



Neutral Citation Number: [2021] EWCA Crim 1073

Case No: 202003232 A1

**IN THE COURT OF APPEAL (CRIMINAL DIVISION)**  
**ON APPEAL FROM CROWN COURT AT EXETER**  
**HIS HONOUR JUDGE EVANS**  
**T20207052**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 15 July 2021

**Before:**

**LORD JUSTICE STUART-SMITH**  
**MRS JUSTICE CHEEMA-GRUBB**  
and  
**HER HONOUR JUDGE DHIR QC**  
**Sitting as a Judge of the Court of Appeal Criminal Division)**

**Between:**

**JULIAN ESLICK**

**Appellant**

**- and -**

**REGINA**

**Respondent**

**Bathsheba Cassel (instructed by Boyle Tricks Leonard Solicitors) for the Appellant**

Hearing date: 22 June 2021

Covid-19 Protocol: This judgment will be handed down remotely by circulation to the parties or their representatives by email, release to BAILII and publication on the Courts and Tribunals Judiciary website. The date and time for hand-down will be deemed to be 10.30am on Thursday 15 July 2021.

**Approved Judgment**

### **Her Honour Judge Dhir QC:**

1. This is an appeal against sentence brought with leave granted by the single judge. On 29 October 2020, in the Crown Court at Exeter, the appellant pleaded guilty to one count of conspiracy to supply a controlled drug of class A, namely cocaine. The appellant entered his plea four months after the plea and trial preparation hearing, which took place on 11 June 2020, and three months before the trial date, which was 1 February 2021.
2. On 27 November 2020 the appellant was sentenced to 4 years' imprisonment.
3. Two of the appellant's co-defendants pleaded guilty to the same count. They were Lester Purdy and his son, Jake Marley Purdy. On that count, Lester Purdy was sentenced to 7 years and 8 months' imprisonment and Jake Purdy was sentenced to 40 months', i.e. 3 years and 4 months' imprisonment.
4. The appellant originally pleaded not guilty at the PTPH. Jake Purdy was not arraigned at the PTPH, as his counsel said that a medical report into his autism was still awaited and outcomes were awaited from other lines of inquiry. Jake Purdy was first arraigned on 13 October 2020, when he pleaded guilty.
5. In addition, Lester Purdy pleaded guilty to one count of possession of MDMA and one count of possession of cannabis. He received a concurrent sentence of one month's imprisonment on each of those counts.
6. The conspiracy began in early 2019 and ended with the arrest of the appellant and his co-defendants on 11 May 2020. During that period, Lester and Jake Purdy lived first at an address in Exeter and then in a village on the outskirts of the city.
7. Lester Purdy was the organising mind of the conspiracy. Jake Purdy was his right-hand man. The appellant was the man tasked with selling the cocaine to customers, keeping some of the proceeds for himself and passing the rest back to the Purdys.
8. The appellant pleaded guilty on the basis that he obtained drugs from the Purdys and sold them at street level, but that he was not involved in, and did not appreciate, the full extent of their operation.
9. Lester Purdy obtained quantities of high purity cocaine. 2 kg of cocaine was found in a hiding place near the Purdys' home on 11 May 2019, although the judge said that the overall quantity of cocaine involved across the span of the conspiracy must have been significantly greater than 2 kg.
10. Two lockups were rented for use in connection with the conspiracy. In April 2020 Lester Purdy bought a hydraulic floor press, which was used to repackage the cocaine after it had been diluted with an adulterant, such as levamisole, three quarters of a kilogram of which was found in one of the lockups.
11. One indication of the extent of the appellant's activity in furtherance of the conspiracy is that telephone evidence indicated that he had been in the vicinity of the Purdys' home on no less than 57 occasions in less than 2 months before his arrest. The judge described the dealings between the three of them as a very close and constant

conspiratorial association, particularly during the 6-7 week period of the total national lockdown in 2020.

