

ENGLAND AND WALES / JUDGMENT

Isaah Saheed v R

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[2026] EWCA Crim 464 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM THE CROWN COURT AT BIRMINGHAM His Honour Judge Henderson (20BE1405923 and 20BE1782823) Case No: 202500609 A3 Royal Courts of Justice Strand, London, WC2A 2LL Date: Thursday 16 April 2026 Before : LADY JUSTICE COCKERILL MRS JUSTICE EADY and HER HONOUR JUDGE ALICE ROBINSON

- ----- Between : ISAAH SAHEED Appellant

- and - REX

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- ----- Respondent Sebastian Gardiner (instructed by I A Law) for the Appellant Philip Vollans (instructed by the CPS) for the Respondent Hearing date: 24 March 2026

- ----- Approved Judgment This judgment was handed down remotely at 10.00am on Thursday 16 April 2026 by circulation to the parties or their representatives by e-mail and by release to the National Archives. Judgment Approved by the court for handing down. Mrs Justice Eady DBE:

Introduction

2. With the leave of the full court, the appellant appeals against a sentence of eight years and three months' imprisonment, imposed (concurrently in each case) in respect of three charges of being concerned in the supply of class A drugs, two of which related to a drugs line called the "F line" (indictment 20BE1405923), and one relating to the "Oscar line" (indictment 20BE1782823). The appellant (then age 21) pleaded guilty to the F line offences at a plea and trial preparation hearing on 3 August 2023; on 27 August 2024 (then age 22), he changed his plea to guilty on the Oscar line indictment. Given the way in which the appeal has been advanced, it is necessary to set out the facts in some detail, although, as we will go on to explain, once that detail has been understood, we are satisfied that the answer to this appeal is straightforward. The Facts The F line 3. 4. 5. The F line was a drugs line that, from 1 January until 28 June 2023, served users within the West Midlands with crack cocaine and heroin. The appellant was the "captain", receiving bulk commodities from a third party, organising (using another third party) onward bagging for street level supplies,

and then the distribution and sale of the drugs, using others below him in the chain. The appellant's "lieutenant" was his friend (and co-defendant), Jibraan Ali, who worked as a street dealer to the appellant's direction. The appellant's two other co-defendants, Ayman Ahmed and Zeeshan Ahmed, acted as "second lieutenants", working as drivers; Ayman Ahmed was the driver from January to March 2023, Zeeshan Ahmed from March until June 2023. As the evidence revealed, messages from the F line 'phone would be sent out to large groups of individuals on an almost daily basis over the six month period in issue. The messages would identify the cost of individual deals, discounts for bulk orders, and the locations of sales. The line would also regularly receive calls from telephone kiosks from known users within the area seeking a supply. Over the six months, the number of messages ranged from 481 to upwards of 8,103 messages per month, and the number of calls spanned from 1,348 to 4,325 calls per month. On 10 March 2023, the police stopped a silver Vauxhall Astra vehicle, which was initially identified as having no insurance. Within the vehicle was Ayman Ahmed (in the driver's seat) and Jibraan Ali (in the passenger seat). Jibraan Ali was searched at the scene and 27 wraps of crack cocaine (worth £270 at £10 for 0.1g deals), 16 wraps of heroin (£160 at £10 for 0.1g deals), and £1,000 in notes were located on his person; Ayman Ahmed was subsequently searched, and found to have £140.00 in £5 and £10 notes. Both Ayman Ahmed and Jibraan Ali were arrested and cautioned, but, on being released on police bail pending further investigations, both proceeded to breach their bail conditions not to contact each other and Jibraan Ali continued to offend. Judgment Approved by the court for handing down. 6. 7. 8. 9. 10. 11. 12. On 5 May 2023, Jibraan Ali (passenger) and Zeeshan Ahmed (driver) were stopped in a rental Seat Arona. Zeeshan Ahmed was found to have £1,000 in cash on his person. On 28 June 2023, officers executed search warrants at Jibraan Ali's home address, seizing £1,000 in cash, and three large plastic wraps containing 19 individual wraps of heroin (£190 at £10 for 0.1g deals) and 21 wraps of crack cocaine (£210 at £10 for 0.1g deals). In addition, a quantity of designer clothing was found, worth several thousands. Officers also attended Ayman Ahmed's home address to conduct a search, seizing a large quantity of designer goods, again believed to be worth several thousand pounds. On gaining access to mobile 'phones found in Jibraan Ali's possession, one was later confirmed to be associated with the F line. This identified bulk messages being sent out, and held images of Jibraan Ali and the appellant sitting in rental vehicles and being in possession of large amounts of cash, as well as images of drugs laid out on a bed; the 'phone made clear that Jibraan Ali had various communications with the appellant, confirming that the latter had control over the F line, and that he purchased the drugs in bulk quantities and controlled working patterns, profits and sales. Investigation of Jibraan Ali's 'phone also identified Zeeshan Ahmed as a named contact; after 28 June 2023, Zeeshan Ahmed became aware of his mobile 'phone number being associated with the F line, and he stopped using his previous 'phone number. The appellant's home address was also searched, and a series of burner mobile 'phones were seized, one of which was a previous handset used for the F line. Cash totalling £14,385.00 was recovered from the appellant's address, and officers seized a large quantity of designer goods, including a Rolex watch. A white iPhone was also recovered, which contained messages exchanged between the appellant and Jibraan Ali. On

