

ENGLAND AND WALES / JUDGMENT

R v Samuel Liam Dixon

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[2026] EWCA Crim 660 Royal Courts of Justice Strand London WC2A 2LL Friday, 1 May 2026
Before: LORD JUSTICE HOLGATE MR JUSTICE SOOLE THE RECORDER OF LUTON HIS
HONOUR JUDGE MICHAEL SIMON (Sitting as a Judge of the CACD) REX V SAMUEL LIAM
DIXON

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Court)

MR B BERKSON appeared on behalf of the Applicant

J U D G M E N T THE RECORDER:

Introduction

1. Before turning to the importance of this appeal to the appellant, Samuel Dixon, we observe at the outset that this is what might be termed an appeal relating to procedure. As such, it is unnecessary for us to refer to the facts of the offences that form the backdrop to the appeal. It suffices for us to focus on the way in which the sentence the subject of the appeal was constructed and expressed in the court below, as will become clear.
2. An extension of time of 97 days is required to proceed with the appeal and we grant that extension. Sentencing hearing
3. On 7 November 2025 the appellant appeared before Recorder Bradshaw sitting in the Crown Court at Liverpool having been committed for sentence following pleas of guilty to two offences at the first hearing before the Merseyside Magistrates' Court on 6 October 2025 ("the 2025 proceedings"). The offences were breach of a restraining order and possession of a controlled drug of class B, both committed on 4 October 2025.
4. These offences, committed during the operational period of a suspended sentence order imposed in the Crown Court on 18 October 2024 ("the 2024 proceedings"), put the appellant in breach of that order and he was committed for sentence on that basis pursuant to section 20 of the Sentencing Act 2020.
5. The suspended sentence order had been imposed for two offences of assault occasioning actual bodily harm committed on 2 and 7 April 2024. The suspended sentence order was for 20 months' imprisonment suspended for a period of 18 months (later extended to 24 months for a less significant breach). The period of the imprisonment was made up of two sentences of 10 months' imprisonment ordered to run consecutively, reflecting the two distinct offences of assault. The victim of the two assaults, Carol Lamb, was the appellant's former partner. A restraining order was made by the Crown Court alongside the suspended sentence order in October 2024 and it was this order that the appellant breached in October 2025. Thus the victim was again his former partner.
6. When addressing in his sentencing remarks the suspended sentence order and the extent to which it should be activated, the judge inquired of defence counsel about any steps he needed to take in relation to any period of time within the 2024 proceedings when the appellant was subject to an electronically monitored qualifying curfew ("qualifying curfew"). Such a curfew must be for a period of at least 9 hours for each qualifying day. That qualifying curfew had been raised by defence counsel in mitigation and the judge wished to understand what, if any, procedure he needed to adopt.
7. As we will come to, the effect of time spent on a qualifying curfew is a matter of statutory provision, as is the need for it to be formally ordered by the sentencing court for it to be credited against the relevant sentence of imprisonment. When we say 'credited', what we mean is that it is treated as time served.

8. During the sentencing hearing there appeared to be some doubt between Bench and Bar as to the precise way to calculate the number of days to be credited, although prosecution counsel is referred to as having indicated that one should halve the number of days to reach the correct figure. Having in broad terms overcome the question of the basis of calculation (although not perhaps with the accuracy that one might have expected), the next issue was just how long needed to be halved to credit the appellant for this time. Given the accuracy required for the calculation and its expression in terms of days (we will return to this below) it is unfortunate with hindsight that counsel and the judge spoke in terms of months, specifically four months on qualifying curfew.
9. To understand what happened next it is helpful to quote part of the exchange between the judge and counsel: "RECORDER BRADSHAW: One half. And you said it was 2 months on curfew. The time spent on remand will automatically count. So I do not need to deal with that. MISS MORAN: Yes. 2 months on remand, and 4 months on electronically monitored tag. RECORDER BRADSHAW: Alright. So 4 months on tag means I should make an appropriate deduction of 2 months then from the custodial term. MISS MORAN: Yes. RECORDER BRADSHAW: Is it the case though that that would have been deducted at sentence when the original sentence was imposed? MISS MORAN: I do not have instructions. I do not know. MR KEANE: I do not know if it would ordinarily. It would just be a point for the prison to calculate release. But I think it is advised that it is announced in court is my understanding. RECORDER BRADSHAW: Alright. Well, what I will do, it had been my intention to make a deduction of 2 months on each of the suspended sentences to bring them down from 10 months to 8 months on each. What I will do is bring them down to 7 months on each and therefore there is the effect of 2 months reduced to reflect that curfew."
10. The judge then continued with his sentencing remarks, which concluded with the imposition of a sentence of four months' imprisonment for the breach of the restraining order and no separate penalty for the drug offence. As the exchange above demonstrates, in respect of the breach of suspended sentence order the judge then activated seven of the 10 months of each sentence for the 2024 assaults to run consecutively to each other, as envisaged by the judge who sentenced originally, and consecutive to the four months' imprisonment imposed for the 2025 breach of the restraining order. The total sentence was therefore 18 months' immediate imprisonment.
11. That is how matters remained until February 2026 when the appellant contacted the solicitors who had represented him in the 2025 proceedings expressing concern that the prison authorities in calculating his earliest release date were not crediting him for periods spent on remand, both in the 2024 proceedings (before he was released on conditional bail) and during the 2025 proceedings.

