

ENGLAND AND WALES / JUDGMENT

R v Ali Mohammed Hamid

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- ----- ATTORNEY GENERAL'S REFERENCE UNDER SECTION 36 OF THE CRIMINAL JUSTICE ACT 1988
- ----- Between : REX
- and - ALI MOHAMMED HAMID
- ----- Computer Aided Transcript of Epiq Europe Ltd, Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)
- ----- Miss C Hole appeared on behalf of the Attorney General Miss C Birch appeared on behalf of the Offender J U D G M E N T Lady Justice May:

Introduction

1. 2. 3. 4. This is an application by His Majesty's Solicitor General for leave to refer a sentence under section 36 of the Criminal Justice Act 1988 ("the 1988 Act") which she considers to be unduly lenient. The offender, Ali Mohammed Hamid, is now aged 24, having been born on 5 January 2002. On 4 July 2025, having pleaded guilty before Highbury Corner Magistrates' Court, the offender (then aged 23) was committed to the Crown Court for sentence, pursuant to section 14 of the Sentencing Act 2020, in respect of two offences of being concerned in the

supply of Class A Drugs (Case Reference 01MP1288923) and three offences of possession of a controlled drug of Class A with intent (Case Reference 01GD1114125), and pursuant to section 20 of the Sentencing Act 2020 in respect of one offence of damaging property (Case Reference 01KG1216525). On 12 December 2025, in the Crown Court at Wood Green, the offender vacated his plea in relation to offence 2 on Case Reference 01MP1288923 (being concerned in the supply of a controlled drug of Class A). No evidence was offered against him in respect of this offence, and a not guilty verdict was entered, pursuant to Section 17 of the Criminal Justice Act 1967. Thereafter, he was sentenced by Mr Recorder Searle as follows: for the three offences of possession of Class A drugs with intent, to concurrent sentences of 30 months' imprisonment; and for the (now) single offence of being concerned in the supply of Class A drugs, to a concurrent sentence of 18 months' imprisonment. The recorder ordered no separate penalty for the offence of criminal damage. The total sentence was accordingly one of 30 months' imprisonment. The Solicitor General seeks leave to refer this sentence as unduly lenient, arguing that the term imposed failed sufficiently to reflect the overall criminality. The Factual Background 5. 6. 7. We take the facts, which are agreed, from the Solicitor General's Final Reference. In 2022, a drugs line branded "Bobby" was attributed to the offender through the use of mobile phone data analysis and the work of an undercover officer. The offender was arrested on 28 July 2022 and was in possession of a mobile handset which contained the current telephone number for the "Bobby" line. He pleaded guilty to three counts of being concerned in the supply of drugs of Class A and B between 21 June 2021 and 28 July 2022, and to a single count of possessing drugs of Class B with intent on 28 June 2022, for all of which he was sentenced to three years' imprisonment on 17 March 2023 ("the March 2023 sentence"). A new number was obtained for the "Bobby" line on 27 September 2022. Analysis showed that the new iteration of the line continued to supply the same customers as the old line had done. Cell site data showed that the handset was most commonly located overnight at the address to which the offender was subject to bail between 28 July 2022 and 3 January 2023, when his bail was varied to an alternative address. 8. 9. 10. 11. 12. On 17 January 2023, an undercover police officer known as "Dee" was directed by another drug user to a Ford Fiesta parked in Newington Green Park, N16. The offender was in the car, and Dee was able to purchase two wraps of cocaine from him for £20. On four further occasions between 25 January 2023 and 2 February 2023, Dee contacted the "Bobby" drugs line, was directed to a location, and was supplied with small quantities of crack cocaine by the offender. We shall refer to the offending arising from the resumed operation of the "Bobby" line between September 2022 and February 2023 as the "2022/23 offending". On 26 March 2025, officers were on foot patrol in the area of Clapton Square. The offender was in a larger group of around 20 men, who were drinking and smoking in a corner of the square. On seeing police, the offender began to walk away. When officers approached, he began to run, was chased and detained. He attempted to discard a rolled-up pair of black gloves which were examined and found to contain a pink plastic pot which held:

