

ENGLAND AND WALES / JUDGMENT

R v Izzet Kirmizigil

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[2026] EWCA Crim 638 Royal Courts of Justice Strand London WC2A 2LL Wednesday 6 May 2026
Before: LORD JUSTICE SINGH MR JUSTICE SOOLE RECORDER OF SHEFFIELD (HIS HONOUR JUDGE RICHARDSON KC) (Sitting as a Judge of the CACD) REX V IZZET KIRMIZIGIL

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NON-COUNSEL APPLICATION

J U D G M E N T MR JUSTICE SOOLE:

1. On 9 December 2022, in the Crown Court at Snaresbrook, the applicant, then aged 41, was convicted of a single count of possession of Class A drugs (heroin) with intent to supply and was sentenced to imprisonment for a term of 13 years 6 months. Following the refusal by the Single Judge in each case, the applicant renews his applications for an extension of time (580 days in respect of conviction; 323 days in respect of sentence) for leave to appeal against his conviction and sentence.

2. On 9 February 2022, just after 10.00 pm, police executed a search warrant at a flat in Cheshunt which the applicant's co-accused, Carina Bessa, had been renting for some 4 years. In the main bedroom, they found a locked storage area under the eaves. Inside were cardboard boxes containing heat-sealed packages. The packages contained a total of 45 kg of heroin. The minimum wholesale value of the drugs was £720,000. The key to the storage area was found in a small safe, disguised as a dictionary, in a bedroom wardrobe. CCTV showed that, in the early hours of 9 February, Ms Bessa and the applicant had taken the boxes from the boot of her BMW into the block of flats and upstairs towards her flat. Each put on gloves before the boxes were removed from the car.
3. At around 3.00 am. on 10 February, Ms Bessa returned home and was arrested. She asked to make a phone call; and did so to a contact in her mobile phone saved as "FX". It was established that FX was a man named Tolga Ostwoycan. She was interviewed and, after giving a prepared statement, refused to answer questions. The applicant was not arrested until 9 April 2022 when he flew into Stansted airport from Turkey. He had been identified from the CCTV and telephone analysis.
4. The prosecution case was that the applicant and Ms Bessa were each in possession of the heroin with the intent for onward supply. They each knew what the boxes contained and they each, and jointly, had control of the boxes. Evidence from a laundry bag found discarded in a bin in the property showed that the boxes had been opened before being placed in the storage area. Telephone and ANPR analysis showed the movements of their two phones, and the BMW, travelling to Heathrow airport from North London and back in the early hours of 9 February.
5. The applicant accepted that he was the man on the CCTV. His case was that he did not know what was in the boxes, nor did he expect it to be anything illegal. He told the jury that he had known Tolga Ostwoycan since 2017, through their same Turkish community in Nicosia. Mr Ostwoycan had asked him to travel to Heathrow on 9 February, to assist Ms Bessa - who he understood to be his girlfriend - to pick up some belongings which were too heavy for her alone. He understood these to have come through customs. Mr Ostwoycan had said that he would pay him for his help and cover the travel to Heathrow. He took a minicab to the area near the airport, but after waiting for about an hour was told to go home. He thought he had gone to the wrong place. The following day Mr Ostwoycan asked him if he would help Ms Bessa move the boxes into her flat. Ms Bessa told him to use gloves as she thought the laundry bag might cause his hands discomfort. Once inside the flat, he went to the toilet and when he came out the boxes had gone. He did not see their contents. The following day Mr Ostwoycan called him to say that Ms Bessa had been arrested and that he should get rid of his phone. In the absence of a straight answer from him and being unable to contact Ms Bessa, he became worried and got rid of the phone.
6. Ms Bessa likewise contended that she did not know what was in the boxes. She said that she knew Mr Ostwoycan and the applicant from the gym. The applicant wanted to collect a box of anabolic steroids from Heathrow and asked her to assist, as he did not have a car. She

collected the boxes from a lorry at Heathrow as instructed by the applicant. The applicant was supposed to collect them from her the following day but there was a problem with his driver, so they ended up moving the boxes into her flat. Mr Ostwoycan knew nothing about this arrangement with the applicant. She called him on arrest so that he could make good the damage caused to her door by police.

