

ENGLAND AND WALES / JUDGMENT

R v Mark Gary Coates

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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)

MR R BODY appeared on behalf of the Appellant.

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

1. The appellant appeals, with leave, against a sentence of 4 years and 16 weeks' imprisonment for two counts of damaging property contrary to section 1(1) of the Criminal Damage Act. He was convicted following a trial on 29 November 2024 and sentenced by the Recorder on 10 March 2025.
2. The facts are as follows. The appellant lived at 9 Eatenden Lane in Mountfield, East Sussex. His neighbours, Mr Greenwood and Ms Turner, who are the complainants lived next door at No 10. The houses are semi-detached and joined to each other.

3. The appellant had a boundary dispute with his neighbours which had been ongoing for several years and which led to civil proceedings between the parties and, in turn, to a court order dated 15 September 2022. We have not seen a copy of the order but surmise, for reasons which will become apparent, that it contained a series of prohibitions or restrictions on the appellant's conduct in relation to his neighbours. We are also told that Mr Greenwood and Ms Turner had previously obtained a civil judgment against the appellant in which they were awarded damages of £60,000 of trespass £50,000 for harassment and £150,000 for diminution in value that the appellant caused their property. There was in addition a substantial costs order against the appellant. 4. In this regard on 14 March 2024, the High Court made a charging order in respect of the appellant's house which granted Mr Greenwood and Ms Turner a vested interest in his property. The High Court also ordered that the property be sold by 13 June 2024 and that solicitors for the complainants would be responsible for the sale. This appears to have led directly to the events with which we are concerned.
5. On 17 April 2024, the complainants made an application for contempt of court for breach of the court order of September 2022, referred to above. The application alleged 20 breaches of the order.
6. During the days leading up to 10 June 2024 the appellant deliberately destroyed the fabric of his own house so as to reduce the funds that would be released by its sale. The inside of the house was gutted with the appellant removing floors and a staircase.
7. On 10 June 2024 the appellant accessed the roof of his property via a hole he had made and then started smashing tiles with a hammer and hurling them to the ground. Ms Turner was in close proximity to falling tiles as was Mr Greenwood when he attended at the scene to support his partner. Once the police arrived it appeared that the appellant took care not to harm passersby but there was still a risk to their safety from debris ricocheting around as tiles smashed or to anyone that the appellant had failed to notice.
8. The damage caused to the roof of the appellant's house included the roof being largely stripped leaving the rafters exposed. The appellant also smashed three of the chimney pots. The roof of a single-story extension to the house was also destroyed as it appeared that the appellant had sawn through the rafters at some point prior to 10 June.
9. Whilst the appellant was destroying the house he had shouted conversations with police officers who attended the scene. He made clear he was acting deliberately so that he would be arrested and have a jury trial so he could make known his complaints about his neighbours and what he believed was an unjust conspiracy against him by judges in the civil courts. At one point a police negotiator mistakenly told the appellant that he could not be tried for destroying his own roof. The appellant then crossed to the complainants' roof and damaged that as well. He entirely destroyed about one-quarter of tiles on one elevation of the roof and caused significant further damage to other areas.