- (a) 19 packages containing a total of 1.05 grams of crack cocaine, with a potential street value of £95;
- (b) One silver foil package containing 3.87 grams of crack cocaine, with a potential street value of £385;
- (c) One package containing 6.74 grams of cocaine hydrochloride, with a potential street value of £520 to £650; and
- (d) 12 grip seal bags printed "420" on one side, containing pink powder: a total of 10.8 grams of MDMA, with a potential street value of £360 to £600. The offender was in possession of a mobile phone which was analysed and, given the common contacts with the previous iterations of the "Bobby" line, was established to be a yet further iteration of that line. We shall refer to the offending in 2025 as "the 2025 offending". As to the criminal damage offence: on 30 June 2025, the offender was in the road where his former partner and mother of his child lived. She entered the road in the early evening, as a passenger in her mother's vehicle, along with a friend. The offender began to shout verbal abuse at his former partner, before jumping onto the bonnet of her mother's black Range Rover, and starting to kick the car and windscreen, causing it to break, whilst shouting "Watch, fucking watch now". 13. The offender was arrested on 3 July 2025. The Proceedings 14. 15. On 4 July 2025, the offender first appeared in the Magistrates' Court. Guilty pleas were entered to all six charges across the three cases, which were committed to the Crown Court for sentence. On 25 July 2025, the case having been listed for sentence, an adjournment was granted for the preparation of a psychiatric report and a pre-sentence report. 16. On 21 November 2025, when the case was listed again for sentence, the psychiatric report was served. In light of apparent assertions in the report, directions were made for the service of any basis of plea. A basis of plea was served in respect of offences committed in March 2025. This was not agreed by the Crown and was not maintained. 17. The case proceeded to sentence on 12 December 2025. The Sentencing Exercise 18. 19. In his history the offender had eight convictions for 24 offences, including two offences of being concerned in the supply of drugs of Class A (crack cocaine and heroin), one offence of being concerned in the supply of Class B drugs (cannabis) and one offence of possession with intent to supply Class B drugs (cannabis). These were the offences the subject of the March 2023 sentence. Most recently he was sentenced to 14 months' imprisonment for an offence of dangerous driving in April 2024. There was a pre-sentence report and a psychiatric report prepared for sentence, both of which we have read carefully, along with the sentencing notes prepared by prosecution and defence counsel. We have also seen and considered a transcript of the full sentencing hearing. 20. The author of the pre-sentence report commented on the offender's low level of maturity, observing that: "A maturity assessment suggests he has a very low level of maturity, with a score of 16, 10 and above indicating low maturity. This would indicate that he has some difficulties exercising self-control and moderation in his actions, particularly in relation to responsibility and perspective. These factors can significantly influence decision making and behaviour. They can lead to impulsive actions without considering the

consequences, a failure to take responsibility for one's actions and a limited understanding of others' viewpoints. At his age it is likely that his consequential and problem-solving skills have not fully developed. Therefore, he may have less awareness of the potential outcome of his decision making." 21. The author went on to note: "Robust licence conditions have not had any effect on his decisions to re-offend, and whilst he professes to want to change, he will then blame professionals for not providing him with the help he says he needs, which then justifies the further offending. I am not sure he is yet mature enough to effect meaningful change." 22. 23. The psychiatrist noted that the offender reported symptoms to him indicative of a depressive condition and of post-traumatic stress. The offender told him that he had been assessed as having ADHD by Child and Adolescent Mental Health Services (CAMHS) when he was a child and had received medication for it at the time. The offender wrote a letter in which he described being "kicked out of" his sister's address, leading to a recall, and then starting to drink and use drugs, following his daughters being taken into care. He said that he thought that Probation would help, but that no one helped him, and that Probation would not let him live with his family and that he had been made subject to conditions which had nothing to do with his case. He said that he wanted help and then to be around his family and have their support, and to make a change in his life. He referred to his own father having been in custody for much of his childhood. He said that he understood that he needed to face the consequences of his actions, but that he wanted to be with his family, and knows that he has a bright future. A letter from his sister explained that the offender had been imprisoned and so had been unable to regain custody of his children, which she said had led to an "emotional breakdown", which in turn led to recreational drug use. She had had to ask him to leave her home for the sake of her own mental health, and that left him homeless. He was not offered support with housing and had been recalled on his licence. Since then, he had had another child who is now aged 2. She said that he wanted to change his life for his children, but "being homeless and wanted by the police made it impossible for him to continue". A letter from a friend referred to the offender's distress and that he had broken down in front of Probation officers and begged for support but had been "dismissed or overlooked" and that "neglect left him feeling suicidal and completely abandoned". He lost friends to knife crime in December 2022 and February 2025, and turned to drugs to cope, which she described as "survival responses". A letter from the offender's former partner, the victim of the criminal damage offence, referred to "personal loss, systemic failures, and untreated mental health conditions". She said that she had had to withdraw contact between the offender and his son until he was stable. She said that he needed structured rehabilitation and access to mental health services. The defence note prepared for sentence drew attention to totality, asking the court to consider the offending committed in 2022/23 as a continuation of the offending for which the offender had been sentenced in March 2023 and to reduce the sentence "by some margin" to reflect totality. In sentencing the offender, the recorder observed that the 2022/23 offending took place some months before the offender was sentenced in March 2023 for the first collection of offences arising from his operation of the "Bobby" drugs line. He went on to say: "These matters essentially could have been dealt with when you were sentenced in March 2023, but they