12 July 2023, officers attended the home address of Zeeshan Ahmed, who appeared to have changed the handset previously used in the drugs enterprise. Communications on the original 'phone confirmed that Jibraan Ali was regularly contacted by Zeeshan Ahmed, and that the appellant was Zeeshan Ahmed's second most frequent caller; it also showed that Ayman Ahmed and Zeeshan Ahmed were in regular contact. On the F line indictment, the appellant, Jibraan Ali, Ayman Ahmed, and Zeeshan Ahmed were each charged with two counts of being concerned in the supply of class A drugs: count 1 related to the supply of crack cocaine; count 2 to the supply of heroin. The Oscar line 13. Following investigation of the appellant's mobile 'phone (seized during the search of his home on 28 June 2023), it became apparent that he had also established a separate drugs line – the Oscar line – with which he was associated for a four month period, from March to June 2023. The Oscar line involved the sale and supply of powdered cocaine. Mudassar Khan (a co-defendant on the Oscar line indictment) acted as the Judgment Approved by the court for handing down. "major", and supplied the cocaine in bulk quantities to the appellant (again acting as a "captain"). The appellant would use a "bagger", Jack Clarke (also a co-defendant), who would prepare the drugs and hold them for onward supply. Another "captain" was Ismail Rehman (also a co-defendant on the same indictment), who worked closely with the appellant, dealing cocaine on the Oscar line, and continuing to do so after the appellant's arrest, until early October 2023. 14. Following an analysis of the Oscar line call data, it could be seen that a total of 86,569 calls were made across the period March to September 2023. It was the prosecution's case that these all related to the supply of drugs. The 'phone was observed travelling in the West Midlands area, as well as to Wrexham, Manchester, Stoke-on-Trent and Leicester. Images recovered from the Oscar line handset identified wholesale commodities (indicative of kilogramme blocks of cocaine being supplied), along with the process of separation of a quarter kilogramme, weighing of drugs into wraps, and the final street deal amounts (there were also videos of the appellant, Ismail Rehman and others separating the drugs ready for the preparation). Additional images showed large quantities of cash, and there was a dealer list on the Apple notes. 15. Police attended at the addresses of Ismail Rehman and Mudassar Khan on 10 October

