NCN: [2019] EWCA Crim 552
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IN THE COURT OF APPEAL
CRIMINAL DIVISION

Royal Courts of Justice
The Strand
London
WC2A 2LL

Wednesday 27 March 2019

B e f o r e:

LORD JUSTICE SIMON

MR JUSTICE TURNER

and

HER HONOUR JUDGE TAYTON QC
(Sitting as a Judge of the Court of Appeal Criminal Division)

R E G I N A

- v -

ANTHONY JOSEPH GORRINGE

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Mr S Gladwell appeared on behalf of the Appellant

Mr A Blake appeared on behalf of the Crown

J U D G M E N T

LORD JUSTICE SIMON:

1. The provisions of the Sexual Offences (Amendment) Act 1992 apply to the offending with which this judgment is concerned.

2. On 11 July 2018, following a trial in the Crown Court at St Albans before Mr Recorder Lennard and a jury, the appellant was convicted of 22 serious sexual offences.

3. On 7 September 2018, he was sentenced as follows: on counts 1 and 2 (causing a person to engage in sexual activity without consent, contrary to section 4(1) of the Sexual Offences Act 2003, one year's imprisonment on each count concurrent; and on counts 3 and 3A (further charges of the same offence), six years' imprisonment on each count concurrent; on counts 4 and 5 (rape, contrary to section 1 of the 2003 Act), a sixteen year extended sentence, comprising a custodial term of eight years and an eight year period of extended licence. The victim of each of these offences was a young man, "CG".

4. The victim of the other offences was a young woman, "LA", and the appellant was sentenced as follows: on counts 6 and 8 (assault by penetration, contrary to section 2 of the 2003 Act), six years' imprisonment on each count concurrent; on counts 12, 14 and 15 (rape), a 24 year extended sentence, comprising a custodial a custodial term of sixteen years and an eight year period of extended licence; on counts 16, 17 and 18 (causing a person to engage in sexual activity without consent), two years' imprisonment on each count concurrent; on counts 20A, 20 and 21 (further charges of the same offence), four years' imprisonment on each count concurrent; on count 22 (causing or inciting child prostitution or pornography, contrary to section 48(1) of the 2003 Act), four years' imprisonment concurrent; on count 23 (a further charge of causing a person to engage in sexual activity without consent), a 24 year extended sentence, comprising a custodial term of sixteen years and an extended licence period of eight

years concurrent; and on counts 24, 25 and 26 (further charges of causing a person to engage in sexual activity without consent), six years' imprisonment on each count concurrent.

5. The Recorder expressed his total sentence as an extended sentence of 32 years, comprising a total custodial term of 24 years and an extended licence period of eight years. For reasons we will come to, there is some doubt as to whether the sentence he passed gave effect to that intention. This is a matter we will address later in the judgment.

6. The appellant appeals against these sentences with the leave of the single judge.

7. A co-accused, Barry Gaynor, was convicted on count 28 on the indictment (rape) and was sentenced to a term of six years' imprisonment.

8. We start with the offences against LA. These were the first to come to light. When he first met LA, the appellant lived with his young wife and a child aged 3. He worked at a supermarket and also as a delivery driver for a local takeaway restaurant. LA lived at home with her mother and older siblings. She had been brought up strictly. She was not permitted to have intimate friendships with boys and was a somewhat naïve and innocent 15 year old, with little understanding or experience of sexual matters. She met the appellant in the supermarket in October 2009 when she was shopping with her mother. Her mother spoke to the appellant as she was trying to obtain some work for LA. The appellant not only acquired the necessary forms, but went around to her home in order to help her to complete them and to draft a covering letter. He invited LA and her mother to eat with his family, and he came with food for them when they were short of money. Over the next few weeks, he calculatingly groomed LA. He took her out occasionally on deliveries, flattered her and eventually professed his love for her. He provided her with a phone as a means of direct contact between them. She started to go to

his house more frequently. When her mother was receiving medical treatment, he offered to have LA to stay.

Counts 6 and 8

9. On one occasion when she was at his house during this time, when she was still 15, instead of driving her straight home, the appellant took LA to a car park, slipped his hands into her knickers and digitally penetrated her vagina – something she found painful. He then drove her home. When she got out, he digitally penetrated her again.

Count 12

10. The appellant first had sexual intercourse with LA on 18 January 2006, his 50th birthday. His wife and son had gone out to his mother-in-law's home. After some preliminary sexual activity downstairs, he took her up to his bedroom and had vaginal sexual intercourse with her from behind. It was her first experience of sexual intercourse and it left her feeling sore. The appellant did not use any form of contraception and ejaculated inside her.