were not. There was a slow investigation and it seems to me bearing in mind the principle of totality and your age at that sentence of three years probably would not have been increased. I do not have a crystal ball but that is my experience of these matters." The recorder went on to observe that shortly after his release in 2025 from the sentence passed in March 2023, the offender had resumed street dealing using the "Bobby" line once more "and I do not think that helps you". Counsel had agreed that the dealing fell into category 3 significant role, where there is a starting point of four and a half years' imprisonment, with a range of three and a half 24. 25. 26. 27. 28. 29. 30. to seven years. The recorder said that the sentence went up in the range to six years because of the offender's previous convictions and the fact that the offender was dealing following his release on licence from the March 2023 sentence. With full credit it came down to four years. The recorder then went on to reduce the sentence further. He observed that he thought there was some remorse and that he also took account of the offender's age and his lack of maturity as well as "the mental issues that are raised by the psychiatrist in this case". Allowing for this mitigation he reduced the sentence by 18 months to one of two and a half years' imprisonment. Having ordered no separate penalty for the criminal damage matter, the recorder then turned to the offences dating from 2022/23 saying: "Those matters ... should, I think, despite the consequences of austerity and police starvation of resources, those matters really should have been investigated by the time you were sentenced in March 2023, because you have been arrested in July 2022 and it is nearly nine months." 31. The recorder proceeded to pass a concurrent sentence of 18 months' imprisonment for the 2022/23 offending. Prosecuting counsel at the time pointed out that the 2022/23 offending had covered the period from 27 September 2022 to 9 March, not just July 2022 as the Recorder had said, and that this period of offending had ended only eight days before the March 2023 sentencing hearing. However, the recorder said that that made no difference to his thinking. Submissions on this Reference

32. Miss Hole, who appears for the Solicitor General, started by acknowledging that the recorder correctly categorised the offending and that he had been entitled to approach the principle of totality by aggregating the offending and passing a lead sentence on the most serious offence. She submitted, however, that the recorder erred in deciding that the 2022/23 offending would not have been reflected in any uplift to the sentence of three years passed in March 2023. Further, she submitted that the recorder erred in ordering the sentence of 18 months' imprisonment for the 2022/23 offending to run concurrently. Next, she says that the recorder was wrong to apply the discount for the guilty plea before taking into account mitigation, rather than after doing so, and that in any event the Recorder allowed too great a reduction from the starting point for that mitigation.
33. Miss Hole emphasised that the offending for which the offender had been sentenced in March 2023 related to his operation of the "Bobby" line between June 2021 and July 2022. He was arrested for that in July 2022 and thereafter was on bail until he was ultimately sentenced in March 2023. Three months after his arrest, when he was on bail, the offender re-started the "Bobby" line with a new phone and a new number; he then proceeded to re-offend in precisely the same way for a further six months whilst on bail pending sentence

for his first operation of the "Bobby" line. This second period of offending ended with his arrest on 9 March 2023, eight days before the March sentencing hearing. Miss Hole submitted that even if the second period of operating the "Bobby" line had been sentenced together with the first in March 2023, there would either have been consecutive sentences, recognising the two separate periods of offending, or, if ordered to run concurrently, there would have been a substantial uplift to reflect the further period of offending and the fact that it was committed while the offender was on bail awaiting sentence for the first period of offending.

