

ENGLAND AND WALES / JUDGMENT

R v Michael David Youssefi

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BEFORE

LORD JUSTICE DINGEMANS
MRS JUSTICE THORNTON
HIS HONOUR JUDGE ST JOHN-STEVENSON
REX
v
MICHAEL DAVID YOUSSEFI

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MR A HARVEY appeared on behalf of the Appellant

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**IN THE COURT OF APPEAL
CRIMINAL DIVISION
ON APPEAL FROM THE CROWN COURT AT LEWES
(MR RECORDER JOHN HARDY KC)**

(47EE1185724, 47EH1525822)

CASE NO: 202403110 A2

[2025] EWCA Crim 899

Royal Courts of Justice

Strand

London

WC2A 2LL

Thursday 19 June 2025

Before:

LORD JUSTICE DINGEMANS
MRS JUSTICE THORNTON
HIS HONOUR JUDGE ST JOHN-STEVENSON
REX
v
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MR A HARVEY appeared on behalf of the Appellant

JUDGMENT

(APPROVED) JUDGE ST. JOHN-STEVENSON:

1. On 24 April 2024, in the Crown Court at Lewes before His Honour Judge Mooney, the appellant (then aged 42) pleaded guilty to an offence of robbery and an offence of having an article with a blade or point.
2. On 28 May 2024, at the same court before HHJ Mooney, the defendant (still being 42 years old) pleaded to offences of attempted robbery, robbery and having an article with a blade or point.
3. On 5 August 2024, at the Crown Court at Lewes before Mr Recorder John Hardy KC, the appellant (aged 42) was sentenced:
 - For each of the two robberies and the attempted robbery, he imposed consecutive sentences of 4 years
 - In relation to the two offences of having an article with a blade or point, concurrent terms of 1 year imprisonment imposed, these being concurrent to each other and concurrent to the robberies and attempted robbery offence. Therefore the total sentence imposed was one of 12 years' imprisonment.
4. He now appeals against sentence with the leave of the single judge.

5. The facts of the first set of offences, the May 2022 offences, are these. Shortly after 11.20 am on 9 May the appellant entered Day Lewis Pharmacy in Hastings. He was wearing gloves, a bandanna, his hood was up and he had on display a 14inch long knife. He went behind the counter and demanded two boxes of Oxycodone from a member of staff . The pharmacy technician only had one box of Oxycodone, which he gave to the appellant, who then left. That ordeal lasted some three minutes.
6. Blood staining was found on the floor of the pharmacy.
7. The appellant was arrested at his home address in St Leonards-on-Sea on 12 May 2022.
8. In interview he denied being involved in the robbery. He gave a false alibi and claimed he did not even know where the pharmacy was. He did, however, give details of the medication he was prescribed, which included Oxycodone. He could give no explanation for the blood found on a pair of trousers at his home and denied it was his blood on the pharmacy floor.
9. Subsequent to the interview, the bloodstain on the floor of the pharmacy provided a DNA match for the appellant's profile. In consequence he was reinterviewed in September 2022, when he continued to deny being involved in the robbery, saying that he had been in the pharmacy on the last occasion some three years previously, but he could not account for the DNA evidence, and he was subsequently bailed.
10. He appeared before the Crown Court at Lewes on 24 April 2024, where he pleaded guilty to the offence of robbery and having an article or blade with a point. He was bailed by that court for the preparation of a pre-sentence report.
11. That leads us to events three days later; the second set of offences which occurred on the 27th April.
12. Shortly before 9 am on the 27th the appellant went into Boots pharmacy in Eastbourne Road, Pevensey Bay. He was wearing a face covering, a cap and had a hood up. He went past the counter and repeatedly demanded Oxycodone from the shop assistant. Uttering the words, "Give me Oxycodone or I will hurt someone". He produced a knife that he had been hiding in his jacket. Help was called, and indeed the response was from a 15yearold boy. Despite being told that the appellant had a knife, the boy went into the store and confronted the appellant. He tried to calm the appellant down. The appellant left the store but reentered through a side door screaming, "I need those drugs. Where are the drugs? Get me drugs now." He pushed a member of staff causing her to fall backwards, bruise to her hip. She said she felt scared for her life. She saw the appellant rummaging through boxes of medication. Again the 15yearold boy was trying to calm the appellant down. He described the appellant as being desperate for drugs and shouting about Oxycodone. He tried to grab the appellant. In response the appellant produced a knife from his coat and said, "Back away. I need these meds." The appellant then left. We reflect upon the bravery of that 15yearold boy, his actions demand to be acknowledged and commended.

