

ENGLAND AND WALES / JUDGMENT

BMJ v R

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Neutral Citation Number: [2025] EWCA Crim 716 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM: Case No: 202400190 BLACKFRIARS CROWN COURT HHJ SULLIVAN T20250675 NORWICH CROWN COURT HHJ SHAW T20170499 NORWICH CROWN COURT MR RECORDER AYERS T20207364 & T20217074 Royal Courts of Justice Strand, London, WC2A 2LL Date: 13 June 2025 Before: LORD JUSTICE JEREMY BAKER MR JUSTICE CAVANAGH and HER HONOUR JUDGE NORTON

- ----- Between: BMJ

- and - REX Applicant Respondent

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- ----- Mr Benjamin Douglas-Jones KC (instructed by Messrs Southwell and Partners) for the Applicant Mr James Marsland (instructed by Crown Prosecution Service Appeals and Review Unit) for the Respondent Hearing date: 23 May 2025

- ----- Approved Judgment This judgment was handed down remotely at 2.00 pm on Friday 13 June 2025 by circulation to the parties or their representatives by e-mail and by release to the National Archives. WARNING: reporting restrictions may apply to the contents transcribed in this document, particularly if the case concerned a sexual offence or involved a child. Reporting restrictions prohibit the publication of the applicable information to the public or any section of the public, in writing, in a broadcast or by means of the internet, including social media. Anyone who receives a copy of this transcript is responsible in law for making sure that applicable restrictions are not breached. A person who breaches a reporting restriction is liable to a fine and/or imprisonment. For guidance on whether reporting restrictions apply, and to what information, ask at the court office or take legal advice. . Judgment Approved by the court for handing down. BMJ v REX Lord Justice Jeremy Baker: 1. 2. 3. 4. 5. 6. The applicant, who is 36 years of age, has made an application for an anonymity order under section 11 of the Contempt of Court Act 1981 on the basis that, the Single Competent Authority (“SCA”) having made a conclusive grounds decision that he was a victim of modern slavery, the risk to the applicant of being re-trafficked for criminal exploitation in the United Kingdom (“the UK”) is such that in accordance with the principles identified in R v AAD [2022] EWCA Crim 106 (“AAD”), it is necessary for such an order to be made. We have considered the application and bear in mind the normal rule of open justice. However, we consider that having regard to the risk involved in this case it is necessary to make such an order.

Introduction

On 14 December 2015, in the Crown Court at Blackfriars, the applicant pleaded guilty to a count of possession with intent to supply a controlled drug of Class A, diamorphine, contrary to section 4(3) of the Misuse of Drugs Act 1971 (count 1) and a count of possession of a controlled drug of Class B, cannabis, contrary to section 5(2) of the Misuse of Drugs Act 1971 (count 2). On 14 March 2016, in the Crown Court at Blackfriars, the applicant changed his plea to guilty in relation to a count of possession of criminal property, contrary to section 329(1)(c) of the Proceeds of Crime Act 2002 (count 3). In respect of those offences, (“the 1st set of offences”), the applicant was sentenced to a total period of 2 ½ years’ imprisonment, comprised as follows: Count 1 – 2 ½ years’ imprisonment Count 2 – 1 month concurrent imprisonment Count 3 – 6 months’ concurrent imprisonment On 1 May 2018, in the Crown Court at Norwich, the applicant changed his plea to guilty in relation to a count of having a bladed article in a public place, contrary to section 139(1) of the Criminal Justice Act 1988 (count 1). On 9 May 2018, in the Crown Court at Norwich, the applicant admitted an offence of failing to surrender to custody at the appointed time, contrary to section 6(1) of the Bail Act 1976. Judgment Approved by the court for handing down. *BMJ v REX* 7. In respect of those offences, (“the 2nd set of offences”), the applicant was sentenced to a total period of 9 months’ imprisonment, comprised as follows: Count 1 – 9 months’ imprisonment Bail Act offence – 14 days’ concurrent imprisonment 8. On 24 February 2022, in the Crown Court at Norwich, the applicant pleaded guilty to a count of possessing a controlled drug of Class B, contrary to section 5(2) of the Misuse of Drugs Act 1971 (count 3) and changed his plea to guilty in respect of two counts of being concerned in supplying a controlled drug of Class A, namely cocaine and diamorphine, to another, contrary to section 4(3)(b) of the Misuse of Drugs Act 1971 (counts 4 and 5). The applicant also admitted two road traffic offences, committed to the Crown Court under section 51 of the Crime and Disorder Act 1988, namely driving while disqualified, contrary to section 103 of the Road Traffic Act 1988, and driving a motor vehicle without insurance, contrary to section 143 of the Road Traffic Act 1988. 9. On 11 April 2022, the applicant was sentenced to a total period of 5 years’ imprisonment in respect of those offences, (“the 3rd set of offences”), comprised as follows: Count 3 – no separate penalty Count 4 – 5 years’ imprisonment Count 5 – 5 years’ concurrent imprisonment Driving while disqualified – 3 months’ concurrent imprisonment Driving without insurance – no separate penalty 10. A count of possessing a controlled drug of Class A with intent, contrary to section 5(3) of the Misuse of Drugs Act 1971 (count 1) and a count of having custody of or control of a counterfeit of a currency note with intent, contrary to section 16(1) of the Forgery and Counterfeiting Act 1981, (count 2) were ordered to lie on the file. An offence of obstructing or resisting a police constable in the execution of his duty, and an offence of taking a motor vehicle without the owner’s consent, which had been sent to the Crown Court under section 51 of the Crime and Disorder Act 1998, were withdrawn. 11. The following applications made by the applicant for an extension of time in which to appeal against conviction and sentence have been referred to the Full Court by the Judgment Approved by the court for handing down. *BMJ v REX* Registrar, as has his application for leave to introduce fresh evidence, pursuant to section 23 of the Criminal Evidence Act 1968, concerning the circumstances leading up to and since the SCA’s conclusive grounds decision,

dated 22 November 2022, that the applicant was a, “victim of modern slavery in the UK during approximately 2007/2008 – April 2021 for the specific purpose of criminal exploitation”: i. ii. iii. An application for an extension of time (approximately 8 years) in which to appeal against conviction and sentence in respect of the 1st set of offences, counts 1 and 3 only. An application for an extension of time (approximately 5 years) in which to appeal against sentence in respect of the 2nd set of offences, count 1 only. An application for an extension of time (approximately 2 years) in which to appeal against conviction and sentence in respect of the 3rd set of offences, counts 4 and 5 only.