12. Moreover, the appellant's bank statements indicated that in the 16 months before his arrest he had received deposits from a very large number of individuals, totalling many tens of thousands of pounds, much of which represented the proceeds of sale of the cocaine and some of which he transferred to the Purdys' account.
13. The judge considered the Sentencing Council guidelines for the offence of supplying cocaine. Those guidelines require a judge to assess the harm caused by reference to the weight of the drug. In the case of Lester Purdy, the judge put this offence in the higher part of category 2, which is based on an indicative quantity of 1 kg of cocaine, rather than category 1, which is based on 5 kg of cocaine. Given that the duration of this conspiracy was over a year and that the conspirators were in possession of 2 kg of cocaine on their arrest, it could be said that this approach was generous to the appellant and his co-defendants.
14. It was also generous for the judge to put the appellant's offence on the borderline between category 2 and category 3, which is the category appropriate for street dealing. He did this because the appellant was engaged in street dealing, but this was a case of street dealing which went on for over a year, involved substantial quantities of cocaine and was conducted by someone whom the judge said was in a very close and constant conspiratorial association with his co-defendants.
15. The judge found that Lester Purdy was organising the buying and selling of cocaine on an industrial scale. In terms of the relevant sentencing guidelines, his was a leading role. The starting point in the guidelines was 11 years' custody, with a range from 9 to 13 years.
16. As for mitigating factors, Lester Purdy was himself addicted to cocaine. He was 67 years old and not in the best of health, with type 2 diabetes. He had some previous convictions, but they were old and the judge did not treat them as an aggravating factor. As with the appellant and Jake Perry, the judge took account of the effect of his imprisonment on others and of the effect of the pandemic on conditions in prison.
17. The judge decided that the appropriate sentence, before allowing for Lester Purdy's guilty plea, was a touch over 9 years' imprisonment. He reduced that by 15%, to 7 years and 8 months' imprisonment, by reason of Lester Purdy's guilty plea.
18. The appellant accepted that his was a significant role. Having indicated that the harm fell on the borderline between category 2 and 3, the judge took as the appropriate starting point 6 years and 6 months' imprisonment, which is the bottom of the range for category 2 and near the top of the range for category 3.
19. As for mitigating factors, the appellant, who had no previous convictions, was 46 years old when he was sentenced. He had been married for 20 years and had two daughters, aged 12 and 6. He had formerly worked in the pub and hospitality trade and, more recently, designing websites. He had no regular job, but did some odd jobs. In 2019 he was experiencing marital difficulties and Lester Purdy introduced him to crack cocaine, to which he became addicted.

20. In the light of those factors, the judge decided that the appropriate sentence, before allowing for the appellant's guilty plea, was 4 years and 9 months' imprisonment. A reduction of 1 year and 9 months from the starting point of 6 years and 6 months' imprisonment could be said to be generous.
21. As with Lester Purdy, the judge then reduced the sentence by 15% on account of the appellant's guilty plea, which resulted in the sentence imposed of 4 years' imprisonment.
22. Jake Purdy, who was 26 years old when sentenced, had no significant criminal antecedents. He suffered from autistic spectrum disorder. Despite that, he had applied himself to Muay Thai boxing and had become a World Champion at that sport. He pleaded guilty on the basis that he was subjected to some pressure and coercion by his father, that the relationship between them was far from equal and that he had been subjected to considerable emotional manipulation.
23. The judge said that Jake Purdy was performing a significant role, but he also said that, to recognise his personal limitations and his susceptibility to influence, he took the same starting point as for the appellant, i.e. 6 years and 6 months' imprisonment. Since these factors go to culpability rather than harm, the judge's approach was, in effect, to put Jake Purdy on the borderline between significant and lesser role. In a category 2 case, 6 years and 6 months' imprisonment is at the bottom of the range for a defendant with a significant role and near the top of the range for a defendant with a lesser role.
24. As for mitigating factors, the judge took account of Jake Purdy's comparative youth, the absence of significant previous convictions, the fact that this had been a remarkable fall from grace for him, the immense personal drive which he had shown in his boxing career and his good qualities as attested in many character references.
25. The judge said that, before allowing for Jake Purdy's guilty plea, the appropriate sentence was 4 years and 6 months' imprisonment. He reduced that by 25% by reason of the guilty plea, which resulted in the sentence imposed of 40 months', or 3 years and 4 months', imprisonment.
26. The reduction of 25% in Jake Purdy's case was that which would have been appropriate if he had pleaded guilty at the PTPH. The judge appears to have accepted that there were particular circumstances which made it unreasonable to expect Jake Purdy to indicate a guilty plea at the PTPH, including the fact that he suffered from autistic spectrum disorder and that a report on that condition was still awaited at the time of the PTPH.
27. The grounds of appeal were drafted by the appellant himself and we make due allowance for that.
28. The first point made in the grounds of appeal is, "I received 15% credit as opposed to 30% given to Mr Jake Purdy and 25% given to Mr Lester Purdy."
29. That is factually inaccurate. As we have stated, the appellant received the same 15% credit as Lester Purdy, who pleaded guilty two weeks before the appellant. Jake Purdy received 25% credit, for the reasons we have outlined. In each case, the reduction

made by the judge was in keeping with the guideline on *Reduction in Sentence for a Guilty Plea*.

