

ENGLAND AND WALES / JUDGMENT

R v Henry King

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[2026] EWCA Crim 526 WC2A 2LL ON APPEAL FROM THE CROWN COURT AT AYLESBURY (MR RECORDER KIDD) [43SS0028525] Case No 2025/02772/B2 Friday 17 April 2026 B e f o r e:
LORD JUSTICE DINGEMANS (Senior President of Tribunals) 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 – HENRY KING

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to the Court)

Miss S Powell (Solicitor Advocate) appeared on behalf of the Appellant

J U D G M E N T

Friday 17 April 2026 LORD JUSTICE DINGEMANS: I shall ask Mr Justice Soole to give the judgment of the court. MR JUSTICE SOOLE:

1. On 31 July 2025 in the Crown Court at Aylesbury, the appellant, then aged 20, was sentenced, pursuant to his conviction after trial for the offence of controlling or coercive behaviour in an intimate or family relationship, contrary to section 76 of the Serious Crime Act 2015 (count 1), to 30 months' custody. On the same occasion he was sentenced to a concurrent term of six weeks' custody for the offence of assault by beating committed on 12 January 2025, contrary to section 39 of the Criminal Justice Act 1988, to which he had pleaded guilty (count 2). In each case the complainant was his female partner. By these offences the appellant was in breach of a suspended sentence of 16 months' custody imposed by the same Crown Court on 14 June 2024 for one offence of robbery and one offence of assault occasioning actual bodily harm, committed respectively in May 2022 and April 2023. The Judge activated that sentence in full and ordered that the sentence on count 1 should run consecutively to it. Thus the total sentence was one of 46 months' custody.
2. With the leave of the single judge, the appellant appeals on the grounds that the sentences in respect of count 1 and the activation of the suspended sentence were, individually and collectively, manifestly excessive.
3. The appellant and the complainant were in a relationship for two years. The facts alleged in the indictment on count 1 were that between 13 April 2024 and 13 February 2025 the appellant was controlling or coercive towards his partner in that he caused her on two or more occasions to fear violence to be used against her, namely that he was verbally and physically abusive, spat in her face, damaged her property, accused her of looking at other men, controlled what she should wear and took a phone from her. The evidence at trial also included incidents where on various occasions the appellant bit her face, smashed property in her flat, smashed her into a Moses basket, dragged her by the hair, kicked her in the back, punched her in the face and called her a "whore". 4. In his sentencing remarks, the Judge first considered the appellant's breach, by the commission of the offences in counts 1 and 2, of the suspended sentence order imposed in June 2024. The requirements attached to that sentence included an unpaid work requirement of 100 hours, of which 42.15 hours had been completed. The Judge noted that there had been two breaches of the order, each of which had been dealt with by a fine. He also noted from the "Response to Supervision Report" that the Probation Service considered that the appellant had been in "medium compliance" with the order.
5. However the Judge concluded, with support from the author of that Response, that the new offences represented an escalation in the seriousness and harm of the appellant's offending. By reference to the relevant sentencing guideline, he placed the breach in the first category of "multiple and/or more serious new offences committed". The Judge rejected the rival contention that the new offences fell into the guideline category of "New offence similar in

type and gravity to offence for which suspended sentence order imposed", together with medium level compliance with the unpaid work requirement. He concluded that the suspended sentence must be activated in full.

6. The Judge then turned to count 1. By reference to the relevant sentencing guideline, he concluded that the offending fell into higher culpability category A. This was because of the features of conduct intended to maximise fear or distress; conduct intended to humiliate and degrade the victim; and persistent action over a prolonged period. The Judge placed the harm in category 1 because of the fear of, and actual, violence on several occasions. This produced a guideline starting point of 30 months' custody and a category range of one to four years.
7. The Judge then identified the aggravating factors as the appellant's previous convictions for violence, and the fact that the offence was committed during the period of a suspended sentence order. The previous convictions for violence were for robbery and criminal damage (in 2019), battery (in 2022), and assault occasioning actual bodily harm and robbery (in 2024). The identified mitigating factors were the appellant's age (18 – 19 at the time), his lack of maturity, and the personal mitigation relating to his upbringing and the death of his mother.
8. The Judge concluded that the aggravating and mitigating factors cancelled each other out and that accordingly the sentence should remain at the starting point of 30 months, which was ordered to run consecutively to the activated sentence of 16 months.
9. As to count 2, the facts were that the appellant had lost his temper with his partner because she had been out all day and had not brought him home a vape. He pulled her by the hair, hit her to the head and pinned her against a wall. By reference to the relevant guideline, the Judge concluded that the appropriate sentence before credit for the guilty plea was ten weeks' custody. With full credit for the guilty plea, the sentence imposed was one of six weeks' custody, to run concurrently. There is no challenge to that disposal. The appeal
10. The first ground of appeal is that the Judge was wrong to activate the suspended sentence in full. The appellant's advocate here and below, Ms Sarah Powell, submits that in circumstances where there had been medium compliance with the order, the Judge should have reflected that with an appropriate reduction in the extent of the activation. In support she relies on the sentencing guideline in respect of the second category of breach. Ms Powell also points to the fact that the appellant was a youth, aged 16 and 17 respectively, at the time of the commission of the two offences which led to the suspended sentence order.
11. Against this argument, the Respondent's Notice points to the fact that the Judge placed the new offences in the first category of the sentencing guideline, with the consequence that the level of compliance with the unpaid work requirement did not come into play. Ms Powell submits that on a fair reading of the guidance, a reduction reflecting the level of compliance may still be made, even if the new offence is in the first category.

