

ENGLAND AND WALES / JUDGMENT

R v Brian Hollywood

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[2026] EWCA Crim 558 WC2A 2LL ON APPEAL FROM THE CROWN COURT AT YOIRK (HIS HONOUR JUDGE HICKEY) [12NY0128525] Case No 2025/02483/A5 Friday 24 April 2026 Before: LORD JUSTICE DOVE MR JUSTICE SOOLE THE RECORDER OF THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA (His Honour Judge Edmunds KC) (Sitting as a Judge of the Court of Appeal Criminal Division)

R EX

- v – BRIAN HOLLYWOOD

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Mr S Downey appeared on behalf of the Appellant

J U D G M E N T

Friday 24 April 2026 LORD JUSTICE DOVE: I shall ask Mr Justice Soole to give the judgment of the court. MR JUSTICE SOOLE:

1. On 17 June 2025, in the Crown Court at York, the appellant (then aged 30), following his earlier guilty pleas, was sentenced to a total term of 11 years' imprisonment in respect of three counts of possession of a Class A drug (Nitazene) with intent, contrary to section 5(3) of the Misuse of Drugs Act 1971. The individual sentences on counts 1 to 3 were respectively: six years' imprisonment; six years nine months' imprisonment, concurrent; and 11 years' imprisonment, concurrent.
2. With the leave of the single judge, the appellant contends that the sentence was manifestly excessive and also that insufficient credit was given for his guilty pleas. The Facts Count 1 3. On 6 January 2025, police attended an address in Scarborough after a suspected stolen vehicle was seen on the driveway. The appellant was present. The police search found a sports bag containing 70 tablets and 21.3 grams of loose powder; and drugs paraphernalia including scales, stirrers, potassium carbonate, two large 10 kilogram pill presses, rubber tubing and filters. Material found on the appellant's mobile phone was consistent with drug supply. The tablets bore the name Xanax and were subsequently confirmed to be the synthetic opioid Nitazene; as was the loose powder. The tablets were worth around £100. The appellant was arrested, interviewed and bailed. Count 2
4. On 22 January 2025, police executed a search warrant at another address where the appellant was present. A search produced similar drugs paraphernalia and 933 Nitazene tablets, equating to around 397 grams and worth between £270 and £300 in bulk, or about £2,300 if sold individually. The appellant was again arrested, interviewed and remanded to be charged and produced at the Magistrates' Court.
5. On 24 January 2025, the appellant appeared at the Magistrates' Court. At that stage no IDPC (Initial Details of Prosecution Case) had been provided by the Crown Prosecution Service: see the subsequent Defence Engagement Log entry dated 10 February 2025. The Court Extract for 24 January identifies charges of possession with intent to supply Class C drugs; possession with intent to supply Class B drugs; possession with intent to supply Class A drugs (cocaine); and possession with intent to supply Class A drugs (Nitazene). However, against the latter charge, the Court Extract records "withdrawn in favour of another offence". The Better Case Management form completed on the same date includes, against the topic of "Real issues in the case", the answer "Capable of resolution but not today". The appellant was remanded in custody until a hearing in the Crown Court listed for 17 February 2025.
6. The first indictment, dated 10 February 2025, contained four counts. The first count charged possession between 5 and 23 January 2025 of a Class A drug (Nitazene) with intent to supply. The second to fourth counts were of possession of Class B and C drugs with intent to supply. However an "HMCTS Admin" note on the DCS, dated 11 February 2025, states: "Count 1 is incorrect. It was withdrawn in the Magistrates' Court": see a like note on 14 February. A

prosecution note on the DCS, dated 14 February 2025, responds: "I am told there may have been confusion over difficulty finding a charging code for Nitazene and the charging code for cocaine being used. This is likely why PWITS-cocaine appears in the sending sheet. However the Crown are satisfied that the indictment... is correctly drafted..." Count 3 7. In the meantime, on 27 January 2025, police officers searched a storage facility being rented by the appellant. Inside the unit they found boxes of powder, bottle labels, a mask and a box containing 2.86 kilograms of Nitazene in powder form. This would have produced approximately 4,820 tablets with a wholesale value of between £1420 and £1565, or £12,240 if sold individually.

8. A further and final indictment, dated 17 March 2025, contained eight counts against the appellant. Counts 1, 2 and 3 reflected the offending set out above, i.e. possession of a Class A drug (Nitazene) with intent, respectively on 6, 22 and 27 January 2025. Count 4 was in respect of possession of a Class B drug with intent; counts 5 to 8 were of possession of a Class C drug with intent.
9. The previously listed hearing at the Crown Court on 17 February had been ineffective. At a hearing on 3 April 2025, this final indictment was put to the appellant. He thereupon pleaded guilty to counts 1, 2 and 3. This was acceptable to the Crown and the remaining counts were subsequently ordered to lie on the file.
10. In his sentencing remarks on 17 June 2025, the judge observed that Nitazene was used to be cut or used in heroin, making the heroin more deadly to consumers and to the addict. He took count 3 as the lead offence. By reference to the relevant sentencing guidelines, he concluded that the appellant had a leading role, with close links to the original source. The evidence showed that he was the "main man" who carried out his own operation across the three properties. Further, he had never suggested that he was acting for someone higher up the chain or under duress. Having particular regard to the quantity (2.86 kilograms in count 3), the judge concluded that the harm was "somewhere between category 1 and category 2". Category 2 had a starting point of 11 years' custody, and a category range of nine to 13 years. The judge continued that he would base it on category 2 but increase the starting point to 12 years.
11. The judge then adjusted that figure in two ways: first, in order to take account of the offending in counts 1 and 2; and secondly, to reflect the aggravating factors of the appellant's previous convictions and the fact that the offence in count 2 had been committed whilst on bail. The previous convictions included eight drugs offences between 2013 and 2015, including possession of Class A; supply, and possession with intent to supply, Class B; and concern with importation of Class C.
12. The judge concluded that these factors raised the appropriate sentence, before credit for the guilty plea, to 16 years' custody. As to credit, it was argued on behalf of the appellant that the first opportunity to enter a plea did not take place until the hearing on 3 April 2025 when the final indictment was put to him and that accordingly he should have the full one- third