Counts 14 and 15

11. She turned 16 about a month later, and from that point he used her for his own sexual gratification. He exploited her so as to fulfil his own perverse fantasies. He penetrated her with ever larger objects and urinated on her. Such was her conditioning and dependence upon him that she submitted to everything that he required of her. In May 2011, when she was 17, she left home and was taken in by the appellant and his wife. He prepared a letter of authority for her to take to college, appointing him as her legal guardian. She continued to be grateful to him, to express her love and affection for him, but there was always a gross imbalance of power in the relationship. If she did not comply with his wishes, she was always fearful that she would be punished by spanking or rough sex. Count 14 was a multiple incident of oral rape, and count 15

was a multiple incident of vaginal rape.

Counts 16, 17, 18, 20A, 20, 21, 22 and 23

12. The extent to which LA became conditioned to the appellant's sexual demands was demonstrated by the increasingly extreme and perverted behaviour in which he caused or incited her to engage. Count 16 reflected his pressurising her to engage in sexual threesomes with his wife, including fingering and licking his wife's vagina as he watched or filmed her. He also caused or incited her to carry out sexual activity with other men. Counts 17 and 18 reflected oral and vaginal sex with CG, a younger and vulnerable man who was introduced to LA by the appellant. He came around to the appellant's house because he had a problem, and the appellant told LA to go and "suck his dick". This became a regular occurrence and there were threesomes in which CG had sex with her orally and vaginally.

13. Counts 20A and 20 reflected sexual activity between LA and the co-defendant, Barry Gaynor. LA thought that this occurred four or five times. It occurred first when she was 17. Gaynor was a mechanic who worked on the appellant's car. The appellant told LA that she was going to thank him, so that he would not have to pay Gaynor for the work he had done. She performed oral sex on Gaynor, while the appellant digitally penetrated her. Gaynor then vaginally penetrated her.

14. Count 21 related to another friend of the appellant, Robin Bent, a married man in his 50s. They had sexual intercourse on one occasion when LA was 17. The appellant told her that Bent was his best friend and that he wanted her to have sex with him. She felt as if she was being passed around, but complied with the appellant's demand. The appellant watched Bent having sex with her. Through Bent, an Indian male, Shafiq, who had been shown a photograph of LA, was introduced to LA.

15. The appellant's wife left him in 2011, and LA, still only 17, was left alone with the appellant. His control over her was now complete. Shafiq called at the house up to one hundred times and had sex with LA in exchange for money. It was £60 for oral sex and £70-£80 for full sexual intercourse. The payment was made to the appellant who passed £20 or £30 to LA on just five occasions. This crime was charged as count 22.

16. Count 23 related to sexual activity with another young man who was a friend of LA from college. The appellant wanted LA to have sex with him for his own gratification. He liked to watch or even take part when others were involved. The young man came round one day and the appellant told LA to give him oral sex. She did not want to but eventually agreed. The young man was surprised at this behaviour and his embarrassment intensified when the appellant entered the room and started to join in. The appellant dropped his trousers and had sex with LA from behind while she sucked the young man's penis.

17. On 22 February 2012, LA had an abortion. It was her 18th birthday. The appellant insisted that she should do so as he did not want any more children. After the procedure, she was tender and sore, but he resumed sex with her anyway very soon after and arranged for further sex with others.

Counts 24, 25 and 26

18. Such was the extent of the appellant's control over her and her utter subjection to his will that in the period after her 18th birthday he was able to cause or incite LA to engage in acts of sexual activity with animals. LA found this particularly abhorrent. Count 24 related to sexual activity (penetration of her mouth and vagina) with a dog which they had obtained from a rescue centre. Count 25 related to masturbation of the penis of a black Labrador belonging to Gaynor.

Count 26 related to the masturbation of the penis of a horse in a nearby field.

19. In relation to all the offences of rape and causing his victim to engage in sexual activity without consent, the jury must by their verdicts have found that LA did not consent and that the appellant did not reasonably believe that she did so.

20. By this time the appellant had been charged and was on bail in respect of historic sexual offences against other young women. He was first arrested in August 2011 when he was living with both his wife and LA. It was following his arrest that his wife left their home with their child, leaving LA living alone with him. Neither LA nor his wife assisted the police with their investigation of the appellant at this time.

21. In September 2012 he was charged with non-recent sexual offences against three girls, aged 13 to 15, as well as with taking indecent photographs of LA. He remained on bail and continued to live with LA. He pleaded guilty to some of the offences and changed his plea to guilty to others midway through the trial at Cambridge Crown Court. On 5 July 2013 he was sentenced to an extended sentence, the details of which we will come to shortly.

