

ENGLAND AND WALES / JUDGMENT

R v Faheem Younis

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THE COURT OF APPEAL CRIMINAL DIVISION ON APPEAL FROM THE CROWN COURT AT NOTTINGHAM (HHJ SHANT KC) [31CF1241622] CASE NO 202302896/B1 Neutral Citation Number: [2025] EWCA Crim 1632 Royal Courts of Justice Strand London WC2A 2LL 15 th December 2025
Before: LADY JUSTICE ANDREWS MRS JUSTICE CUTTS MRS JUSTICE THORNTON REX V FAHEEM YOUNIS

Computer Aided Transcript of Epiq Europe Ltd, Lower Ground, 46 Chancery Lane, London WC2A 1JE Tel No: 020 7404 1400; Email: rcj@epiqglobal.co.uk (Official Shorthand Writers to the Court)

NON-COUNSEL APPLICATION

J U D G M E N T MRS JUSTICE THORNTON:

Introduction

1. On 27 July 2023 the applicant (then aged 42) was convicted of the murder of Darren Davis by stabbing during an argument over a drugs debt. He was subsequently sentenced to life imprisonment with a minimum term of 24 years. He renews his application for leave to appeal against conviction following refusal by the Single Judge. Grounds of Appeal
2. The grounds of appeal are as follows. The cumulative effect of these matters is said to be that the applicant was prejudiced and there was a serious adverse effect on the fairness of the trial.
 - 1) The judge erred in allowing the prosecution to cross-examine the witnesses, Gary Reid and Simon Ruby, as hostile witnesses. Gary Reid was a serving prisoner who had previously made a statement saying the applicant had confessed to stabbing someone but his evidence at trial was diametrically opposed to this account. Simon Ruby spoke to the applicant just before and after the fatal stab wounds had been inflicted. He was an eyewitness.
 - 2) The second ground of appeal is that the judge erred in allowing the co-accused's application to adduce hearsay evidence of Emma Donnelly, DC Buckey and PC Brooks in respect of Gary Reid's previous inconsistent statements to them.

3. We have considered matters afresh but for the reasons given by the Single Judge, which we annex to this ruling, we refuse leave on this renewed application, having nothing further to add to the comprehensive analysis. ANNEX 1 Reasons given by the single judge for refusing leave to appeal conviction On the 27th of July at the Nottingham Crown Court, you were convicted of the murder of Darren Davis by stabbing him during an argument over a drugs debt. You say that the judge wrongly exercised her discretion in giving leave to the prosecution to treat two witnesses, Gary Reid and Simon Ruby, as hostile and to cross examine them. You further say that the judge was wrong to allow evidence to be adduced, under section 119 of the Criminal Justice Act 2003, of previous inconsistent statements by Gary Reid. You say that the cumulative effect of these matters was that you were prejudiced and that they had a serious adverse effect upon the fairness of the trial. Mr Reid was a serving prisoner who you encountered whilst you were on remand. He made a statement in March of 2023 in which he gave evidence that you had confessed to stabbing someone with your bad (right) hand and he, Mr Reid made a contemporaneous note to that effect in his 'diary' on the 'October' page (although the diary was used as a notebook rather than for dated entries). He passed on the information he had received to the prison authorities in keeping with his role as a prison orderly on his wing. The diary entry was an exhibit. He gave important evidence for the prosecution. His statement said, 'He didn't say anything else about the stabbing other than what I wrote down'. His evidence at trial was diametrically opposed to this account. He suggested that the police had deliberately copied only one side of his note and the part that had not been copied would have established that you did not stab anyone. In fact, the police had photocopied the only entry which had been pointed out to them as relevant by the witness. They had then returned the diary which remained in Mr Reid's possession. At trial a further entry was pointed out by Mr Reid in the witness box which said the opposite, in effect, to the entry copied by the police. It was on the 'September', and hence, earlier page. The prosecution's position was that the exculpatory entry had been added in the period after the diary had been returned and before trial. The police officer who had carried out the relevant part of the investigation was called to give evidence which supported the prosecution's contention. The judge gave a considered ruling and, in due course, an appropriate direction to the jury which is not criticised. Mr Ruby spoke to you just before and after the fatal stab wounds had been inflicted. He was an eyewitness and tended to the victim as he was dying. He could be seen talking to you and Darren Davis on the CCTV recordings spanning the period during which the offence was committed. He had provided three witness statements. The judge summarised what he had said and his change of position in her summing up: 'In his statement, he'd said that he'd been with Darren Davis when he went to Kallu's address. He had waited outside for him on the front while Darren Davis went into the address and went into the back of the house. Darren Davis had gone in with his bike but had come out, and when he came out, he no had longer his bike, and he couldn't say when and where Darren Davis got stabbed. In his evidence he told you that he couldn't remember going to Ruskin Street and he couldn't help you as to where Darren Davis went on 10 August 2022.' The evidence that he had seen Darren Davis enter your home by the back door was an important part of the prosecution case. The

Judge fairly explained the reason he gave for the change in his evidence and, in due course, gave an appropriate direction to the jury as to how they were to approach that evidence. It was evident that he had become hostile and unwilling to give evidence in accordance with his statement. The judge's ruling in relation to both witnesses was an exercise of her discretion. You do not identify any error of law or principle on her part; you simply disagree with the outcome. The application to adduce the previous inconsistent statements of Gary Reid was made by the Co-defendant because Mr Reid had suggested that he, the co-defendant was responsible for the diary entries which the prosecution had sought to rely on. This was to your advantage but on the prosecution case was untrue and a dishonest attempt to implicate the co-defendant. The three witnesses who gave the evidence were subsequently available for cross examination. Your primary case was that you were not the person who stabbed the victim and simply heard an altercation when you were in your house. As the judge observed the effect of this was to deflect responsibility for the killing on to others who were at the scene and, necessarily, your co-defendant. The judge gave a full written ruling on the application. As she correctly observed, section 78 of the Police and Criminal Evidence Act 1984 was not engaged because it was not the prosecution which was seeking to rely on the previous inconsistent statements. Because the evidence, potentially, involved multiple hearsay the judge considered and applied section 121 and was satisfied that the statements were reliable and that the value of the evidence was so high that it was in the interests of justice for it to be admitted. As the judge conducting the trial she was best placed to make that assessment and to balance the interests of justice between you, your co-defendant and the prosecution. Again, you do not suggest that she made any error of law or principle, you merely disagree with the way in which she exercised her discretion. The judge's rulings on the issues you identify in your grounds of appeal were well within the range of reasonable and reasoned decision-making by a judge conducting a criminal case notwithstanding your simple assertion that they were not. Your conviction was not arguably unsafe. "

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