30. The second point made in the grounds of appeal is, “I was caught with 0.08g of heroin but Mr Jake Purdy had fingerprints on £80k and 2 kg of cocaine and Mr Lester Purdy had 250g of cocaine which was deemed to be for personal use.”
31. However, the appellant and his co-defendants were sentenced for the offence of conspiracy as a whole, not for what each of them chanced to have in their possession on arrest. The three of them had different roles. It was not the appellant’s job to hold the “stash” of cocaine, but it was his job to sell the cocaine and it appears that a large part of the drugs sold pursuant to the conspiracy passed through the appellant’s hands.
32. The third point made in the grounds of appeal is also factually inaccurate. It is, “I pleaded guilty on the same day as Mr Jake Purdy but submitted my defence statement 3 months before him.”
33. In fact, the appellant pleaded guilty after Jake Purdy, and after Lester Purdy, who received the same 15% reduction as the appellant.
34. The fourth point made in the grounds of appeal is, “I feel that my sentence and credit should be equal to that of Mr Jake Purdy as he was the number 1 and I was an addict who sold to support my gambling and drug habit.”
35. Jake Purdy was not “number 1”. That was Lester Purdy. The appellant received the same percentage reduction for his guilty plea as Lester Purdy. The appellant’s sentence was 3 years and 8 months shorter than Lester Purdy’s sentence.
36. The fifth point made in the grounds of appeal is, “I was also in prison on remand during lockdown in May-June and December with 23 hours of lockdown.”
37. The judge expressly took into account the effects of the pandemic on prisoners and we do not consider that he was obliged to reduce the sentence which he imposed on the appellant by any more on that account.
38. The sixth point made in the grounds of appeal is, “In fairness my sentence and credit should be the same as my co-defendant Jake Purdy as our charges were the same except Mr Jake Purdy was also charged with possession of criminal property.”
39. We have already dealt with the amount of the reduction in sentence for the appellant’s guilty plea. It was right that the appellant should receive a smaller reduction than Jake Purdy, who pleaded guilty before the appellant and in the circumstances we have outlined. Had the appellant pleaded guilty at the PTPH, his sentence would no doubt have been reduced by 25%, like Jake Purdy’s, and his sentence would have been 3 years and 6 months’ imprisonment, only 2 months longer than Jake Purdy’s sentence.
40. While it is correct to say that Jake Purdy was charged with one count of conspiracy to conceal, convert and transfer criminal property, he was not convicted on that count, so it had no bearing on his sentence.
41. The mere fact that the two of them pleaded guilty to the same offence did not mean that they each had to receive the same sentence. For instance, Lester Purdy pleaded guilty

- to the same offence, but he received a sentence which was almost twice as long as the appellant's sentence.
42. Standing back from the grounds of appeal as drafted by the appellant, we have considered his sentence in the light of all of the circumstances of the case. We have considered both whether his sentence, viewed in isolation, was either manifestly excessive or wrong in principle and also whether the difference between his sentence and Jake Purdy's sentence gives rise to a ground of appeal.
  43. Looking first at the appellant's sentence on its own, we are quite sure that it is neither manifestly excessive nor wrong in principle. Indeed, we have already noted in this judgment a number of respects in which the judge could be said to have been generous to the appellant:
    - a. first, in treating the conspiracy as a category 2, rather than a category 1, case;
    - b. secondly, in then moving, in the appellant's case, to the borderline between categories 2 and 3; and
    - c. thirdly, in reducing the sentence (before allowing for the appellant's guilty plea) by 1 year and 9 months below his chosen starting point by reason of the mitigating factors in the appellant's case.
  44. Moreover, the reduction in sentence of 15% for the appellant's guilty plea is unimpeachable, given the stage at which the appellant entered his plea.
  45. That leaves the argument based on the alleged disparity between the appellant's sentence and that imposed on Jake Purdy. It is plain that this argument has no merit.
  46. It is a rare case in which this court will allow an appeal against sentence on the basis of disparity. The test is whether a right-thinking member of the public, with full knowledge of all the relevant facts and circumstances, would consider that something had gone wrong with the administration of justice. That test is clearly not satisfied in this case.
  47. The sentence (before reduction for his guilty plea) which the judge considered appropriate for the appellant was only 3 months longer than the equivalent sentence for Jake Purdy. That was a small difference in the context of this case.
  48. The principal reason for the 8 month difference in their sentences is that Jake Purdy received a greater reduction for his guilty plea, because he pleaded guilty before the appellant and in the circumstances which we have outlined.
  49. We do not consider that the facts of this case would prompt a right-thinking member of the public, with full knowledge of all the relevant facts and circumstances, to consider that something had gone wrong with the administration of justice, especially having regard to the fact that the appellant sold a large part of the drugs handled by the conspiracy and to the different mitigating factors in the cases of the appellant and Jake Purdy.
  50. Accordingly, we dismiss this appeal.