

ENGLAND AND WALES / JUDGMENT

Maxwell v R [2017] EWCA Crim 1233 (22 August 2017)

[2017] EWCA Crim 1233

Source: bailii.org · Research copy typeset by Esheria. Not court-issued or certified.

Neutral Citation Number: [2017] EWCA Crim 1233 Case Nos: 2017/03153/B1 2016/1529/B1 IN THE COURT OF APPEAL (CRIMINAL DIVISION) ON APPEAL FROM CARDIFF CROWN COURT His Honour Judge Richards T20157628 Royal Courts of Justice Strand, London, WC2A 2LL 22/08/2017
B e f o r e : THE RT HON LORD JUSTICE TREACY THE HON MS JUSTICE RUSSELL and HER HONOUR JUDGE CUTTS QC (Sitting as a Judge of the Court of Appeal, Criminal Division)

Between: Dean Christopher Maxwell Appellant

- and - R Respondent

(Transcript of the Handed Down Judgment. Copies of this transcript are available from: WordWave International Limited A Merrill Communications Company 165 Fleet Street, London EC4A 2DY Tel No: 020 7414 1400, Fax No: 020 7831 8838 Official Shorthand Writers to the Court)

Mr J Evans (instructed by Crown Prosecution Service) for the Respondent Mr T Hartland (instructed by Registrar of Criminal Appeals) for the Appellant Hearing date : 26 July 2017

HTML VERSION OF JUDGMENT AS APPROVED BY THE COURT

Crown Copyright © Lord Justice Treacy :

Introduction

This is an appeal against conviction and sentence. The appellant pleaded guilty in the Crown Court at Cardiff to a large number of offences. He was sentenced on 29 th February 2016 to a total of 7 years and 4 months' imprisonment. In addition, he was disqualified from driving for 3 years and until an extended test was passed. This penalty was imposed on Count 6. His licence was

endorsed in relation to Counts 3, 7 and 15, and also on Charges 1, 2, 3 and 4. The details of the sentences passed are set out in the table below.

Ct	Offence	Sentence	Consecutive or Concurrent
1	Theft, contrary to s1 Theft Act 1968	2 months' imprisonment	Consecutive
2	Theft, contrary to s1 Theft Act 1968	2 months' imprisonment	Consecutive
3	Driving whilst disqualified, contrary to s103(1)(b) Road Traffic Offenders Act 1988	2 months' imprisonment	Consecutive
4	Burglary, contrary to s9(1)(b) Theft Act 1968	3 years' imprisonment	Aggravated vehicle taking, contrary to s12A Theft Act 1968
5	2 years' imprisonment	Concurrent	Driving whilst disqualified, contrary to s103(1)(b) Road Traffic Offenders Act 1988
6	4 months' imprisonment	Concurrent	Attempted robbery, contrary to s1(1) Criminal Attempts Act 1981
7	8 months' imprisonment	Consecutive	Attempted robbery, contrary to s1(1) Criminal Attempts Act 1981
8	8 months' imprisonment	Concurrent	Robbery, contrary to s8(1) Theft Act 1968
9	2 years' 8 months' imprisonment	Driving whilst disqualified, contrary to s103(1)(b) Road Traffic Offenders Act 1988	No separate penalty
10	Theft, contrary to s1 Theft Act 1968	2 months' imprisonment	Consecutive
11	Theft, contrary to s1 Theft Act 1968	2 months' imprisonment	Consecutive
12	Driving whilst disqualified, contrary to s103(1)(b) Road Traffic Offenders Act 1988	2 months' imprisonment	Consecutive
13	Charges sent under s51(3) Crime and Disorder Act 1998	Using vehicle without insurance, contrary to s143 Road Traffic Offenders Act 1988	No separate penalty
14	Using vehicle without insurance, contrary to s143 Road Traffic Offenders Act 1988	No separate penalty	Using vehicle without insurance, contrary to s143 Road Traffic Offenders Act 1988
15	No separate penalty	Using vehicle without insurance, contrary to s143 Road Traffic Offenders Act 1988	No separate penalty
16	Using vehicle without insurance, contrary to s143 Road Traffic Offenders Act 1988	No separate penalty	Total Sentence: 7 years' 4 months' imprisonment
17	Victim Surcharge	Order £120	It will be seen that, in relation to Count 5, burglary, the table does not specify whether the sentence was to run consecutively or concurrently. That is because the judge failed to do so. However, the judge stated the total sentence and it is clear from that that his intention was that Count 5 should be served consecutively. The Facts