12. We have considered the evidence for the purposes of these applications *de bene esse*. Chronology 13. Prior to the applicant’s appearance at Blackfriars Crown Court for the 1st set of offences, the applicant had a number of previous convictions, including: i. ii. iii. iv. In 2004 and 2005, the applicant was convicted of offences of attempted robbery, in respect of which he was made the subject of community

orders.

On 18 October 2006, the applicant committed an offence of theft, for which he was sentenced to serve a period of 2 months in a young offender institution. On 9 June 2008, the applicant was made the subject of a suspended sentence order in respect of five offences of supplying a controlled drug of Class A, cocaine and heroin. On 21 August 2015, the applicant was fined in respect of two offences of possession of a controlled drug of Class A, MDMA, and Class B, cannabis. 14. The 1st set of offences arose from events which took place on 12 March 2015, when police officers were on routine patrol and were alerted to a fight in the Walworth area of South London. On their arrival at the scene the applicant was sitting in a Mini Cooper motor vehicle. When he was questioned at the scene, the applicant admitted having a cannabis joint in his possession. It was later discovered that he had about Judgment Approved by the court for handing down. *BMJ v REX* £900.00 in cash in the pocket of his jeans, and a similar amount in the pocket of his coat, together with a 22.5g lump of heroin secreted in his underwear. 15. Initially, the applicant claimed that he had the cash with him in order to purchase a motor vehicle, and in a later prepared statement, suggested that it represented compensation which he had received for an injury which he had sustained. He stated that he did not know what the lump was, but that he had been asked to hold on to it by someone else.

16. When the applicant appeared in the Crown Court at Blackfriars on 14 December 2015, and pleaded guilty to counts 1 and 2, he put forward a written basis of plea, to the effect that he was in debt to a drug dealer who had asked him to hold onto the lump, and he did not intend to supply it to others; an account which was not accepted by the prosecution. 17. 18. The trial on count 3 was due to commence on 14 March 2016, when the applicant changed his plea to guilty. Prior to sentence, the prosecution explained that the real issue between the parties was as to the applicant’s role under the sentencing guidelines for supplying drugs. Although the applicant accepted that there was some element of financial gain, in that he had agreed to supply drugs to others in order to pay off his drug debt, he contended that this

entailed him having a lesser role, whereas the prosecution considered that the applicant had a significant role. The judge decided that a Newton type hearing was required, and the applicant gave evidence to the effect that he had been taking drugs and had run up a drugs debt. He stated that in order to repay the debt the dealer had told him that he would have to supply drugs on his behalf. He said that the lump of heroin was part of the drugs which the dealer had asked him to supply, and that the cash was the proceeds of his drug-supplying which he was due to pay to the dealer. He said that he had been threatened by a group of males with baseball bats, who came round to the house where he lived with his mother, and his father's motor vehicle had been smashed up. 19. The judge having heard the evidence stated that, "Having heard evidence from the defendant, I have formed the view that his role was significant. He was motivated by financial or other advantage, namely, to pay for the drugs that he himself was addicted to and consuming at that time. Although I accept that he was supplying to repay a debt, I do not consider his function was as limited as he claims because he was trusted with a considerable amount of drugs in bulk Judgment Approved by the court for handing down. *BMJ v REX* form and had a large amount of money on his person when arrested. I will take into account the pressure, coercion or intimidation that he was under to repay his debt and reduce the starting point accordingly, but that does not reduce his offending to the category of lesser role, as I hope that makes clear the basis upon which I intend to proceed to sentence." 20. In his sentencing remarks the judge stated that, "It is accepted that this is a Category 3 offence. That is Count

1. I have ruled that I consider that your role is a significant one because you were motivated by financial or other advantage, in other words, to pay for drugs that you yourself were addicted to at the time. I have accepted that you were supplying to repay a debt, but I have indicated that I do not consider your function to be a limited one because you were trusted with a considerable amount of drugs in bulk form and also had a large amount of money on you when you were arrested. However, I have indicated that I will take into account in sentencing that you were under pressure, coercion or intimidation to repay your debt and will accordingly reduce the starting point, albeit I have indicated in the ruling I have already given, that this does not place you into the lesser role category. Therefore, I am taking as a starting point for Count 1 three and a half years rather than the starting point of four and a half years. In relation to the money laundering, that is I think subsumed within these offences, although it would probably fall in the relevant guidelines into Category 6B." 21. 22. The judge went on to note that the applicant had previous convictions for drugs offences, albeit of some age, since when he had taken real steps to turn his life around including attending university. He indicated that he would reduce the sentence for the drugs offences by 25% to reflect the stage at which he entered his guilty pleas, and that the least sentence he could impose was one of 2 ½ years' imprisonment. The 2nd set of offences arose from events which took place in Great Yarmouth on 2 October 2017, when police officers on patrol came across the applicant amongst a group of known Class A drug users standing in an alleyway. The police officers did not intervene at that stage. However, following this first encounter, when they came across the applicant with two further known Class A drug users,

all of whom ran off, the police pursued them. The applicant was followed into a nearby garden, whereby he was seen to discard a lock-knife, and he was arrested. In the course of subsequent police interviews, the applicant made “no comment.” Judgment Approved by the court for handing down. *BMJ v REX 23*. The applicant provided a Defence Statement, in which it was stated that he was at the flat of a friend of his called Gary Edwards, when they became locked in due to the key having broken in the door lock. Therefore, he agreed to climb out of the window, so that he could try and open the door from the other side. In order to assist him, he put on his friend’s coat as padding to protect him as he slid down the wall. Although he had not initially realised there was a knife in one of the coat pockets, when he reached the ground his friend told him about it and suggested that he try and use it to open the locked door. Although he tried to do this, he was unable to open the door. Therefore, it was decided that he would walk to the local shops in order to purchase a tool to open the locked door. However, whilst en route to the shops he was stopped by a group of people who he did not know who tried to engage him in conversation, and shortly afterwards he became aware of two figures running towards him. He stated that initially he had not realised that they were police officers, but when he did, he disposed of the knife before he was arrested by them.