2023. A search of Mudassar Khan's bedroom found designer items, a large sum of cash and a series of mobile 'phone handsets.
16. Mudassar Khan was ultimately charged with three offences of being concerned in the supply of class A drugs; two related to the supply of heroin and crack cocaine (it was the prosecution's case that Mudassar Khan had been the supplier for the F line), one to the supply of cocaine (in respect of the Oscar line); he also faced a charge of possessing criminal property. The supply offences against Mudassar Khan were, however, all limited to a three-week period, from 9 to 27 June 2023. Ismail Rehman was also charged with one offence of being concerned in the supply of cocaine, covering the period from 1 March to 10 October 2023; similarly Jack Clarke faced the same charge, albeit limited to the period 1 March to 28 June 2023. The Newton hearing 17. 18. The appellant's written bases of plea (and those of various others of his co- defendants) were not accepted by the prosecution, and Newton

hearings were arranged, initially in respect of both the F line and the Oscar line indictments. In advance of the initial Newton hearing listing, however, prosecution and defence experts reviewed the available messages and call data over a six month period in respect of the F line and agreed that, on the basis of those messages, they were able to positively identify two and a half kilogrammes of crack cocaine and heroin. On that basis, it was accepted that the Newton hearing in respect of the F line was no longer necessary and, in then sentencing Jibraan Ali, Ayman Ahmed and Zeeshan Ahmed in December 2024, the judge proceeded on the agreed basis that the weight of drugs involved on the F line was two and a half kilogrammes. 19. The position in relation to the Oscar line was not, however, agreed and the Newton hearing in this regard was re-listed for 20 and 21 January 2025. As recorded in the prosecution's note of issues for that hearing, the defendants contended that the overall Judgment Approved by the court for handing down. quantity of drugs (based on the 'phone communications) was 270g; the prosecution's position was, however, that, although an overall quantity could not be attributed to the Oscar line, the evidence was such that, at a minimum, it ought to fall within category 2, with a minimum starting point of one kilogramme of cocaine. In advancing its case at the Newton hearing for the Oscar line, the prosecution expressly relied on a "Presentation of Wealth and Value Powerpoint" ("the presentation"), which included evidence as set out below. 20. Images: the presentation contained various images, including: (i) images taken on 24 April 2023, depicting an embossed block with the visual consistency of cocaine (the inference being that this was a one kilogramme block of cocaine); (ii) images taken on 1 May 2023, depicting an embossed block with the visual consistency of cocaine (the inference again being that this was a one kilogramme block of cocaine); (iii) images taken on 29 March, 14 April, 20 April, and 3 May, showing commodities ranging from street deal wraps of cocaine through to bags of white powder weighing 248 grammes; (iv) images taken on 29 April, depicting a quarter kilogramme block of a white powder (the inference being that this was 247 grammes of cocaine – this being the weight shown on the scales on which the block was placed); (v) an image taken on 12 May depicting large bundles of cash; (vi) further images captured depicting three separate commodities ranging from 247 grammes to 37 grammes; (vii) four separate images showing large sums of cash in the appellant's possession.

21. Messages: the presentation included messages between Mudassar Khan and his partner on 1 July 2023, where he made reference to earning £32,000 in 30 days and stated that, as a consequence of the appellant being arrested, he had lost £14,000 that month. Other messages, also between Mudassar Khan and his partner, on 20 September 2023 referred to Mudassar Khan having earned up to £30,000 a month: "Target b 30; Sometimes be 30; Sometimes 23-26-27". The prosecution said this evidence assisted as to the scale of the monies raised during the indicted period. Judgment Approved by the court for handing down. 22. Further evidence was also available to the court, in the form of messages exchanged between the appellant and Ismail Rehman (who was involved in the Oscar line) and the appellant and Mudassar Khan. These were all uploaded to the digital case system, as "key exhibits", and included the following: (i) an exchange between the appellant and Ismail