10. An estate agent's estimate to the value of the appellant's house in an undamaged state was up to £450,000. In its damaged state it was valued as being marketed for offers between £200,000 and £300,000. The damage done on 10 June would have been tens of thousands of pounds. Estimates to repair the damage to the complainants' roof ranged from £15,000 to £16,000 plus £9,462 to repair damage done to their conservatory, making a total of around £25,000. Before us today counsel for the appellant, Mr Body, has suggested the damage should be valued at £37,000.
11. The appellant was prosecuted for two counts of criminal damage to his house and that of his neighbours as well as harassment of them.
12. Before matters came to trial on 17 September 2024 judgment was handed down in the civil proceedings on the application by Mr Greenwood and Ms Turner for contempt of court. One of the allegations of contempt related to the appellant's actions on 10 June in damaging their roof. The civil judge found the allegation proved. In sentencing the appellant, she directed herself to guidance from the Court of Appeal in *Lovett v Wigan CC* [2002] EWCA Civ 1631, on sentencing for civil contempt of court. The objectives of sentencing are to ensure compliance with the underlying court order, punishment and rehabilitation. The approach taken should be analogous to that in criminal cases where the Sentencing Council Guidelines require the court to assess the seriousness of the conduct by reference to the offender's culpability and harm intended or likely to be caused. If custody is necessary, the court must impose the shortest possible period of imprisonment which properly reflects the seriousness of the contempt. For the damage to the complainant's roof, she sentenced the appellant to 3 months' imprisonment, which was reduced, in effect, to 10 weeks by virtue of her subsequent overall adjustment to the wider sentence to reflect totality. As already referred, the appellant was then tried for the criminal offences and harassment. On 29 November 2024 he was convicted after a trial of the two counts of criminal damage but acquitted of the counts of harassment. He was subsequently sentenced by the Recorder on 10 March 2025. Sentencing Remarks
13. In careful and detailed sentencing remarks the Recorder explained the need to avoid double counting in relation to the sentence already imposed upon the appellant for civil contempt and in particular in relation to the damage to the complainant's roof. The Recorder directed himself in this regard to guidance from the Court of Appeal in the *Lomas v Parle* [2004] 1 WLR 1642 and explained how he intended to take account of the civil sentence.
14. Applying the Sentencing Council Guidelines for criminal damage the Recorder categorised the offending in both counts as category 1A for culpability and harm. The multiplicity of culpability and harm factors put the offending at the top of the range with a starting point therefore of 4 years. The Recorder treated the damage to the appellant's own house as the lead offence for sentencing purposes. He identified as a serious aggravating feature that the appellant's conduct amounted to a deliberate attack on the integrity of the civil justice system and in a location where the complainants were entitled to feel safe. He also considered they were relatively vulnerable given Mr Greenwood was just under 70 years old.

15. There was a community impact, and the appellant was reckless about the potential harm to others. There was, the Recorder concluded, no real mitigation. There was no evidence that the appellant was the primary carer for his autistic son who was an adult in a college. The Recorder identified a sentence of 5 years for the two counts which he reduced to 4 years 16 weeks to take account of the previous imposition of the sentence for the civil contempt.
Grounds of Appeal
16. On behalf of the appellant, it is submitted that the sentence was manifestly excessive. It fell outside the guidelines and failed to adequately to take into account that the appellant was the main day time carer for his adult severely autistic son. In oral submissions before us today Mr Body accepts that the offending should in category 1A and that there were a number of aggravating features that would entitle the court to impose a sentence beyond the starting point but submits the sentence was nonetheless manifestly excessive. It went outside the guidelines. The Recorder took a starting point of 5 years and then reduced the amount to account for the civil sentence. The damage involved was high but not exceptional.
Discussion
17. As the Single Judge said when granting leave, this was a genuinely difficult sentencing exercise given the complications presented by the appellant's sentence for civil contempt for his conduct in relation to his neighbours' home. The Recorder's sentencing remarks are thorough, and it is apparent that he took great care to arrive at the sentence he did. In *Lomas v Parle* [2004] 1 WLR 1642, the Court of Appeal (Civil Division) gave guidance on the interrelationship between the Family Law Act 1996 and the Protection from Harassment Act 1997, as well as on the management of concurrent proceedings in the Family, Civil and Criminal Justice systems. The guideline is of some relevance to the circumstances of the present case, albeit the court was concerned with different legislation. The court observed that however effectively proceedings are managed a perpetrator may face sentence for the same act which amounts to both a breach of an injunction made in family proceedings and a crime under the Protection from Harassment Act. It is for the second court to sentence to reflect the prior sentences in its judgment and in order to ensure that a defendant is not twice punished for the same act. It is essential that the second court should be fully informed of the factors and circumstances reflected in the first sentence (paragraph 48). The courts do not share all the same objectives when sentencing under the legislation but there will nonetheless be a shared objective of deterrence. Within the constraints of the applicable sentencing ranges which differ as between the two Acts of Parliament, Judges should, as far as possible, ensure that sentences passed under the Family Law Act are not manifestly discrepant with sentences for harassment charged under the Protection from Harassment Act 1997 (paragraph 50).
18. The question for this Court is whether the sentence imposed by the Recorder was manifestly excessive. Sentences may be structured in different ways, and the focus of this Court is on the outcome. In the particular circumstances of this case appropriate account had to be taken of the sentence imposed in the civil courts in the contempt proceedings. As the

