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A **IN THE CROWN COURT AT SHREWSBURY**

22GA1109722

Shrewsbury Justice Centre
Preston Street
Shrewsbury
SY2 5NX

B Monday, 20 May 2024

**Before:
JUDGE NOT KNOWN**

C **R E X
-v
MUBAREK ALI**

UNKNOWN COUNSEL appeared on behalf of the Prosecution

UNKNOWN COUNSEL appeared on behalf of the Defendant

D **SENTENCING REMARKS**
(12.28 pm to 12.57 pm)

E Digital transcript of Epiq Europe Ltd
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Monday, 20 May 2024

SENTENCING REMARKS

(12.28 pm)

THE JUDGE: Mr Ali, you can stay seated for the moment. I want, first of all, to look at what you did. [Person A] was a vulnerable girl who had been through a very difficult childhood with her mother's difficulties, moving in and out of foster placements, and desperate for a stable, loving relationship. You, eight years older than her, were an adult and must have seemed the sort of person who could provide stability and protection, and you built on that.

You met her at this house where young people used to gather and where alcohol and cannabis were available and shared, and you struck up a relationship with her, based, I am sure, on her neediness and on age difference between you which led her to trust you. She did not have the maturity or the experience to understand what was going on.

It is understandable that she thought she was in love with you and could not see how abusive your relationship with her became when you expected her to behave sexually with you when she was well under the age of consent.

I am only concerned, today, with your behaviour to her when she was 14 and 15 years old, but all of the things that I have said about her vulnerability apply to her at those ages and you made her have sex with you in different places and in different ways throughout the time that she was those years old. It became normalised behaviour for her.

We have heard that she let her family think that you were her boyfriend instead of someone who was cynically abusing her for your own sexual pleasure when she was just a child. Count 6 in the indictment reflects how this happened over and over again.

As she became older, she became less easy for you to manipulate. The charges of rape in counts 7 and 8 of the indictment arise when she is 16 and 17 years of age and, although she may have passed the legal age of consent, still her young age is an important factor and, in order to get her to do what you wanted from her, you turned nasty with threats of violence and the most unpleasant abuse. This, again, happened on multiple occasions, as is recognised in count 8 in the indictment.

One of the most unpleasant aspects of your behaviour towards her is that, not content with having a relationship which involved frequent sexual activity yourself, either when she was underage or when you had to coerce by your threats and behaviour into doing so, is that you took advantage of the hold that you had over her to get her to have sex with other men. This, again, happened on frequent occasions throughout the time that you knew her.

Often, with older men, it involved being taken to restaurants sometimes and places

A like that, several at a time, queuing up to have sex with her. You gave people her phone number so that they could ring her up to make assignations with her. This is (**Inaudible**) but of a kind with the behaviour that brought you before the court in 2012.

Looking at this behaviour of yours, it is clearly so serious that only a custodial sentence can be justified. In deciding how to deal with you, what happened in 2012 is important when you were convicted of offences in relation to trafficking and the controlling of child prostitution which had a likeness to some of your behaviour towards [Person A] but, in fact, happened subsequently, by and large, to your behaviour towards her.

B To that extent, this is not a previous conviction in the full sense of the word but it is an indication of the pattern of your behaviour. The sentence that you were given involved a custodial sentence which, I think, will come to an end in August 2026, and you were given an extended period of licence of eight years in the light of the concerns that the sentencing judge felt about the danger that you posed to young women, amply demonstrated by your offending.

C That previous sentence is, of course, material in the sense that it is sentencing for similar offending that was imposed on you after your behaviour towards [Person A] had happened. The other thing that is relevant about it is this: you were released from custody when you reached the two-thirds point of that sentence but you were released on licence conditions which you breached and you were, therefore, recalled to serve the rest of your sentence in custody.

D I do not know for sure whether you will be required to serve the whole of that sentence in custody but, if you are, as I say, it takes you to August 2026. Any sentence that I impose today must begin today because you have previously been released from the sentence you are currently serving, and the effect of any sentence I impose on you today is going to be to make it impossible for the extended period to take effect which continues, I think, to be necessary for the protection of young girls from your behaviour as, in due course, you accustom yourself to living away from custody after the end of all your sentences.

E So, it is necessary for me to make a separate and independent assessment of the question of whether I should treat you as a dangerous offender. I am assisted by a pre-sentence report from an experienced probation officer, Hilary Greenman.

F It is right to say, as Mr Hallam has pointed out, that she may have misunderstood the impact of the fact that the Crown have not pursued you for counts 1, 2 and 3 of the

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indictment, and the offending behaviour I am dealing with you for begins when you were 14. I do not think that that difference has any material impact on her assessment of the

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risk that you continue to impose.

A She observes that you continue to deny your responsibility for offending even when you have pleaded guilty. You have shown no remorse at all. You have shown no insight into the impact that your offending has on those who are the victims of it. She concludes that you have made little progress in addressing your offending, even if you have behaved yourself in a prison context, since you were sent to prison in 2012.