24. When the applicant appeared in the Crown Court at Norwich on 9 May 2018, the judge indicated that he was not prepared to accept the contents of the Defence Statement as the basis of plea for sentence, unless the applicant provided evidence in the course of a Newton type hearing, which the applicant declined to do. 25. 26. In the course of his sentencing remarks, the judge indicated that he was satisfied that the applicant’s possession of the lock-knife was in the context of Class A drugs- offending, which he considered was a seriously aggravating feature of the offence. He stated that the offence was further aggravated by the applicant’s previous convictions, the fact that the offence took place whilst he was on licence having been released from his previous sentence of imprisonment, and his attempts to dispose of the lock- knife. The judge took into account the contents of letters which had been written by the applicant and others on his behalf, and determined that the notional post-trial figure of 10 months’ imprisonment would be reduced by 10% to reflect the stage when the applicant entered his guilty plea, having originally failed to attend for trial, resulting in a sentence of 9 months’ imprisonment. On 18 January 2019, whilst in Norwich, the applicant was stopped driving a motor vehicle in which he had initially accelerated away from the police. When the applicant was searched, he was found in possession of counterfeit currency and a small quantity of cannabis. He was arrested and placed in a cell where he tried to dispose of 36 wraps of crack cocaine, with a total weight of 4.23g. He made “no comment” in subsequent interviews and in due course was charged with possession of Class A drugs with intent to supply, having custody or control of counterfeit currency, and possession of cannabis. Those offences became counts 1, 2 and 3 respectively on the indictment which charged the 3rd set of offences. Judgment Approved by the court for handing down. *BMJ v REX 27*. 28. 29. 30. On 29 May 2019, the applicant was arrested for an offence of dangerous driving, in respect of which he was sentenced to 12 months’

imprisonment in the Crown Court at Norwich on 6 August 2019. In a Pre-sentence report, relating to that offence, dated 24 July 2019, the applicant had informed the author of the report that he had not used Class A drugs for the past 4 years, and that he no longer knew anyone who used or dealt in Class A drugs. In the course of the subsequent court proceedings relating to the offences which had taken place on 18 January 2019, (counts 1, 2 and 3), the applicant provided a Defence Statement dated 17 March 2021, in which he stated that due to his use of cocaine, he had become indebted to a group, including two individuals known as [Y] and [Z], who threatened him and his family, and damaged his father's motor vehicle. Moreover, after his arrest and release from custody on 18 January 2019, Y and Z had stabbed him whilst he was at his partner's home. He stated that his partner had also been kidnapped from her aunt's home before being returned to her own home. The 3rd set of offences arose from events on 14 April 2021, the applicant was again stopped by the police whilst driving a motor vehicle, which had been hired a couple of days earlier and in respect of which the only authorised driver was someone other than the applicant, who was a disqualified driver and therefore uninsured. When he was stopped the applicant gave a false name, and two mobile phones were found in his possession. One of these phones was analysed by the police and was found to have been used to run a drugs operation, known as the [B] Line, which facilitated the supply of cocaine and heroin in the Norwich area between 24 March – 14 April 2021. There was cell-site evidence that the phone had been used close to the applicant's home address and was the only phone operating the [B] Line during this period. On 11 October 2021, the Norfolk police referred the applicant to the SCA under the National Referral Mechanism ("NRM"). In the referral, it was recorded that the applicant alleged that he was a victim of forced labour by virtue of a drugs debt originating from 2014. The applicant stated that in 2019 he had met an individual [X] who told him that the applicant owed the £3,000.00 debt to him. The applicant stated that he had nothing to do with the drugs or the drug line phone, and had not realised that it was in the motor vehicle which he had been driving. The applicant stated that he had been driving X around, and that X had got out of the vehicle before the applicant was stopped by the police, and that X must have left the drugs line phone in the vehicle when he got out of it. The applicant stated that X had threatened him, and that there had been an occasion (albeit no specific time or date was provided) when X had pulled a knife out. The applicant had also seen a knuckleduster at X's home, whilst he had been staying with him, after he had split up from his partner, and X had invited the applicant to stay with him as he had nowhere to live. Judgment Approved by the court for handing down. BMJ v REX 31. 32. 33. 34. On 20 October 2021, the SCA made a positive reasonable grounds decision that the applicant was a victim of modern slavery; albeit, the SCA noted under "credibility concerns" that the account provided by the applicant in the referral from the police was different from that which the applicant had provided in an earlier Defence Statement dated 17 March 2021, in that in the earlier statement it was recorded that the applicant had made no mention of X, rather it was stated that the original debt had been owed to a group, including two individuals known as Y and Z, and that it was this group who had threatened him and his family, including damaging his father's motor vehicle. Moreover, it was Y and Z who, after his arrest and release from

custody on 18 January 2019, had stabbed him whilst he was at his partner's home. He stated that his partner had also been kidnapped from her aunt's home and returned to her own home. In relation to the 3rd set of offences, the applicant had put forward a written basis of plea, dated 24 February 2022, concerning the operation of the drugs line, which comprised counts 4 and 5, to the effect that he had become involved in the operation in the context of having been threatened and intimidated concerning a drugs debt that he had incurred as a result of his own drug use. He stated that he was stabbed after his release from custody in 2019, and itemised a number of instances where he and members of his family had been threatened with violence. However, he stated that, "Despite this background I accept I should have removed myself from this situation and does not amount to a defence in law." The prosecution accepted the basis of plea, and submitted that under the relevant sentencing guidelines, the applicant had a significant role in category 3 offending, albeit there were some elements of lesser role which could have the effect of lowering the period of custody within the category range of between 3½ - 7 years, from an appropriate starting point of 4½ years' custody. However, it was pointed out that as this was the third occasion when the applicant had been convicted of drug-trafficking offences, he was subject to section 313 of the Sentencing Act 2020, such that the mandatory minimum sentence was one of 7 years' custody, with any reduction for plea being limited to 20%, pursuant to section 73 of the Sentencing Act 2020. In the course of his sentencing remarks on 11 April 2022, the judge indicated that were he to maintain the mandatory minimum sentence of 7 years' imprisonment in respect of counts 4 and 5, then he would have reduced this period by 15% to reflect the timing of the applicant's guilty pleas. However, having been referred to section 313(2) of the Sentencing Act 2020, the judge stated that in view of the basis of plea and the content of supportive letters from his family and friends, he would reduce the sentence to one of 5 years' imprisonment. Judgment Approved by the court for handing down. *BMJ v REX* 35. 36. SCA positive conclusive grounds decision On 25 November 2022, the SCA made a positive conclusive grounds decision that the applicant was a, "victim of modern slavery in the UK during approximately 2007/2008 – April 2021 for the specific purpose of criminal exploitation." The SCA had been provided with a more recent witness statement from the applicant, dated 5 September 2022, and considered that, the applicant had "provided a broadly consistent account about key aspects of your claim", including being addicted to drugs, having accrued a drugs debt, that people would turn up at his parents' home, that he had been stabbed and that he had not met X until after he was released from prison in 2019. The SCA considered that the applicant's account was consistent with information taken from the 2022 Trafficking in Persons Report of the US Department of State, and noted that at the sentencing hearings in respect of the 1st and 3rd set of offences, the applicant had asserted that he had become involved in the offences due to pressure having been put on him to pay off a drugs debt. 37. The SCA concluded that, "You have further stated that in 2014 [sic] you were acting in a role similar to a personal assistant of [X], and that whilst you deny any involvement in the dealing of drugs at this point, you were found with a county lines phone attached to the [B] network in the car you were driving. Whilst it is unclear if you were supplying drugs on this occasion, you had previously held drugs for [X] and claim that he