12. The solicitors sent a letter to the relevant department within HMP Stoke Heath, the offender management unit, and to the governor setting out their calculations of time spent on remand during both sets of proceedings and time spent on qualifying curfew in the 2024 proceedings. The letter invited the authorities to check their calculations to ensure that the appellant was not being held in prison for longer than he ought to be.
13. By 10 March 2026 counsel Mr Berkson, who appears before us today but who did not appear below, settled a ground of appeal in respect of the failure of the judge in the 2025 proceedings to certify the number of days on qualifying curfew applicable to the activated sentence from the 2024 proceedings. At that stage counsel did not have the transcript of the proceedings and would have been unable to articulate the point fully based on what actually occurred at the hearing. Nevertheless, the central point that the judge did not certify the days spent on qualifying curfew remains a legitimate ground for this court to consider.
14. Plainly by the point at which the issue came to the fore, the 56-day period under section 385 of the Sentencing Act 2020 (the slip rule) had passed and the only way in which to address the issue is by appeal to this court.
15. The appellant therefore now appeals against the way in which the judge dealt with the period of time spent on qualifying curfew with leave from the single judge. We are very grateful to Mr Berkson for his focused and succinct submissions. The statutory scheme
16. As referred to above, there is a statutory scheme dealing with the treatment of qualifying curfews in terms of time to be counted against sentence. The relevant provisions are contained in sections 325 to 326 of the Sentencing Act 2020, and those that require our attention in this appeal are as follows: "325 Time on bail under certain conditions: declaration by court
 - (1) This section applies where—
 - (a) a court passes a determinate sentence on an offender in respect of an offence (see subsection (5))
 - (b) the offender was remanded on bail by a court in course of or in connection with proceedings for the offence, or any related offence, and
 - (c) the offender's bail was subject to a qualifying curfew condition and an electronic monitoring condition ("the relevant conditions").
 - (2) The court must specify the credit period for the purposes of section 240A of the Criminal Justice Act 2003 (time remanded on bail to count towards time served) in relation to the sentence.
 - (3) The credit period is calculated by taking the following steps. Step 1 Add—

- (a) the day on which the offender's bail was first subject to the relevant conditions (and for this purpose a condition is not prevented from being a relevant condition by the fact that it does not apply for the whole of the day in question), and
- (b) the number of other days on which the offender's bail was subject to those conditions (but exclude the last of those days if the offender spends the last part of it in custody). Step 2 Deduct the number of days on which the offender, whilst on bail subject to the relevant conditions, was also—
 - (a) subject to any requirement imposed for the purpose of securing the electronic monitoring of the offender's compliance with a curfew requirement, or
 - (b) on temporary release under rules made under section 47 of the Prison Act 1952. Step 3 From the remainder, deduct the number of days during that remainder on which the offender has broken either or both of the relevant conditions. Step 4 Divide the result by 2. Step 5 If necessary, round up to the nearest whole number.
- (4) Where the court makes a declaration under subsection (2) it must state in open court—
 - (a) the number of days on which the offender was subject to the relevant conditions, and
 - (b) the number of days (if any) which it deducted under each of steps 2 and 3.
- (5) For the purposes of subsection (1)(a), a court passes a determinate sentence if it—
 - (a) sentences the offender to imprisonment for a term ...
- (6) For those purposes, a suspended sentence—
 - (a) is to be treated as a determinate sentence when it is activated under paragraph 13(1)(a) or (b) of Schedule 16, and
 - (b) is to be treated as being imposed by the order under which it is activated.
- (7) Section 240ZA of the Criminal Justice Act 2003 makes provision about time remanded in custody which is to count as time served. 326 Section 325: interpretation ...
- (3) In section 325— 'curfew requirement' means a requirement (however described) to remain at one or more specified places for a specified number of hours in any given day, which—
 - (a) is imposed by a court or the Secretary of State, and
 - (b) arises as a result of a conviction ... "
- 17. For the sake of completeness, the applicable statutory provision for time spent on remand in so far as it relates to the appellant's circumstances is section 240ZA Criminal Justice Act 2003, the relevant provisions of which are: "240ZA Time remanded in custody to count as time served: terms of imprisonment or detention and detention and training orders ...