B I come to the conclusion that, in the light of all that I have read about you and about your behaviour and everything that has happened since you received that sentence, that there continues to be a high risk that you may cause serious harm to young female children through the commission of further specified offences against them. I am satisfied that I should continue to treat you as a dangerous offender.

C In exercising my discretion as to whether an extended period of licence is, in fact, necessary, I take into account the fact that the sentence that I impose is likely to have a custodial element that will nullify the impact of the extended licence that was previously imposed on you for a need which still remains.

D The next thing I need to do is to address each of the counts to which you have pleaded guilty in considering what sentencing guidelines have to say about appropriate sentencing if each offence stood alone and if you had been convicted after trial. I do this because the law is clear that although your offending happened many years ago, you are to be sentenced today having regard to the sentencing regime that applies today, while recognising the changes that there have been since 20 years ago.

E Count 4, the charge of sexual activity with a child, is a count in which it is agreed that your offending falls in category 1A of the sentencing guidelines. I agree with what is agreed between counsel: there was grooming behaviour; she was a vulnerable child, there was a disparity in ages which is not hugely great in terms of arithmetic numbers but is very significant in terms of the kind of relationship that she had with you and the way in which you were able to carry out this offending.

F Count 4 concerns a single occasion only. It was the occasion in the hotel by the railway station and I am satisfied that the guidelines point me to a sentence of five years' imprisonment for that offending.

G Count 5 is similar but it is aggravated by the fact that you had arranged for other men

to come to that hotel where they, too, cynically abused her for sex after you had finished. That, I think, colours the way that you were conducting yourself on that occasion in having sex with her. The sentencing guidelines for that count, I think, lead me to a sentence of six years, as I say, standing alone and if convicted after trial.

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A Count 6 is a multiple incident count representing the many other occasions when you made it normal for her to engage in sex with you, to be at your beck and call, to come where summoned and whenever summoned, as a pattern of her life which is what has left her with a deeply ingrained psychological damage that she struggles with to this day.

B I am satisfied that this calls for a significant uplift from the starting point and the sentencing guidelines point me to a sentence of seven years for this count. There are two counts of rape in relation to sexual behaviour towards her when she was 16 and 17 years of age. Again, I am satisfied that this behaviour caused and made a major contribution to the deep-seated psychological harm that she has had to try to cope with in her adult years. They were serious offences of rape. They have left her with serious psychological harm. It is properly categorised as severe in the sentencing guidelines.

C Nonetheless, I accept Mr Hallam's submission that the significant factors under the guidelines do not achieve the level of severity that would put this into category 1A and I will deal with this offending as falling in category 2B. The guidelines point me to a sentence of eight years' imprisonment for count 7 and nine years' imprisonment for count 8.

D I turn to the trafficking offence, count 9, in the indictment. As I have already said, I treat this as a particularly serious and distinct aspect of your offending towards [Person A], that you were getting her, through the hold that you held over her, to have sex with numerous other people. Degrading, transitory, hugely damaging to her. For this offending, at the time it happened, the maximum sentence under the legislation was one of fourteen years' imprisonment.

E There are three guidelines that I must have regard to, although none that directly impacts on the decision I have to make. There was a guideline in 2009. I take the view that she was coerced into the sexual activities that happened and the trafficking her to different places for that purpose. The 2009 guideline would point to a sentence of six years' imprisonment as the starting point with a range of four to nine years.

F There is a further guideline that was introduced in 2013. Under that guideline, which the prosecution place particular reliance upon, a question that I have to decide is whether

or not you stood to make a significant gain from your trafficking behaviour. It seems clear to me that there were times when, at least, advantage in the form of favours owed and, probably, on many occasions, money must have been part of the benefit that you gained from carrying out this activity. You may also have obtained perverse sexual gratification for yourself as a result of it.

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A I am satisfied it is the sort of thing you would not have undertaken if it was not in your own interests to do so and, whichever form it took, there was a significant gain to you from what you did in carrying out this trafficking of her. That puts the offending in category 1A of the guideline with a starting point of eight years' imprisonment and a range of six to twelve years.

B There is a current guideline under the slavery guideline which was introduced in 2021. Considering that guideline, I think that your offending falls in category 2A where the starting point is one of ten years' imprisonment and the range is from eight to twelve years' imprisonment, but that is based on the current replaced sentencing basis in which the maximum sentence available to the court is one of life imprisonment and I must make a significant allowance for that.

C I am satisfied that, in carrying out this trafficking offending, she was coerced, she was humiliated, you played a leading role in it, it caused her severe psychological harm which lasts to this day, and it happened on multiple occasions. Taking account of all of these considerations, I have come to the conclusion that the shortest sentence the court could impose would be one of eight years' imprisonment, if this offending stood alone and you were convicted after trial.

D I do agree with Mr Hallam's suggestion that it did not involve a breach of trust in the sense in which that is used for the purpose of sentencing guidelines.