34. Miss Hole suggested that the recorder ought to have considered the 2022/23 offending separately to start with, aggravating the starting point upwards by reference to previous offending and the fact of its being committed in breach of bail, before making a reduction for totality. In any event, Miss Hole argued, the sentence for this second period of operating the "Bobby" line in 2022/23 should not have been ordered to run concurrently with the sentence for the third period of operating the line, as it was wholly distinct in time. This was not a case of offending of some age being dealt with after a period of delay. Alternatively, accepting that the recorder was entitled to make the sentence for the 2025 offending the lead sentence, Miss Hole says that there should have been a substantial uplift to that sentence to reflect the second period of operating the "Bobby" line in 2022/23. 35. 36. As to the guilty plea discount, Miss Hole pointed out that the reduction for plea should have happened at Step 5 of the guideline, after taking into account mitigation at Step 3. On the recorder's own sentencing figures the erroneous sequencing had resulted in an over-reduction of six months. Finally, it is said that the recorder's reduction for mitigation of 18 months, being nearly 40 per cent of the sentence of four years, was just too much. There was some mitigation in the offender's age and lack of maturity, but only limited mitigation deriving from the psychiatric report, which was essentially a recitation of what the offender told the psychiatrist, rather than being founded on any recorded current or historical medical history. The delay in sentencing for the 2022/23 offending had not resulted in any detriment to the offender as he had been recalled on licence on several occasions and had re-offended in the form of dangerous driving. In any event, that delay would be accounted for in a reduction for totality.
37. Miss Birch, who appeared for the offender on this Reference as she did at sentence, submitted that the recorder considered matters very carefully and that he was entitled to take the approach which he did. She pointed out that the offending for which the offender was sentenced in March 2023 itself encompassed different periods, yet concurrent sentences had been imposed. At the sentencing hearing the prosecution had itself characterised the 2022/23 offending as a continuation of the earlier periods. So the recorder had been entitled to take the view that the 2022/23 offending would not have added to the sentence to any great extent. 38. The effect of the delay had been considerable, Miss Birch pointed out. The offender was interviewed in September 2023 when he was in custody serving the sentence passed in March of that year, yet a postal requisition was not sent to him until May 2025, by which time he had been released and had embarked on a series of rehabilitative activities –

all while the possibility of a further sentence hung over him. She said that even if the court in March 2023 had imposed an uplift to reflect the second period of operating the "Bobby" line, it would not have been four and a half years, discounted for plea. 39. As to mitigation, Miss Birch pointed out that the offender was still young. He had been assessed as of low maturity for his age. He had been described by the psychiatrist as a "vulnerable defendant for whom a custodial sentence will be traumatising". Taken together, this had entitled the recorder, in the exercise of his sentencing judgment, to make the reduction which he did. The resulting sentence of 30 months' imprisonment was not unduly lenient. Discussion and Decision

40. We record at the outset our gratitude to both counsel for their economic and attractive

submissions.

41. The principles which apply to the application of section 36 of the 1988 Act have recently been summarised in Attorney General's Reference (R v Egan) [2022] EWCA Crim 1751 as follows: "3. The principles to be applied on an application under section 36 of the 1988 Act are well established and have been summarised as follows:
- (1) The judge at first instance is particularly well placed to assess the weight to be given to competing factors in considering sentence.
 - (2) A sentence is only unduly lenient where it falls outside the range of sentences which the judge at first instance might reasonably consider appropriate.
 - (3) Leave to refer a sentence should only be granted by this Court in exceptional circumstances and not in borderline cases.
 - (4) Section 36 of the 1988 Act is designed to deal with cases where judges have fallen into gross (see for example Attorney-General's Reference (Azad) [2021] EWCA Crim 1846; ... at paragraph 72 in a judgment given by the Chancellor of the High Court: 'It has been noted that even where this court considers a sentence is unduly lenient it retains a discretion as to whether or not to exercise the power to increase the sentence.'" 42. Turning to the recorder's sentence here, had the later offending stood alone we would have regarded the sentence as lenient, but not unduly so. The offender is still a young man, and one with disadvantages; he is described by the psychologist as vulnerable. His offending is likely to be the result of immature, impulsive activity, making bad choices without thought for the consequences, as the author of the pre-sentence report observed. Taken on its own, with these factors in mind, we would not interfere with the recorder's raised starting point of six years, or his reduction of 18 months for mitigation, in respect of the later offending.
43. With respect to the recorder, however, the reduction for the guilty plea should have come after, not before, the reduction for mitigation and we accept that this has led to an over-reduction. Again, however, had that been the only error, we would not have regarded the result as unduly lenient, for the 2025 offending. 44. The difficulty here is that there were two