22. Initially, LA continued to visit the appellant in prison but in May 2015, finally freed from his control, she stopped. She formed a new relationship with someone close to her own age.

The offences against CG – counts 1 to 5

23. On 4 September 2016, LA had called the police to report that she had been in a relationship with the appellant from the age of 15 to 21 and had been groomed by him. Video interviews were conducted. Following her allegations, CG was originally treated as a suspect. He was video-interviewed. He said that, in addition to multiple occasions when he had been instructed

by the appellant to have sexual intercourse with LA and the appellant's wife, the appellant had abused and corrupted him when he was a young man. The first incident occurred when the appellant masturbated, and gave CG oral sex in his car. Three or four days later, he forced CG to masturbate him to ejaculation. The appellant then became more violent and angry when CG did not do "things". He made CG put his penis into his (the appellant's) anus. On another occasion, he forced his penis into CG's mouth, before ejaculating on CG's face. On a further occasion, he pinned CG down on the sofa and penetrated his anus with his penis.

24. Following LA's allegations, the appellant was interviewed in prison. He denied any sexual relationship with LA before her sixteenth birthday, but he accepted that thereafter they had an affair which developed into a relationship after his wife left him. He admitted engaging in threesomes with his wife and LA, with LA and Gaynor, and with Robin Bent and CG, but he claimed that this was all consensual. He said that he knew Shafiq as a friend of Bent, but denied knowing anything about sex between him and LA. He denied being involved in any way with acts of bestiality.

25. When later interviewed about the allegations made by CG, the appellant accepted that CG had frequently been involved in consensual threesomes with his wife and LA, but he denied that he had ever sexually abused him. He recalled one occasion at his house when CG had sucked his penis during a threesome, and one occasion when they had gone to CG's house and he had sucked CG's penis.

26. The appellant was born in January 1960 and was 58 years old at the date of sentence. His only previous relevant conviction is the one to which we have already referred. On 5 July 2013, he was sentenced by His Honour Judge Hawkesworth to a twelve year extended sentence, comprising a custodial term of eight years and a four year extended period of licence for a total

of sixteen offences. These included seven offences of taking indecent photographs or pseudo photographs of children, four offences of possessing an indecent photograph or pseudo photograph of a child, two offences of gross indecency with a child, two offences of possession of extreme pornographic images and one offence of indecent assault on a female under 14.

27. A pre-sentence report was prepared on 6 September 2018, at a time when the appellant was a serving prisoner. The author was of the view that the appellant minimised the harm he had caused to his victims. He claimed that there was no evidence of threats or violence. He was highly manipulative and took no responsibility for his sexual offending. He was predatory and unremorseful. His view was that age was not a relevant factor in relationships and admitted to being attracted to teenage girls. He reported a difficult childhood in which he was exposed to violence and abuse (though non-sexual) at the hands of his stepfather. He intentionally sought out opportunities to gain the confidence of young people for his own sexual purposes. Probation records indicated that he had repeatedly denied his offending and accused his three historic offence victims of being confused. He remained in denial of any wrongdoing and had limited, if any, victim empathy. Given his pattern of targeting young females, he was assessed as presenting a significant risk of serious harm to unknown and known females and could therefore be considered a dangerous offender.

28. The Recorder had victim personal statements before him, which we too have read. LA's statement is dated 12 February 2018. In it she describes the harm that she suffered from the appellant's crimes, including the physical harm that she suffered from the nature of some of his offending: "To this day I hurt inside". The psychological damage is also clear: "Logically, I know that he can't hurt me, but I still worry that I'll get punished for something I've said or done".

29. CG's statement is dated 14 February 2018. In it he describes his trust in the appellant and how that trust was abused by him. He was blackmailed into doing things to the appellant and others: "I spent my teenage years being petrified that he was going to show films of me to others or tell my parents what was going on".

30. In passing sentence, the Recorder described the appellant as a predatory and manipulative sexual deviant whose taste extended to humiliation and bestiality, and who would stop at nothing to obtain what he wanted. That description was entirely apt. The Recorder noted that when he was sentenced in June 2013 for sexual offences involving young girls, the judge said in his sentencing remarks of the appellant's treatment of LA that it was difficult to think of a more calculated, cruel and depraved seduction. Nothing that had since come to light impaired that conclusion.

