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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Cardiff Crown Court
Cathays Park
Cardiff
CF10 3PG

ON APPEAL FROM THE CROWN COURT AT CARDIFF
(HIS HONOUR JUDGE RICHARD KEMBER)

Case No 2024/02273/B2 & 2024/01620/B2

Tuesday 4 February 2025

B e f o r e :

THE LADY CHIEF JUSTICE OF ENGLAND AND WALES
(Baroness Carr of Walton-on-the-Hill)

MR JUSTICE KERR

MR JUSTICE NICKLIN

R E X

- v -

MARIAMA BAH

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Court)

Non Counsel Application

J U D G M E N T
(Approved)

Tuesday 4 February 2025

THE LADY CHIEF JUSTICE: I shall ask Mr Justice Nicklin to give the judgment of the court.

MR JUSTICE NICKLIN:

1. On 10 May 2023, following a trial in the Crown Court at Cardiff, the Applicant was convicted of causing grievous bodily harm with intent, contrary to s.18 Offences against the Person Act 1861.
2. On 11 March 2024, before the same court, the Applicant was sentenced to eight years' imprisonment. The judge was satisfied that the Applicant deliberately used the hot oil as a weapon, which was found to be similar to the use of a corrosive substance such as acid as a weapon.
3. The applicant renews her application for leave to appeal against both conviction and sentence. Both applications have been refused by the single judge. The applicant seeks an extension of time of 367 days in respect of the application for leave to appeal against conviction and 20 days in respect of the application for leave to appeal against sentence.
4. At the time of the incident the Applicant lived in a shared house with the victim, AK. The victim had been living in the property for about three years. The applicant came to live there in May 2022. At first the two women got on, but their relationship deteriorated.
5. On 21 March 2023, an incident took place between the two women in the shared kitchen in the property, whereby hot oil that the victim had been heating in a saucepan on the cooker, came into contact with her skin, resulting in the victim suffering burns to her abdomen, thighs and left arm which covered around 3.5 per cent of her body.
6. The prosecution case was that applicant, in anger, deliberately threw the pan of hot oil over the victim, intending to do her really serious injury; or, in the alternative, that she caused the victim really serious injury by throwing the saucepan containing hot oil over her, representing an offence under s.20 of the 1861 Act.
7. The prosecution case was that the victim had been in the kitchen preparing a meal with the door closed. She was heating a pan full of oil on the hob. The applicant kept opening the door and the victim kept closing it again. The applicant entered the kitchen, followed by the victim. The applicant then picked up the pan of hot oil and threw it over the victim.
8. To prove their case, and particularly as evidence of the Applicant's intention the prosecution relied upon: the agreed evidence relating to the injuries suffered by the victim; the evidence of the victim herself; and inconsistencies in the Applicant's police interview, in particular in relation to her knowledge of what was in the pan on the stove.
9. The defence case was that it was an accident. The victim had blocked the Applicant's access to the downstairs toilet, which was accessed through the kitchen. The victim had pushed the Applicant, causing her to fall to the floor. When the Applicant got up, the victim then threw hot water at her. The hot water made contact with her arm, which caused the Applicant to jolt her arm in pain. At this, the Applicant's arm came into contact with the pan containing the hot oil, causing the pan to fall from the stove. As it did so, the contents of the pan (the hot oil) tipped over the victim. The applicant denied intending to cause any injury to the victim.