was running the county line. You state you were driving him about and therefore it can be considered that you were still involved with the county line. For this, you were not paid. It is therefore considered that you meet part 'C' as you were exploited into forced criminality and under threat of menace of penalty." Applicant's witness statement dated 28 November 2023

38. More recently, the applicant has provided a further witness statement dated 28 November 2023. The applicant explained that as a result of using cocaine in 2014, he incurred a drugs debt to a group of individuals, including Y, and his boss X. He stated that in order to get rid of the debt, the group told him to drop off drugs and to hold drugs and money. Although he did not want to do this, they threatened him and his family, including smashing up his father's motor vehicle. It was in this context that the 1st set of offences arose. The applicant stated that after his arrest he wanted ABV solicitors to represent him, but instead he was provided with a duty solicitor who failed to take any instructions from him and simply told him to go "no comment" in his police interview. He stated that after he was charged by the police, he explained everything to his solicitor, who failed to give him any advice about possible defences including modern slavery or duress. Therefore, he pleaded guilty to the offences. Judgment Approved by the court for handing down. *BMJ v REX* 39. 40. 41. The applicant stated that in 2017, following his release from his sentence of imprisonment, he was contacted by the group via Snapchat who told him that he owed them over £20,000.00 and that they knew that he was spending time in Norwich. The applicant stated that subsequently, when he was visiting Great Yarmouth, he bumped into one of the group who took him to a flat, and X was contacted by phone. The applicant stated that he was told to go and get some snacks from a local shop, which he did, and because it was cold outside, he borrowed a coat from someone he knew at the flat. The applicant stated that on his way back from the shops, he realised that there was a knife in one of the coat pockets. He stated that he was stopped by two people dressed in tracksuits and he started to run away. When they said that they were plain-clothed police officers, he stopped and threw away the knife. Following his arrest, the applicant stated that he did not inform his solicitors about the gang or his history of exploitation as he did not really think that they wanted to help him. Instead, he simply explained to the police that the knife did not belong to him. The applicant stated that it was towards the end of 2018, that he bumped into some of the members of the group again in a pub in Norwich. It was then that he started to know their names and better understand what was going on. In 2019, they gave the applicant drugs and a phone to hold which he had to answer. The applicant stated that he was initially arrested by the police in January 2019, whilst he was in possession of drugs and the phone. He stated that he also had some of his own money on him, namely £730.00, which the police returned to him, and some counterfeit money which he had collected. The applicant stated that following his release from police custody, he was visited by members of the group who were angry about what had happened, and they made him strip naked, and proceeded to assault him, by punching, kicking and stabbing him. They also kidnapped his partner and smashed up her house. The applicant stated that although both he and his partner gave statements to the police about these matters, they were unhelpful. The applicant stated that he was arrested

again in 2021, and charged with the 3rd set of offences. The applicant stated that before being charged, he had wanted ABV solicitors to represent him, but was allocated another solicitor who did not inform him that the police were alleging that drugs were involved, and so initially he had thought he was only being interviewed for a driving offence. The applicant stated that when the police told him that drugs had been found, his solicitor told him to go “no comment” and did not want to know anything from him. The applicant stated that subsequently, when ABV solicitors took over, he explained everything to them, and they advised him to ask for a further interview with the police. However, later on, although the applicant believed that he had a defence to the charges, his barrister told him that he did not have a defence. Judgment Approved by the court for handing down. *BMJ v REX* 42. 43. 44. 45. Three witness statements in support of the applicant’s account have been provided by his father, dated 9 November 2023, his sister, dated 8 November 2023, and his partner, dated 27 November 2023. His father stated that about 6 or 7 years ago a group of males attended at his home demanding to speak to the applicant. They threatened him, and the following day he found that the windscreen of his motor vehicle had been smashed. Although he reported the matter to the police, they did not do anything about it. The applicant’s sister provided a similar account. The applicant’s partner recalled that at the beginning of 2019 she had gone out for the evening when she received a phone call from the applicant with whom she was living at the time, asking for her to return to their house as he could not get into the property. She agreed to return, and the applicant told her that he would send one of his friends to pick her up. When a motor vehicle arrived, she got into it, and gave the two men in the front directions to her home. However, they told her that she should instead direct them to “the house with the money.” She tried to escape but was initially unable to do so. However, after she asked to see the applicant, and they drove to where he was, she managed to escape when the door was open and she ran off. She stated that just before she got out of the motor vehicle one of the men had returned her mobile phone to her, and so she was able to phone the police, who arrived about 15 minutes later. She stated that she told the police about what had happened. Subsequently, in April or May 2021, she received a series of voice notes via WhatsApp from a male called [J], who told her that she had to pay off part of the applicant’s debt. She stated that she replied that she would not do so, and that a few days later her back door was smashed. McCook statements As the applicant has sought to criticise the advice he received from the various lawyers who were advising him in relation to the three sets of offences, he was asked to waive privilege which he has done, and we have the benefit of McCook statements from some of those concerned. In relation to the 1st set of offences, it would appear that the solicitors representing the applicant were ABV solicitors. In a written response dated 7 December 2023, the solicitors state that although the individual who originally dealt with the applicant is no longer available, the documentation which they have retained does not include any suggestion that the applicant was under duress or being forced to do anything against his will. Counsel who was involved in representing the applicant at the sentencing hearing has provided a witness statement dated 14 December 2023, in which he stated that he believes that the applicant was advised about the defence of duress. However, by then the applicant had already pleaded guilty to the