E Having identified what the sentencing guidelines have to say in that way, I must explain the structure of what I intend to do. It seems to me clear that the offences for sexual activity should be concurrent with each other, the sentences for rape should be concurrent with each other and the sentence for the trafficking offence should be consecutive to the others. In fact, what I am going to do is to make all of the offences that concern your sexual activity to her in counts 4 to 8 concurrent with each other, but I am going to treat count 8 as the lead offence for that offending.

F It will be necessary to make an uplift to the sentence on count 8 to reflect the fact it incorporates the previous pattern of your offending. That would mean adding a minimum

two years to the sentence of nine years that I have suggested would be appropriate for the rape offences covered by count 8 in the indictment, coming to a sentence under the guidelines of eleven years for your sexual behaviour towards her and nine for the trafficking offence.

You are entitled to credit for your guilty plea. You entered your guilty plea only after the trial had begun but you did enter it before it was necessary for [Person A] to go through the process of cross-examination and challenge that would have followed if you had

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A maintained your not guilty plea, and it is appropriate to give you credit for that. The credit that I would give is to reduce the eleven-year sentence on count 8 to one of nine years and ten months, and to reduce the eight-year sentence for the trafficking offence to one of seven years and two months, making a total of seventeen years' imprisonment allowing for credit for plea.

B The next step that I must undertake is to step back from the detail, look more broadly at the circumstances in which you are placed and to consider what adjustment I ought to make in relation to issues of totality. In part, I have done that already by the extent to which I have ordered sentences to run concurrently. In part, the law will do that for me in the sense that, for the first two-and-a-quarter years or so of serving this sentence, you will also be serving the sentence that was imposed on you in 2012.

C The defence quite rightly do not suggest in this case that I should try to second guess what increase there might have been in the 2012 sentence if this offending had been incorporated in it. That is quite unrealistic and not the way I deal with it. I must also recognise that this offending came before the other offending and I do think that a further adjustment is necessary in order for the total picture to be one which remains appropriate.

D The conclusion that I have come to is that a total sentence of seventeen years in circumstances where you are coming towards the end of another very long sentence is unreasonably lengthy and out of all proportion to the seriousness of this offending.

E It follows the decision I have made about it is that I am going to reduce the sentences on all of the offences that are more than six years to ones of six years, so that you will serve a sentence of six years' imprisonment in relation to your sexual offending towards [Person A] and six years' imprisonment consecutive to that for the trafficking offending, making a total of twelve years' custody.

In relation to count 7 and 8, I have made a finding that you are dangerous and I am

going to impose a period of extended licence of eight years following on from the date of your release. The sentence that I impose on you, I am satisfied, will be the shortest sentence that I can properly impose that is commensurate with your offending.

You will be released, as you know, when you have served two-thirds of your sentence but you will be released on conditions and, if you breach the conditions of your licence or commit any further offence, you are liable to be returned to custody to serve the rest of your sentence there.

The notification requirements already apply to you and will continue to apply to you indefinitely. The disclosure and barring authority will already have put you on a barred list in relation to working with children but that happens again in relation to this sentence.

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A There will be a surcharge that you will have to pay; the court will draw up an order about that.

I am going to consider with counsel later today, when they have had a chance to think further about it, the terms of an appropriate sexual harm prevention order. Stand up, please.

B The sentence that I impose on you is one of twenty years' duration, comprising a custodial term of twelve years' imprisonment and an extended licence period of eight years with the other conditions that I have explained. That is all, until we come to be dealing with the sexual harm prevention order later on.

Mr Perrian(?), something else you wanted to mention to me? Sit down for a moment.
C PROSECUTION COUNSEL: I think those behind my learned friend have found the old order which it might be is sufficient as far as both parties are concerned. It certainly deals with the female children aspect. It sets out a few more locations where contact can't happen so to an extent, that is slightly otiose, but it also, it seems to me, encompasses those points that your Honour raised about the paragraphs 8, 11 and 12.

D THE JUDGE: What is the date of it? I do not understand the date of this, conditions which replace originals from 2014?

PROSECUTION COUNSEL: Yes, so an order was originally imposed and then the Court of Appeal amended the wording of paragraph 3(2) and paragraph 5, hence -- THE JUDGE: That's right.

E PROSECUTION COUNSEL: -- this date. So, given the Court of Appeal has gave this their agreement.

THE JUDGE: That cannot be right because this 3(2) still has and instead of or.

PROSECUTION COUNSEL: I am sorry, your Honour?

THE JUDGE: This paragraph 3(2) still has and instead of or. The Court of Appeal said it should be or rather than and, so this cannot be Court of Appeal draft.

PROSECUTION COUNSEL: Your Honour is quite right, or with the express written approval.

THE JUDGE: It just makes me wonder where this has come from. I know it is dated.

DEFENCE COUNSEL: I think the best thing to do is let us --

THE JUDGE: I think I will let you have a bit more thinking about it, all right, but thank you for finding that anyway. Mr Ali, you can go downstairs. We will ask you up again when we move to discussing further the sexual harm prevention order.

(12.57 pm)

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