12. The second ground of appeal is in two parts. First, that the Judge placed count 1 in the wrong guideline category for such offences. In particular, there was no victim impact statement. In such circumstances, the Judge should have placed the offence in category A2 at the highest, once all the adverse factors had been taken into account. We observe that in his sentencing remarks the Judge had rejected the submission that anything said by the complainant in cross-examination should be taken into account in circumstances where the jury evidently did not accept her evidence and its recanting of her previous statements. The Judge added "And nor do I".
13. Secondly, the Judge had wrongly identified and weighed the aggravating factors, and had given too little weight to the mitigating factors. As to the aggravating factors, the Judge should not have taken account of the fact that the offence was committed during the operative period of the suspended sentence. The Judge having activated the suspended sentence, this was double-counting.
14. As to mitigating factors, the Judge had given too little weight to the evidence, supported by the previous pre-sentence report dated 10 June 2024, of the appellant's abusive and neglected childhood, the loss of his mother in 2023, his poor state of health, young age and immaturity.
15. Thus it was wrong to conclude that the aggravating and mitigating factors merely cancelled each other out. The mitigating factors significantly outweighed the one aggravating factor of the previous convictions.
16. The third ground of appeal is that the Judge gave insufficient consideration to the guidelines for Sentencing Children and Young People and the overriding principle of totality. More weight should have been given to the appellant's young age and immaturity. Further, with appropriate and express consideration of totality, the overall sentence of 46 months' custody was manifestly excessive.
17. We refer next to the pre-appeal report dated 5 March 2026 which this Court has obtained from the Probation Service. As to the count 1 offence, its author observes an ambivalent approach by the appellant. His impression is that the appellant has established a sense of control and ascendance in his continuing relationship with the complainant by bullying and diminishing her. Whilst observing that all this may reflect his young age, the author is not persuaded that the appellant fully acknowledges or understands his offending behaviour. That said, he sees signs of "emerging maturity", and he notes that the appellant receives far more meaningful and consistent support from the victim's family than from his own.

Conclusion

Ground 1:

18. In our judgment, the Judge was entitled to conclude that the new offences were more serious than those which were the subject of the suspended sentence order. As is apparent from the pre-sentence report of 10 June 2024 and the police summaries, the offences of robbery and assault occasioning actual bodily harm were most unpleasant and fully deserved the sentences which were imposed. However the coercive and controlling behaviour against the complainant was abuse of another order; continued over a period of ten months; and was further exemplified by the assault in count 2. The probation service was fully justified in its conclusion that the new offences were an escalation in seriousness and harm. Further, the trial judge was in the best position to make that assessment. Nonetheless, at the end of the sentencing exercise it remained necessary for the Judge to consider the question of totality, to which we shall return. Ground 2:
19. We do not accept that the Judge fell into error when placing this offending in category A1. On the contrary, the evidence fully justified that categorisation. The Judge rightly rejected the submission that the evidence of the complainant, disavowing her previous statements, justified a lower category of culpability or of harm. That evidence had been rejected by the jury. Accordingly 30 months' custody was the appropriate starting point.
20. Nor do we accept that the Judge was wrong to treat as an aggravating factor the fact that the offences had been committed in breach of the suspended sentence, nor that it involved double-counting with the distinct question of the activation of the suspended sentence. We see no basis for interfering with the Judge's assessment that the aggravating and mitigating factors cancelled each other out, nor therefore with the sentence of 30 months' custody which was imposed. Ground 3:
21. We are satisfied that the Judge gave full and appropriate weight to the guideline for Sentencing Children and Young People, in particular with reference to the appellant's age and maturity. However we do consider that the Recorder fell into error at the final stage of the sentencing exercise. At that stage he should have stood back and expressly considered totality. It is therefore necessary for this Court to do so.
22. In our judgment, with due account of totality, the total sentence should not have exceeded 38 months' custody. To that end, we shall reduce the period of activation of the suspended sentence from 16 months to 8 months, to which the sentence of 30 months on count 1 will run consecutively.
23. In addition, the appellant being under 21 at the date of conviction, the custodial sentence must in each case be one of detention in a young offender institution. We duly correct the pronouncements in the Crown Court (as to the activated sentence) and in the Court record which refer to imprisonment.
24. We therefore set aside the existing sentences and substitute these sentences of detention in a young offender institution.

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