

ENGLAND AND WALES / JUDGMENT

R v Wayne Sharman

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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 G FLEMING appeared on behalf of the Appellant.

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

1. By leave of the Single Judge the Appellant appeals against a total sentence of 6 years' imprisonment for offences of robbery and possession of a bladed article imposed on 9 April 2025 in the Crown Court at Cambridge.
2. The facts of the offences were as follows. At 9.40 am on Saturday 4 January 2025 the Appellant entered the Donaldson News and Convenience store. The Complainant was working. The Appellant was wearing a balaclava. He approached the Complainant (a female shopkeeper) and told her "fucking bitch open the till" whilst brandishing a knife. The Complainant opened the till, but the Appellant wanted all of the money not just the notes, so she took out the till drawer and put it on the counter. The Appellant rifled through the

drawer and took the pound coins. During this time, he was pointing the knife towards the Complainant. He then demanded she put cigarettes in a bag. She gave him a couple of packets of cigarettes. He demanded alcohol but she refused. All of this can be seen on a video recording from within the shop.

3. Around £100 to £150 in cash was stolen and three packets of cigarettes costing £6.65 each. The Complainant noticed what she thought was a wound on the back of the Appellant's head but that was identified later by officers as being a tattoo. As the Appellant fled on an e-scooter, he discarded a balaclava, which was subsequently linked to him by his DNA. He can be seen to throw the balaclava onto the ground in some video footage which happened to capture him as he passed by.
4. At the sentencing hearing all parties agreed that the robbery offence fell into category A2 robbery, which applies to street and less sophisticated commercial robberies. It has a starting point of 5 years and a range from 4 to 8 years. The Judge moved to the very top of the range before applying credit of 25 per cent for the Appellant's plea leading to the sentence of 6 years.
5. The sole ground of appeal is that whilst some upward movement, the circumstances of the case did not justify moving so far up from the starting point and that as a result the sentence imposed was manifestly excessive.
6. There were a number of aggravating factors. As far as the offence was concerned, these were the wearing of the balaclava to conceal his identity and the fact that he appeared to have been drinking. The Complainant smelt alcohol on his breath and the Appellant can clearly be seen to sway unsteadily on his feet in the video recording from the interior of the shop. The Recorder in sentencing commented that the Appellant's judgment may have been affected as a result. Whilst the carrying and the use of knife was reflected in the categorisation, such that count 2 did not attract a consecutive sentence and care had to be taken not to double count, using a knife in circumstances where judgment is impaired carries with it additional risk. There was also, we note, an attempt to conceal evidence by disposing of the balaclava as caught on the video recording.
7. As far as the Appellant's antecedents were concerned, the first aggravating feature is his considerable and lengthy criminal record. The Appellant was aged 38 at the date of sentence. He had 19 convictions for 32 offences spanning from 2002 to 2024. In 2002 he was sentenced to 5 years' youth custody for robbery and attempted robbery; in 2006 he was sentenced to 18 months for two section 47 actual bodily harm offences; in 2008, on two occasions, he received a suspended sentence and a conditional discharge for multiple offences of criminal damage; in 2009, he was sentenced to 6 months' imprisonment for a section 47 assault occasioning actual bodily harm and failing to comply with the requirements of a suspended sentence order. On a separate occasion in 2009 he was sentenced to 12 months' imprisonment again for section 47 assault occasioning actual bodily harm. In September 2011 he received a suspended sentence for two offences of affray. In

December 2011 he was sentenced to 4 months' imprisonment for harassment and breach of a suspended sentence order. In 2012 he was sentenced to 7 years' imprisonment for section 18 grievous bodily harm. In 2019 he was sentenced to a community order for criminal damage. In 2019 and 2020, he had two offences of failing to comply with the requirements of a community order and breach of a suspended sentence. In 2020, he was sentenced to 7 months' imprisonment for section 47 assault occasioning actual bodily harm. In 2021, he was sentenced to a community order for battery and harassment. He had offences of failing to comply with the requirements of a community order in 2022 to 2024. He was present in court when his community order was dealt with and extended. He was therefore still subject to a community order at the time of the present offences. This aggravating feature is not mentioned in the grounds of appeal although it featured and was acknowledged in the submissions made before us by Mr Fleming. It was expressly referred to by the Recorder in his sentencing remarks and failure to comply with current court orders was undoubtedly something which the Recorder was entitled to reflect in sentence.

8. This was a planned robbery of a vulnerable female shopkeeper who was threatened with a knife. A substantial custodial sentence was inevitable. There was very little mitigation. There were a number of significant aggravating features as we have set out. The harm and culpability factors in the guideline overlap. They determine the category. But once determined the full category range was available to the Recorder in considering the impact of aggravation and mitigation.
9. We do not consider that the fact that the notional sentence after trial was at the top of the category range was significant in itself. The appropriate question is whether the increase from the starting point was justified. In this case, the Recorder was bound to go up from the starting point. Whilst an increase of 3 years was substantial, it reflected the aggravating features, in particular, the Appellant's history of convictions. He had been convicted on many occasions for offences of violence. Robbery involves at least the threat of violence; here with a knife when the Appellant was intoxicated. The Appellant was an experienced offender, subject to court orders when he chose to offend again. He must have known what to expect if his offence was detected and he was prosecuted.
10. We do not, in these circumstances, regard the sentence in this case as manifestly excessive and therefore we dismiss the appeal. We are most grateful to Mr Fleming nevertheless for his focused and succinct submissions this morning. 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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