The facts show that this appellant and a female co-accused committed a series of offences between 1 st and 10 th November 2015. The co-accused was not involved in all the offences admitted by this appellant. She received a sentence of 3 years and 8 months' imprisonment. We begin with the four theft offences and allied matters. On Count 1, on 1 st November 2015 the appellant and co-accused stole a quantity of meat of unknown value from a Co-op store in Barry. On 7 th November the co-accused stole clothing valued at about £240 from Tesco in Barry. She ran out of the store pursued by a member of staff, who recovered the clothing but was unable to prevent her from escaping with the appellant, who had waited outside for her in a car driven by him (Count 2). At the time the appellant was disqualified from driving (Count 3) and uninsured (Charge 1). On 9 th November 2015 the pair stole coffee from Sainsbury's in Barry (Count 16). On 10 th November they stole hair straighteners and clothing valued at about £8 from Poundstretchers in Barry (Count 18). No value was attributed to the thefts in Counts 1 and 16. We next deal with the burglary and associated offences. At about 5.00 p.m. on 9 th November 2015 a Mrs White was at home in Barry with her husband and three grandchildren. The appellant entered her house unseen by anyone and stole her handbag and contents (Count 5). The handbag contained the keys to her car which the appellant took from outside her house (Count 6). He drove that vehicle whilst disqualified (Count 7) and uninsured (Charge 2). He was subsequently identified from CCTV at the scene and by clothes worn on his arrest. About an hour later the

appellant was driving Mrs White's car in Cardiff. He suddenly stopped his vehicle in the middle of the road. The driver of the car behind stopped in time to avoid a collision. However, the appellant then reversed his car into the other vehicle causing considerable damage before driving off and abandoning Mrs White's car a short distance away (Count 6). Mrs White is disabled and needed her car. She was caused very great inconvenience and upset by the burglary of her home and the taking and damaging of her car. We next turn to offences involving robbery or attempted robbery. On the evening of 9th November the appellant and co-accused committed two attempted robberies (Counts 11 and 12) and one robbery at a road junction in Ely, Cardiff. In Count 11 the appellant attempted to rob a woman of her car when it stopped at traffic lights. He attempted to get into the car using abusive language and banging on the window. However, the lights changed and the woman was able to drive away. Count 12 took place soon afterwards. A Ms Hobden had parked, waiting to pick up an elderly friend. The friend lacked mobility and was having trouble getting into the car. The appellant approached them just as the friend got inside the car. Ms Hobden locked the door, which the appellant tried to open. Ms Hobden was able to drive away. A few minutes later, Count 14, the robbery, took place. The appellant approached a Ford Fiesta driven by a Ms Harwood when it stopped at traffic lights. He opened the driver's door and told her to get out. He gripped her face tightly and had his fingers around her throat and mouth, using violent language towards her. Pulling her by her face, he forced her out of her car. When she was half way out he punched her forcibly to her torso. The appellant and his co-accused then got into the car and drove off at high speed. The appellant was disqualified from driving (Count 15) and had no insurance (Charge 3). On the following day the appellant was still driving Ms Harwood's Ford Fiesta when he was seen by the police in Barry. Once more, he was driving whilst disqualified (Count 19) and without insurance (Charge 4). Police gave chase and the appellant eventually collided with some bollards and made off from the vehicle. He was arrested soon afterwards. When interviewed, the appellant admitted his offending with the exception of the burglary. Failures in Passing Sentence Apart from the failure to specify whether the burglary count was to run concurrently or consecutively there were a number of other problems with the way in which the judge passed sentence. He referred to the four offences of theft as burglaries. He passed a term of 2 years' imprisonment on Count 6, aggravated vehicle taking, when the maximum was 6 months' imprisonment, since it was not alleged that the damage done exceeded £5,000. The judge failed to pass any sentence on Count 15 or in relation to the four charges concerning using a vehicle without insurance. The judge imposed a period of disqualification of 3 years without making any adjustment to that term to reflect the fact that the offender would be serving a custodial sentence (see *R v Needham*

[2016] 2 Cr App R (S) 26). The judge also required an extended re-test when it appears that there was already an order for such a test in force, thus precluding an order for re-test on this occasion (see *R v Anderson*