Rehman on 20 March 2023: appellant: Grab me some zinos Rehman : How many appellant : 40 ; Take away 36 ; Oscar The prosecution say this was a reference to 36 packages, “zs”, or ounces being obtained by 20 March 2023; it is observed that 36 ounces equates to just over one kilogramme. (ii) an exchange between the appellant and Mudassar Khan on 16 June 2023: Khan: My F boy made 150 quid today; I was dying; Fuck this appellant: Don’t u like ... [making money]? ... Khan: I said cba g appellant: how can u cba Khan: Kusmeh man would have been 75k up The prosecution say this was a reference to the F line only making £150, whereas the other drug line (“cos my man”) would have been £75,000 up. (iii) an exchange between the appellant and Mudassar Khan on 22 June 2023: Khan: send the whole thing in one go appellant: 10? Khan: Yh one transaction to her; I do one tran to my dad The prosecution contend these messages are indicative of large sums of cash being raised and sent to other individuals. Judgment Approved by the court for handing down. 23. 24. In considering the evidence available to him at the Newton hearing, the judge was careful to have regard to the indictments relevant to each defendant. For the appellant, the relevant period was from 1 January to 29 June 2023 for the F line, but only from 1 March to 27 June 2023 for the Oscar line. For Ismail Rahman (only indicted for the Oscar line) the relevant period was from 1 March to 10 October 2023; for Mudassar Khan, the period was limited to 9 to 27 June 2023. Making clear that any sentence would relate only to criminal activity by the individual in question during the relevant indictment period, the judge nevertheless observed that he would be entitled to use material from outside the relevant period “if it casts light on what he was doing within the time bracket”. Adopting that approach, the judge considered he was entitled to have regard to the messages between Mudassar Khan and his partner at the beginning of July 2023 (a matter of days outside the indictment period for the appellant) but said he would disregard those from 20 September 2023. Referencing the expert evidence that had been adduced, the judge considered that had been “artificially fair” to the defendants’ position: “Absence of evidence in her [the expert’s] strictly confined purview is not evidence of absence.” As the judge observed, ultimately it was for him to determine the relevant facts (placing the burden of proof on the prosecution, to the criminal standard), and he made clear that he considered it: “important to stand back and look at the case in the round bearing in mind that circumstantial cases very often depend on a [sic] piece[s] of evidence which individually are not [conclusive]” 25. Having had regard to the evidence available to him at the Newton hearing (and placing emphasis on the exchange between Mudassar Khan and his partner from 1 July 2023), in determining the quantities involved in the Oscar line, the judge concluded: “What the precise figure is unclear but it is very clear that a large amount of money was going into the defendant’s [Mudassar Khan’s] account shortly before 1 July. There is no explanation even offered as to where this money has come from. The defendant has declined to give evidence on the topic and, therefore, in that factual matrix I do conclude so that I am sure that at that stage [Mudassar] Khan was turning over over £30,000 in the month of June 2023, that that money came from the dealing of drugs and by simple arithmetic that suggests at least 1 kilogram of class A drugs.” Sentence 26. As we have earlier observed, Jibraan Ali’s sentencing hearing (relating solely to the F line) had taken place (before the same judge) on 20 December 2024. Proceeding on the