13. That same day at around 4 pm the appellant went into Kamsons Pharmacy in Eastbourne. Again he was wearing a face covering, latex gloves and had his hood up. Again he went behind the counter demanding Oxycodone. The staff told him to leave. The appellant repeated his demands, saying, "I've got a knife. Do you want a knife?" gesturing towards his trousers. No knife was ever seen. Oxycodone was given to the appellant. The appellant left the pharmacy saying that he was sorry.
14. ANPR evidence connected this defendant's Vauxhall Corsa to the area of Pevensey Bay and Eastbourne at the relevant times. The appellant was subsequently arrested on 28 April 2024 in his car. Recovered from the car was 56 tablet blisters of Oxycodone. A search of the appellant's home address revealed further evidence of Oxycodone. In interview later that same day the appellant declined to answer questions put to him. Antecedents
15. The appellant had two convictions for four offences between 1999 and 2009. We note on 19 February 1999 he received 6 months' imprisonment for offences of robbery and attempted robbery.
16. We have read and considered the victim personal statements from members of staff working in the pharmacies. Ms Bergqvist, who was there, says that she found it difficult now to go back to work and she was cautious of people even though CCTV was now installed as a measure of security. She reflected upon her children and what could have happened if the knife had been used. Ms Durdu said she also was scared to go back to work and reflected upon the possible consequences, as did Ms Angel, who described the whole incident as being terrifying. Ms Hodben said she was tearful and emotional the day afterwards, having to relive what happened, and she was in fear of violence due to the threats made. Pleas of guilty and credit
17. The appellant pleaded guilty in relation to each offence, and we agree the correct level of reduction is 25 %. Probation reports
18. The sentencing judge had two pre-sentence reports. Within them it is reported that the appellant had suffered an injury which resulted in his leg being amputated and that he had been prescribed Oxycodone, to which he had developed a dependency,. Oxycodone being a semi-synthetic opioid prescribed for the treatment of moderate to severe pain,. It is known to be highly addictive. The appellant also reported to the author of the report that on the days he had committed the robberies he had run out of his Oxycodone medication. The sentencing hearing
19. In sentencing the appellant, the judge acknowledged the impact of the injuries to the appellant: "I have every sympathy with you in the sense that you suffered a dreadful accident, falling off a roof. You had a reasonable working record. Your injuries which involved the amputation of one leg and the insertion of metal rods into the other leg and into your back have severely restricted your ability to perform any sort of physical labour. And the drugs that you were prescribed in order to alleviate the pain that those injuries caused you, of themselves, created a dependency in you which was a significant factor in the

offending you carried out." The judge went on to set out the impact and chronology of the offending: "But you left the staff of three pharmacies terrified by your conduct. ... The victim of the robbery on 9 May 2022 thought she was going to die and feared for what her children were going to do without her. That is an awful thing to do to somebody else, and it means that I can only pass a significant custodial sentence upon you." He also noted the two offences that were committed on 27 April 2024 were committed whilst on bail. .

20. The judge addressed his mind in part to the principle of totality and stated he could not avoid passing consecutive sentences for the robberies. We conclude, and it is not submitted to the contrary, that in applying the offence specific guidelines, the judge correctly identified the starting point for the each robbery and the attempted robbery, each being Culpability A and Category 2 harm. This provides a starting point of 5 years with a range of 4 to 8 years. The judge explained how he arrived at his sentences: "In respect of the offences on 9 May 2022, had you contested the matter, I would have considered a sentence of six years' imprisonment appropriate at trial. Making allowance for your mitigation, that figure would have been reduced on conviction to five and a half years' imprisonment. That is to say, a total of 66 months. Giving you allowance for your plea of guilty and mathematically adjusting the figure to reflect in part the good work that you are doing in prison, the sentence for that offence is one of four years' imprisonment. For the possession of the bladed article, the sentence is one of one year's imprisonment, concurrent. I make it plain, Mr Harvey, that I consider in dealing with the matter in that way, I've avoided the trap ... of double counting. For the offence of attempted robbery on the 27 April, I would have imposed a sentence of eight years' imprisonment were it not for your mitigation. That is to say, after trial, eight years. Your mitigation reduces that sentence to one of six years' imprisonment, and again your plea of guilty plus an adjustment for the good work that you've carried out in prison thus far reduces the sentence to one of four years' imprisonment, but that is consecutive to the sentence for the robbery on 9 May 2022. By the same process, I deal with that second robbery, the substantive robbery on 27 April, by the same mathematical process, and again the sentence is one of four years' imprisonment. That too has to be consecutive. For the possession of the bladed article there'll be a sentence of one year's imprisonment, that will be concurrent. It's a total of 12 years' imprisonment." Discussion and resolution
21. On the appellant's behalf Mr Harvey, in his helpful written and oral submissions, submits that the sentencing judge failed to fully apply the sentencing guidelines on totality in not reflecting upon whether the overall sentence was just and proportionate, resulting in a sentence that was wrong in principle or manifestly excessive.
22. We accept that the judge did not appear to make any adjustment for totality when passing the three consecutive sentences, albeit he passed concurrent sentences in relation to the two offences of having a bladed article. He however explained he did that, in his words, to avoid the jeopardy of double counting, this reflecting that he had used the fact that a knife was produced during the course of the robberies and attempted robbery to place the robbery offences into culpability A high culpability. The Totality guidelines