[2012] EWCA Crim 3060). See also paragraph 43 of *Needham* . The Appellant's Past Record This appellant is now 35 years of age. He has a lengthy criminal record involving convictions for 82 offences. He was subject to the minimum term provisions in relation to dwelling house burglary, having been convicted of such burglaries in 2011 and 2012. He had four

convictions for aggravated vehicle-taking and two for taking vehicles without consent. There were 11 convictions for driving whilst disqualified. There were seven convictions for theft and a number of drugs convictions. Appeal Against Conviction The appeal against conviction relates to Counts 1, 16 and 18. The submission is that those counts represent low-value shoplifting offences under s.22A of the Magistrates Court Act 1980. They are summary-only offences as their value individually and in aggregate is below £200. It was further submitted that low-value shoplifting offences are not listed offences pursuant to s.40 of the Criminal Justice Act 1988 so that there is no provision allowing such offences to appear on the indictment. Accordingly, those counts were wrongly on the indictment and the proceedings in relation to them were a nullity. This point was not taken until very recently. The appellant's advocate had never considered it until a query was raised by the Criminal Appeal Office. He now seeks an extension of time to argue the point. In the circumstances we grant the necessary extension. Section 22A provides: "(1) Low-value shoplifting is triable only summarily.

- (2) But where a person accused of low-value shoplifting is aged 18 or over, and appears or is brought before the court before the summary trial of the offence begins, the court must give the person the opportunity of electing to be tried by the Crown Court for the offence and, if the person elects to be so tried—
 - (a) subsection (1) does not apply, and
 - (b) the court must proceed in relation to the offence in accordance with section 51(1) of the Crime and Disorder Act 1998. (3) "Low-value shoplifting" means an offence under section 1 of the Theft Act 1968 in circumstances where—
 - (a) the value of the stolen goods does not exceed £200,
 - (b) the goods were being offered for sale in a shop or any other premises, stall, vehicle or place from which there is carried on a trade or business, and
 - (c) at the time of the offence, the person accused of low-value shoplifting was, or was purporting to be, a customer or potential customer of the person offering the goods for sale.
 - (4) For the purposes of subsection (3)(a)—
 - (a) the value of the stolen goods is the price at which they were being offered for sale at the time of the offence, and
 - (b) where the accused is charged on the same occasion with two or more offences of low-value shoplifting, the reference to the value involved has effect as if it were a reference to the aggregate of the values involved.
 - (5) A person guilty of low-value shoplifting is liable on summary conviction to—

- (a) imprisonment for a period not exceeding 51 weeks (or 6 months, if the offence was committed before the commencement of section 281(4) and (5) of the Criminal Justice Act 2003),
 - (b) a fine, or
 - (c) both.
- (6) A person convicted of low-value shoplifting by a magistrates' court may not appeal to the Crown Court against the conviction on the ground that the convicting court was mistaken as to whether the offence was one of low-value shoplifting.
- (7) For the purposes of this section, any reference to low-value shoplifting includes aiding, abetting, counselling or procuring the commission of low-value shoplifting." It is agreed that the appellant was not asked by the magistrates to make an election as to trial in relation to Counts 1, 16 and 18. Nor was there any enquiry into value by them. As to value, the provisions of s.22A(3)(a) and (4)(b) are relevant. It is possible for there to be aggregation of values where two or more offences are charged on the same occasion. Those two or more offences must be offences of low-value shoplifting as subsection 4(b) states. This means that the value of the goods referred to in Count 2 (£240) must be disregarded for this purpose. The value of the goods in Count 18 was specified at £8. The values of the goods in Counts 1 and 16 were not specified, but it is obvious that they were only worth a few pounds. There was a further offence of theft by shoplifting which had appeared at Count 17 but was left on the file, and which had been charged at the same time as the other low-value shoplifting offences. It specified property stolen to the value of £119. It was thus liable to be included in the aggregation exercise under ss.(4)(b), but even taking that value into account, the three remaining low-value offences would not have exceeded £200 in aggregate. Accordingly, since the appellant had not elected trial, and since the aggregation provision did not apply, s.22A(1) was not displaced. The three counts alleging low-value shoplifting were triable only summarily. Mr Evans, for the Crown, made an argument that the charge valued at £240 in Count 2 could operate so as to enable the aggregation provisions to apply. The reference to "offences of low-value shoplifting" in ss.(4)(b) negates that argument as, in the end, Mr Evans effectively conceded. Neither party sought to make any argument by reference to s.22 of the 1980 Act which deals with low-value criminal damage offences. They no doubt recognised that the language and structure of that section is markedly different from s.22A, so that it could not assist in the present matter. Our clear conclusion, therefore, is that in the circumstances, the offences mentioned in Counts 1, 16 and 18 remained summary offences. The next step in the process is to consider s.40 of the Criminal Justice Act 1988. Section 40(1) provides: "(1) a count charging a person with a summary offence to which this section applies may be included in an indictment if the charge –
- (a) is founded on the same facts or evidence as a count charging an indictable offence; or