credit. The judge rejected this submission. He stated: "That cannot be right because on the better case management form, it quite clearly says, 'Capable of resolution, but not yet', and the difficulty that was found in the Magistrates' Court, and the suggestion that nobody knew this was Nitazene cannot be right. You must have known, and in any event, it was properly categorised as a Class A other. The only difficulty – as the Crown have illustrated – is nobody could cope with it on the computer system – they could not simply categorise it, so it was administrative electronic – as it were – difficulty. The law says unless you enter a plea at the first available opportunity, credit must be at the pre-trial preparation hearing – which it is – therefore, 25 per cent is the credit."

13. That level of credit reduced the sentence on lead count 3 to 12 years' custody. The judge then stepped back to consider totality and the overall sentence, and reduced it by one year to 11 years' custody. The lesser sentences on counts 1 and 2 were duly ordered to run concurrently.
14. The first ground of appeal was that the judge was wrong to conclude that the appellant had a leading role in the operation; assessment of the role as significant would have been more appropriate. The single judge refused leave on that ground, which has rightly and realistically not been renewed.
15. The second ground of appeal is that the judge wrongly placed the harm in category 1, rather than in category 2. Mr Downey, on behalf of the appellant, rightly did not press this point in oral submissions today. The transcript does not support that contention. The judge stated that the quantity on count 3 placed the harm somewhere between category 1 (5 kilograms) and category 2 (1 kilogram). To that end he stated that he would base the harm on category 2 but increase the starting point for that category from 11 to 12 years' custody. We see no error in that approach or conclusion.
16. The third ground of appeal is that the judge's increase from 12 years to 16 years produced a notional sentence before credit for plea which was grossly excessive. Mr Downey submits that a 16 year, pre-credit, sentence for count 3 would normally be applied only to the most serious of cases where drugs such as heroin and cocaine were found in much larger quantities.
17. In our judgment, this argument overlooks two matters. First, the notional sentence of 16 years' imprisonment was not imposed in respect of count 3 alone. The sentence on that lead offence duly took account of the offending which was the subject of counts 1 and 2 and for which concurrent sentences were to be imposed. Secondly, the sentence took account of the significant aggravating factors which had been identified. We also consider that the judge was right to take account of the particularly harmful aspects of Nitazene to which he referred.
18. In addition, it is necessary to take account of the fact that the judge, at the final stage of the sentencing exercise, made a reduction of one year to reflect the principle of totality. That was a step which he could have taken at the earlier stage when he determined the

appropriate sentence on the lead offence, before credit for plea. However, the effect of that final reduction for totality was that the judge had in reality identified the appropriate, pre-credit, overall sentence as 14 years and eight months (176 months). With credit of 25 per cent (44 months), that results in the net sentence of 11 years (132 months).

19. In our judgment, and having regard to the offending on all three counts and the significant aggravating factors, the effective pre-credit sentence of 14 years and eight months' imprisonment was not manifestly excessive.
20. The final ground of appeal is that the judge was wrong in principle in refusing to grant a full one-third credit for the guilty pleas entered on 3 April 2025. Mr Downey points to the narrative to which we have referred and submits that there was no charge in respect of Nitazene to which the appellant could plead until the hearing on that date. The judge was wrong to conclude otherwise. Further count 3, the most serious offence, post-dated the hearing in the Magistrates' Court and was only included in the final indictment.
21. We agree with these submissions. Whatever the nature of the administrative or computer difficulties which arose in respect of the codification and charging of offences in respect of Nitazene, the fact remains that there was no such charge before the Magistrates' Court on 24 January. The only Class A charge was in respect of cocaine. In our judgment the first reasonable opportunity to plead to the Nitazene charges, including the most serious one in count 3, did not occur until the hearing on 3 April. Accordingly the full credit of one-third should have been given.
22. We conclude that full credit should be applied to the judge's effective pre-credit sentence of 14 years and eight months on lead count 3 – and indeed the two concurrent sentences. With necessary rounding down, that reduces the present sentence on count 1 from 11 years to nine years and nine months' imprisonment. As to count 1, with full credit, the present concurrent sentence of six years, is reduced to a concurrent term of five years and four months' imprisonment. As to count 2, the present concurrent sentence of six years and nine months is reduced to a concurrent term of six years' imprisonment. Thus, the total overall sentence is one of nine years and nine months' imprisonment.
23. Accordingly, and to that extent, this appeal against sentence is allowed.

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Prepared on 29 October 2026 · Esheria