offences, and a Newton type hearing was conducted due to the prosecution not having accepted the applicant's basis of plea to the effect that he committed the offences under pressure from those to whom he owed a drugs debt. Judgment Approved by the court for handing down. BMJ v REX 46. 47. 48. In relation to the 3rd set of offences, the solicitor who advised the applicant during the course of the police investigation, was Laure Clelland at Belmores. In their written response dated 8 December 2023, they stated that the applicant made no mention that he had been acting under duress or was a victim of slavery, rather his instructions were that he had nothing to do with the drugs which had been found by the police and that there was nothing to worry about there being anything on the phone which had been seized by the police. The solicitors stated that as a result of this they advised the applicant to make "no comment" during the police interviews. During the course of the subsequent court proceedings, it was ABV solicitors who represented the applicant. In their written response dated 12 December 2023, they stated that the defence of modern slavery was fully considered with the applicant, who provided instructions that he wished to go through the NRM, and the police were contacted about this by email on 29 June 2021. As a result of this the original trial date of 11 October 2021 was vacated, pending the referral, and a new trial date in February 2022 was fixed. The applicant was also advised that in the event of a positive decision from the SCA, it was possible that the prosecution would not proceed with the prosecution. However, in the event the applicant decided to plead guilty. A statement from counsel who was instructed in relation to the 3rd set of offences has been provided dated 5 December 2023. She stated that she was first instructed in August 2021, after the applicant had dispensed with the services of his original counsel. She stated that the instructions she received were such that there was a possible issue as to whether he was a victim of trafficking, and therefore the decision was made to seek an adjournment of the original trial date in October 2021, so that a referral could be made under the NRM. At a hearing on 3 September 2021, the trial date was vacated, and counsel focused her attention on taking instructions in order to seek to avoid any convictions on the basis of either a modern slavery defence and/or duress, and in the event that the prosecution decided to pursue the prosecution, an application to stay the proceedings as an abuse of process. 49. In this regard, counsel stated that, "It should be observed that it was sometimes challenging to obtain instructions from [the applicant] on the evidence when attempts were made to go into further detail. [The applicant] was advised that it was very important we obtain detailed instructions from him as to the elements of the evidence as, if he wished to advance a substantive defence at a contested trial, the fact we would not be able to adduce evidence from the NRM before a jury would mean that our chances of successfully advancing a defence would be bolstered by presenting as strong and detailed an account as possible..." Judgment Approved by the court for handing down. BMJ v REX 50. Counsel stated that in February 2022, the prosecution served additional phone analysis evidence which caused difficulties with the applicant's instructions that he had only acted as an "assistant" to the individual he had named as being the main person who had threatened his safety. Moreover, the additional phone analysis evidence also cast doubt on the applicant's instructions that he had only provided assistance to X in relation to his personal life, rather than with anything

to do with drugs and that he had never been in possession of the [B] line. Counsel observed that, “The overarching evidential position in terms of telephone evidence at this stage suggested, contrary to his instructions, that there was both evidence of attribution of the “[B]” phone to [the applicant] and that [the applicant] had carried out journeys relevant to the operation of the “[B]” line while that individual was not present, addressing...whether his partner....had tried to contact [the applicant] on the “[B]” phone when she had been unable to reach him on his personal mobile...the nexus between VOT [victim of trafficking] status and the offending behaviour alleged.” 51. 52. 53. In the event, after a detailed conference with the applicant on 9 February 2022, in which counsel discussed the options open to the applicant, including reminding him that he was free to dispense with her services if he did not agree with her assessment of the strength of the evidence and that the choice as to what to do was entirely his, the applicant decided to plead guilty to counts 4 and 5, which he did on 22 February 2022. Grounds of appeal against conviction On behalf of the applicant, Mr Douglas-Jones KC submits that in relation to the 1 st set of offences, counts 1 and 3, there was evidence that should have led the police to conclude that the applicant was a possible victim of trafficking, and that in the discharge of its duties under Article 4 of the European Convention on Human Rights (“ECHR”), not only was it incumbent upon them to investigate whether this was the case, but as first responders they should have referred the applicant under the NRM to the SCA. Furthermore, it was incumbent upon the respondent, through the Crown Prosecution Service, (“CPS”), in discharging their own duties under Article 4 ECHR, to comply with its guidance concerning suspects in a criminal case who might be victims of trafficking or slavery, by ensuring that the police carried out their duties, if necessary by seeking an adjournment of the criminal proceedings, until the applicant’s status as a victim of trafficking was resolved. Judgment Approved by the court for handing down. BMJ v REX 54. 55. 56. 57. It is submitted that had the respondent acted in accordance with its guidance, the applicant’s status as a victim of trafficking would have been confirmed, and that, in accordance with the three-stage test provided for in its guidance at that time, even if there had been no clear evidence of duress, there was evidence that the offences may have been committed as a result of compulsion arising from trafficking, such that the respondent may have considered that it was not in the public interest to prosecute the applicant. In those circumstances, it is submitted that it was an abuse of the process of the court to have prosecuted the applicant for those offences, and the convictions are therefore unsafe. Similar submissions are made in respect of the applicant’s convictions arising from the 3rd set of offences, counts 4 and 5; albeit, because by then the provisions of section 45 of the Modern Slavery Act 2015 (“MSA 2015”) applied, and in accordance with the four-stage test provided in its updated guidance, there was clear evidence of a statutory defence under section 45, and the prosecution should have been discontinued on evidential grounds. The respondent resists the various applications, including the application for leave to appeal against conviction. In this regard, Mr Marsland does not accept that the applicant was a genuine victim of trafficking. On the contrary he submits that the inconsistencies in the accounts provided by the applicant are such that the court can be satisfied that the applicant was not a victim of trafficking or modern slavery.