- (3) The number of days for which the offender was remanded in custody in connection with the offence or a related offence is to count as time served by the offender as part of the sentence. ...
- (7) For the purposes of this section a suspended sentence—
 - (a) is to be treated as a sentence of imprisonment when it takes effect under paragraph 13(1)(a) or (b) of Schedule 16 to the Sentencing Code, and
 - (b) is to be treated as being imposed by the order under which it takes effect."
- 18. Paragraphs 13(1)(a) and (b) of Schedule 16 to the Sentencing Act provide: "13(1) Where a court deals with a case under this paragraph, the court must deal with the offender in one of the following ways—
 - (a) the court may order that the suspended sentence is to take effect with its original term unaltered;
 - (b) the court may order that the suspended sentence is to take effect with the substitution for the original term of a lesser term ... " Discussion and decision
- 19. In the appellant's case the relevant conditions in section 325(1) of the Sentencing Act, read with section 325(6)(a) apply to the 2024 proceedings as it was in respect of those proceedings that the appellant was on bail subject to a qualifying curfew as defined by section 326(3). Although at the sentencing hearing in November 2025 the judge was activating a previously imposed order of suspended imprisonment, its activation is to be treated as being imposed on the date of activation i.e. 7 November 2025 in accordance with section 325(6). Plainly the suspended sentence was being activated for breach by the commission of a further offence during the operational period and the activation was in accordance with paragraph 13(1)(b), as it turned out, of schedule 16 of the Sentencing Act being for a reduced period to that previously imposed.
- 20. The effect of this confluence of provisions was to trigger the obligation under section 325(2) of the Sentencing Act for the judge at the hearing on 7 November 2025 to specify the credit period to count towards the sentence that he activated. We say 'obligation' because the section uses the word 'must'. This is not a situation, as can arise in certain circumstances, where the sentencing court has a discretion. We acknowledge that the judge wished to do justice to the appellant in respect of the qualifying curfew period applicable to the 2024 proceedings. Unfortunately he was not assisted as much as he might have expected to be by counsel at the hearing below who should have brought at least the provisions of section 325 of the Sentencing Act to the judge's attention.
- 21. It is clear to us that this court must rectify the judge's omission by specifying in open court the appropriate period of time that has been spent on qualifying curfew and must count towards the time served in prison. Mr Berkson assures us that the correct calculation of days spent on qualifying curfew is 122, and indeed the court has performed its own calculation to

ensure that this is correct. We have not been informed of any deductions to be made under steps 2 or 3 in section 325(3) set out above. The final step, given that the number of days is an even one, is to divide by two. The result is a period of 61 days.

22. That however is not quite the end of this court's consideration of the appeal. Although the judge acted erroneously in his treatment of the qualifying curfew, he plainly sought to achieve the same outcome by an alternative means. He expressly indicated that he had intended to activate the two consecutive 10-month sentences but reduced somewhat to reflect the appellant's progress under the order. He specified the activation of eight months on each consecutive. Following the exchange with counsel we quoted above, he reduced each sentence by one month to seven months so that the overall effect is that the activated sentences had the qualifying curfew built in. If this court simply makes a declaration of 61 days to count towards sentence, the appellant would have achieved double recovery, so to speak. It is reasonable to infer that if the judge had been aware of the correct procedure for dealing with the qualifying curfew he would not have reduced the sentences to seven months each.
23. The court is very alive to the provisions of section 11(3) of the Criminal Appeal Act 1968, which bear quoting in full: "(3) On an appeal against sentence the Court of Appeal, if they consider that the appellant should be sentenced differently for an offence for which he was dealt with by the court below may—
 - (a) quash any sentence or order which is the subject of the appeal; and
 - (b) in place of it pass such sentence or make such order as they think appropriate for the case and as the court below had power to pass or make when dealing with him for the offence; but the Court shall so exercise their powers under this subsection that, taking the case as a whole, the appellant is not more severely dealt with on appeal than he was dealt with by the court below."
24. Naturally we raised this point with Mr Berkson who very fairly conceded that the drafting of section 11(3) did permit of an interpretation that would allow us to comply with the statutory mandate to declare the number of days to be credited to the appellant for his qualifying curfew, whilst revising the activated sentences back to the level intended by the judge before he fell into error.
25. We therefore increase the two sentences activated from the 2024 suspended sentence order from seven months' imprisonment on each consecutive to eight months' imprisonment on each consecutive, making a total of 16 months' imprisonment consecutive to the four months' imprisonment for the breach of the restraining order. The total revised sentence is thus 20 months' imprisonment. We certify in accordance with section 325(2) of the Sentencing Act that 61 days are to count towards this sentence for time spent on a qualifying curfew. The net effect is neutral and therefore does not offend against section 11(3) of the Criminal Appeal Act.

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26. To the extent set out above, the appeal succeeds.
27. In so far as it may be helpful to the appellant for us to articulate it, the time spent by him on remand for the 2024 proceedings prior to the grant of conditional bail and the time spent by him on remand for the 2025 proceedings should be counted towards the time he serves in prison in the usual way. 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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Prepared on 26 October 2026 · Esheria