10. The issue for the jury was, therefore, straightforward: whether the Applicant threw the saucepan containing the hot oil over the victim in a way that was not accidental and whether at the time of doing so the Applicant intended to cause the victim really serious injury.
11. The jury convicted the Applicant of the section 18 offence.
12. At the subsequent sentencing hearing, the judge had a full pre-sentence report, a Victim Personal Statement, and several character references. The applicant was aged 29 at conviction and 30 at the date of sentence. She was of previous good character.
13. The judge was satisfied that the Applicant deliberately used the hot oil as a weapon, which was found to be similar to the use of a corrosive substance such as acid being used as a weapon in an attack. Culpability was therefore found to be high and fell within category A. Harm was placed into category 2. On the sentencing guidelines that gave an indicative starting point of seven years' imprisonment, with a range of six to ten years.
14. The judge decided on the evidence that the permanent and irreversible physical injury, the psychological injury and the fact that it would have some effect on the day-to-day activities of the victim meant that the totality of harm fell just short of category 1, which justified an increase from the category 2A starting point of seven years to nine and a half years' imprisonment. There were no other aggravating factors. The judge was satisfied that it was not a planned attack. It was a deliberate, but spontaneous act. This was a mitigating factor, along with the fact that the Applicant had no previous convictions. The judge also accepted that the Applicant was genuinely remorseful. She had told the author of the pre-sentence report that she accepted full responsibility for her actions.
15. In terms of personal mitigation, the Applicant was a victim of modern slavery, was at a low risk of re-offending, was willing to engage in intervention, was studying, and indeed volunteered at a charity shop.
16. At the time of her interview with the author of the pre-sentence report, and as noted by the judge, the Applicant accepted full responsibility for her actions and showed what appeared to be genuine remorse.
17. Taking into account the delays in sentencing the Applicant and the mitigating factors, the judge reduced the term of imprisonment to one of eight years, which was the sentence ultimately imposed.
18. The applicant has drafted her own grounds of appeal, both in relation to conviction and sentence. In relation to conviction, the Applicant has made several criticisms against her lawyers. She contends that they did not represent her properly and that her advocate was friendly with the prosecution advocate during the trial. She contends that important information about her relationship with the victim, and about which she had told her lawyer, was not mentioned, namely, that the Applicant had been bullied, assaulted and threatened by the victim.
19. In relation to sentence, the Applicant contends that her lawyer did not focus on her side of the story and told her that the burn was less serious than the victim had alleged; that her lawyer did not seek her acquittal or to mitigate her sentence as he told her that this would negatively impact his reputation if the prosecution chose to appeal; and that as her lawyer

and the prosecutor wanted to shorten the trial, her lawyer did not mention the background information.

20. In view of the criticism of her lawyers, the Applicant has waived legal professional privilege, and a statement has been provided by the Applicant's trial advocate, which we have read.
21. The applicant responded in a letter dated 2 October 2024.
22. The Crown have filed a Respondent's Notice. The Crown's position on the application for leave to appeal against conviction is that whilst accepting that there were conversations between counsel during the trial, those were routine and were to facilitate an effective hearing. There was no conversation about reducing the length of the trial.
23. As to sentence, the Crown submits that the sentence was neither wrong in law nor manifestly excessive; and that the judge's categorisation of the offence on the sentencing guidelines was correct.
24. We have reviewed this case fully on the renewed application, but we agree with the single judge that there is no arguable ground of appeal against either conviction or sentence.
25. In relation to conviction, this case ultimately came down to a conflict of evidence between the complainant and the Applicant. Both accounts were tested in cross-examination during the trial, and the evidence was fairly summed up by the judge to the jury. There is no arguable basis for challenging the conviction.
26. In relation to sentence, we detect no error in the judge's approach. In careful and detailed sentencing remarks, the judge properly identified the significant mitigation that was available to the Applicant. He made correspondingly a significant reduction to the sentence he would have otherwise imposed. His categorisation of the offence on the sentencing guidelines was correct. Based on the jury's verdict, the hot oil had been used by the Applicant as a weapon which had inflicted serious injuries. The judge found on the evidence that the complainant had been left with long-term scarring and hypersensitivity, and that she was suffering from moderate psychological stress. Those conclusions were fully supported by the medical evidence and the complainant's Victim Personal Statement.
27. There is no prospect of the Court of Appeal disagreeing with the judge's conclusions. It was for the judge to balance the mitigating against the aggravating factors, particularly the extent of the lasting harm caused to the victim. It is not arguable that a sentence of eight years' imprisonment was manifestly excessive.
28. In those circumstances no purpose would be served by granting the extension of time for renewing the Applicants for leave to appeal.
29. Accordingly, all applications are refused.

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