- (b) is part of a series of offences of the same or similar character as an indictable offence which is also charged, but only if (in either case) the facts or evidence relating to the offence are disclosed by material which, in pursuance of regulations made under paragraph 1 of Schedule 3 to the Crime and Disorder Act 1998 (procedure where person sent for trial under section 51 or 51A), has been served on the person charged." Subsection (2) makes clear that a summary offence included in an indictment under s.40 may only be dealt with by the Crown Court in a manner in which the Magistrates' Court could have dealt with the matter. Subsection (3) then contains a list of offences to which s.40 applies. Low-value shoplifting does not appear in that list. There is therefore no basis upon which those three counts could have been included in the indictment. In this context we have considered *R v McDermott-Mullane*

[2016] EWCA Crim 2239 at paragraphs 25 and 26. We agree with the result of the analysis in that case that a low-value shoplifting offence which remains summary cannot be added to an indictment containing the main offence. It seems to us, therefore, that these three counts should never have been on the indictment. Accordingly, the guilty pleas tendered to those counts and the resultant sentences are a nullity. Both parties accepted that the fact that those counts were a nullity does not affect the validity of the remaining counts on the indictment (see, for example, *R v McGrath*)

[2013] EWCA Crim 1261). We invited submissions as to whether the three summary offences were properly before the Crown Court at all. This entails a consideration of s.51 of the Crime and Disorder Act 1988. "(1) Where an adult appears or is brought before a magistrates' court ("the court") charged with an offence and any of the conditions mentioned in subsection (2) below is satisfied, the court shall send him forthwith to the Crown Court for trial for the offence.

(2) Those conditions are –

- (a) that the offence is an offence triable only on indictment other than one in respect of which notice has been given under section 51B or 51C below;
- (b) that the offence is an either-way offence and the court is required under section 20(9)(b), 21, 22A(2)(b), 23(4)(b) or (5) or 25(2D) of the Magistrates' Courts Act 1980 to proceed in relation to the offence in accordance with subsection (1) above;
- (c) that notice is given to the court under section 51B or 51C below in respect of the offence.
- (3) Where the court sends an adult for trial under subsection (1) above, it shall at the same time send him to the Crown Court for trial for any either-way or summary offence with which he is charged and which –
- (a) (if it is an either-way offence) appears to the court to be related to the offence mentioned in subsection (1) above; or

- (b) (if it is a summary offence) appears to the court to be related to the offence mentioned in subsection (1) above or to the either-way offence, and which fulfils the requisite condition (as defined in subsection (11) below). ...
- (11) A summary offence fulfils the requisite condition if it is punishable with imprisonment or involves obligatory or discretionary disqualification from driving." Since we have determined that the three offences were summary offences the relevant provision is ss.(3)(b). As to that, it was accepted that the condition in ss.(11) was satisfied. However, an issue arose as to whether the three summary offences were related to the indictable-only offences (attempted robbery and robbery) or to an either-way offence. Section 51E provides: "For the purposes of sections 50A to 51D above – ...
- (c) an either-way offence is related to an indictable offence if the charge for the either-way offence could be joined in the same indictment as the charge for the indictable offence;
- (d) a summary offence is related to an indictable offence if it arises out of circumstances which are the same as or connected with those giving rise to the indictable offence." Neither party contended that the robbery offences, or indeed the burglary offence, fell for consideration in this context. However, both parties submitted that the Count 2 theft involving goods to the value of £240 and thus an offence triable either way could be considered as being related. By Schedule 1 of the Interpretation Act 1978 an "indictable offence" means an offence which, if committed by an adult, is triable on indictment, whether it is exclusively so triable, or triable either way. It will be seen from s.51(3) that the sending provisions distinguish between either-way and summary offences, and from s.51E that the tests for whether those offences are related to an indictable offence are different. The test for summary offences under s.51E(d) appears to be narrower than that applicable to either-way offences under s.51E(c). This would be consistent with an intention that only those summary offences which have a close link to more serious offences sent to the Crown Court should trouble that court. Before us, both parties contended that the three low-value thefts were sufficiently connected with circumstances giving rise to the Count 2 theft by reason of the fact that they involved the same two offenders, committing very similar offences of the same type within the same general locality, and within a short time frame. Additionally, the motivation behind the offending appeared to be the same, namely, the acquisition of money for drugs. It may perhaps be open to argument as to whether that is sufficient connection, but we remind ourselves that the language of s.51(3)(b), "appears to the court to be related to the offence..." provides leeway to the Justices. A determination that there is an apparent connection between the circumstances of the offences is something less than a determination that in fact they are connected. In this respect, a contrast is to be drawn with the language of Schedule 3 of the 1998 Act which, at paragraph 6, deals with the power of the Crown Court to deal with a summary offence and which, at paragraph 6(2), places an obligation on the Crown Court to consider whether in fact the summary offence is related to an indictable offence for which he was sent for trial. In those circumstances, we do not think it right to go behind the decision of the Justices to send the three low-value offences to the Crown Court