58. Mr Marsland submits that in relation to the 1st set of offences there was no sufficient evidence to trigger any further steps being undertaken by the police or the CPS, whether by way of further investigation or referral under the NRM. In any event, even if the applicant was a victim of trafficking at that time, the CPS would have determined in accordance with its guidance that there was no clear evidence of duress, and bearing in mind the seriousness of the offences, it would have been in the public interest to prosecute the applicant. 59. Furthermore, in relation to the 3rd set of offences, it is pointed out that the police had made a referral under the NRM, and that even if the applicant was a victim of trafficking, and as the applicant expressly conceded in his written basis of plea, there was no clear evidence of duress or the statutory defence under section 45 of the MSA
2015. Moreover, the CPS would have determined in accordance with its guidance that bearing in mind the seriousness of the offences, it would have been in the public interest to prosecute the applicant. Judgment Approved by the court for handing down. *BMJ v REX* Discussion 60. There have been a number of recent cases setting out the proper approach which should be taken by the court when considering a submission that the prosecution of an individual who is alleged to be a victim of trafficking is an abuse of process, and in particular the relevance of any non-compliance by the prosecution with its own guidance relating to those who may be the victim of trafficking. 61. So in *AFU* [2023] EWCA Crim 23 (“*AFU*”), at [112] – [113], Carr LJ (as she then was) stated that, “112. The degree to which the prosecution complied with CPS guidance in identifying the applicant as a VOT will be relevant, in that it affects the standard of scrutiny which the court can apply. Unless it is argued that the guidance is in some way inadequate, it should normally be assumed that the contemporaneous guidance will have taken account of all the guidance offered by the relevant authorities with responsibilities in the context of Convention obligations. Therefore, when assessing compliance with article 26, the guidance can provide the starting point and, in the overwhelming majority of cases, the finishing point for that assessment (see *R v N/L* at [86(b)]).
113. The authorities emphasise that the decision to prosecute is ultimately for the prosecution, and not the court. Where the prosecution has applied its mind to the relevant questions in accordance with the applicable CPS guidance, it will not generally be an abuse of process to prosecute unless the decision to do so is “clearly flawed” (see *AGM* at [12] and *R v BYA* [2022] EWCA Crim 1326 at [20]). The court does not intervene merely because it disagrees with the ultimate decision to prosecute: see *AAD* at [119]. However, if CPS guidance has been disregarded, such that the question of whether to prosecute has not been properly considered (or considered at all), the court can intervene more readily: see *AGM* at [13] and [56]. It will then be open to the court to consider the public interest question without trespassing on ground which has been appropriately considered by the prosecution authorities.” 62. However, as Carr LJ went on to explain in *AH* [2023] EWCA Crim 808 (“*AH*”), at

- [36] – [40], although a failure by the respondent to comply with its own guidance will be of relevance, it will not be decisive and it is still necessary to review the decision to prosecute by reference to rationality as well as procedural fairness, and, in doing so, appropriately considered submissions on behalf of the respondent based upon a Judgment Approved by the court for handing down. *BMJ v REX* retrospective review of the evidence should be considered with care, including those relating to the public interest: “36. In this case the exercise involves reviewing the respondent’s decision to oppose these applications on the basis of its retrospective review of the evidence and assessment of the public interest in prosecution of the applicant whom they now know and accept to be a VOT.
37. The context for that review is the important general principle that decisions to prosecute are ordinarily for the prosecutor (see for example *R (Barons Pub Company Limited)* [2013] EWHC 898 (Admin) at [51(i)]). As was stated in *AFU* at [113] and [117], the decision to prosecute is ultimately for the prosecution, and not the court. Where the prosecution has applied its mind to the relevant questions in accordance with the applicable CPS guidance, it will not generally be an abuse of process to prosecute unless the decision to do so is clearly flawed. The court does not intervene merely because it disagrees with the ultimate decision to prosecute. It will review the decision by reference to rationality and procedural fairness.
38. Although on the present facts we are considering retrospective, hypothetical statements by the respondent as to whether the prosecutions would have been pursued, those statements are still to be accorded appropriate deference. We are satisfied that they have been made only after full, fair and careful consideration by the respondent.
39. There are undoubtedly cases where, even where an applicant has been identified post-conviction as a VOT and vulnerable, the decision to prosecute would have been the same – see for example *R v A* [2020] EWCA Crim 1408 at [68].
40. The gravity of the offending is clearly a material factor. So much is clear from the Code for Crown Prosecutors in place at the material time for the purpose of addressing the public interest stage of the prosecutorial decision-making process. It required prosecutors to consider each of the following questions (in what was a non-exhaustive list):
- i) How serious is the offence committed? ii) What is the level of culpability of the suspect? iii) What are the circumstances of and the harm caused to the victim? iv) Was the suspect under the age of 18 at the time of the offence? Judgment Approved by the court for handing down. *BMJ v REX*
 - v) What is the impact on the community? vi) Is prosecution a proportionate response? vii) Do sources of information require protecting?”
63. When considering the public interest for these purposes, Gross LJ in *R v S(G)* [2018] EWCA Crim 1824, set out the approach for the court to follow, at [76], “... This question can be formulated indistinguishably in one of two ways which emerge from the authorities: was this a case where either: (1) the dominant force of compulsion, in the context of a very

serious offence, was sufficient to reduce the applicant's criminality or culpability to or below a point where it was not in the public interest for her to be prosecuted? Or (2) the applicant would or might well not have been prosecuted in the public interest? If yes, then the proper course would be to quash the conviction...." 64. 65. 66. In relation to the evidential status of the SCA's positive conclusive grounds decisions, although they are not admissible at trial, they may be received on appeal when it is considered that the individual's trafficking status has been overlooked or inadequately considered (Brecani [2021] EWCA Crim 731). Moreover, although they are not binding, the decision will usually be respected unless there is good reason for not doing so (AAD). The relevant CPS guidance which applied to suspects who might be the victims of trafficking or slavery altered during the course of the history of events which we are considering in this case, in that whereas the guidance initially set out a three-stage approach to the prosecution decision, following the introduction of the statutory defence under section 45 of the MSA 2015, a fourth stage was added. However, this matter apart, the guidance required a stepped approach to be taken by the prosecution. Firstly, to decide whether there is reason to believe that the individual is a victim of trafficking or slavery. If not, no further assessment is required. Secondly, if so, whether there is clear evidence of a credible common law defence of duress. If so, the case should not be charged. Thirdly, (in relation to the 3rd set of offences), if not, whether there is clear evidence of a statutory defence under section 45 of the MSA 2015. Fourthly, if not, (in relation to the 1st and 3rd set of offences), whether it is in the public interest to prosecute the individual, and in doing so, "Prosecutors should consider all the circumstances of the case, including the seriousness of the offence and any direct or indirect compulsion arising from their trafficking situation; see R v LM & Ors [2010] EWCA Crim 2327." 67. Turning then to the 1st set of offences, we are not persuaded that there was anything either inherent in the nature of the offences themselves, or the evidence which gave rise to them, which would have given either the police and/or the prosecution reason Judgment Approved by the court for handing down. BMJ v REX to believe that the applicant was a victim of trafficking or modern slavery. Moreover, we are not satisfied that the situation altered after the applicant had put forward his written basis of plea. The fact that an individual may have agreed to hold onto a quantity of drugs at the request of another to whom he owed money, is not of itself evidence that he is a victim of trafficking, nor do we consider that the written basis of plea gave rise to a need for the police and/or CPS to investigate the matter.