31. The Recorder considered the issue of dangerousness. He concluded that the appellant was dangerous within the meaning of the relevant provisions of the Criminal Justice Act 2003. Although a life sentence was not required, it was necessary to impose an extended sentence. The Recorder reflected on the extent of the offending as a whole and bore in mind the principle of totality. He then imposed standard determinate sentences totalling six years' imprisonment, and extended sentences totalling 24 years, comprising a custodial term of sixteen years and a "global" extension period of eight years in respect of counts 4, 5, 12, 14, 15 and 23.

32. In the grounds of appeal, Mr Gladwell took three points. First, he submitted that the custodial terms of sixteen years on counts 12, 14, 15 and 23, went considerably outside the Sentencing Council guidelines for those offences; and that, even taking into account the overall criminality and the number of other offences, which he readily recognised, such an approach resulted in an overall sentence that was manifestly excessive.

33. Second, he argued that the Recorder paid insufficient regard to the principle of totality in ordering the sentences passed in respect of the most serious offences against LA (counts 12, 14, 15 and 23) to run consecutively to those passed in respect of CG (counts 4 and 5). No complaint is made of the passing of consecutive sentences, but it was said that the principle of totality called for a greater reduction in the sentences in respect of each victim.

34. In his oral submissions today, Mr Gladwell realistically acknowledged that these were weaker grounds. The focus of his oral argument has been on the third ground of appeal: that too little account was taken of totality in light of the fact that the appellant was being sentenced for offences that had been committed before he had been sentenced at Cambridge Crown Court. He had served five years (two-thirds) of that sentence when sentenced by the Recorder at St Albans Crown Court. Mr Gladwell's submission was that if all the offences had been sentenced at the same time, the appellant would not have received a total sentence which combined those sentences. He referred to an overlap in time between 2008 and 2011. In fact, the offending against LA, which was charged in St Albans Crown Court, started in late 2009. But he submitted that Judge Hawkesworth had indicated that he would have passed a sentence of six years' imprisonment in relation to the offending against LA and that that was a material fact when matters of totality came to be considered.

35. We start with the apparent anomaly of the sentences on counts 4 and 5. As we have noted in his sentencing remarks the Recorder said this:

> 'The extended licence period will be one of eight years in respect of counts 4, 5, 12, 14, 15 and 23 only.'

In this passage it is clear that the Recorder misspoke. He could not pass, and cannot have intended to pass, two consecutive extended sentences each with an eight year extended period of

licence. But it is clear from how he expressed his overall sentence that this was not what he intended. The overall sentence was expressed as a custodial term of 24 years – eight years on counts 4 and 5, and sixteen years on counts 12, 14 and 23. It was in relation to the latter sentence of sixteen years that the extended licence period of eight years was to apply. For the sake of clarity, we make clear that this was the sentence that the appellant was intended to serve.

36. We turn to the points of substance on the appeal. Even in terms of the serious offending seen in the Crown Court, many of these offences were marked by exceptional depravity. The Recorder referred to the earlier sentencing remarks at Cambridge Crown Court, where Judges Hawkesworth had referred to the appellant's "ability to corrupt and manipulate the young". While this was true in one sense, it does not wholly describe what was later to emerge during the trial in 2018: how the appellant ground down LA's will and her sense of her own worth by the commission of innumerable offences in a period of more than three years. The appellant regarded her as someone he owned, to do with as he wished, without any sense of decency or respect for her human dignity and feelings. As he groomed her, and as he tightened his control over her, so she became subjected to his increasingly perverse sexual appetites.

37. The appellant was 49 years old when he first came across LA. She was just 15. Within twelve weeks, he had digitally penetrated her vagina. On his 50th birthday, while she was still 15, he had vaginal sexual intercourse with her at his home. When she was 17, he moved her into his house, where he now had unrestricted access to her. Over the following year, he manipulated her and subjected her to further sexual crimes. He repeatedly raped her. He made her engage in sexual intercourse with others. He offered her out for sex. He took money from a man who came to have sex with her. She spent the day of her 18th birthday at a clinic having an abortion. Such was his indulgence of his own selfish and sordid fantasies, at the expense of his victim, that she was compelled to engage in sexual activity with animals.

38. CG was another victim of the appellant's capacity for sexually exploiting young people. Later, he was made to engage in sexual relations with others, including LA and the appellant's wife.

39. We turn to the grounds of appeal advanced on the appellant's behalf. So far as the first ground is concerned, no complaint is made in respect of the sentences passed for the offending against CG. It is accepted that these were within the relevant guidelines. It is clear that the Recorder focused the sentencing for the offending in which LA was the victim on the most serious offences, the rapes charged under counts 12 and particularly counts 14 and 15, which reflected multiple incidents of rape over a period of more than three years. Furthermore, the Recorder was bound to take into account the serious criminality involved in the many other offences for which he passed concurrent sentences, some of which were multiple incident counts reflecting very serious offences against his victim. We do not accept that this ground of appeal has any merit.