agreed basis that the weight of drugs was two and a half kilogrammes, the judge treated Jibraan Ali as having played a significant role in the operation. Having regard to Jibraan Ali's youth (he had been 19 at the relevant time, was of previous good character and had significant family difficulties), but also taking into account he had been on bail for part of the period of the offending, the judge considered the Judgment Approved by the court for handing down. appropriate sentence would have been one of 78 months (six and a half years), which was reduced by a quarter to reflect Jibraan Ali's guilty pleas, resulting in a term of four years and ten months. The sentencing hearing in respect of the appellant, Mudassar Khan, and Ishmail Rehman, followed immediately after the Newton hearing relating to the Oscar line. Thus proceeding to sentence Mudassar Khan on the basis of the findings he had made at that hearing, the judge considered he had a "pivotal role in a drugs conspiracy", acting as "a wholesale supplier to [the appellant] who ran the line", finding: "... the proper assessment of his role, bearing in mind its critical nature [in] the enterprise, is to regard him as at the borderline between leading and significant in category 2." Having regard to Mudassar Khan's antecedents (unlike the other defendants, he had "been involved in very serious crime before this"), the judge considered the appropriate sentence would "have to be nine years", which was then reduced by a quarter to reflect his guilty plea, resulting in a term of six years and nine months. 27. 28. 29. 30. As for the appellant, the judge observed that it was accepted that he was "at least high in the significant category", going on to find: "I am sure that he was dealing with something like a kilogram a month in the two lines looking at the amount of money involved that I have dealt with in the case of [Mudassar] Khan. He is almost certainly in category 1 in relation to the F line and probably in category 1 in relation to the Oscar line bearing in mind that was running for four months. What is beyond doubt in my judgment is the fact that he was in combination dealing in drugs in sufficient quantities to get him well into category 1. The most important thing I need to remember in dealing with him is that his overall involvement lasted for getting on six months, that these were similar businesses carried on, overlapping with each other, so I have to be aware of double counting in his case; ..." 31. 32. Accepting that the appellant had no relevant previous convictions, and was a relatively young man, and also taking into account the delay and other matters raised by way of mitigation, the judge concluded that the appropriate sentence for the entirety of the appellant's offending required a term of imprisonment of 11 years, which he reduced by a quarter, thus resulting in a sentence of eight years and three months. As for Ismail Rehman, the judge treated him as having had a "category 2, significant role". Taking six years six months to be the appropriate sentence after trial, the judge reduced that term by a quarter (to allow for plea), producing a sentence of four years and nine months. The appeal and the submissions on behalf of the appellant Judgment Approved by the court for handing down. 33. 34. 35. 36. 37. The appellant's appeal against sentence was put on four grounds, as follows: (1) the judge had been wrong to sentence the appellant on the basis that the F line involved six kilogrammes over a six month period, and an amount that should be placed in category 1 under the guideline, when the agreed position was that the quantity of drugs involved was no more than two and a half kilogrammes; (2) to the extent that the judge had treated the appellant's offending in respect of the Oscar line as involving one

kilogramme a month for six months, that was wrong both as to the period of the indictment and as to the quantity of cocaine (based on the messages, the prosecution expert had accepted that no more than 270 grammes had been supplied for sale on this line during the month of June); (3) the disparity in sentences imposed in the cases of the appellant and Mudassar Khan could not be justified; (4) insufficient weight was given to the mitigating features in the appellant's case (in particular, his youth and his lack of relevant convictions). Having been refused leave to appeal on the papers, the appellant renewed his application before the full court at a hearing on 29 October 2025. Leave was given on that occasion on all grounds; in particular, given the detailed points raised as to the judge's conclusions on the quantities of drugs involved and the categorisation of the offending, the court considered it appropriate for this matter to be the subject of a full hearing. Directions were given for the further progression of the appeal, including for a respondent's notice to be filed and for the prosecution to attend the full hearing. In advancing the appellant's appeal before us, Mr Gardiner focused his submissions on grounds (1) and (2). Emphasising that the agreed position regarding the F line was that this had involved no more than two and a half kilogrammes, Mr Gardiner submitted it was wrong to conclude that the appellant had been supplying a kilogramme a month, and thus that the amount of drugs supplied for either of the drug lines (or even both combined) fell into category 1 under the sentencing guideline. Looking at the evidence available in relation to the Oscar line, Mr Gardiner contended: (i) this had to be limited to the four month period covered by the indictment; (ii) the prosecution's expert had given evidence at the Newton hearing that this line was in its infancy in June 2023, and that the quantities discussed were small; (iii) more generally, it had been acknowledged that it was impossible to say if some of the messages had in fact related to drugs supplied on the F line; (iv) although the prosecution had also relied on images to suggest that 270 grammes did not represent the totality of what had been supplied, the judge had not referred to those images in his sentencing remarks, and there was no evidence that a kilogramme block had ever in fact been supplied; (v) equally, Mudassar Khan's reference to £32,000 could not be attributed to the appellant, and there was no evidence to suggest which line the payment of £14,000 related to. Acknowledging that the judge had been entitled to have regard to all the evidence before him when determining the quantities of drugs involved (even if this could not always be precisely attributed to a particular drug line), and to view the appellant's offending as a whole when determining the correct sentence, Mr Gardiner nevertheless contended that a sentence of 11 years (before reduction for plea) for both conspiracies was manifestly excessive, as it was based on the erroneous conclusion that the offence involved well in excess of five kilogrammes (category 1) when it in fact fell into category 2. Accepting that the sentence for each conspiracy was aggravated by the existence of the other, Mr Gardiner submitted that any uplift should Judgment Approved by the court for handing down. 38. 39. have been relatively limited as both offences were very similar and there was considerable overlap between the operation of the two lines. To illustrate his point, Mr Gardiner further argued that a comparison to the sentences imposed on Jibraan Ali (F line) and Ismail Rehman (Oscar line) demonstrated the improper and excessive increase in the length of sentence imposed on the appellant:

