forward to commencing third level education as a law student and while he appears to have started this course, he subsequently dropped out.
11. Although the court accepts that the appellant did not intend the outcome and was not the initiator of the racial abuse that formed a backdrop to this attack, this was a case that required to be marked by an immediate prison sentence. It is unfortunate that it took 20 months for that to happen. On the other hand the mitigation in this case was so extensive that the sentencing judge remarked that the appellant had "perfect mitigation". It is this exceptional mitigation not least the appellant's remorse, cooperation with the gardai, and young age that leads us to conclude that the sentencing judge ought to have made a further allowance

especially in respect of his youth. For a young man like the appellant, a further reduction of a quarter of the amount of time to be served by him in prison will no doubt be of considerable significance to him and indeed to his mother.

12. This may on the other hand be perceived to be treading on the margin of appreciation that we are obliged to afford to a sentencing judge. That said we believe that the justice of this particular case can be met by leaving the three and half year sentence in place to mark the seriousness of the offence, but also by suspending the final two years of that sentence. Accordingly we allow the appeal against severity of sentence and to this limited extent we vary the sentence by now imposing in place of the original sentence, a sentence of three and a half years imprisonment with the final two years suspended on the usual terms.