23. These guidelines are relevant when sentencing for more than one offence. Every court must follow relevant guidelines unless it would be contrary to the interests of justice to do so.
24. The general principles within the totality guidelines provides that: "When sentencing for more than one offence, the overriding principle of totality is that all the sentences should:
 - reflect all of the offending behaviour with reference to overall harm and culpability, together with the aggravating and mitigating factors relating to the offences and those personal to the offender; and
 - be just and proportionate."
24. The guidelines states that whilst sentences may be consecutive or concurrent, "there is no inflexible rule as to how the sentence should be structured".
25. A general approach is provided within the guidelines in relation to determinate sentences. The sentencing court must: "1. Consider the sentence for each individual offence, referring to the relevant sentencing guidelines.
 2. Determine whether the case calls for concurrent or consecutive sentences. When sentencing three or more offences a combination of concurrent and consecutive sentences may be appropriate.
 3. Test the overall sentence against the requirement that the total sentence is just and proportionate to the offending as a whole."
26. The sentencing judge did comply with the first and second component, in that he considered the sentence for each individual offence referring to the relevant sentencing guidelines and also determined that some consecutive sentences were required. However, in our judgment he fell into error by not advancing to the third component of consideration; that is, he failed to test the overall sentence against the requirement that the total sentence is just and proportionate to the offending as a whole. To achieve a just and proportionate sentence the guidelines goes on to say: "If consecutive, it is usually impossible to arrive at a just and proportionate sentence simply by adding together notional single sentences."
27. In structuring of the sentences, the sentencing guideline provides that: "When sentencing for similar offence types or offences of a similar level of severity the court can consider structuring the sentence using consecutive sentences, for example:
 - consider whether all of the sentences can be proportionately reduced (with particular reference to the category ranges within sentencing guidelines) and passed consecutively
 - consider whether, despite their similarity, a most serious principal offence can be identified and the other sentences can all be proportionately reduced ... and passed consecutively in order that the sentence for the lead offence can be clearly identified."

28. How the sentence is made up (that is, the internal architecture of the sentence in terms of being consecutive and/or concurrent) is subservient to achieving a just and proportionate sentence. The only question for this court is whether the overall sentence imposed on the appellant was wrong in principle or manifestly excessive.
29. We reflect upon the requirement that the decision making and explanation must follow the consequential route to determine the correct sentence. The point at which the court must step back and consider totality is the final step before the court deals with ancillary orders. We are driven to the conclusion that the judge was wrong in principle in failing to engage with the requirement within the Totality guidelines, to test the overall sentence against the requirement that the total sentence was just and proportionate for the offending as a whole. Stepping back as we do to test the totality of the offending, we conclude that had the judge done so, the overall just and proportionate sentence would have been less.
30. Accordingly, we allow the appeal to the extent that we:
- Firstly, quash the original sentence in relation to the robbery that occurred on 9 May 2022 and impose a consecutive sentence of 3 years' imprisonment.
 - Secondly, quash the original sentence in relation to the attempted robbery that occurred on 27 April 2024 and impose a consecutive sentence of 3 years' imprisonment.
 - The sentences on the remaining offences remain undisturbed. For clarity, the sentences for the robbery and attempted robbery offences are to run consecutively one to the other but concurrent to the terms of imprisonment passed for the possession of a bladed article offence. In the result the overall just and proportionate sentence for the offending as a whole is one of 10 years' imprisonment. 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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