although both fell to be sentenced in the same category, albeit not at the same level, as the appellant, his sentence had been five years higher than that of Jibraan Ali and four and a half years longer than that imposed on Ismail Rehman. In his written submissions, Mr Gardiner also observed that a finding that the appellant was to be treated as falling into category 1 was inconsistent with the one quarter reduction allowed by way of credit for plea, which suggested that the judge had in fact accepted his basis of plea. As for grounds (3) and (4), Mr Gardiner submitted that although Mudassar Khan had only been indicted for a limited period in relation to the Oscar line, it had been the prosecution's case that he was in fact the supplier of all drugs sold on both lines, throughout, and that the level of profit realised by him was far in excess of that achieved by the appellant. In such circumstances, the disparity between the sentences passed in these cases was such that right thinking members of the public, with full knowledge of the relevant facts, would consider something had gone wrong with the administration of justice, such that a reduction would be appropriate (see *R v Fawcett and ors* (1983) 5 Cr App R (S) 158). More generally, Mr Gardiner contended that the judge erred in failing to give proper weight to the mitigation available to the appellant, in particular given he was 24 years at the date of sentence and had only one minor conviction, as a juvenile, for a non-drug related matter. The prosecution's position 40. 41. Accepting there had been agreement between the experts that, in relation to the messages, it was only possible to positively attribute two and a half kilogrammes of crack cocaine and heroin to the F line, the prosecution did not accept that the judge was constrained by that concession in respect of the appellant's offending viewed overall. Specifically, when considering the Oscar line (which the appellant had gone on to establish after operating the F line for two months, and which he then ran alongside the F line), the messages were just one part of the prosecution's case in terms of demonstrating the commodities being purchased and sold by the appellant. Reliance had also been placed on the images of cocaine being prepared (which had included the photographs of kilogramme blocks), which were shown to the judge during the Newton hearing and formed part of the prosecution note of the remaining issues for that hearing. The appellant was also aware that the images and his relationship with Mudassar Khan were matters relied on by the prosecution, and the messages regarding the money achieved by Mudassar Khan were specifically raised by the prosecution during the Newton hearing, demonstrating the overall commodities the court would need to consider for sentencing for all defendants. The appellant was similarly aware of the prosecution's reliance on other messages (with both Mudassar Khan and Ismail Rehman), which were also available to the judge, uploaded as key exhibits on the digital case system. Judgment Approved by the court for handing down. 42. Having approached his consideration of the F line on the basis that two and a half kilogrammes had been attributed to this offending, the judge was entitled to find that the Oscar line had involved multiple kilogrammes, and to then take a global approach to the appellant's offending, permissibly finding that he had been supplying a kilogramme a month over the entire period. That the judge had allowed (in the appellant's favour) a full quarter reduction, for credit for plea, represented a pragmatic approach given the difficulties in separating out those aspects of the total sentence that would apply to the F line

(in respect of which the appellant was entitled to credit for his plea at the plea and trial preparation hearing), and those that would relate to the Oscar line (where he had pleaded guilty on the first day of trial and which had been the subject of a Newton hearing); the sentencing remarks made clear that this did not reflect any acceptance of the appellant's basis of plea.