Recorder recognised this was not however a straightforward exercise. The objective of the civil sentence was to punish the appellant for contempt and to deter further acts defying the court's authority. As to range, the civil court was punishing within a sentencing regime of 2 years, but Parliament has imposed a maximum sentence of 10 years for the criminal damage charges. Nonetheless there is an inevitable overlap as the sentence for contempt would also have intended to punish the appellant's misconduct and to deter him from repeating it.

19. We start by considering the Sentencing Council Guidelines and assessing the offending against those guidelines. In doing so, we have reviewed the drone footage of the damage to the two roofs and the police body worn camera footage of the appellant's actions on the roofs. The Recorder was entitled to categorise the offending on both counts as 1A in the relevant guideline. He was also entitled to treat the damage to the appellant's own house as the lead offence. In the case of the damage to his own house there was a high degree of planning, the damage occurred over the course of three days culminating with the damage to the roof on 10 June. It was a revenge attack and an attempt to prevent his neighbours from getting the benefit of the charge over his house. Serious damage was caused. Whilst the attack on his neighbours' house was not so premeditated there was an intention to cause very serious damage and the motive was revenge. In terms of harm serious distress was caused to the neighbours and the value of the damage was high.
20. Given the multiplicity of culpability and harm factors the Recorder was entitled to elevate the starting point for both counts. For category 1A offending, the starting point is 1 year 6 months, and the range is 6 months to 4 years. In recognition of the need not to punish the offender twice, the Recorder did not treat the fact that the appellant had committed the offences in breach of civil sentence as an aggravating factor. He was however entitled to treat as a serious aggravating factor the appellant's deliberate attempt to frustrate the integrity of the civil justice system. The offending was committed in a location where the complainants were entitled to feel safe and they were relatively vulnerable given Mr Greenwood was nearly 70 years and significantly older than the appellant. The Recorder was careful not to give too much emphasis to the community impact given much of it considered events prior to the offending conduct. The Recorder was entitled to conclude the appellant was reckless as to risk of harm to others, finding that there was clear evidence that the appellant threw tiles in the proximity of Ms Turner. The Recorder was entitled to conclude there was little evidence to support the assertion that the appellant is the primary carer for his autistic son, given his son is an adult and at college. As the Recorder identified, the pre-sentence report identifies that the appellant was, and remained, entirely unrepentant.
21. The Recorder arrived at a sentence of 5 years for both counts prior to a deduction to take account of the civil sentence. In our view, this cannot be considered to be manifestly excessive. Given the range in the guidelines for one category A1 offence is 1 to 4 years and the Recorder had to sentence for two offences, both of which had multiple harm and culpability factors with serious aggravating features and no real mitigation. The Recorder then discounted the sentence by 8 months to reflect the civil sentence. He described his

reduction as generous, and we agree given that the sentence imposed by the civil judge in relation to the damage to the neighbours' house was 12 weeks reduced to 10 weeks to take account of totality. We have reflected on the guidance in *Lomas v Parle* about the need to avoid a manifest discrepancy in sentence when the second court is sentencing for the same conduct. Here however, the civil sentence concerned the lesser damage caused to the neighbours' house and does not take account of the criminal damage to the appellant's own house which was the more serious offending in the context of criminal damage, and which was sentenced as the lead sentence in the criminal court. Conclusion and decision

22. For the reasons given above we are not persuaded that the sentence is manifestly excessive, and the appeal is dismissed. 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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