7. Thus the applicant and Ms Bessa ran "cut-throat" defences at the trial. To that end, each made applications for bad character evidence to be adduced against the other. The applicant applied to adduce the previous convictions of Mr Ostwoycan for supplying Class A and Class B drugs; and messages on Ms Bessa's phone and photographs which demonstrated that she was working for Mr Ostwoycan in supplying drugs and storing them in her eaves storage cupboard. Ms Bessa applied to adduce the applicant's previous conviction in Germany for people trafficking.
8. The jury found Ms Bessa and the applicant each to be guilty of the offence with which they were jointly charged. 9. In his sentencing remarks, the judge stated that the evidence against each of them had been overwhelming. By reference to the relevant sentencing guideline, they had each played a significant role in the operation, and did so in the expectation of significant financial or other advantage. The harm plainly fell within category 1, which was predicated on 5 kgs of heroin. This produced a starting point of 10 years' imprisonment and a category range of 9-12 years. However the guidelines also stated that where the operation was on the most serious and commercial scale, including a quantity of drugs well above 5 kg, sentences of 20 years and above may be appropriate, depending on the offender's role. As to mitigation, he took account of the applicant's evidence of his health and the impact of his imprisonment on his family. The judge concluded that the least sentence which he could impose on the applicant was 13 years 6 months' imprisonment. Ms Bessa was sentenced to a term of 12 years' imprisonment.
10. The applicant has prepared his own grounds of appeal against conviction and sentence; and as to the long delay. He was advised by his legal representatives that he had no grounds to appeal conviction or sentence. Whilst he did not agree, the applicant states that he was not in practice able to pursue an appeal until he managed to find someone who was able to help him with the relevant law and procedures.
11. As to his conviction, the applicant refers to certain case law, including where the Court has a "lurking doubt" as to the safety of a conviction. He contends that the only direct evidence on which he was convicted was the CCTV evidence of him carrying the boxes from the car to the flat. The only other evidence was the testimony of his co-accused, who was falsely seeking to blame him. In his evidence at trial he had given an innocent explanation for all the evidence adduced by the prosecution. This was neither undermined nor rebutted; and the prosecution was unable to prove any "ulterior intent".

12. Conversely, the prosecution had presented large quantities of incriminating text messages between Ms Bessa and Mr Ostwoycan; yet he had not been charged. They had failed to prosecute the real drug dealer and decided to "set me up". Nor was it clear why he had been charged with possession with intent to supply. In the "worst case scenario", he should only have been charged with simple possession. His legal representatives has failed to challenge this course of action.
13. Further, the bad character evidence of his previous conviction in Germany had been wrongly adduced. This was evidence simply being used to bolster a weak case against him and to prejudice him in the minds of the jury.
14. In the light of the applicant's criticisms of his legal representatives and following due waiver of privilege, his trial counsel has provided a very detailed response, together with his advice on appeal dated 9 December 2022. In that advice, he notes the cut-throat nature of the respective defences of the co-accused and the applicant and states that the applicant had a fair trial. There were no erroneous rulings of law. No evidence had been adduced which was not properly admissible. There was no basis to doubt the safety of the conviction.
15. In his response to the application, counsel states that in the circumstances of this case there was no possible basis for the prosecution to limit the offence to simple possession nor to be willing to accept a plea to that lesser offence. As to the applicant's previous conviction, this was admitted pursuant to an application on behalf of Ms Bessa, not the prosecution. As the applicant was advised and accepted, that was the price for running the cut-throat defence against her and for the associated wish to adduce the evidence of her own bad character in order to undermine her credibility. If this evidence had not been adduced by agreement, the judge would inevitably have granted an application to do so.
16. We have also taken due account of the judge's summing-up; the submissions in the Respondent's Notice; and the applicant's responses to that Notice and to the observations of his trial counsel.
17. Having considered all the relevant material, we are quite satisfied that there is no arguable ground of appeal nor any basis to doubt the safety of the applicant's conviction. The combination of direct and circumstantial evidence provided a very strong basis for the jury to be sure that all of the elements of the offence, including as to his knowledge and intent, were established. Admission of the evidence of the applicant's bad character was the inevitable consequence of the defence he was running. The judge gave appropriate directions to the jury in respect of Mr Ostwoycan.
18. As to the appeal against sentence, the applicant's essential challenge is on the basis that he was wrongly found guilty. His conviction being safe, that itself provides no basis to challenge the sentence. In our judgment, the judge was plainly right to find that the applicant had a significant role and that the harm fell in the highest category. As the judge rightly found, there needed to be a substantial uplift to the sentence to mark the sheer quantity of heroin involved and also to take account of his serious previous offending in

Germany. In the result, there is no arguable challenge to the sentence that was imposed.

19. In the absence of any arguable challenge to the applicant's conviction or sentence, no useful purpose would be served by granting the long extensions of time which are sought. Accordingly, leave to extend time is refused in each case. Epiq Europe Ltd hereby certify that the above is an accurate and complete record of the proceedings or part thereof. Lower Ground Floor, 46 Chancery Lane, London, WC2A 1JE Tel No: 020 7404 1400 Email: Rcj@epiqglobal.co.uk

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