68. We appreciate that matters evolved thereafter, in that during the course of the Newton type hearing the applicant gave evidence to the effect that not only was he in debt to his dealer, but he was being forced under threat of violence to supply drugs on his behalf. Although in other circumstances this may have given rise to a need for the police and/or CPS to investigate the matter, by then not only had the applicant pleaded guilty to the offences, but it would appear from the outcome of the McCook enquiries that he had been advised as to the availability of the defence of duress. 69. 70. In this regard, we consider it is of relevance that, as is inherent from the inclusion within the sentencing guidelines relating to the supply of controlled drugs of a person having been, "engaged by pressure, coercion,

intimidation, grooming and/ or control”, as one of the characteristics which may indicate a lesser role, although such conduct may limit the extent of the individual’s culpability, it will not necessarily be sufficient to raise a credible defence of duress. Moreover, we accept the respondent’s submission that, bearing in mind the seriousness of the offences, even if the applicant had been assessed as being a victim of trafficking at that time, it would have been in the public interest for the applicant to have been prosecuted in relation to the 1st set of offences. The position in relation to the 3rd set of offences is somewhat different, in that although there was nothing either inherent in the nature of the offences themselves, or the evidence which gave rise to them, which would have given either the police and/or the prosecution reason to believe that the applicant was a victim of trafficking or modern slavery, the applicant had by then provided a Defence Statement in relation to the events which had taken place on 18 November 2019, and went on to provide information to the police which caused them to make a referral to the SCA under the NRA on 11 October 2021. 71. It would appear that despite this, the prosecution did not follow their guidance when considering whether to prosecute, or at least continue the prosecution against the applicant in respect of the 3rd set of offences, and indeed those arising from the events of 18 November 2019. Judgment Approved by the court for handing down. BMJ v REX 72. 73. 74. 75. 76. 77. However, as we have already set out, this is not a case in which the respondent concedes that the applicant was a victim of trafficking or modern slavery. On the contrary, it is submitted that had the matter been investigated at that stage (or indeed during the course of the proceedings relating to the 1st set of offences) and all of the evidence which is currently available had been revealed, it would have concluded that the applicant was not a victim of trafficking or modern slavery. Moreover, even if he was, then bearing in mind the seriousness of the offences, it would have prosecuted the applicant in relation to the 3rd set of offences. It was for this reason that we have heard evidence, both from the applicant and his partner, in order to enable us to make our own assessment based on this and the other evidence which has been placed before us, as to whether the applicant was a victim of trafficking or modern slavery at the material time. Having considered that evidence in detail, and having listened to the applicant’s evidence and that of his partner in the course of the hearing, we have very considerable reservations concerning the applicant’s credibility, and have ultimately concluded that he was not a victim of trafficking or modern slavery during the relevant period of time. In this regard it is apparent that the account which the applicant has provided as to his involvement with drugs has evolved and become embellished during the course of the various proceedings with which we are concerned, and although some of this may be explicable due to the passage of time, we do not consider that this provides a sufficient explanation for other more troubling aspects of his account. One of the troubling aspects of his account is that whilst in 2016 the applicant made no mention of the identity of those involved in the drugs operation, and by 2019 he named Y and Z as being involved, the first time that he mentioned X, who he now claims was the individual behind all of his troubles from their inception, was in 2021. Although the applicant has sought to explain the reason for not having mentioned X earlier, we consider the applicant’s assertion that he only met X in 2019, who explained to him that he owed X a £3,000.00 drug debt

accrued some 5 years earlier, to lack credibility. Furthermore, we note that whilst the 1st set of offences took place in London, all of the further offences took place in Norfolk, and the applicant seeks to explain that the reason he continued to have contact with the group after his release from the sentence imposed for the 1st set of offences, was that he happened to bump into one of its members whilst he was staying in Great Yarmouth. Once again, we consider this to lack credibility and note that the detailed explanation as to what took place thereafter, Judgment Approved by the court for handing down. *BMJ v REX* which gave rise to the 2nd set of offences, as contained in his Defence Statement, is completely at odds with the explanation which he has given more recently in his witness statement dated 28 November 2023. In that whilst the Defence Statement makes no mention of any involvement by the group of drug-dealers, and on the contrary suggests that the knife belonged to one of his friends, in the later witness statement the applicant asserts for the first time that the knife belonged to one of the members of the gang; a matter which he explains he failed to mention to his solicitors, as he considered that they were not interested in assisting him. 78. 79. 80. 81. Indeed, we note that having been arrested in relation to the drugs offences which took place on 18 January 2019, he made “no comment” during the course of his subsequent police interviews, and it was not until 17 March 2021 that the applicant provided the explanation in his Defence Statement that he had been pressured into committing those offences. In the meantime, the applicant having been arrested in relation to the offence of dangerous driving on 29 May 2019, he informed the author of the pre-sentence report, dated 24 July 2019, that he had not used Class A drugs for the past 4 years, and no longer knew anyone who dealt in Class A drugs. In relation to the 3rd set of offences, far from suggesting that the applicant had been pressured into drug-dealing, the applicant was at pains, both in the information which he provided to the police in 2021 which prompted his referral under the NRM and particularly in his evidence to the court, to assert that he had never operated the [B] line and only acted as a non-drugs-involved assistant to X. In our judgment this did not reflect the reality of the situation, as the subsequent police investigation into the 3rd set of offences revealed compelling cell-site and other evidence from which it was clear that the applicant had been operating the [B] line at the material time; a matter which was tacitly acknowledged by the applicant when he pleaded guilty to these offences on 24 February 2022. Moreover, although his written basis of plea asserted that he had been threatened and intimidated into becoming involved in these offences, the applicant accepted that this did not provide him with a defence, as he should have removed himself from the situation. Despite these matters, when the applicant came to provide his evidence in court, he repeated his assertion that he had not been involved in the operation of the [B] line, and sought to provide an exculpatory account as to why his own phone and the [B] line would be co-located in various locations. We are satisfied, having listened to the applicant’s evidence, that this was a false explanation and that the real reason for the co-location was because the applicant was operating the [B] line during the relevant period. Judgment Approved by the court for handing down. *BMJ v REX*