under s.51(3), particularly when neither party sought to argue to the contrary before us. It follows therefore that the three low-value offences are to be regarded as having been sent properly to the Crown Court but that having arrived there, they were dealt with in an unlawful manner. The correct way of dealing with them would have been under the provisions of Schedule 3 paragraph 6 of the Crime and Disorder Act. The procedure there was not adopted in this case because the court wrongly dealt with the three offences in terms of the indictment. It therefore follows that the joinder, pleas and sentence on those counts were a nullity and that the convictions recorded on Counts 1, 16 and 18 must be quashed, and the appeal allowed. In sending the theft matters to the Crown Court under s.51(3) the Justices did not differentiate between s.51(3)(a) and s.51(3)(b). Those subsections distinguish between either-way and summary offences. As this case has shown, that failure to distinguish may well have led to the wrongful inclusion of the three counts on the indictment. Consideration at the Magistrates' Court of whether a theft by shoplifting is low-value or not (and whether, if low value, the defendant wishes to elect trial and be sent to the Crown Court under s.51(1)) would enable the court to identify whether the sending is under ss.(3)(a) or (b), and thus avoid the problem which has arisen. Appeal Against Sentence Mr Hartland's overall submission is that a sentence of 7 years and 4 months' imprisonment, even for serious and prolific offending, was too long for an offender who had pleaded guilty at an early stage. He suggested that the Judge had lost sight of totality. We think there is force in that criticism. In addition, the outcome must be affected by the appeal against conviction and a number of failings in the sentencing process itself. We begin with the offences of theft. Having quashed the convictions on Counts 1, 16 and 18, the sentences imposed for those offences, totalling 6 months in all, to run consecutively, must also be quashed. That leaves in place a term of 2 months on Count 2, ordered to run consecutively to other sentences. There can be no complaint about that. We turn to Counts 11, 12 and 14, representing the offences of robbery or attempted robbery. Although these offences took place within a short span of time, they involved different victims, each of whom will have been affected. For the complete offence of robbery (Count 14) a starting point of 4 years under the Sentencing Guidelines Council guideline was appropriate. Unpleasant physical force was used on a vulnerable victim so as to eject her from her car. With credit for a guilty plea there can be no objection to the term of 2 years 8 months' imprisonment. An additional 8 months for the two attempted robberies was entirely justified. We next turn to the burglary, Count 5, with the associated offences of aggravated vehicle taking (Count 6) and driving whilst disqualified (Count 7). As already stated, the burglary was subject to the minimum term provisions. The Judge said that, given the nature of the offence, there would be no reduction for a guilty plea as the circumstances required a 3 year term. This must mean that but for the guilty plea the Judge had in mind a sentence of 4½ years. Given both the circumstances of the offending and the requirements of totality, we think that this was simply too long. An appropriate term after trial would have been 3 years 9 months. With credit for a guilty plea, this reduces to a sentence of 2 years 6 months, which is compliant with the minimum term provisions. As stated earlier in this judgment, it is clear that that term should run consecutively to other sentences. Counts 6 and 7 were allied to the burglary