43. Moreover, and in any event, even if – as the appellant urged – the offending on both lines was treated as falling within category 2 under the guideline, this would give a starting point of eight years, with a range of up to ten years. Given the appellant's position (towards the upper end of "significant role"), and the fact that he had been involved in two drugs conspiracies (establishing the Oscar line to sell cocaine, when he was already playing a significant role supplying crack cocaine and heroin on the F line), even if treated as falling within category 2 for harm, an overall sentence of 11 years in respect of all counts, on both indictments, was a just and proportionate reflection of the appellant's total offending. 44. As for the position of Mudassar Khan, he had not been indicted in respect of the F line and the charge against him in relation to the Oscar line was limited to three weeks. This was not a case – per Fawcett – where the disparity in sentences would cause a right thinking member of the public to consider there had been any injustice. Finally, the judge had expressly had regard to the mitigation advanced on behalf of the appellant (including his relative youth and lack of relevant antecedents) but was entitled to take the view that these matters were outweighed by the severity and nature of his offending. Analysis and conclusions 45. 46. In permitting this appeal to proceed, it is apparent that the full court was concerned to understand how the judge had approached this matter in terms of the categorisation of harm under the sentencing guideline. As the appellant emphasised, it had been agreed before the sentencing judge that the quantities of class A drugs (crack cocaine and heroin) attributable to the F line were limited to two and a half kilogrammes; on that basis, his contention was that it had not been open to the judge – considering either, or both conspiracies – to find that his case fell within category 1 harm. Considering this issue at the full hearing of the appeal, we have been assisted by being able to see the extent of the evidence available to the judge at the Newton hearing and, therefore, when sentencing. The presentation prepared by the prosecution had not only included images appearing to show various quantities of cocaine, from one kilogramme blocks, through to quarter kilogramme quantities, and smaller street deal wraps (all taken on dates falling within the relevant period for the Oscar line), but also provided clear evidence of the scale of the profits realised, in particular in the reference to the appellant's arrest resulting in a £14,000 loss for Mudassar Khan in Judgment Approved by the court for handing down. 47. June 2023. We note that neither the appellant nor Mudassar Khan chose to give evidence at the Newton hearing so as to provide any explanation for this material, and we can readily see why the judge considered he was able to be satisfied – to the criminal standard – that the appellant was "dealing with something like a kilogram a month in the two lines". In advancing the appellant's appeal on grounds (1) and (2), Mr Gardiner has sought to emphasise that it was not possible to precisely attribute particular images, or references to monies received, to

one or other of the drugs lines. That is right, but (as Mr Gardiner accepted in oral argument) that does not mean that the judge was therefore required to disregard the evidence before him, which clearly showed the appellant was involved in the supply of class A drugs in far greater quantities than the concession made by the prosecution expert might suggest. In considering the evidence available, the judge was not constrained to simply take into account the expert opinion evidence, but was entitled to look at the material before him in the round. Although careful to limit this to that which was closely connected to the offending in time, the judge permissibly reached a real world conclusion as to what was demonstrated by the images and by the messages between Mudassar Khan and his partner.