82. Moreover, the explanation which the applicant provided in his witness statement dated 28 November 2023, as to why he pleaded guilty to the 3rd set of offences, has been wholly undermined by the evidence from those representing him which has been provided in the McCook statements. In this regard, it is apparent that the applicant made no mention to those who initially represented him of having been compelled to deal drugs. On the contrary he asserted that he had nothing to do with any drugs. Moreover, although the applicant told both ABV solicitors and counsel that he had been threatened and intimidated, it is clear that when he was asked to go into further detail about these matters, the applicant had difficulties doing so. Indeed, contrary to the assertion in his witness statement that counsel told him that he did not have a defence, it is clear that both his solicitors and counsel had provided him with appropriate advice as to the possibility of advancing a defence of duress and/or modern slavery, in the event that the prosecution did not decide to discontinue the prosecution. 83. 84. In this regard, the McCook statement provided by counsel acting for the applicant in relation to the 3rd set of offences is illuminating, in that it was only after the prosecution had served the additional phone analysis evidence which wholly undermined the applicant's account that he was merely acting as a personal assistant for X in non-drug-related activities, that the applicant decided to plead guilty to the 3rd set of offences. In so far as the decision of the SCA is concerned, we have considered its reasoning with care, and note that the decision was almost wholly based upon the account provided by the applicant. In our view, the "key aspects" upon which the applicant was considered to have provided a "broadly consistent account" were extremely limited, and it was frankly illogical to conclude that the applicant was exploited into forced criminality by being involved in county line drug-dealing, at a time when the applicant specifically denied having provided any drug-related assistance to X.
85. We have of course taken into account Annex D of the Modern Slavery: Statutory Guidance for England and Wales, relating to the MSA 2015, to the effect that inconsistencies in the account of an individual who may have been a victim of modern slavery may be due to the trauma which they have suffered, rather than dishonesty. Moreover, we have also had regard to the other evidence in support of the applicant's account, including that of his partner. 86. However, whilst we are prepared to accept that the applicant may at some stage have incurred a drug-related debt and may at some stage have been threatened or subject to violence, we do not consider that these events were connected to any exploitation of the applicant in relation to his offending, rather than being incidental to the type of drug-related offending in which he had voluntarily become involved. In any event, we Judgment Approved by the court for handing down. BMJ v REX 87. 88. 89. 90. are satisfied that had the applicant been a victim of trafficking or modern slavery, bearing in mind the seriousness of the offences which he committed, it would, as submitted by the respondent, have been in the public interest for him to be prosecuted in relation to them.

Conclusion

In these circumstances, we are satisfied that there was no abuse of process in the prosecution of the applicant in relation to either the 1st or 3rd set of offences, and as there are no other arguable grounds affecting the safety of these convictions the application for the extension of time is refused. Grounds of appeal against sentence In the event, as we have done, that we refuse the application for leave to appeal against conviction, it is submitted on behalf of the applicant that the sentences imposed in relation to the 1st, 2nd and 3rd set of offences are manifestly excessive, as they did not sufficiently reflect the mitigation inherent in trafficking and debt bondage.

Discussion The obvious difficulty with this ground of appeal arises from our conclusion that the applicant was not a victim of trafficking or modern slavery at the material time. However, we have nevertheless considered whether, to the extent that it could be said that the applicant felt under some pressure to become involved in such offending, this was sufficiently reflected in the sentences imposed in relation to these offences. As we have already pointed out, the sentence guidelines relating to the supply of drugs include, as one of the characteristics which may demonstrate that an individual has a lesser role in an offence, the fact that they are, “Engaged by pressure, coercion, intimidation, grooming and/ or control.” This was a matter of which the judge who sentenced the applicant in relation to the 1st set of offences was well aware, as it formed the focus of the Newton type hearing which was conducted. In the event, the judge as he was entitled, determined that although he would take into account that the applicant was under pressure to repay his debt by reducing the sentence within the category range, he nevertheless determined that he had a significant role in the offence. 91. Bearing in mind that prior to any reduction to reflect the timing of the applicant’s pleas of guilty the judge must have determined a notional post-trial figure of 40 months, and that the appropriate starting point for an offender with a significant role in category 3 offending under these guidelines was one of 4 ½ years, we consider it Judgment Approved by the court for handing down. BMJ v REX unarguable that this aspect of the applicant’s mitigation was not sufficiently taken into account. 92. 93. 94. 95. In relation to the 2nd set of offences, count 1 was a category A2 offence within the relevant sentencing guidelines, with an appropriate starting point of 6 months’ custody and a category range of 3 – 12 months. As we have already observed, the mitigation put forward by the applicant was that which was contained in his Defence Statement, which made no mention of the offence having any connection to contact with any drug-related group, and in relation to which the applicant declined to give evidence in the course of a Newton type hearing. Moreover, the most recent explanation, as contained in the applicant’s witness statement dated 28 November 2023, makes no mention of any pressure having been exerted upon the applicant in relation to this offence, rather the applicant suggests that his possession of the knife arose innocently from having borrowed an acquaintance’s coat. In these circumstances, whilst we consider that the judge was entitled to conclude that the offence had taken place in the context of Class A drugs offending, which had the effect of increasing the seriousness of the offence, we do not consider that the applicant was entitled to any mitigation arising from any pressure which was exerted upon him to commit the offence, as none has been put forward by him. Thereafter, balancing the other aggravating factors, including the applicant’s previous convictions for drugs offences,

against the mitigation which was available to him, we consider it is unarguable that the sentence imposed on the applicant in relation to the 2 nd set of offences was manifestly excessive. There was a further ground of appeal concerning the sentence imposed in relation to the 2nd set of offences, which was contingent upon a successful appeal against conviction in relation to the 1st of offences. As the application for leave to appeal against conviction in relation to the 1st set of offences has been refused, that ground is also unarguable. Turning to the sentence imposed in relation to the 3 rd set of offences, as this was the applicant's third conviction for supplying Class A controlled drugs, he was subject to the minimum term provisions of section 313 of the Sentencing Act 2020. The judge specifically took into account the applicant's basis of plea, which included the matters which are now relied upon by him, and in pursuance of section 313(2) reduced the sentence to one of 5 years' imprisonment. We are satisfied that even bearing in mind the other mitigation available to the applicant, together with the 15% reduction to reflect the timing of his pleas of guilty, it is unarguable that the sentence imposed upon the applicant did not sufficiently take into account any pressure which the applicant may have been under to commit the offences. Judgment Approved by the court for handing down. BMJ v REX

Conclusion

96. In these circumstances, we are satisfied that the grounds of appeal against sentence are unarguable and accordingly the extension of time is refused.

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