offence. The term of 2 years imposed on Count 6 for aggravated vehicle-taking was unlawful since it was to be treated as a summary offence by reason of the value of the damage done. The maximum was 6 months, and that should be reduced to 4 months in the light of a guilty plea. We quash the term of 2 years and substitute on Count 6 a term of 4 months, to run concurrently with the other sentences, as was previously ordered. There is no alteration to the concurrent 4 month sentence for driving whilst disqualified on Count 7. There are two further offences of driving whilst disqualified (Counts 3 and 19) which related to different occasions and where the judge imposed individual terms of 2 months consecutive on each count. We order those two counts to run concurrently with the other sentences in the interests of totality. The effect of all this is to reduce the total sentence from 7 years 4 months to 6 years, correcting the errors in sentencing and reflecting totality. Regrettably, that is not the end of the matter. Firstly, the Judge failed to pass a sentence in relation to Count 15, nor did he pass a sentence in relation to any of the four offences of using a vehicle without insurance. There are in any event further difficulties in relating some of those offences as put before the Crown Court to the offences sent, but we can put that to one side since there is a more fundamental problem. As stated, the Judge simply failed to pass sentence for these five offences. The court clerk appears subsequently to have entered results of no separate penalty, with licence endorsement. It is for judges to sentence, not for court staff. Even though the sentences were nugatory, they were not validly passed. The Crown concedes as much, and we quash each of those sentences. These five offences, together with the three offences of theft, were all before the Crown Court, but were either not dealt with, or were dealt with unlawfully. Those cases remain before the Crown Court. Given the way the matter developed before us, leading to a reserved judgment, we were unable to consider whether we had power to reconstitute ourselves, take pleas where necessary, and deal with the offences. In the interests of good administration, the Crown will need to consider what to do about those offences which remain before the Crown Court. It may conclude that the most pragmatic course in all the circumstances is simply to withdraw the charges and have the Crown Court record amended accordingly. As previously noted, the Judge failed to grapple with the requirements of *Needham* and pass sentence in a way which gives effect to the intention of Parliament that periods of disqualification should be served whilst an offender is at liberty rather than in prison. There is no complaint about the 3-year term of disqualification imposed on Count 6, but without adjustment it will all be served in prison. Since this court has reduced the overall sentence it has power to adjust the disqualification order without falling foul of s.11(3) of the Criminal Appeal Act 1968. Mr Hartland conceded, after enquiry by the court, that there could be no objection to the court making the disqualification *Needham* compliant. We therefore amend the order of disqualification on Count 6 by substituting an order of disqualification from driving for 6 years, comprising a discretionary period of 3 years under s.34, an extension period of 2 months under s.35A and an uplift of 34 months under s.35B of the Road Traffic Offenders Act 1988. In addition, we quash the order for an extended re-test since such an order remained extant from a previous sentence. The appeal against sentence is therefore allowed to the extent indicated above. Final Comment This court's experience in this case calls for a final

comment. The original grounds of appeal were confined to the straightforward assertion that the overall sentence was too long, particularly having regard to totality. After the single Judge had granted leave to appeal on that basis, lawyers in the Criminal Appeal Office identified a large number of matters which had gone wrong below and drew them to the attention of the court and the parties. Much time was expended by the Office and then by the individual members of the court in considering the problems identified. The time taken will have been many times that expended in the Crown Court at the original hearing. Those resources could have been much better deployed in dealing with other cases. The problems which have arisen are not untypical of what happens if insufficient attention is given to detail in the lower court. The problems arise from the complexity of modern sentencing legislation, but that phenomenon is well-known and all involved in the Crown Court should therefore be alert to the need for care in technical matters. Sentencing judges who have the primary responsibility for getting things right are often burdened with long sentencing lists. They have a right to expect appropriate assistance from the advocates before them. It is clear that no such consideration or assistance was given by the advocates in this case, either before the Judge came to sentence or indeed after he had sentenced in a flawed manner in a number of respects, or had failed to pass sentence on certain matters at all. Both counsel have apologised to this court for their part in the failures below, but that is small recompense for the disproportionate time and effort involved in correcting errors which should never have taken place. We can only urge greater vigilance on the part of all those involved in sentencing before the Crown Court. Ms Justice Russell: I agree. Her Honour Judge Cutts QC: I also agree. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://www.bailii.org/ew/cases/EWCA/Crim/2017/
CASE PAGE	https://chat.esheria.ai/case-law/england-and-wales/maxwell-v-r-2017-ewca-crim-1233-22-august-2017

Prepared on 28 October 2026 · Esheria