other offences to be considered and reflected in the overall sentence: the earlier offending in 2022/23 and, albeit to a much lesser extent, the criminal damage. 45. In respect of offending which pre-dates a sentence an offender has already served, or is already serving, some assistance may be found in the Totality Guideline, in a drop down box under the heading "Sentencing for offences committed prior to other offences for which an offender has been sentenced": "The court should first reach the appropriate sentence for the instant offences, taking into account totality in respect of the instant offences alone. The court then has a discretion whether to make further allowance to take into account the earlier sentence (whether or not that sentence has been served in full). The court should consider all the circumstances in deciding what, if any, impact the earlier sentence should have on the new sentence. It is not simply a matter of considering the overall sentence as though the previous court had been able to sentence all the offences and then deducting the earlier sentence from that figure. A non-exhaustive list of circumstances could include:

- (a) how recently the earlier sentence had been imposed, taking account of the reason for the gap and the offender's conduct in the interim
- (b) the similarity of the offences sentenced earlier to the instant offences
- (c) whether the offences sentenced earlier and instant offences overlapped in time
- (d) whether on a previous occasion the offender could have 'cleaned the slate' by bringing the instant offences to the police's attention
- (e) whether taking the earlier sentences into account would give the offender an undeserved bonus - this will particularly be the case where a technical rule of sentencing has been avoided or where, for example, the court has been denied the opportunity to consider totality in terms of dangerousness
- (f) whether the instant offence qualifies for a mandatory minimum sentence
- (g) the offender's age and health, and whether their health had significantly deteriorated
- (h) whether, if the earlier and instant sentences had been passed together as consecutive sentences, the overall sentence would have required downward adjustment to achieve a just and proportionate sentence."

46. Whilst the 2022/23 offending was committed after the offences for which the offender was sentenced in March 2023, we think that the above is a useful guide when considering how totality was best to be taken into account. The 2022/23 offending, considered alone, would have engaged a starting point of four and a half years' imprisonment. It would have been aggravated by the previous offending and the fact that the offender was offending whilst on bail for similar offences, before being reduced by personal mitigation and then by one third for his guilty plea. Following the guidance, above, the court would then have considered all the circumstances. Those circumstances suggested in the guideline above at a, b, c and h appear relevant here. The second period of "Bobby" line offending was of a similar type, but

it was an active resumption following arrest and cessation of the first iteration, not an overlap. We think that that would have merited in the region of an additional two years' imprisonment at the time.

47. We agree with Miss Hole that the delay in the 2022/23 offending reaching court, in circumstances where the offender was repeatedly being returned into custody for breaching the terms of his licence and committing further offences, before resuming the "Bobby" line dealing for the third time, cannot be said to have resulted in any real detriment to the offender.
48. We do not accept that a reduction of 18 months' imprisonment for mitigation was excessive, though it was certainly generous. Had the recorder applied this reduction to the six years which he identified, this would have resulted in a notional sentence after trial of four and a half years' imprisonment which, after discount for the guilty plea, would have given a sentence of 36 months (or three years).
49. We agree with Miss Hole that the 2022/23 offending should have been reflected either in an uplift or in a consecutive sentence. There was also the separate offence of criminal damage to be considered. We do not at all criticise the recorder for ordering no separate penalty, but this offence nevertheless had to be reflected in the overall sentence. We conclude that the overall sentence should have been one of five years' imprisonment, so as properly to reflect the overall criminality. It follows that the sentence of 30 months' imprisonment was in our view unduly lenient. 50. We have considered whether the circumstances are such that we should use our discretion to decline to interfere, but have decided that this is not such a case.

Conclusion

51. For the reasons we have given, we grant the Solicitor General leave to refer the sentence under section 36 of the 1988 Act. We quash the concurrent sentences of 30 months' imprisonment on each of the three offences of possession of a controlled drug of Class A with intent, under Case Reference 01GD1114125, and replace them with sentences of 5 years' imprisonment, to run concurrently with each other. We also quash the sentence of 18 months' imprisonment on the single offence of being concerned in supply of Class A drug, under Case Reference 01MP1288923, and replace it with a concurrent sentence of two years' imprisonment. All other sentences and orders remain the same. The final total sentence is one of five years' imprisonment.

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Prepared on 26 October 2026 · Esheria