48. Mr Gardiner has objected that the judge could not have been sure that this evidence of large quantities of cocaine, or of significant profits being realised by the appellant, related to the Oscar line, pointing out that the prosecution expert had accepted that this line was still being established at the time when the appellant was arrested. That might be so, but there was also evidence before the court that suggested that the Oscar line was dealing in large quantities, and achieving very considerable profits (more than were being realised on the F line), from an early stage – certainly that is the obvious inference to be drawn from the exchanges between the appellant and Ismail Rehman in March 2023, and between the appellant and Mudassar Khan in June 2023. 49. Thus appreciating the detail of the evidence before the judge below, his conclusion as to the quantities being supplied by the appellant over the entirety of the six month period is entirely understandable. Furthermore, it is a conclusion that is in no way undermined by the credit allowed for the appellant's plea. Although the appellant might not have been entitled to anything more than a ten per cent reduction in relation to the Oscar line indictment (where he had pleaded guilty on the first day of trial and which had been the subject of a Newton hearing), we can readily understand why the judge adopted a pragmatic approach when determining the credit that should be afforded in this case. As the sentencing remarks make clear, the judge was not thereby indicating any acceptance of the appellant's basis of plea in relation to the Oscar line.
50. More substantively, the judge's sentencing remarks demonstrate that he adopted a holistic approach, seeking to impose a proportionate sentence that fairly reflected the entirety of the appellant's offending behaviour. Testing that approach, if – as Mr Gardiner urges – the sentencing for each of the lines was taken separately, and deemed to fall within category 2 of the guideline, having regard to the principle of totality, the judge would have been bound to treat one of the counts as the lead offence, and to then apply a significant uplift to appropriately reflect the aggravating feature of the additional offending. Given that the appellant – already undertaking a significant role on the F line, which was agreed to have involved the supply of two Judgment Approved by the court for handing down. 51. 52. 53. 54. and a half kilogrammes of crack cocaine and heroin (well above the category 2 harm starting point of one kilogramme) – had taken the initiative to establish a further line, supplying cocaine, and had continued his offending for some six months (four months of which involved both lines), motivated throughout by the pursuit of substantial financial gain, we are unable to say that an overall sentence of 11 years (before reduction for plea) was

manifestly excessive. Our view in this regard is not changed by considering the appellant's sentence alongside those imposed on Jibraan Ali or Ismail Rehman. Jibraan Ali's offending related solely to the F line, and he did not occupy the same role as the appellant, but worked to his direction. Equally, Ismail Rehman also stood to be sentenced only in respect of one of the drug lines; although he continued to work on the Oscar line after the appellant's arrest, Ismail Rehman had not gone on to establish a further line, selling another category of class A drugs. As for Mudassar Khan, he fell to be sentenced for a limited (three week) period. As the judge correctly observed, it was clear that he could only be sentenced in respect of criminal activity he had undertaken during the indictment period. Notwithstanding that limitation, the sentence passed in his case was of nine years before reduction for plea. Any right thinking member of the public, with full knowledge of the relevant facts (per Fawcett), would appreciate that it would be unjust for Mudassar Khan to be sentenced outside the period of the indictment in his case. The disparity argument identified at ground (3) is misconceived; the judge did not err in his approach as a matter of principle and no injustice arises. Finally, in relation to the appellant's personal mitigation, we note that this was something to which the judge expressly had regard: taking into account the documents filed on his behalf, his relative youth and lack of relevant previous convictions, his family obligations and the delay that he had experienced in this matter. This was, however, very serious offending over a total of some six months, where the appellant had not only taken on a significant role on one drug line, but had then taken the initiative in establishing a further line, motivated throughout by financial gain. In these circumstances, the judge was entitled to see the mitigating features of the appellant's case as being heavily outweighed by the seriousness of the offending in which he had engaged. Having addressed each of the grounds of appeal individually, we have also sought to stand back to consider the overall effect of the sentence passed in this case. Doing so, we have taken particular account of the appellant's relative youth at the time of the offending (21) and his lack of relevant antecedents. Notwithstanding these features, we do not consider it can be said that the total sentence passed in this case was manifestly excessive or unjust. The appellant played a significant role in two, overlapping, drug lines, supplying three different forms of class A drugs; his position was plainly towards the higher end of significant role in each case, and the evidence supports the conclusion reached by the sentencing judge (who had the benefit of having conducted the Newton hearing in this matter) that the quantities of drugs involved was in the region of a kilogramme a month, with the appellant's offending lasting over a period of some six months. For all the reasons we have explained, we dismiss this appeal.

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