40. This is the answer to the second matter of complaint, which is that the Recorder had insufficient regard to the principle of totality when ordering the sentences in respect of the most serious offences against LA (counts 12, 14, 15 and 23) to run consecutively to those passed in respect of CG (counts 4 and 5). There can be no objection to the imposition of consecutive sentences in respect of the offences against two victims. The Recorder made clear that he had regard to totality in his sentencing remarks at page 7A. In these circumstances the task of this court is to determine whether the total sentence was manifestly excessive when regard is had to that principle. We do not consider that the sentence was manifestly excessive.

41. In addition to the matters we have already mentioned, there were a number of factors that aggravated the appellant's criminality. Both victims were particularly vulnerable and both had

been groomed and habituated to the offending to which they were subjected. CG was threatened with and subjected to violence. LA was subjected to particular humiliation with some of the offences being filmed or taking place for financial gain.

42. Finally, it is argued that too little account was taken of totality in light of the fact that the appellant was being sentenced for offences committed before he was sentenced at Cambridge Crown Court in 2013. Those offences were largely contact offences against three female victims who had been sexually abused by the appellant, but, in addition, the appellant was sentenced for taking and possessing indecent images of LA. Mr Blake submits on behalf of the prosecution that there was and could have been no overlap because neither LA nor the appellant's wife supported the prosecution case. The 2013 cases involved no contact allegations in respect of LA, and the 2018 case involved no allegation in relation to images of LA.

43. The issue of how to sentence for offences where an offender is already serving a sentence of imprisonment is not an uncommon one. It is addressed in s.166(3)(b) of the Criminal Justice Act 2003 and the Sentencing Council Definitive Guidelines on Offences Taken into Consideration and Totality ('the Totality Guidelines'). The overriding principle is to achieve a sentence that is just and is proportionate. It is because the means of achieving such a sentence will vary according to the circumstances that the Courts have been wary of setting out overarching principles that will apply in every case. The Courts have, however, described some of the considerations which may guide a sentencing court in achieving a sentence that is both just and proportionate depending on the circumstances.

44. In the present case most of the offences for which the appellant was being sentenced in 2013 were different in terms of the offences and the victims. Importantly, as Judge Hawkesworth noted, the evidence showed that the appellant had begun to practise his technique of grooming

young girls as long ago as 1993. Over a significant period of time he had targeted and corrupted other children who were highly vulnerable.

45. We accept that if all these matters had been dealt with together, there might have been different sentences. However, we are clear that this would not have inured to the appellant's benefit. The strong likelihood is that he would have received a life sentence.

46. It would have been open to the appellant to have revealed the full extent of his offending. A number of decisions of this Court have emphasised the importance of this consideration and the relevance of an offender 'wiping the slate clean', see for example, *Attorney General's Reference No 92 of 2009* [2010] EWCA Crim 524 at [28]; *Cosburn* [2013] EWCA Crim 1815 at [14], and *Green* [2019] EWCA Crim 196 at [16] - [18]. Thus, for example, in *Attorney General's Reference No.92 of 2009*, Hallett LJ remarked:

> 'Albeit we do not lose sight of the principle of totality, totality would have been of greater relevance if the offender had been candid with the court at the earlier hearing.'

47. When dealing with offences taken into consideration, the Totality Guidelines make clear that when an offender requests that offences be taken into consideration:

> '… courts should pass a total sentence which reflects *all* the offending behaviour. The sentence must be just and proportionate and must not exceed the statutory maximum for the offence.'

48. The consideration that an offender might be better off by being sentenced twice rather than having an offence taken into consideration was addressed in *McLean* [2017] EWCA Crim 170 at [13], where the question was posed: whether to take the previous sentence into account would on the facts of the case give the offender 'an undeserved, uncovenanted bonus which would be contrary to the public interest?', see Treacy LJ at [13].

49. In the present case, the Appellant did not ask the court to take into consideration the present

offences. He put his victims through the ordeal of giving evidence and caused the state to incur the costs of a trial. These are considerations which lie at the heart of the principles underlying offences being taken into consideration.

50. Nevertheless, and subject to the considerations set out above, the task of the Court is to impose a sentence that is just and proportionate; and it is clear both from the application of principle and to the authorities to which we have referred that the end result may well be the appropriate sentence for the instant offending, without any further reduction being necessary or desirable.

51. Applying this test we are clear that these offences were of such seriousness that the recorder was justified in passing the sentences he did.

52. For these reasons the appeal is dismissed.